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sition to reject, and the Convention brought to a direct vote, which resulted in rejecting the amendment by the following vote:

Mr. McKinney, of Walker, declined to vote for reasons above stated.

YEAS—Abernathy, Abner, Arnim, Barnett, Blassingame, Brown, Bruce, Burleson, Cooke of San Saba, Crawford, Darnell, Davis of Wharton, Dillard, Ferris, Fleming, Flournoy, German, Graves, Haynes, Holt, Johnson of Collin, Lacy, Lynch, McCormick, McKinney of Denton, McLean, Mitchell, Martin of Navarro, Martin of Hunt, Nugent, Pauli, Rentfro, Reynolds, Ross, Russell of Wood, Sansom, Scott, Spikes, Wade, Whitfield—40.

NAYS—Allison, Ballinger, Blake, Brady, Cook of Gonzales, Cooley, Davis of Brazos, DeMorse, Dohoney, Gaither, Henry of Limestone, Kilgore, Killough, Lockett, Moore, Murphy, Norvell, Nunn, Ramey, Reagan, Robertson of Bell, Robison, of Fayette, Russell of Harrison, Smith, Stayton, Stewart, Stockdale, Waelder, West, Whitehead, Wright—31.

Mr. Darnell offered the following amendment to come in after the word "situated," in section 10, line 46: "But the Legislature may by a two-thirds vote authorize the payment of taxes of non-residents to be made at the office of the Comptroller of Public Accounts."

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

FIFTIETH DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, November 2, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. W. H. Dodge, of the Baptist Church, at Austin.

Journal of yesterday read and adopted.

On motion of Mr. Dohoney, Mr. Wright was excused indefinitely.

On motion of Mr. Mitchell, Mr. Reynolds was excused for three days from to-day.

On motion of Mr. Waelder, Mr. Cooley was added to the Committee on Judicial Apportionment, in place of Mr. King, excused.

On motion of Mr. Burleson, Mr. Haynes was excused for to-day on account of sickness.

On motion of Mr. Fleming, Mr. McKinney, of Walker, was added to the Committee on Judicial Apportionment.

Mr. Ballinger presented a memorial signed by the Mayor and Board of Aldermen of Galveston, the Chief Justice and Justices of the Peace of Galveston county, the president and officers of the Chamber of Commerce of Galveston, by the Cotton Exchange of Galveston, and over twelve hundred citizens of Galveston county, asking authority for counties and cities and towns on the coast to issue bonds and levy taxes to construct breakwaters and other improvements, and asking State aid in the same.

Referred to Committee on Municipal Corporations.

Mr. Ramey made the following report:

COMMITTEE ROOM,

AUSTIN, NOVEMBER 2, 1875. }

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

SIR—Your Committee on Engrossed and Enrolled Ordinances would respectfully report to your honorable body that they have carefully examined and compared "Article —. The Public Free Schools," and find the same correctly engrossed.

Respectfully,

WM. NEAL RAMEY, Chairman.

Mr. Cook, of Gonzales, reported as follows:

COMMITTEE ROOM,

AUSTIN, NOVEMBER 2, 1875. }

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

Your Committee on Printing and Contingent Expenses, to whom was referred resolution with regard to the inefficiency of the printers employed to do the current printing of the Convention, and recommending that the contract be rescinded, have had the same under consideration and instruct me to report: That owing to the large amount of printing coming to the hands of the printers the past few days, the work was somewhat delayed, and mistakes occurred. This delay was unavoidable, and the errors only such as are likely to occur with any printers under the circumstances. The printers are now well up with their work, and your committee feel assured that the work will, in the future, be well and promptly done.

Your committee can see no sufficient cause for rescinding the printing contract in the premises, and ask to be discharged from further consideration of the subject.

W. D. S. COOK, Chairman.

Adopted.

Mr. Sansom offered the following resolution:

Resolved, That it shall be the duty of the State to provide for the custody and maintenance of indigent lunatics.

Referred to Committee on General Provisions.

Mr. McKinney, of Denton, offered the following resolution:

Resolved, That the Committee on General Provisions inquire into the propriety of inserting a clause in the constitution requiring any person who shall maliciously prosecute and indict another before a grand jury in this State, or shall, in any way corruptly procure the same, shall pay all costs and damages resulting from such malicious indictment, and be subject to such other penalties as may be prescribed by law.

Referred to Committee on General Provisions.

Mr. Ferris offered the following resolution:

Resolved, That the following section be made a part of the constitution:

“Sec. —. The Legislature may from time to time establish new counties for the convenience of the inhabitants of such new county or counties; *provided*, that no new county shall be established which shall reduce the county or counties, or either of them, from which it shall be taken, to a less area than nine hundred square miles, unless by consent of two-thirds of the Legislature; nor shall any county be organized of less contents; *provided further*, that all counties heretofore created are hereby declared to be legally constituted counties. Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until the next apportionment of representation thereafter; *provided also*, that no new county shall be laid off, when less than one hundred and seventy-five qualified jurors are at the time resident therein; nor where the county or counties from which the new county is proposed to be taken, would thereby be reduced below that number of qualified jurors.”

Referred to Committee on Counties and County Lands.

Mr. Mills offered the following resolution:

Resolved, that the following shall be a section of the constitution:

“Sec. —. The Legislature shall provide by law for the exemption from garnishment of the wages of laborers for hire who are heads of families; and may also provide such for single persons, under such limitations and regulations as may be prescribed by law.”

Referred to Committee on General Provisions.

On motion of Mr. Russell, of Harrison, Mr. Abner was excused until Thursday morning.

On motion of Mr. Whitfield, Mr. Arnim was excused for five days.

On motion of Mr. Martin, of Navarro, Mr. Abernathy was added to the Committee on Judicial Apportionment.

UNFINISHED BUSINESS.

“Article —, Revenue and Taxation,” again taken up.

Mr. Darnell’s amendment, pending on adjournment, being under consideration, Mr. Russell, of Harrison, proposed to add to the amendment, after the words “non-residents,” the words “of counties.”

Accepted, and the amendment as amended adopted by the following vote:

YEAS—Abernathy, Allison, Ballinger, Barnett, Brady, Brown, Burluson, Cardis, Chambers, Cook of Gonzales, Cooke of San Saba, Cooley, Crawford, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dohoney, Erhard, Ferris, Flournoy, Gaither, German, Henry of Limestone, Johnson of Collin, Kilgore, Killough, Lacy, Lockett, Lynch, McCormick, McLean, Moore, Murphy, Martin of Navarro, Martin of Hunt, Norvell, Nunn, Pauli, Ramey, Reagan, Robertson of Bell, Robison of Fayette, Russell of Wood, Sansom, Scott, Sessions, Smith, Spikes, Stayton, Stewart, Wade, Waelder, West, Whitehead, Whitfield—55.

NAYS—Arnim, Blassingame, Bruce, Dillard, Fleming, Graves, Holt, Mills, Mitchell, Nugent, Ross—11.

Mr. Russell, of Harrison, on roll call, stated that he would vote yea but for having paired off with Mr. Abner.

The hour having arrived, the special order was taken up, viz: Mr. Johnson’s (of Collin) resolution to have night sessions.

Mr. Darnell moved to postpone the consideration of the resolution until Monday next at 10 o’clock.

Carried.

Pending business resumed, Mr. Moore offered the following amendment as a substitute for Sec. 8:

“Sec. 8. The State tax on property, exclusive of the tax necessary to pay the public debt, shall never exceed fifty cents on the one hundred dollars valuation, and no county, city or town shall levy more than one-half of said State tax, except for the payment of debt already incurred, and for the erection of public buildings, not to exceed fifty cents on one hundred dollars valuation, in any one year, and except as in this constitution is otherwise provided.”

Adopted.

Mr. Russell, of Harrison, offered the following substitute for section 9:

“Sec. 9. No property liable to taxation in any county, city

or town, shall be released from the payment of taxes levied for State or county purposes, except in cases of public calamity."

[Mr. Stockdale in the chair.]

Mr. Russell, of Harrison, withdrew his substitute.

Mr. Waelder proposed to amend section 9, line 43, by inserting after the word "of" the words "or property in."

Adopted.

Mr. DeMorse offered the following additional section to come in after section 10:

"Sec. —. The Comptroller of the State shall prepare a list of all lands assessed or unassessed, for each separate county, and assess upon the portion unrendered all the present and back tax due thereon, and transmit to each collector of taxes the list prepared for his county, upon which list the collector shall proceed as provided by law."

On motion of Mr. Fleming, the amendment was laid on the table.

Mr. Stayton offered the following as a substitute for section 12:

"Sec. 12. Laws shall be enacted by the Legislature, at the first session thereof after the adoption of this constitution, providing for the speedy judicial condemnation by a proceeding *in rem* and sale of lands for the taxes due thereon, and the deed to the purchaser at such sale, when made in accordance with the decree of the court authorizing the sale to be made, shall be held to vest title in him to such lands, subject to impeachment only for such causes as would render the decree of the court directing the sale void, or for fraud upon the part of the officer selling—of the buyer, or of the collector of taxes; *provided, however*, that the former owner shall have the right within two years after the decree confirming the sale, to redeem the land so sold by the payment to the purchaser of the amount of money paid for the land, together with such sum as the purchaser of the land has paid as taxes thereon after his purchase, with interest on such sums from the time of payment, at the rate of twenty per cent. per annum."

On motion of Mr. Pickett, the substitute was laid on the table.

Mr. Waelder offered the following substitute for section 12:

"Sec. 12. The Legislature shall, at its first session after the adoption of this constitution, provide for the sale of all lands upon which taxes remain unpaid, and for a like sale in each year; and it shall also provide for the vesting of title in the purchaser at such sale, and for the right of redemption by the owners of land so sold."

On motion of Mr. Fleming, laid on the table.

Mr. Stewart offered the following additional section:

“Sec. —. The Legislature may authorize counties, cities and towns, by a vote of the freeholders thereof, to levy and collect a special tax for the support of public common free schools.”

Upon the question of the adoption of the amendment, the yeas and nays were called, and the amendment lost by the following vote:

YEAS—Ballinger, Brown, Cook of Gonzales, Cooley, Crawford, Darnell, DeMorse, Dohoney, Fleming, Ford, Kilgore, Lockett, McCormick, McLean, Mitchell, Morris, Martin of Navarro, Martin of Hunt, Nunn, Pauli, Reagan, Smith, Stewart, Waelder, West, Whitfield—26.

NAYS—Abernathy, Allison, Arnim, Barnett, Blake, Blassingame, Bruce, Burleson, Chambers, Cooke of San Saba, Davis of Brazos, Dillard, Erhard, Flournoy, Gaither, German, Graves, Henry of Limestone, Holt, Johnson of Collin, Killough, Lacy, Lynch, McKinney of Denton, McKinney of Walker, Moore, Murphy, Norvell, Nugent, Robertson of Bell, Robison of Fayette, Ross, Russell of Harrison, Russell of Wood, Sansom, Scott, Spikes, Stayton, Stockdale, Wade, Whitehead—41.

Mr. Brown offered the following as a substitute for sections 13 and 15:

“Sec. 13. There shall be elected in each county of the State an assessor of taxes and a collector of taxes, each of whom shall hold his office for two years, and until his successor shall be elected and qualified; *provided*, that in counties having less than two thousand qualified electors, the duties of collector shall be performed by the sheriff of each county respectively. In the first election provided for by this Convention the fact shall be determined by the number of qualified voters in each county. In all succeeding elections the fact shall be determined by the whole number of votes cast at the last preceding general election in each county.”

Mr. Ballinger called up the motion to reconsider the vote to strike out the words “condemnation and” from section 12, line 56.

Carried.

Mr. Sansom offered the following amendment:

Strike out the words “condemnation and,” and after the word “sale” insert “by levy, as in cases of personal property.”

Lost.

Mr. Ballinger’s amendment to strike out the words “condemnation and” was adopted.

Mr. Crawford offered the following substitute for the section:

“Sec. —. Provision shall be made by the Legislature for the sale of all lands for the taxes due thereon.”

Mr. Murphy offered the following as a substitute for the substitute and section:

“Sec. —. The Legislature shall at its first session after the adoption of this constitution provide for the manner of enforcing liens on real estate incurred for non-payment of taxes.”

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

A division of the question was ordered.

Mr. Murphy's substitute was laid on the table.

On motion of Mr. Cook, of Gonzales, the Convention adjourned to 2½ P. M., pending Mr. Crawford's substitute.

EVENING SESSION—2½ O'CLOCK.

Convention met pursuant to adjournment; roll called; quorum present.

Question pending on adjournment, viz: Mr. Crawford's substitute was taken up.

Mr. Ballinger offered the following as a substitute of the section and substitute:

“Sec. —. The Legislature, at its first session, shall provide for the speedy and effective collection of taxes in this State, and for the sale of any property, real or personal, for the payment of all taxes of any taxpayer; and the Legislature shall have full power to declare the effect of a tax deed in favor of the purchaser; and to regulate the time and terms for the redemption of property purchased at tax sales.”

Mr. Russell, of Wood, moved to close debate on the amendment.

Carried.

Mr. Crawford, by leave, withdrew his substitute.

Mr. Ballinger's substitute was lost.

Mr. Russell, of Harrison, proposed to amend section 12, line 56, by adding after the word “land,” the words “and other property.”

Adopted.

Mr. Stewart offered the following amendment:

In lines 59 and 60 strike out all between the words “held” and “provided” and insert “to be *prima facie* evidence of title, and that all the prerequisites to the sale have been complied with.”

[Mr. Brown in the chair.]

On motion of Mr. Fleming, the main question on the amendment was ordered, and amendment lost.

Mr. Ferris proposed to amend section 12 by inserting after the word "thereon," in line 56, the following: "upon the order or judgment of some court of record."

Mr. Russell, of Wood, moved the previous question on the engrossment of the article.

Carried.

Mr. Ferris's amendment lost.

Mr. Waelder's motion to reconsider the vote refusing to adopt Mr. German's amendment providing for the election of an assessor and collector in each organized county, was taken up and lost by the following vote:

YEAS—Abernathy, Ballinger, Blake, Brady, Cooke of San Saba, Cooley, Darnell, Davis of Brazos, Davis of Wharton, Dillard, Dohoney, Erhard, Ferris, Ford, German, Graves, Kilgore, Lockett, Mills, Mitchell, Moore, Morris, Murphy, Munn, Russell of Harrison, Sansom, Waelder, West—28.

NAYS—Allison, Barnett, Blassingame, Bruce, Burleson, Chambers, Crawford, DeMorse, Fleming, Flournoy, Gaither, Holt, Johnson of Collin, Killough, Lacy, Lynch, McCormick, McKinney of Denton, McLean, Martin of Navarro, Martin of Hunt, Norvell, Nugent, Pauli, Ramey, Reagan, Robertson of Bell, Ross, Russell of Wood, Scott, Smith, Spikes, Stayton, Stewart, Stockdale, Wade, Whitehead, Whitfield—38.

Mr. Brown, by leave, withdrew his substitute.

Mr. Martin, of Navarro, offered the following substitute for section 13:

"Sec. 13. There shall be elected by the qualified electors of each county, at the same time and under the same law regulating the election of State and county officers, an assessor of taxes, who shall hold his office for two years, and until his successor is elected and qualified."

Adopted.

Mr. Stewart offered the following amendment:

Amend section 7, lines 35 and 36, strike out the words "paid upon it," and insert "shall be paid to the Comptroller," who shall apportion the same.

Lost.

Mr. McCormick offered the following amendment:

Add after the word "thereon," in line 68, section 14, the following: "And all the property, both real and personal, belonging to any delinquent taxpayer, shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent, and such property may be sold for the payment of

the taxes and penalties due by such delinquent, under such regulations as the Legislature may provide.”

Adopted.

The question on the engrossment of the article was then put, and the article engrossed by the following vote:

YEAS—Mr. President, Abernathy, Allison, Arnim, Barnett, Blassingame, Brown, Bruce, Burleson, Chambers, Cooke of San Saba, Darnell, Ferris, Fleming, Flournoy, German, Graves, Holt, Johnson of Collin, Killough, Lacy, Lynch, McCormick, Martin of Navarro, Martin of Hunt, Nugent, Ramey, Ross, Russell of Wood, Sansom, Scott, Spikes, Wade, Whitfield—34.

NAYS—Ballinger, Blake, Brady, Cooley, Crawford, Davis of Brazos, Davis of Wharton, DeMorse, Dillard, Dohoney, Erhard, Ford, Gaither, Kilgore, Lockett, McLean, Mitchell, Moore, Morris, Murphy, Norvell, Nunn, Paul, Reagan, Robertson of Bell, Russell of Harrison, Smith, Stayton, Stewart, Stockdale, Waelder, West, Whitehead—33.

“Article —, Judicial Department,” taken up.

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

Pending—“Article —, Judicial Department.”

FIFTY-FIRST DAY.

HALL OF REPRESENTATIVES. }
AUSTIN, TEXAS, November 3, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. W. H. Dodge, of the Baptist Church, at Austin.

Journal of yesterday read and adopted.

On motion of Mr. Murphy, Mr. Cardis was excused for four days.

Mr. Fleming presented the petition of the citizens of Hamilton county, asking for a local option law.

Referred to Committee on General Provisions

Mr. Ramey offered the following resolution:

RESOLUTION WITH REGARD TO PRISONS, ETC.

WHEREAS, The barbarities and cruelties practiced on the inmates of the penitentiary have been generally condemned; and

WHEREAS, the plan of scattering the convicts sent to the peni-

tentiary promiscuously over the country has produced general complaint, and shown the necessity of more prisons; and

WHEREAS, The great number of youthful criminals demands the erection of another class of prisons; and

WHEREAS, The great majority of the county prisons are almost equal to the famous *Calcutta Hole*—seats of filth and disease—affording but little security to the prisoners, either by securing them from escape on the one hand, or mob violence on the other, and

WHEREAS, In most of the weak or frontier counties, where desperadoes most abound, the citizens are not able to erect safe and suitable prisons; therefore,

Be it resolved, That the Committee on General Provisions be requested to consider the propriety of reporting a clause in the constitution requiring the Legislature to enact laws regulating the kind and manner of erecting prisons, State, district and county, requiring them to be erected in a manner to secure the prisoners from escape and mob violence on the one hand, and with due regard to the laws of health and so forth on the other, and also laws with regard to the treatment of prisoners confined therein, imposing penalties for their violation; and in those counties in which the citizens are too poor to erect safe and suitable prisons, and where violators of the laws abound, to require the erection of at least one safe and suitable prison in each judicial district, and in such manner as they may prescribe.

Referred to Committee on General Provisions.

On motion of Mr. Allison, two hundred copies of article on education ordered printed.

On motion of Mr. Ramey, two hundred copies of the article on immigration were ordered printed

Unfinished business, viz: "Article —, Judiciary," taken up

Mr. Ballinger, by leave, offered the following resolution:

Resolved, That the order of considering the article on the "Judicial Department" in the constitution shall be as follows

"Each entire article reported by a minority may in turn be presented as the substitute to be adopted by the Convention, in the discussion of which the merits of all reports may be considered. The sections reported by Mr. Reagan and others may be then presented, together, or severally, as substitutes for corresponding sections. After that, the article thus far arrived at as the basis for the action of the Convention, shall be considered, section by section, in their order until completed."

On motion of Mr. Ballinger, the rule was suspended, and the resolution taken up and adopted.

The question being upon the engrossment of the article reported by the majority, Mr. Norvell offered the following as a substitute for the pending article:

“ARTICLE —,

“JUDICIAL DEPARTMENT.

“Section 1. The judicial power of the State shall be vested in one Supreme Court, in a Court of Appeals, in District Courts, in Probate Courts, in County Courts, in Justices' Courts, and in such corporations and other inferior courts as the Legislature may from time to time ordain and establish; *provided*, that no judge of any court, except those of the Supreme Court, the Court of Appeals, and the District Courts shall receive a salary from the State, or from any county.

“Sec. 2. The Supreme Court shall consist of a Chief Justice and two Associate Justices, any two of whom shall constitute a quorum. They shall be elected by the qualified voters of the State at a general election for State or county officers; they shall have arrived at the age of thirty years at the time of election; shall hold their offices for a term of six years, and each of them shall receive an annual salary of at least three thousand five hundred dollars, which shall not be increased or diminished during his term of office.

“Sec. 3. The Supreme Court shall have appellate jurisdiction only from the Court of Appeals, which shall embrace all cases determined in said court, *provided, however*, that the Supreme Court shall have and retain jurisdiction to try and determine the cases which shall remain on its dockets at the time of the organization of the Court of Appeals under this constitution. The Supreme Court, and the judges thereof shall have power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, the said court and the judges thereof may issue the writ of *mandamus* and such other writs as may be necessary to enforce its own jurisdiction. The Supreme Court shall also have power, upon affidavits or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The Supreme Court shall sit for the transaction of business from the first Monday of October until the last Saturday of June of every year, at the capital, and at not more than two other places in the State.

“Sec. 4 The Supreme Court shall appoint its own clerks, who shall give bond in such manner as may be required by law; shall hold their offices for two years, and shall be subject to re-

removal by the said court, for good cause, entered of record on the minutes of said court.

Sec. 5. The court of Appeals shall consist of a Presiding Judge and two Associate Judges, any two of whom shall constitute a quorum. They shall be elected by the qualified voters of the State at a general election for State or county officers; they shall have arrived at the age of thirty years at the time of election; shall hold their offices for a term of six years, and each of them shall receive an annual salary of at least three thousand five hundred dollars, which shall not be increased or diminished during his term of office.

“Sec. 6. The Court of Appeals shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State. The Court of Appeals and the judges thereof shall have power to issue the writ of *habeas corpus*; and, under such regulations as may be prescribed by law, the said court and the judges thereof may issue the writ of *mandamus*, and such other writs as may be necessary to enforce its own jurisdiction. The Court of Appeals shall also have power, upon affidavits, or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The Court of Appeals shall sit, for the transaction of business, from the first Monday of October until the last Saturday of June of every year, at the capital, and at not more than two other places in the State, at which the Supreme Court shall hold its sessions. The Court of Appeals shall not be required to deliver opinions in writing.

“Sec. 7. The Court of Appeals shall appoint its own clerks, who shall give bond in such manner as may be prescribed by law, shall hold their offices for two years, and shall be subject to removal by the said court for good cause, entered of record on the minutes of said court.

“Sec. 8. The State shall be divided into convenient judicial districts. For each district there shall be elected, by the qualified voters thereof, at a general election for State or county officers, a judge, who shall reside in the same, shall hold his office for the term of four years, shall receive an annual salary of not less than two thousand five hundred dollars, which shall not be increased or diminished during his term of service, and shall hold the courts at one place in each county in the district at least twice in each year, in such manner as may be prescribed by law.

“Sec. 9. The District Court shall have original jurisdiction of all criminal cases, of all suits in behalf of the State to recover penalties, forfeitures and escheats, of all cases of divorce, of all

suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; of all suits for the enforcement of liens; of all suits for the trial of the right of property levied on by virtue of any writ of execution, sequestration or attachment, when the property levied on shall be equal to, or exceed in value five hundred dollars; and of all suits, complaints or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to five hundred dollars, exclusive of interest; and the said courts, and the judges thereof shall have power to issue writs of injunction, *certiorari*, and all other writs necessary to enforce their own jurisdiction, and to give them a general superintendence and control over inferior tribunals. All indictments for offenses below the grade of felony returned to, and all informations filed in the District Court, shall be transferred to the Court of the Chief Justice of the County, in such manner as may be prescribed by law, there to be tried or disposed of. The District Courts shall have appellate jurisdiction in cases originating or tried in inferior courts, under such regulations, limitations and restrictions as the Legislature may prescribe, and original and appellate jurisdiction and general control over the Probate Court established in each county for appointing guardians, granting letters testamentary and of administration, for settling the accounts of executors, administrators and guardians, and for the transaction of business appertaining to estates, and original jurisdiction and general control over executors, administrators, guardians and minors, under such regulations as may be prescribed by law.

“Sec. 10. There shall be a Clerk of the District Court for each county, who shall be elected by the qualified voters, and who shall hold his office for two years, subject to removal by information or by indictment of a grand jury, and conviction by a petit jury. In case of vacancy, the Judge of the District Court shall have the power to appoint a clerk, until a regular election can be held. The Clerk of the District Court shall be recorder for the county and *ex-officio* Clerk of the Probate, County and Chief Justice’s Courts.

“Sec. 11. All Judges of the Supreme Court, Court of Appeals and District Courts, shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be ‘the State of Texas.’ All prosecutions shall be carried on in the name and by the authority of the ‘State of Texas,’ and conclude ‘against the peace and dignity of the State.’

“Sec. 12. In case of a vacancy in the offices of Justices of the Supreme Court, Judge of the Court of Appeals, Judges of the District Court, and District Attorneys, the Governor of the State shall have power to fill the same by appointment, which shall continue in force until the office can be filled at the next general election for State or county officers, and the successor duly qualified.

“Sec. 13. The Judges of the Supreme Court, Court of Appeals and District Courts shall be removed by the Governor, on the address of a majority of each House of the Legislature, for willful neglect of duty, misconduct, habits of drunkenness, oppression in office, incompetency, or other reasonable cause, which shall not be sufficient ground for impeachment; *provided, however,* That the cause, or causes, for each such removal shall be required, shall be stated at length in such address, and entered on the journals of the House, *and provided further,* That the cause or causes shall be notified to the judge so intended to be removed; and he shall be admitted to a hearing in his own defense, before any vote for such address shall pass. And in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each House respectively.

“Sec. 14. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degree as may be prescribed by law, or where he shall have been of counsel in the case. When the Supreme Court, or any two of its members shall be thus disqualified to hear and determine any case or cases in said court, or when no judgment can be rendered in any case or cases in said court, by reason of the equal division of opinion of said judges, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of said case or cases. When the Court of Appeals, or any two of its members shall be thus disqualified to hear and determine any case or cases in said court, or when no judgment can be rendered in any case or cases in said court by reason of the equal division of opinion of said judges, the same shall in like manner be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of said case or cases. When a judge of the District Court is thus disqualified, the parties may, by consent, appoint a proper person to try the said case; or upon their failing to do so, a competent person shall be appointed to try the same in the county

where it is pending, in such manner as may be prescribed by law. And the District Judges may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualification of judges of inferior tribunals shall be remedied as may be prescribed by law.

“Sec. 15. There shall be a District Attorney for each Judicial District in the State, elected by the qualified voters of the district, who shall reside in the district for which he shall be elected; shall hold his office two years, and, together with the perquisites prescribed by law, shall receive an annual salary of not more than five hundred dollars, which shall not be increased during his term of office.

“Sec. 16. Each county shall be divided into five justices’ precincts. There shall be elected in each county, by the qualified voters thereof, as may be directed by law, five Justices of the Peace, one of whom shall reside, after his election, at the county seat, and shall be the Chief Justice, and no two of said justices shall reside in the same justice’s precinct. They shall hold their offices for two years, be commissioned by the Governor, and should a vacancy occur an election shall be held for the unexpired term.

“Sec. 17. There shall be established in each county in the State an inferior tribunal, styled the Probate Court, one term of which shall be holden by the Chief Justice, at the county seat, in each month, as may be prescribed by law. The Probate Court shall have jurisdiction to probate wills, to appoint guardians of minors, idiots, lunatics, and persons *non compos mentis*, to grant letters testamentary and of administration; to settle accounts of executors, administrators and guardians; to transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons *non compos mentis*, including the settlement, partition, and distribution of such estates; and to apprentice minors, under such regulations as may be prescribed by law.

“Sec. 18. The Justices of the Peace of each county, or any three of them, shall constitute the County Court, with such jurisdiction over the local affairs, interests, and police matters in the county, as the Legislature may prescribe.

“Sec. 19. The Chief Justice shall have original jurisdiction of all misdemeanors and petty offenses, as the same are now, or may hereafter be defined by law; of such civil cases where the matter in controversy shall not exceed five hundred dollars, exclusive of interest, under such regulations, limitations and re-

restrictions as may be prescribed by law, without regard to any distinction between law and equity; and appellate jurisdiction in cases originating in the other Justices' Courts in the county, under such regulations, limitations and restrictions as may be prescribed by law. The Legislature may provide for the election of a County Attorney to represent the State and county in the Chief Justice's Court, whose term of office, duties and compensation, to consist of fees and commissions only, shall be such as may be prescribed by law. The other Justices of the Peace shall have such civil and criminal jurisdiction as shall be provided by law. The Justices of the Peace shall be *ex officio* Notaries Public. They shall also perform the duties of Coroner, except such as may, by law, be devolved upon Constables.

"Sec. 20. There shall be elected in each county, by the qualified voters, one Sheriff; also one Constable for each Justice's precinct, to be elected by the qualified voters of the precinct, or county, as the Legislature may direct; who shall hold their offices for two years; and should a vacancy occur, an election shall be held for the unexpired term. The Sheriff shall be commissioned by the Governor.

"Sec. 21. In all cases of law or equity, where the matter in controversy shall be valued at or exceed twenty dollars, the right of trial by jury shall be preserved."

Lost by the following vote:

YEAS—Allison, Cooke of San Saba, Crawford, Davis of Wharton, Douglas, Flanagan, Henry of Limestone, Lacy, McKinney of Denton, Murphy, Norvell, Reagan—12.

NAYS—Abernathy, Abner, Ballinger, Barnett, Blake, Blasingsame, Brown, Bruce, Burlison, Chambers, Cooley, Darnell, Davis of Brazos, DeMorse, Dillard, Dohoney, Ferris, Fleming, Graves, Haynes, Holt, Kilgore, Killough, Lockett, Lynch, McCormick, McKinney of Walker, Mills, Mitchell, Martin of Navarro, Martin of Hunt, Nugent, Nunn, Pauli, Robison of Fayette, Ross, Russell of Harrison, Russell of Wood, Scott, Spikes, Stavton, Stewart, Stockdale, Wade, Waelder, West—46.

Mr. Robertson, of Bell, at his request, was excused from voting.

Mr. Reagan offered the following amendments to the article reported by the majority:

Substitute the following for section 2

"Sec 2 The Supreme Court shall consist of a Chief Justice and four Associate Justices, any three of whom shall constitute a quorum, and a concurrence of a majority of the judges sitting shall be necessary to the decision of a case. No person shall be eligible to the office of Chief Justice or Associate Justice of the

Supreme Court, unless he be at the time of his election a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or judge of a court in this State, or such lawyer and judge together, at least seven years. Said Chief Justice and Associate Justices shall be elected by the qualified voters of the State, at a general election, shall hold their offices for eight years, and shall each receive an annual salary of four thousand dollars, which shall not be increased or diminished during his term of office."

Substitute the following for section 3:

"Sec. 3. The Supreme Court shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State; but in criminal cases its appellate jurisdiction shall only extend to cases of felony, to cases of misdemeanor involving official misconduct, and to cases of the violation of the laws in relation to insurance and banking; and in civil cases to suits involving sums of five hundred dollars or more, exclusive of interest; and to suits, without reference to the amount in controversy, in behalf of the State, to recover penalties, fines, forfeitures and escheats; to cases of divorce, to suits for the recovery of damages for slander and defamation of character; to suits for the trial of the title to land, and for the enforcement of liens on land; and to suits involving the constitutionality of a law, or the validity of a law imposing a tax. And it shall have such jurisdiction by appeal over interlocutory judgments of the District Courts, with such exceptions and under such regulations as may be prescribed by law. The Supreme Court, and the judges thereof, shall have power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, the said court, and the judges thereof, may issue the writ of *mandamus*, and such other writs as may be necessary to enforce its own jurisdiction. The Supreme Court shall also have power, upon affidavits or otherwise, as to the court shall seem proper, to ascertain such matters of fact as may be necessary to the proper exercise of its own jurisdiction. And it shall sit for the transaction of business from the first Monday in October until the last Saturday in June of every year, at the seat of government, and at not more than two other places.

Substitute for section 7 as follows:

"Sec 7. The District Court shall have original jurisdiction in criminal cases of the grade of felony; in cases of misdemeanor involving official misconduct; in all cases of gambling, including betting on elections; and in all cases of violation of the laws in relation to insurance and banking. And they shall have jurisdiction in criminal cases, brought by appeal from the County

Courts, in all cases of which the County Courts may have original jurisdiction, which cases shall be tried on the record from the County Court, and without further right of appeal. In civil cases the District Courts shall have original jurisdiction of all suits in behalf of the State to recover penalties, fines, forfeitures and escheats; of all cases of divorce; of all suits to recover damages for slander and defamation of character, of all suits for the trial of the title to land, and to enforce liens on land; and of all suits involving the constitutionality of any law, or to test the validity of a law imposing a tax; and of all suits, complaints and pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall not be less than five hundred dollars, exclusive of interest; and the said court, and the judges thereof, shall have power to issue the writs of *habeas corpus*, *mandamus*, *injunction*, *certiorari*, and all other writs necessary to enforce their own jurisdiction, and to give them a general superintendance and control over inferior tribunals. And they shall have appellate jurisdiction over all civil cases originating in the County Courts, which cases shall be tried on the record of the County Courts, without further right of appeal. And the District Courts shall have original and appellate jurisdiction and general control over County Courts, sitting as Probate Courts, for appointing guardians, granting letters testamentary or of administration; for settling the accounts of executors, administrators and guardians, and for the transaction of business appertaining to estates, and such original jurisdiction and general control over executors, administrators, guardians and minors, and under such regulations as may be prescribed by law."

Substitute for section 13, as follows:

"Sec. 13. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State, shall be a conservator of the peace, and shall hold his office for two years, and until his successor shall be elected and qualified. He shall receive as a compensation for his services such fees and perquisites as may be prescribed by law."

Substitute sections 14 and 15, as follows:

"Sec 14. The County Courts shall have exclusive original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the Justices' Courts, except in cases of official misconduct, and they shall have jurisdiction concurrent with the District Courts in all cases of gambling, including bet-

ting on elections, and cases of the violation of the laws in relation to insurance and banking. And they shall have exclusive original jurisdiction in all civil cases when the amount involved is not less than two hundred nor more than five hundred dollars, exclusive of interest, except in such cases as are otherwise provided for in this constitution, and they shall have such other jurisdiction as may be conferred on them by law. And they shall have appellate jurisdiction of all cases, civil and criminal, of which Justices' Courts shall have original jurisdiction, when the judgment of the court appealed from shall exceed the sum of ten dollars, exclusive of costs, under such regulations as may be prescribed by law, with such appellate jurisdiction from corporation courts, and other inferior tribunals, as may be prescribed by law. In all appeals from Justices' Courts, or corporation courts, or other inferior tribunals, the cases so appealed shall be tried *de novo* in the County Courts, and such trial shall be final under such regulations, and with such exceptions, as may be provided by law.

"The County Courts shall have the general jurisdiction of a probate court. They shall probate wills, appoint guardians of minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, grant letters testamentary and of administrator; settle the accounts of executors, administrators and guardians; transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, including the settlement, partition and distribution of such estates; and to apprentice minors as provided by law. And the County Courts, or the judges thereof, shall have power to issue writs of *mandamus*, injunction, and all other writs necessary to the enforcement of the jurisdiction of said courts; and to issue writs of *habeas corpus* in cases where the offense charged is within the jurisdiction of the County Court, or any other court or tribunal inferior to said court. The County Courts shall not have criminal jurisdiction in any county where there is a Criminal District Court, unless expressly conferred by law; and in such counties appeals from Justices' Courts, and other inferior courts and tribunals, shall be to the Civil or Criminal District Courts, under such regulations as may be prescribed by law."

"Sec 15. There shall not be less than four terms of the County Court, as may be provided by law, for the trial of civil cases, and the Legislature may prescribe what probate orders may be made and business done in vacation; and such court shall always be open for the trial of criminal cases. Prosecutions may be com-

menced in said court by information filed by the County Attorney, or by affidavit, as may be provided by law. Grand Juries impaneled in the District Courts shall inquire into misdemeanors, and all indictments therefor returned into the District Courts shall forthwith be certified to the County Courts, or other inferior courts, having jurisdiction to try them, for trial; and if such indictments be quashed in the county or other inferior court, the person charged shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the County Court shall consist of six men; but no jury shall be impaneled to try a civil case, unless demanded by one of the parties, who shall pay such jury fee therefor, in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same."

Substitute the following for section 17:

"Sec. 17. Each county shall be divided into five justices' precincts; for each of which precincts there shall be elected, by the qualified voters thereof, a Justice of the Peace, who shall hold his office for two years, and until his successor shall be elected and qualified, who shall exercise such jurisdiction, and perform such duties, and receive such compensation as may be prescribed by law. Justices of the Peace shall have jurisdiction in criminal matters of all cases where the penalty or fine imposed on conviction shall be two hundred dollars or less, with or without imprisonment, and in civil matters, of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the District or County Courts, and such other jurisdiction, criminal and civil, as may be provided by law. And the Justices of the Peace shall be *ex officio* Notaries Public. And they shall hold their courts at such times and places as may be provided by law."

Add the following section.

"Sec —. The Legislature shall at its first session provide for the transfer of all business, civil and criminal, pending in the District Court, over which jurisdiction is given by this constitution to the County Courts, or other inferior Courts, to such county or inferior courts; and for the trial or disposition of all such cases by such county or other inferior courts."

On motion of Mr Stockdale, the Convention adjourned to 2½ o'clock P. M.

EVENING SESSION — 2½ O'CLOCK

Convention met pursuant to adjournment: roll called; quorum present.

Consideration of "Article — on Judiciary" resumed.

Mr. Darnell, by leave, withdrew from the papers returned by the Committee on Public Land and Land Office a resolution instructing said committee to inquire into the propriety of validating the patents heretofore issued, on all locations of headrights and other certificates in the reservation heretofore known as the Peters Colony Reservation and the Mississippi and Pacific Railroad Reservation.

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

FIFTY-SECOND DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, November 4, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. John M. Cochran, of the Presbyterian Church of Navasota.

Journal of yesterday read and adopted.

Mr. West, chairman of the Committee on General Provisions, made the following report.

COMMITTEE ROOM,
AUSTIN, November 3, 1875. }

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

The majority of the Committee on General Provisions instruct me to report the following article, and recommend its adoption.

Respectfully submitted. C. S. WEST, Chairman

"ARTICLE —.

"GENERAL PROVISIONS.

"Section 1. Members of the Legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: 'I (A. B.), do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as, according to the best of my skill and ability, agreeably to the constitution and laws of the United States, and of this State; and I do further solemnly swear (or affirm) that, since the adoption of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted

as second in carrying a challenge, or aided, advised or assisted, any person thus offending—so help me God. And I furthermore solemnly swear (or affirm) that I have not directly nor indirectly, paid, offered, or promised to pay, contributed nor promised to contribute, any money or other valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected (or appointed) to said office—so help me God.’

“Sec. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult or other improper practice.

“Sec. 3. The Legislature shall make provision whereby persons convicted of misdemeanors and committed to the county jails in default of payment of fines and costs shall be required to discharge such fines and costs by manual labor on the public works of the county, under such regulations as may be prescribed by law.

“Sec. 4. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly assist in any manner those thus offending, shall be deprived of the right of suffrage, or of holding any office of trust or profit under this State.

“Sec. 5. Every person shall be disqualified from holding any office of profit or trust in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

“Sec. 6. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriation for private or individual purposes shall be made without the concurrence of both houses of the Legislature. A regular statement, under oath, and on account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be provided by law.

“Sec. 7. The Legislature shall, in no case, have power to issue “treasury warrants,” “treasury notes,” or paper of any description intended to circulate as money.

“Sec. 8. Each county in the State may provide, in such manner as may be prescribed by law, a manual labor poor-house and farm, for taking care of, managing, employing and supplying the wants of its indigent and poor inhabitants.

“Sec. 9. Absence on business of the State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office, under the exceptions contained in this constitution.

“Sec. 10. The Legislature shall provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

“Sec. 11. The legal rate of interest shall not exceed eight per cent. per annum, in the absence of any contract as to the rate of interest, and, by contract, parties may agree upon any rate not to exceed twelve per cent. per annum; all interest charged above this last named rate shall be deemed usurious, and the Legislature shall, at its first session, provide, by appropriate pains and penalties, to prevent and punish usury.

“Sec. 12. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the Legislature, or hold or exercise any office of profit or trust under this State.

“Sec. 13. The Legislature shall provide, at its first session, by law, for a change of venue in civil and criminal cases.

“Sec. 14. It shall be the duty of the Legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

“Sec. 15. All civil officers shall reside within the State, and all district and county officers within their districts or counties, and shall keep their offices at such places therein as may be required by law.

“Sec. 16. General laws regulating the adoption of children, emancipation of minors, and the granting of divorces, shall be made; but no special law shall be enacted relating to particular or individual cases.

“Sec. 17. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise or descent, and the increase of the same, shall be her separate property; and laws shall be passed clearly defining the rights of the wife in relation as well as to her separate property, as that held in common with her husband.

Laws shall be passed providing for the registration of the wife's separate property.

"Sec. 18. No corporate body shall hereafter be created, renewed or extended with banking or discounting privileges.

"Sec. 19. All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

"Sec. 20. The rights of property and of action, which have been acquired under the constitution and laws of the Republic or State of Texas, shall not be divested; nor shall any rights or actions which have been divested, barred or declared null and void by the constitution of the Republic or State be reinvested, revived or reinstated by this constitution; but the same shall remain precisely in the situation which they were before the adoption of this constitution, unless otherwise herein provided.

"Sec. 21. The Legislature shall prescribe by law the qualification of grand and petit jurors.

"Sec. 22. The Legislature shall, at its first session, enact a law, whereby the qualified voters of any county, justice's precinct, town, or city, may by a majority vote, from time to time, determine whether the sale of intoxicating liquors, except for medicinal purposes, shall be prohibited within the prescribed limits.

"Sec. 23. All stationery, printing, paper and fuel used in the legislative and other departments of government, shall be furnished, and the printing, binding and distributing of the laws, journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the Legislature and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price, and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall be, in any way, interested in such contracts; and all such contracts shall be subject to the approval of the Governor, Secretary of State and Comptroller.

"Sec. 24. The Legislature shall pass general laws, authorizing any county in the State, by a vote of two-thirds of the qualified voters, voting at any general election, to adopt a fence system in such county, for the protection of farmers and stock-raisers.

"Sec. 25. The Legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilizing fines, forfeitures, and convict labor to all these purposes.

"Sec. 26. That all drawbacks and rebatement of insurance, freight, transportation, carriage, wharfage, storage, compressing,

bailing, repairing, or for any other kind of labor or service of or to any cotton, grain, or any other produce or article of commerce, in this State paid or allowed, or contracted for, to any common carrier, shipper, merchant, commission merchant, factor, agent, or middle-man, of any kind, not the true and absolute owner thereof, are forever prohibited, and it shall be the duty of the Legislature to pass effective laws punishing as felons all persons in this State who pay, receive, or contract for, or respect the same.

“Sec. 27. Every person, corporation or company that may commit a homicide through willful act or omission, shall be responsible, in exemplary damages, to the surviving husband, widow, heirs of his or her body, or such of them as there may be, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

“Sec. 28. The Legislature may provide that in counties bordering on the Rio Grande river, in which two-thirds of the resident population do not speak or understand the English language, that the proceedings in the trial of causes in the District Court may be conducted in the Spanish language; but shall in every instance be entered in English on the minutes of the court; the fact as to two-thirds of the population being ignorant of the English language to be ascertained or shall be prescribed by law.

“Sec. 29. No current wages for personal services shall ever be the subject of garnishment.

“Sec. 30. The Legislature shall provide by law for defining and punishing barratry, champerty and maintenance.

“Sec. 31. The duration of all offices, not fixed by this constitution, shall never exceed two years as the period of office.

“Sec. 32. The accounting officers of this State shall neither draw nor pay a warrant upon the treasury, in favor of any person, for salary or compensation as agent, officer or appointee, who holds, at the same time, any other office or position of honor, trust or profit under the State or United States, except as prescribed in this constitution.

“Sec. 33. The Legislature shall, at its first session, pass laws to protect laborers on public buildings, streets, roads, railroads, canals and other similar public works, against the failure of contractors and sub-contractors to pay their current wages when due, and to make the corporation, company or individual for whose benefit the work is done responsible for their ultimate payment.

“Sec. 43. The Legislature shall, at its first session, provide for the payment or funding, as they may deem best, of the amounts found to be justly due to the teachers in the public

schools, for services rendered prior to the first day of July, A. D. 1873.

“Sec. 35. Mechanics and artisans of every class have a lien upon the articles manufactured or repaired by them, for the value of their labor done thereon, or materials furnished therefor; and the Legislature shall provide by law for the speedy and efficient enforcement of said liens.

“Sec. 36. The Legislature may, at such time as the public interest may require, provide for the office of Commissioner of Insurance, Statistics and History, whose terms of office, duties and salary may be prescribed by law.

“Sec. 37. Treason against this State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

“Sec. 38. The Legislature may, from time to time, make appropriations for preserving and perpetuating memorials of the history of Texas, by means of monuments, statues, paintings, and documents of historical value.

“Sec. 39. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of Justice of the Peace, Notary Public, and Postmaster, unless otherwise specially provided herein.

“Sec. 40. Any person who shall, directly or indirectly, offer, give, or promise any money, or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer or member of the Legislature, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law. And any member of the Legislature, or executive or judicial officer, who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence, or for withholding the same, or with any understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby: or who shall solicit or demand and receive any such money or other advantage, matter or thing, aforesaid, for another as the consideration of his vote or official influence, in consideration of the payment or promise of such money, advantage, matter, or thing to another, shall be held guilty of bribery, within the meaning of this constitution,

and shall incur the disabilities provided for said offenses, with a forfeiture of the office or position they may hold, and such other additional punishment as is or shall be provided by law.

“Sec 41. The Legislature may establish an Inebriate Asylum for the cure of drunkenness and reform of inebriates.

“Sec 42. No man or set of men shall ever be exempted, relieved or discharged from the performance of any public duty or service imposed by general law by any special law; exemptions from the performance of such public duty or service shall only be made by general law.

“Sec. 43. The Legislature shall prescribe the duties, and provide for the election, by the qualified voters of each county in this State, a County Treasurer, who shall reside at the county seat, and hold his office for two years and until his successor is qualified, and shall have such compensation as may be provided by law.

“Sec. 44. It shall be the duty of the Legislature to provide for collecting, arranging, and safely keeping such records, rolls, correspondence and other documents, civil and military, relating to the history of Texas, as may be now in the possession of parties willing to confide them to the care and preservation of the State.

“Sec. 45. The Legislature shall provide by law for organizing and disciplining the militia of this State in such manner as they shall deem expedient, not incompatible with the constitution and laws of the United States.

“Sec. 46. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

“Sec. 47. All laws and parts of laws now in force in the State of Texas, which are not repugnant to the constitution of the United States or to this constitution, shall continue and remain in force as the laws of this State until they expire by their own limitation, or shall be amended or repealed by the Legislature.

“Sec. 48. The Legislature shall have power, and it shall be its duty to protect by law from forced sale a certain portion of the personal property of all heads of families, and also of unmarried adults, male and female.

“Sec. 49. The homestead of a family shall be, and is hereby protected from forced sale for the payment of all debts, except for the purchase money thereof, or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon, and in this last case only

when the work and material are contracted for in writing, with the consent of the wife given in the same manner as is required in making a sale and conveyance of the homestead; nor shall the owner, if a married man, sell the homestead without the consent of the wife, given in such manner as may be prescribed by law, but he shall have the power, with the consent of the wife, to mortgage or execute a deed of trust on the same.

“Sec. 50. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels; the homestead in a city, town, or village shall consist of lot or lots not to exceed in value five thousand dollars at the time of their designation as a homestead, without reference to the value of any improvements thereon.

“Sec. 51. On the death of the husband or wife, or both, the homestead shall descend and vest in like manner as other real property of the deceased, and shall be governed by the same laws of descent and distribution, but it shall not be partitioned among the heirs of the deceased during the lifetimes of the surviving husband or wife, or so long as the survivor may elect to use or occupy the same as a homestead, or so long as the guardian of the minor children of the deceased may be permitted, under the order of the proper court having jurisdiction, to use and occupy the same.

“Sec. 52. The Legislature shall, at its first session, provide for the registration and designation of the homestead, and after such designation, in accordance with the law to be passed for that purpose, no claim of homestead shall be entertained, unless the homestead be registered or occupied by the owner in person, or by agent or tenant, and any property claimed and registered as a homestead shall be liable to forced sale to satisfy any lien or mortgage that may have been created thereon prior to its designation as such.

“Sec. 53. That no inconvenience may arise from the adoption of this constitution, it is declared that all process and writs of all kinds which have been or may be issued and not returned or executed when this constitution is adopted, shall remain valid, and shall not be in any way affected by the adoption of this constitution.

“Sec. 54. It shall be the duty of the Legislature to provide for the custody and maintenance of indigent lunatics, at the expense of the State, under such regulations and restrictions as the Legislature may prescribe.

“Sec. 55. The Legislature may provide annual pensions, not to exceed one hundred and fifty dollars per annum, to surviving

soldiers and volunteers in the war between Texas and Mexico, from the commencement of the revolution in 1835 until the 1st of January, 1837, and also to the surviving signers of the declaration of the independence of Texas; *provided*, that no such pension be granted except to those in indigent circumstances, proof of which shall be made before the County Court of the county where the applicant resides, in such manner as may be provided by law."

On motion of Mr. West, two hundred copies of the report and article were ordered printed.

Mr. Darnell gave notice of a counter report on that part of the article allowing homesteads to be mortgaged.

On motion of Mr. Fleming, Mr. Kilgore was added to Committee on Judicial Apportionment.

On motion of Mr. German, Mr. Dohoney was added to said committee.

On motion of Mr. McCormick, Mr. Blassingame was added to the same committee.

Mr. Dohoney moved to reconsider the vote taken yesterday refusing to adopt Mr. Norvell's substitute for the article on judiciary pending.

Unfinished business—"Art. —, Judiciary," was taken up.

[Mr. Stockdale in the chair.]

Mr. Regan's amendments being under consideration, Mr. McCormick moved to close debate on the amendments, and bring the Convention to a direct vote.

On motion of Mr. Regan, a call of the Convention was ordered.

On motion of Mr. Mills, Mr. Brady was excused, on account of sickness.

On motion of Mr. Moore, Mr. Erhard was excused.

On motion of Mr. Flanagan, Mr. Russell, of Harrison, was excused for three days from to-day.

The roll was then called.

Absent—Messrs. Blake, Johnson of Collin, and Cook of Gonzales.

On motion of Mr. Burleson, Mr. Cook, of Gonzales, was excused, on account of sickness.

Mr. McCormick moved to suspend the call.

Lost.

The pending question went to the table temporarily, and "Art. —, Legislative Apportionment," was taken up and read a second time.

Mr. Martin, of Hunt, moved to dispense with the reading of the article.

Lost.

Mr. Allison offered the following amendments:

1. In line 6, after the word "Liberty," insert the word "Chambers."

2. In line 40 strike out the word "Montgomery."

3. In line 41 strike out the word "Montgomery," and insert the word "Waller."

4. In line 42 strike out the word "Chambers," and insert "Montgomery."

5. In line 84, after the word "Liberty," insert the word "Chambers."

6. In line 15 strike out the word "Chambers," and insert the word "Montgomery."

Messrs. Johnson, of Collin, and Blake having appeared, the call was exhausted, and the Convention resumed consideration of "Article —, Judiciary."

Mr. McCormick's motion to close debate was carried.

The question on the adoption of Mr. Reagan's amendments was put and amendments adopted by the following vote:

YEAS—Abernathy, Allison, Barnett, Blassingame, Brown, Bruce, Burleson, Chambers, Cooke of San Saba, Darnell, Davis of Wharton, Flournoy, Gaither, German, Graves, Haynes, Henry of Limestone, Holt, Johnson of Collin, Johnson of Franklin, Killough, Lacy, Lynch, McKinney of Denton, Mills, Martin of Navarro, Ramey, Reagan, Robertson of Bell, Ross, Russell of Wood, Sansom, Scott, Sessions, Spikes, Wade, Weaver, Whitehead—38.

NAYS—Abner, Ballinger, Blake, Cline, Cooley, Crawford, Davis of Brazos, DeMorse, Dillard, Dohoney, Douglas, Ferris, Flanagan, Fleming, Ford, Lockett, McCormick, McKinney of Walker, McLean, Mitchell, Moore, Morris, Murphy, Martin of Hunt, Norvell, Nugent, Nunn, Pauli, Robinson of Fayette, Smith, Stayton, Stewart, Stockdale, Waelder, West, Whitfield—36.

Mr. Kilgore stated that he was paired off with Mr. Henry, of Smith, but for which fact he would vote "yea."

Mr. Murphy asked to be excused from voting. The Convention refused to excuse him.

On motion of Mr. Sansom, the Convention adjourned to 2½ o'clock P. M.

EVENING SESSION—2½ o'clock.

Convention met pursuant to adjournment; roll called; quorum present.

“Article —, on Judiciary,” again taken up.

Mr. McCormick offered the following as a substitute for section 2 of the Article:

“Sec. 2. The Supreme Court shall consist of six Justices, who shall be elected by the qualified voters of this State, at a general election held for members of the Legislature. Each of said Justices, at the time of his election, shall be a citizen of the United States, at least thirty years of age, and a practicing attorney-at-law, in this State, of at least seven years standing; they shall hold their offices for a term of years from the date of their election, unless sooner removed, as may be provided by law, or until their successors are qualified, and a vacancy in said court may be filled as is now or may hereafter be provided by law. At the first session of the Supreme Court after the election thereof, the said Justices shall elect one of their own number to the office of Chief Justice, who shall be the presiding justice of said court; and said Chief Justice, at each term of said court, shall assign three of said court to the hearing and determining of the civil causes pending therein, and three of said court to the hearing and determining of the criminal causes pending therein, and the concurrence of all three of said court thus assigned to either branch of said court shall be necessary to the determination of any cause pending before them; but should the Justices so assigned fail to agree upon any cause submitted to them, in such case, the Chief Justice shall convene the court in *banc* for a decision of said cause, and whenever, in the opinion of three Justices of said court, it is necessary or proper, in the decision of any cause, to take the opinion of the whole court, the Chief Justice shall convene the court in *banc*, and take their opinion upon the cause; and the opinion of the majority shall be the judgment of the court. The Chief Justice shall not assign any Justice of said court, either to the civil or criminal department thereof, for more than one term in succession, without the consent of said Justice. The Justices of the Supreme Court shall each receive an annual salary of four thousand dollars, which shall be paid by the State.”

Lost.

Mr. Whitfield offered the following substitute for sections 2 and 6:

“Sec. 2. The State shall be divided into five judicial depart-

ments, as nearly equal in population as conveniently may be. There shall be elected in each of these departments, by the qualified voters thereof, one Justice of the Supreme Court, and five District Judges, at elections held for members of the Legislature. Each Justice of the Supreme Court, at the time of his election, shall be a citizen of the United States, at least thirty years of age, and have been a practicing lawyer or judge of the court of record, either or both, for at least seven years in this State, and have resided two years next preceding his election in the department in which he is elected. He shall receive a salary of dollars per annum, which amount shall not be increased or diminished during his term of office. The term of the Justices of the Supreme Court shall be eight years. The Justices of the Supreme Court shall select from their number from time to time, with reference to a dispatch of business, a presiding justice.

“Sec. 6. Each judicial department of this State shall be divided into five judicial districts. One of the five judges of the District Court elected in each department shall be chosen from each of said districts. Each District Judge shall be at least twenty-five years of age, shall be a citizen of the United States, shall have been a practicing attorney in the courts of this State for five years, and a resident of the district from which he comes for one year; he shall receive an annual salary of dollars, which shall not be increased or diminished during his term of office. The District Court shall be held at one place in each county in the State regularly, at least twice in each year, in such manner as may be prescribed by law. The Legislature may provide by general law for the holding of special terms of the District Court, when necessary for the dispatch of business, and shall provide for the holding of the District Court when the judge thereof is absent, or is from any cause disabled or disqualified. The term of the District Judges shall be six years.”

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

FIFTY-THIRD DAY.

HALL OF REPRESENTATIVES, }
AUSTIN, TEXAS, November 5, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. W. H. Dodge, of the Baptist Church, at Austin.