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Citation: *Journal of the Constitutional Convention of the State of Texas: Begun and Held at the City of Austin Texas. Constitutional Convention (1875). Galveston : Printed for the Convention at the "News" Office, 1875.*

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Mr. West offered the following:

“Sec. —. While taxes should be equal and uniform, they should also be just, and the Legislature shall by proper laws guard against the levy upon the same values of duplicate taxes; and the payment of tax upon the same value shall be a satisfaction of all taxes due thereon.”

Lost.

Mr. Martin of Hunt proposed to amend section 4, line third, by striking out the words “be subject to taxation,” and insert the words “be taxed.”

On motion of Mr. Ferris the Convention adjourned to 9 o'clock A. M. Monday, pending the amendment offered by Mr. Martin, of Hunt.

FORTY-THIRD DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, October 25, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. Horatio V. Philpott, of the M. E. Church, South, at Austin.

Mr. Allison, chairman of the Committee on Senatorial and Representative Apportionment, made the following report:

COMMITTEE ROOM,
AUSTIN, October 23, 1875. }

To the Hon. E. B. Pickett, President of the Convention:

SIR—The undersigned majority of the committee of thirty (being one from each Senatorial District) to divide the State into Senatorial and Representative Districts, are pleased to report that after long and patient investigation, having in view the best interests of the State, a due regard for special feelings and interests in some localities, and keeping in view the leading idea of local representation—a principle dear to an overwhelming majority of the people of Texas—have agreed upon the accompanying ordinance, and recommend its passage by the Convention.

THOS. G. ALLISON, Chairman.	JOHN HENRY BROWN,
B. H. DAVIS,	L. S. ROSS,
JOHN R. HENRY,	ED. BURLESON,
ASA HOLT,	JOEL W. ROBISON,

W. W. WHITEHEAD,
 B. D. MARTIN,
 GEO. McCORMICK,
 ED. CHAMBERS,
 GEORGE FLOURNOY,
 JOHN S. FORD,
 E. S. C. ROBERTSON,
 JOE P. DOUGLAS,

JOHN W. STAYTON,
 R. SANSOM,
 C. B. KILGORE,
 W. W. DILLARD,
 JO. W. BARNETT,
 W. T. G. WEAVER,
 J. F. JOHNSON,
 HENRY C. KING.

AN ORDINANCE,

To divide the State of Texas into Senatorial and Representative Districts.

Section 1. *Be it ordained by the people of Texas in Convention assembled,* That until after the first apportionment of Senators and Representatives, as provided in this constitution, after the census of the United States shall have been taken in 1880, the State shall be divided into Senatorial and Representative Districts, as follows:

SENATORIAL DISTRICTS.

First District—The counties of Liberty, San Jacinto, Hardin, Tyler, Jefferson, Jasper, Orange, Newton and Polk shall elect one senator; Tyler to be the returning county.

Second District—The counties of Houston, Angelina, Nacogdoches, San Augustine and Sabine shall elect one senator; Nacogdoches shall be the returning county.

Third District—The counties of Rusk, Panola and Shelby shall elect one senator; Panola being the returning county.

Fourth District—The county of Harrison shall elect one senator.

Fifth District—The counties of Marion, Cass, Bowie and Morris shall elect one senator; Cass to be the returning county.

Sixth District—The counties of Red River, Titus, Franklin and Hopkins shall elect one senator; Titus to be the returning county.

Seventh District—The counties of Camp, Upshur, Gregg and Smith shall elect one senator; Gregg to be the returning county.

Eighth District—The counties of Cherokee, Anderson and Henderson shall elect one senator; Anderson to be the returning county.

Ninth District—The counties of Lamar, Fannin and Delta shall elect one senator; Lamar to be the returning county.

Tenth District—The counties of Wood, Van Zandt, Kaufman, Rains, Rockwell and Hunt shall elect one senator; Kaufman to be the returning county.

Eleventh District—The counties of Grayson and Cook shall elect one senator; Grayson to be the returning county.

Twelfth District—The counties of Collin and Denton shall elect one senator; Collin to be the returning county.

Thirteenth District—The counties of Dallas and Ellis shall elect one senator; Ellis to be the returning county.

Fourteenth District—The counties of Navarro, Limestone and Freestone shall elect one senator; Limestone to be the returning county.

Fifteenth District—Leon, Robertson and Brazos shall elect one senator; Robertson to be the returning county.

Sixteenth District—Grimes, Madison, Walker and Trinity counties shall elect one senator; Walker to be the returning county.

Seventeenth District—Montgomery, Waller, Fort Bend and Wharton counties shall elect one senator; Montgomery to be the returning county.

Eighteenth District—The counties of Harris and Chambers shall elect one senator; Harris to be the returning county.

Nineteenth District—The counties of Galveston, Brazoria and Matagorda shall elect one senator; Galveston to be the returning county.

Twentieth District—Austin, Washington and Burleson counties shall elect one senator; Washington to be the returning county.

Twenty-first District—The counties of Falls, Milam and Bell shall elect one senator; Milam shall be the returning county.

Twenty-second District—The counties of Johnson, Hill and McLennan shall elect one senator; McLennan to be the returning county.

Twenty-third District—The counties of Tarrant, Parker, Wise, Montague, Clay, Jack and Young, with the unorganized counties west of them shall elect one senator; Tarrant to be the returning county.

Twenty-fourth District—The counties of Coryell, Bosque, Hamilton, Brown, Coleman, Comanche, Erath, Somerville, Hood, Palo Pinto, Eastland and Shackelford, with the unorganized counties of Runnels, Baylor, Callahan, Jones and Stephens shall elect one senator; Comanche to be the returning county.

Twenty-fifth District—The counties of Travis, Williamson, Burnet and Lampasas shall elect one senator; Williamson to be the returning county.

Twenty-sixth District—The counties of Fayette, Bastrop and Lee shall elect one senator; Fayette to be the returning county.

Twenty-seventh District—The counties of Colorado, Lavaca and Gonzales shall elect one senator; Lavaca to be the returning county.

Twenty-eighth District—The counties of Calhoun, Victoria, DeWitt, Aransas, Refugio, Bee, Goliad, Karnes, Wilson, Jackson and Atascosa shall elect one senator; Victoria to be the returning county.

Twenty-ninth District—The counties of Cameron, Hidalgo, Starr, Webb, Maverick, Kinney, Uvalde, Medina, Nueces, San Patricio, Live Oak and Frio, with the unorganized counties of Duval, Encinal, McMullen, La Salle, Dimmit and Zalala, shall elect one senator; Nueces to be the returning county.

Thirtieth District—The counties of Bexar, Comal, Bandera, Kendall, Kerr, Gillespie, Mason, Menard, Tom Green, Pecos, Presidio and El Paso, with the unorganized counties of Concho and Crockett, shall elect one senator; Bexar to be the returning county.

Thirty-first District—The counties of Guadalupe, Caldwell, Hays, Blanco, Llano and San Saba, and the unorganized county of McCulloch, shall elect one senator; Hays to be the returning county.

REPRESENTATIVE DISTRICTS.

Sec. 2. *Be it further ordained,* That until said apportionment, after the census of 1880, representatives shall be elected as follows:

First District—The counties of Liberty, Hardin and Jefferson shall elect one representative; Liberty to be the returning county.

Second District—The counties of San Jacinto, Polk and Tyler shall elect one representative; Tyler to be the returning county.

Third District—The counties of Jasper, Newton and Orange shall elect one representative; Jasper to be the returning county.

Fourth District—The counties of San Augustine and Sabine shall elect one representative; San Augustine to be the returning county.

Fifth District—The county of Houston shall elect one representative.

Sixth District—The counties of Nacogdoches and Angelina shall elect one representative; Nacogdoches to be the returning county.

Seventh District—The county of Rusk shall elect one representative.

Eighth District—The counties of Panola and Shelby shall elect one representative; Panola to be the returning county.

Ninth District—The counties of Rusk, Panola and Shelby shall elect one representative; Panola to be the returning county.

Tenth District—The county of Harrison shall elect one representative.

Eleventh District—The counties of Marion, Cass, Bowie and Morris shall elect three representatives; Cass to be the returning county.

Twelfth District—The county of Red River shall elect one representative.

Thirteenth District—The counties of Titus and Franklin shall elect one representative; Titus to be the returning county.

Fourteenth District—The county of Hopkins shall elect one representative.

Fifteenth District—The counties of Smith, Gregg, Upshur and Camp shall elect three representatives; Gregg to be the returning county.

Sixteenth District—The county of Lamar shall elect one representative.

Seventeenth District—The county of Fannin shall elect one representative.

Eighteenth District—The counties of Lamar, Fannin and Delta shall elect one representative; Lamar to be the returning county.

Nineteenth District—The counties of Hunt and Rockwall shall elect one representative; Hunt to be the returning county.

Twentieth District—The counties of Kaufman, Rains, Wood and Van Zandt shall elect two representatives; Kaufman to be the returning county.

Twenty-first District—The county of Henderson shall elect one representative.

Twenty-second District—The county of Anderson shall elect one representative.

Twenty-third District—The county of Cherokee shall elect one representative.

Twenty-fourth District—The county of Leon shall elect one representative.

Twenty-fifth District—The county of Robertson shall elect two representatives.

Twenty-sixth District—The county of Brazos shall elect one representative.

Twenty-seventh District—The county of Grimes shall elect one representative.

Twenty-eighth District—The counties of Grimes and Madison shall elect one representative; Grimes to be the returning county.

Twenty-ninth District—The counties of Walker and Trinity shall elect one representative; Walker to be the returning county.

Thirtieth District—The county of Montgomery shall elect one representative.

Thirty-first District—Harris county shall elect two representatives.

Thirty-second District—The counties of Harris and Chambers shall elect one representative; Harris to be the returning county.

Thirty-third District—The county of Galveston shall elect two representatives.

Thirty-fourth District—The counties of Brazoria, Galveston and Matagorda shall elect one representative; Galveston to be the returning county.

Thirty-fifth District—The counties of Wharton, Fort Bend and Waller shall elect two representatives; Waller to be the returning county.

Thirty-sixth District—Austin county shall elect one representative.

Thirty-seventh District—Washington county shall elect one representative.

Thirty-eighth District—Washington and Burleson counties shall elect one representative; Burleson to be the returning county.

Thirty-ninth District—The counties of Falls, Milam and Bell shall elect three representatives; Bell to be the returning county.

Fortieth District—The county of Limestone shall elect one representative.

Forty-first District—The county of Freestone shall elect one representative.

Forty-second District—The county of Navarro shall elect one representative.

Forty-third District—The county of Ellis shall elect one representative.

Forty-fourth District—The county of Dallas shall elect two representatives.

Forty-fifth District—The county of Collin shall elect one representative.

Forty-sixth District—The county of Grayson shall elect two representatives.

Forty-seventh District—The counties of Grayson and Collin shall elect one representative; Grayson to be the returning county.

Forty-eighth District—The county of Cook shall elect one representative.

Forty-ninth District—The county of Denton shall elect one representative.

Fiftieth District—The counties of Clay, Montague and Wise, with the unorganized counties west of Clay, shall elect one representative; Wise to be the returning county.

Fifty-first District—The county of Tarrant shall elect one representative.

Fifty-second District—The counties of Parker, Jack and Young, with the unorganized counties west of them, shall elect one representative; Parker to be the returning county.

Fifty-third District—The county of Johnson shall elect one representative.

Fifty-fourth District—The county of Hill shall elect one representative.

Fifty-fifth District—The county of McLennan shall elect one representative.

Fifty-sixth District—The counties of Jackson, Calhoun, Victoria, DeWitt, Aransas, Refugio, Bee and Goliad shall elect two representatives; Victoria to be the returning county.

Fifty-seventh District—The counties of Colorado and Lavaca shall elect two representatives; Lavaca to be the returning county.

Fifty-eighth District—The county of Gonzales shall elect one representative.

Fifty-ninth District—The county of Fayette shall elect one representative.

Sixtieth District—The county of Bastrop shall elect one representative.

Sixty-first District—The counties of Fayette and Lee shall elect one representative; Fayette to be the returning county.

Sixty-second District—The counties of Caldwell, Guadalupe and Hays shall elect two representatives, Hays to be the returning county.

Sixty-third District—Travis county shall elect one representative.

Sixty-fourth District—Travis and Blanco counties shall elect one representative; Travis to be the returning county.

Sixty-fifth District—Williamson and Lampasas counties shall elect one representative; Williamson to be the returning county.

Sixty-sixth District—The counties of Coryell, Hamilton, Brown and Coleman, and the unorganized county of Runnells, shall elect one representative; Coryell to be the returning county.

Sixty-seventh District—The counties of Bosque, Somerville and Wood shall elect one representative; Bosque to be the returning county.

Sixty-eighth District—The counties of Erath, Comanche, Palo Pinto, Eastland and Shackelford, with the unorganized counties of Stephens, Jones, Callahan and Taylor, shall elect one representative; Comanche to be the returning county.

Sixty-ninth District—The county of Bexar shall elect one representative.

Seventieth District—The counties of Bexar and Comal shall elect one representative; Bexar to be the returning county.

Seventy-first District—The counties of Uvalde, Medina, Bandera, Kendall, Kerr, Gillespie and Menard, with the unorganized counties of Edwards and Kimball, shall elect one representative; Gillespie to be the returning county.

Seventy-second District—The counties of Llano, Mason, San Saba, McCulloch and Concho shall elect one representative; San Saba to be the returning county.

Seventy-third District—The counties of El Paso, Presidio, Pecos, Tom Green and Crockett shall elect one representative; El Paso to be the returning county.

Seventy-fourth District—The counties of Cameron, Hidalgo, Starr, Zapata and Webb shall elect one representative; Cameron to be the returning county.

Seventy-fifth District—The counties of Nueces, Frio, Maverick and Kinney, with the unorganized counties of Duval, Encinal, McMullen, La Salle, Dimmit and Zavala, shall elect one representative; Nueces to be the returning county.

Seventy-sixth District—The counties of San Patricio, Live Oak, Karnes, Wilson and Atascosa, shall elect one representative; Karnes to be the returning county.

Seventy-seventh District—The counties of Cherokee, Rusk, Panola, Shelby and Harrison shall elect one representative; Rusk to be the returning county.

“Sec. 3. *Be it further ordained*, That for all purposes connected with the first election provided for by this Convention, this ordinance shall take effect and be in force from and after its passage, and should the constitution be ratified by the people, this ordinance shall be and remain in force until the first apportionment after the census of 1880; but should the constitution be rejected by the people, this ordinance shall thereafter be and remain of no force and effect.”

Mr. Rentfro gave notice of a minority report.

On motion of Mr. Norvell, two hundred copies of the report and ordinance were ordered printed for the use of the Convention.

Mr. Burleson offered the following resolution :

Resolved, That from and after the adoption of this constitution no paper which pretends to convey title to land and which was issued under the authority of Spain or Mexico, shall be received in evidence by any court in the State unless the same has been heretofore filed in the General Land Office, and the survey delineated on the map of the county in which the land is claimed to be.

Referred to the Committee on Spanish Land Titles.

Mr. Johnson, of Franklin, offered the following resolution.

Resolved, That the committee on General Provisions be instructed to inquire into the expediency of inserting a clause in the constitution requiring the publication in a newspaper for judicial sales and other legal notices.

Referred to the Committee on General Provisions.

Mr. Russell, of Wood, offered the following resolution :

Resolved, That the Comptroller of Public Accounts be requested to furnish this Convention with the amount of money loaned to each and every railroad, and out of what fund loaned, at what rate of interest, and as to whether the interest on said loans are promptly paid or not; if not, what roads are defaulters.

Adopted.

Mr. Kilgore offered the following resolution :

WHEREAS, The Convention did on last Saturday vote to pay the *State Gazette* for copies furnished the Convention the first eight days of the session, therefore, in order not to be partial, but to do justice to all who furnished papers for the same length of time, be it

Resolved, That the Committee on Printing and Contingent Expenses be authorized to allow payment for all papers furnished by the *Democratic Statesman* the first eight days of the session.

Mr. Flournoy proposed to amend, as follows :

That the Committee on Printing be instructed to inquire into the facts and report the proper and just measure.

Mr. Wade proposed to add the *Houston Telegraph*, and *Evening News*, and *Galveston News*, and such other papers as may have been furnished, and that each member pay out of his own money.

On motion of Mr. Ramey, the subject was referred to the Committee on Printing.

Mr. Rentfro submitted the following minority report :

COMMITTEE ROOM,
AUSTIN, October 25, 1875. }

To the Hon. E. B. Pickett, President of the Convention:

The undersigned, members of your Committee on Senatorial and Representative Apportionment, would respectfully submit that they concur in the report made by a majority of your said committee. While recognizing and admitting the fact that it would be an impossibility so to apportion the State as to escape an expressed dissatisfaction on the part of a large minority of the citizens of each district so constituted; while in the main indorsing, or rather not protesting against, the action of the said majority in the premises, yet we must be permitted most earnestly to protest against the indorsement by the Convention of said report in many particulars. In the "Article on Legislative Department," which, by the vote of a large majority of the members of the Convention has been adopted, and which, in so far as the power in this Convention vested could so do, has been incorporated in the proposed constitution, as a part of the organic law, we find as relating to the duties of your Committee on Senatorial and Legislative Apportionment, sections 25 and 26, and we submit that under these sections and by virtue of the instructions therein given, your Committee on Senatorial and Legislative Apportionment are to be guided and governed.

These sections are in the following order, to-wit:

"Sec. 25. The State shall be divided into senatorial districts of contiguous territory, according to the number of qualified electors, as nearly as may be, and each district shall be entitled to elect one senator, and no single county shall be entitled to more than one senator.

"Sec. 26. The members of the House of Representatives shall be apportioned among the several counties according to the number of population of each, as near as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the house is composed; *provided*, that whenever a single county has sufficient population to be entitled to a representative, such county shall be formed into a separate representative district, and when two or more counties are required to make up the ratio of representation, such counties shall be contiguous to each other, and when any one county has more than sufficient population to be entitled to one or more representatives, such representative or representatives shall be apportioned to such county, and for any surplus of population it may be joined

in a representative district with any other contiguous county or counties."

The undersigned insist that while it may be claimed with some degree of plausibility that sections 25 and 26 are inoperative in so far as regards the present temporary apportionment, as provided for in ordinance accompanying majority report, and further, that said ordinance is proposed under and by virtue of section 28 of said article on "Legislative Department," yet they believe that said apportionment, though so termed, is not temporary in its character, and that, to extent of the contiguity and compactness of territory, as required by section 28, and amount of population, as provided for in section 26, the said sections 25 and 26 should and do contain the guide to a proper and equitable apportionment. We insist that the Convention derives whatever power it may possess in regard to apportioning the State into senatorial and representative districts from the very fact that its action in framing a constitution has rendered such apportionment necessary. Hence we argue that if such power exists at all, it only exists in accordance with and by virtue of sections 25 and 26, as hereinbefore set forth, and that if said apportionment be proper and just, it can only so be because of the necessity of apportionment, created by said article on "Legislative Department," and by sections 25 and 26 thereof. And further, we believe that any variance from the terms of such sections would not only be improper and void, but would very properly raise a suspicion as to the motives by which we might be actuated in the premises. We hold that the Convention having laid down a rule by which said Committee on Apportionment are to be guided, that said committee can not depart from such rule, and in the event they do so, their action in such particular can not be approved by the Convention, unless such rule of action be first reconsidered or set aside.

We deem it needless to urge the self-evident proposition that the Convention was not called for the purpose alone of re-districting the State; that it has been convened for the purpose of setting forth a declaration of rights and establishing a frame of government, and that such power to re-district, if it at all exists, is an incidental power, the exercise of which, if necessary at all, is so rendered necessary by the action of this Convention in altering and changing *in toto* the heretofore existing method of representation; therefore, if such proposition to re-district is entertained, and such re-districting is done by the Convention, it must be done in accordance with sections of the proposed constitution which have rendered a re-districting necessary. Hence

we conclude that any portion of the said majority report, which is not in accordance with sections 25 and 26, hereinbefore referred to, is not correct and proper, and can not be adopted by the Convention.

Said section 25 provides that each senatorial district shall be composed of contiguous territory; and further, that each district must contain an equal amount of population, as near as may be. Under this we maintain that if any proposed district shall be found at variance with the foregoing provisions, the same can not be approved, as to that extent said majority report will be incorrect.

We call especial attention to the following portions of said majority report, waiving for the present the discussion of the question as to the power which the Convention may have, to give effect to said apportionment in its present form, before the same has been voted upon and adopted by the electors of this State.

It will be perceived that a great and remarkable difference exists as to the amount of population in the respective districts, and this difference is the more remarkable for the reason that many districts contiguous to each other differ to a great and unnecessary degree in said matter of population. The undersigned believe that, in many instances, a more equitable apportionment might be made, and respectfully submit the following, as a few of the most remarkable, and, in the opinion of the undersigned, uncalled-for deviations from the rule to which reference has heretofore been made.

For example, we find by referring to said majority report, that the county of Harrison is constituted a senatorial district, with right to elect one senator.

Premising that the basis of representation for senator, as agreed upon by your Committee on Senatorial and Representative Apportionment is and stands at 7500 electors, that is to say, that any county or counties having that number of registered electors shall be entitled to elect one senator, we necessarily come to the conclusion that the creation of Harrison county into a separate senatorial district, must be upon the part of the majority of said committee an unintentional mistake, as it must be known to each of the members signing such majority report that the registered vote of Harrison county does not exceed 5000, and that according to certificate of Registrar of said county, which said certificate is now on file in office of Secretary of State, the said vote is actually 4980. Hence, we conclude that the crea-

tion of such district is either a mistake upon the part of such majority, or if intentional, is an unequitable proceeding, in either event, the Convention, in our opinion, should correct. In contrast to the above, we would present for consideration the district composed of the counties of Brazos, Robertson and Leon. We find from data furnished by the Secretary of State that the registered electors of said counties number as follows: Brazos, 2500, Robertson, 5392; Leon, 2123—aggregating 10,015 votes. The great difference existing between said districts will at once appear to the Convention

In order more fully to show the injustice of the apportionment proposed by the majority, we would again call attention to the vote of Harrison county, in connection with the vote of the county of Harris. We find that the list of electors for Harris county contains 7204 votes, being greater than the vote of Harrison county by 2224 voters. Yet to complete said district, the county of Chambers, with an estimated vote of about 600, is added. Whether the political complexion of the counties of Harris and Chambers, as associated together has aught to do in causing such union, we leave it to the Convention to decide. We refer to these variances from the rule as a few of the most glaring instances of unequitable apportionment, and earnestly request that a careful examination be made of that portion of proposed ordinance which regards senatorial apportionment, and confidently assert that it will be found to abound with many such instances

Again, referring to that portion of said ordinance which proposes to divide the various counties of the State into legislative districts, we find still less to approve, and much more to condemn. The undersigned believe it to be the wish of the people of this State to return to that system of local representation which has heretofore obtained, and as a sufficient proof that the Convention so interprets the wishes of the people upon this subject, we have but to refer to section 26 of article on Legislative Department, in which said section we believe said doctrine of local representation to be incorporated. Believing then that this fact can not successfully be disputed, we find that to a great degree the idea of local representation has been carried out in the legislative apportionment referred to, yet we can not but add that in many cases this doctrine has been departed from, and to so great a degree that the conclusion forces itself upon the minds of the minority of your committee that such departure is an intentional one, and therefore the more inexcusable. The basis of representation in the proposed House of Representatives has been fixed

by your committee at 2500 electors to each representative. Since the number of representatives has been increased by vote of the Convention from ninety to ninety-three members, it is believed that the basis will not exceed 2400. By referring to the hereinbefore incorporated section 26, we find it therein enunciated that whenever any one county shall have a sufficiency of electors to entitle it to one representative (which we conclude to mean 2400 electors) it shall be formed into a separate representative district. We believe that the Convention is to be guided by this provision in forming such districts.

In general the majority report does conform to this rule, yet we find that *Marion* county, with a list of electors amounting in the aggregate to 3077 voters, is formed into a representative district with the counties of Cass, Bowie and Camp, with an aggregate vote of 7275. We ask if the rule of local representation is here adhered to, and whether Marion county, with a vote of 3077, is not entitled to be formed into a separate representative district? Yet even if this apportionment obtains, we maintain that it is unjust, for the reason that it gives to the counties just named, with an aggregate vote of 7275, the right to elect *three* representatives, while to Harris county, with a vote of 7204, it only accords the right to elect *two* representatives. The injustice of this is manifest. Still further examining said majority report, we find that the county of *Colorado*, with a vote of 2923, is attached, for purposes of representation, to Lavaca county, which has a registered vote of 2002. We maintain this also to be unjust, as well as a direct violation of the doctrine of local representation, and that it deprives the people of Colorado county of that right which is extended to many other counties of this State: the right of local representation, for the reason that the registered vote of said Colorado county is largely in excess of the number required for local representation, to wit: 500 in excess. We submit that the apportionment would be more just and correct if Colorado county should be permitted to elect its own representative, and then for its surplus vote elect a second, in common with Lavaca county.

We find yet another instance of injustice: To Leon county, with a vote of 2123, is extended the right of electing one representative, while Walker county, with a vote of 2126, is added for purposes of representation to Trinity county, which has a vote of 762.

To Robertson county, which has a registered vote of 5,392, is accorded *two* representatives, while to Harris county, with a vote of 7,204, is accorded but *two* likewise. These instances are so

frequent and so remarkable, that we would conceive ourselves derelict in our duty should we fail to direct to them the attention of the Convention. Necessarily it can not be that these differences are made for the purpose of increasing *Democratic* representation; yet, the undersigned would respectfully invite attention to the fact that in every case as noted in which the apportionment is incorrectly made, the counties named have decided Republican majorities; whether or no the action of the majority is influenced by this fact, we leave it to the Convention to decide. As to the question of the power of the Convention to give force and effect from and after passage to the proposed "ordinance," we deem it a subject worthy of a careful examination by each member of the Convention. We do not doubt that if said apportionment therein proposed should be incorporated in the constitution as a part thereof, if accepted by the people it would be of full force and effect, but we greatly doubt the power of the Convention to legalize the proposed ordinance from and after passage. If the proposed apportionment be presented in the form of an ordinance, in order to prevent sections 25 and 26 from ruling in the premises, we contend that not only would such action be unworthy of this Convention, but that it would meet the unqualified condemnation of the conservative people of this State, who always frown upon any unjust attempt to maintain party supremacy and who have repeatedly pronounced against the very system which the majority report seeks to perpetuate.

But we maintain that even in the shape of an "ordinance" the apportionment must conform to the terms in such sections set out. If district representation be sought, then let the system be universal. If local representation is desired, it should be general. In view of the premises, we earnestly ask that the apportionment proposed, which in the one place provides for *local*, and in the other for district representation, and the provisions of which force the conclusion that it is intended for party purposes, be not indorsed by the Convention. We admit that there has been established in times past a bad precedent, forced by circumstances, yet as delegates of the people, we earnestly hope that the time has arrived when the assembled representatives of the people of Texas, will not permit the engrafting upon our organic law of a provision so ruinous, so subversive of party morals, and which has so universally been condemned by the electors of Texas.

Believing that the majority report will not be sanctioned by

the Convention, we confidently submit our protest and report in the premises.

R. B. RENTFRO,
E. W. BRADY,
WM. REYNOLDS,
T. J. LOCKETT.

Mr. Brady moved to have two hundred copies of the report printed.

Mr. Fleming moved to lay the motion on the table.

Withdrawn, and Mr. Brady's motion adopted.

[Mr. Brown in the chair.]

The hour having arrived for the special order, on motion of Mr. Scott the same was postponed until "Taxation and Revenue" shall be disposed of.

Unfinished business, viz: "Article —, Revenue and Taxation," with pending amendment by Mr. Martin, of Hunt, taken up.

Mr. Martin, of Hunt, withdrew his amendment, and moved to strike out section 4.

Carried.

Mr. Flournoy proposed to amend by adding to section 3 the words, "but they and their property shall be taxed as other individuals."

Adopted.

Mr. Fleming proposed to amend section 5 by striking out "one-half of one per cent.," and insert "fifty cents."

Adopted.

Mr. Dohoney moved to amend by striking out section 7.

Mr. Robertson, of Bell, proposed to amend section 7 by adding in last line, after the word "purposes," the following: "by a majority vote of the freeholders of such county, city, town or other municipal government."

Withdrawn, and Mr. Dohoney's amendment adopted.

Mr. Stayton offered the following as a substitute for section 6:

"Sec. 6. The Legislature shall have no power to release the inhabitants or property of any county, city or town from the payment of taxes levied for State purposes."

Adopted.

Mr. McLean offered the following as section 7:

"Sec. 7. The County Courts of the several counties, and the municipal authorities of the towns and cities of the State, are prohibited from creating any debt against such counties, cities or towns; *provided*, that towns and cities situated on the coast may incur debt in the erection of works for the safety and pro-

tection of life and property against storms, by the vote of those who pay taxes on property in such towns and cities.”

Withdrawn.

Mr. Ferris offered the following:

“Sec. 4. The Legislature shall not have power to borrow, or in any manner to divert from its purpose any special fund that may or ought to come into the treasury, and shall make it penal for any person or persons to borrow, withhold, or in any manner to divert from its purpose any special fund, or any part thereof.”

Adopted.

Mr. Nunn proposed to strike out section 8.

Mr. Gaither offered the following amendment to section 8:

“All landed property shall be assessed in the county where it lies, and the tax may be paid by the non-resident in that county, or to the Comptroller of the State.”

Mr. Fleming moved to lay both amendments on the table.

The question to lay on the table Mr. Nunn’s motion to strike out section 8, was put and carried by the following vote:

YEAS—Allison, Abernathy, Arnim, Abner, Brown, Blassingame, Barnett, Brady, Bruce, Chambers, Cook of Gonzales, Cooke of San Saba, Cardis, Dillard, Dohoney, Darnell, Erhard, Fleming, Ferris, German, Graves, Holt, Haynes, Johnson of Franklin, Johnson of Collin, Lacy, Lynch, McLean, Martin of Hunt, Mills, Mitchell, McKinney of Denton, McKinney of Walker, McCormick, Murphy, Nugent, Pauli, Reynolds, Rentfro, Russell of Wood, Spikes, Scott, Wade, Weaver, Waelder—46.

NAYS—Blake, Ballinger, Burleson, Crawford, Cooley, DeMorse, Gaither, Henry of Smith, Kilgore, Killough, Lockett, Martin of Navarro, Morris, Moore, Norvell, Nunn, Reagan, Robertson of Bell, Robison of Fayette, Smith, Stockdale, Stayton, Whitehead, Wright, West—25.

Upon calling the roll, Mr. Henry, of Limestone, stated that he was paired off with Mr. Ross, but for which fact he would vote “no.”

Mr. Fleming withdrew that part of his motion that proposed to lay Mr. Gaither’s amendment on the table.

On motion of Mr. Whitfield, the Convention adjourned to 2:30 o’clock P. M.

EVENING SESSION—2½ O’CLOCK.

Convention met; roll called; quorum present.

Mr. Brown, by leave, introduced the following ordinance:

"AN ORDINANCE

"To provide for submitting the Constitution to a Vote of the People and for a General Election under its provisions.

"Section 1. *Be it ordained by the people of Texas in Convention assembled,* That by way of schedule to the constitution, and that no inconvenience shall arise in superseding the constitution of 1870 with the constitution adopted by this Convention, it is hereby ordained that an election shall be held throughout the State, on the . . . day of . . . , 1876, at which the voice of the electors of the State shall be taken on the ratification or rejection of the new constitution and the several ordinances adopted by this Convention. Those voting in favor of ratifying the same shall write or print on their respective tickets the word "ratification," or other word of similar import. Those opposed to their ratification shall write or print on their respective tickets the word "rejection," or other word of similar import, so as to express the wish of the elector. If a majority of all the votes cast at said election, as returned to the Secretary of State, shall be in favor of ratification, the Governor shall, within five days next succeeding the return day, issue his proclamation declaring the fact, and thereafter the said constitution and ordinances shall become and remain the fundamental, organic law of the State. Ordinances, however, of a temporary character shall not be reprinted or considered as permanent parts of the constitution after the accomplishment of their objects. But should a majority of all the votes so cast and returned be against ratification, the Governor shall, in like time and manner, proclaim the fact, after which neither said constitution, nor any ordinance passed by this Convention, shall have either force or effect in this State.

"Sec. 2. *Be it further ordained,* That at the same time and places there shall be a general election throughout the State for such precinct, county, district and State officers as are made elective by the new constitution. The election, as far as practicable, shall be conducted as now provided by law; but no registration of voters shall be required, and every elector shall vote in the precinct of his residence; *provided,* that electors residing in unorganized counties may vote in any precinct of the county to which their respective counties may be attached for judicial purposes. The qualifications of electors shall be as defined in the article regulating suffrage in the new constitution.

"Sec. 3. *Be it further ordained,* That the County Courts now existing shall assemble at their respective county seats within twenty days after the adjournment of this Convention, or as soon thereafter as practicable, and when assembled re-divide

their respective counties into the number of precincts provided for by the new constitution, and make immediate proclamation thereof for the information of the people. Said courts shall establish at least one voting place in each of such precincts, and whenever deemed necessary for public convenience, they shall establish two or more such voting places in any one precinct.

“Sec. 4. *Be it further ordained*, That the returns of said election shall be made as now provided by law, to the presiding justice of each county, or to the returning officer of each senatorial, representative or judicial district, as the case may be, and in all cases provided by law, to the Secretary of State. In all cases the returns shall be made, opened, counted, and the result recorded and declared as provided by law.

“Sec. 5. *Be it further ordained*, That in case the constitution shall be ratified at said election, the Lieutenant Governor, Senators and Representatives then chosen shall assemble as the Fifteenth Legislature, at the seat of government, on Tuesday, the day of, 1876.

“Sec. 6. *Be it further ordained*, That after the first election as herein provided, until otherwise provided by law, the regular biennial elections of this State for precinct, county, district and State officers, including members of Congress, after the year 1876, and President and Vice President of the United States in the year of their election, shall take place on the Tuesday of November every second year, commencing with November, 1878. All officers elected at the election herein provided for shall hold over as though they had been elected in November, 1876, until their successors shall have been elected and qualified, whether the tenure of their offices be for two, four, six or eight years.

“Sec. 7. *Be it further ordained*, That all county, precinct and district officers elected in accordance with the provisions of this ordinance, shall be installed into office on the day of 1876; *provided*, that persons so elected who may be prevented from qualifying by reason of illness or absence shall have ten additional days in which to do so. The Governor, and all other State officers, so elected, shall be installed on the first Tuesday after the assemblage of the first Legislature elected as herein provided. As each newly elected officer may be qualified, his predecessor, if any, shall cease his functions, and deliver to his successor all books, papers, archives and records, and all property, of whatsoever nature or kind, pertaining to his office, or under his official charge.

“Sec. 8. *Be it further ordained*, That for all purposes herein

mentioned, the same being incidental to the formation and ratification of the new constitution, this ordinance shall take effect and be in force from and after its passage."

Referred to the Committee on Ordinances.

Mr. Gaither, by leave, withdrew his amendment and offered the following:

"All property shall be assessed in the county where situated, but the taxes due by parties not residing in the county may be paid in the county where assessed, or at the office of the Comptroller of Public Accounts."

Mr. Fleming moved the main question on Mr. Gaither's amendment.

Lost.

Mr. Fleming moved to table the amendment.

Lost by the following vote:

YEAS—Abernathy, Arnim, Abner, Brown, Blassingame, Barnett, Bruce, Chambers, Cook of Gonzales, Cooke of San Saba, Cardis, Dillard, Darnell, Davis of Wharton, Fleming, Ferris, German, Graves, Holt, Haynes, Johnson of Franklin, Johnson of Collin, Lacy, McLean, Martin of Hunt, Mills, Mitchell, McKinney of Denton, McCormick, Nugent, Paul, Reynolds, Russell of Wood, Spikes, Scott, Wade, Weaver—37.

NAYS—Allison, Blake, Ballinger, Burleson, Brady, Crawford, Cline, Cooley, DeMorse, Dohoney, Ford, Flournoy, Gaither, Henry of Smith, King, Kilgore, Killough, Lockett, Lynch, Martin of Navarro, Morris, Moore, Murphy, Norvell, Nunn, Reagan, Ramey, Rentfro, Robertson of Bell, Robinson of Fayette, Russell of Harrison, Smith, Stockdale, Stayton, Whitehead, Wright, Whitfield, West, Waelder—39.

Upon calling the roll, Mr. Henry, of Limestone, stated that he was paired off with Mr. Ross, but for which he would vote "no."

The question being the adoption of the resolution, on motion of Mr. Mills, a call of the Convention was ordered.

Absentees: Messrs. Erhard, McCabe, Sansom and McKinney of Walker.

Mr. Whitfield moved to suspend the call.

Lost.

Messrs. McKinney of Walker, and McCabe appeared and answered to their names.

The pending amendment was laid upon the table temporarily, and Mr. Flournoy offered the following amendment to section 1:

"Sec. 1. The Legislature may also, in its discretion, provide for levying a tax on the gross earnings and franchises, or either, of all corporations, or of any class of corporations."

Mr. Cline made the point of order that the amendment was not in order, the same subject matter having been definitely acted on by the Convention in striking out section 4 of the article.

The question on the adoption of the amendment was then put, and the amendment adopted by the following vote:

YEAS—Allison, Abernathy, Arnim, Brown, Blassingame, Barnett, Burleson, Brady, Bruce, Crawford, Chambers, Cook of Gonzales, Cooke of San Saba, Cardis, Dillard, Dohoney, Darnell, Flournoy, Fleming, German, Graves, Henry of Smith, Henry of Limestone, Haynes, Johnson of Franklin, Johnson of Collin, Lacy, Lynch, McLean, Martin of Navarro, Martin of Hunt, Mills, McKinney of Denton, McKinney of Walker, McCormick, Moore, Nugent, Ramey, Robertson of Bell, Robison of Fayette, Russell of Wood, Scott, Wade, Wright, Weaver, Whitfield—46.

NAYS—Abner, Blake, Ballinger, Cline, Cooley, DeMorse, Davis of Wharton, Ford, Ferris, Gaither, Holt, King, Kilgore, Killough, Lockett, McCabe, Morris, Mitchell, Murphy, Norvell, Nunn, Paul, Reagan, Reynolds, Rentfro, Russell of Harrison, Spikes, Smith, Stockdale, Stayton, Whitehead, West, Waelder—33.

Mr. Russell, of Wood, offered the following amendment:

“All property of railroad companies shall be assessed and the taxes collected in the several counties in which said property is situated, including so much of the road-bed and fixtures as shall be in each county. The rolling stock may be reported in gross in the county where the principal office of the company is located, and the tax paid upon it shall be apportioned by the Comptroller (*pro rata*) among the several counties through which the road passes, as a part of their tax assets.”

Adopted by the following vote:

YEAS—Allison, Arnim, Abner, Brown, Blassingame, Barnett, Burleson, Brady, Bruce, Crawford, Chambers, Cook of Gonzales, Cooke of San Saba, Cardis, Dillard, DeMorse, Darnell, Davis of Wharton, Ford, Flournoy, Fleming, Ferris, German, Gaither, Graves, Henry of Smith, Henry of Limestone, Haynes, Johnson of Franklin, Johnson of Collin, Killough, Lockett, Lacy, Lynch, McLean, Martin of Navarro, McCabe, Mills, Mitchell, McKinney of Denton, McKinney of Walker, McCormick, Moore, Murphy, Nunn, Nugent, Pauli, Ramey, Reynolds, Robertson of Bell, Robison of Fayette, Russell of Wood, Spikes, Scott, Weaver, Whitfield—56.

NAYS—Abernathy, Blake, Ballinger, Cline, Cooley, Dohoney, Holt, King, Kilgore, Martin of Hunt, Morris, Norvell, Reagan,

Rentfro, Russell of Harrison, Smith, Stockdale, Stayton, Sansom, Wade, Whitehead, Wright, West, Waelder — 24

Mr. Russell, of Wood, moved to suspend the call
Lost.

Mr. Waelder offered the following as a substitute for section 9:

“Sec. 9. All property subject to taxation in, and owned by residents of unorganized counties, shall be assessed, and the taxes thereon paid in the counties to which such unorganized counties shall be attached for judicial purposes, and lands owned by non-residents of unorganized counties and lands lying in territory not laid off into counties, shall be assessed, and the taxes collected thereon at the office of the Comptroller of the State.”

Mr. Waelder moved to reconsider the vote taken on Saturday, refusing to consolidate the offices of assessor and collector.

On motion of Mr. Kilgore, the Convention adjourned to 9 o'clock A. M. to-morrow.

FORTY-FOURTH DAY.

HALL OF REPRESENTATIVES, }
AUSTIN, TEXAS, October 26, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. H. V. Philpott, of the M. E. Church, South, at Austin.

Journal of yesterday read and adopted

Mr. Johnson, of Collin, offered the following resolution:

WHEREAS, The labors of the several committees have about closed, and reports made; therefore, be it

Resolved, That the Convention will hold night sessions until its labors are completed.

Mr. Russell, of Wood, moved to postpone the consideration of the resolution until to-day week, and that it be made special order for 10 o'clock that day.

Mr. Rentfro raised the point of order, viz: that the resolution being amendatory of the rule, should lay over one day for consideration, and that it would take a two-third vote to adopt it. . .

Chair ruled against the point.

Mr. Russell's (of Wood) motion to postpone was adopted.