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FIFTY-EIGHTH DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, November 11, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. R. H. Willenberg, of the Cumberland Presbyterian Church, at Austin.

Journal of yesterday read and adopted:

Mr. Reagan offered the following:

Amend the Article on General Provisions by inserting the following as a separate section:

“Sec. —. That all the navigable waters of this State shall forever remain public highways, free to the citizens of the State, and of the United States, without tax, impost or toll; and that no tax, toll, impost or wharfage shall be demanded or received from the owners of any merchandise or commodity, for the use of the shores, or any wharf erected on the shores, or in, or over any of said waters, unless expressly authorized by law.”

One hundred copies ordered printed.

[Mr. Brown in the chair.]

Mr. Rentfro offered the following resolution:

Resolved, That the following be and become one of the rules of this Convention:

“Rule —. When under a call of the Convention any member shall be absent, it shall be the duty of the Sergeant-at-arms to bring said member into the presence of the Convention. Convention to hear excuse for absence, and judge of its sufficiency. In the event the member be not excused, he shall be fined one dollar, for the benefit of the State, and shall be debarred of his right of voting on any and all questions in said Convention until said fine shall have been paid.”

Laid over one day under the rules:

Mr. Robertson, of Bell, offered the following resolution:

WHEREAS, It is the settled policy of this Convention that the Legislature may continue to grant landed subsidies to aid in the construction of railroads;

AND WHEREAS, The experience of the last twenty years has made it manifest that no railroad company that has ever been chartered in Texas has complied with the terms of its contract, thereby creating a necessity for an extension of time;

AND WHEREAS, It must be apparent that no railroad that may be chartered in the future can be built and put into running order in less time than fifty years;

AND WHEREAS, The welfare of the people of Texas demands that they should be relieved from every unnecessary expense in the administration of their government;

AND WHEREAS, The legislation so often demanded for the extension of time to railroad contracts is both expensive to the people and demoralizing in its operation, and demands a reformation, therefore, be it

Resolved, That the Committee on General Provisions be instructed to prepare an article prohibiting the Legislature from entering into any contract with any railroad, river, bayou, ditch or canal company in the future, that will require any of said companies to comply with the terms of their contracts under a period of fifty years.

Referred to the Committee on General Provisions.

Mr. Stewart offered the following resolution:

Resolved, That the Legislature, at its first and second general sessions, shall have power to provide for the annual assessment and collection of a special tax for the maintenance of public common free schools, the said tax not to exceed the general State tax, and when collected and paid into the State Treasury, to be by the Governor, Comptroller and Treasurer distributed to the several counties in this State, according to their respective scholastic population. And the said tax shall never be used by the State or counties for any other purpose than the maintenance of unsectarian public common free schools.

Referred to the Committee on Education.

Mr. Nunn moved to take up his resolution relative to night sessions.

The chair ruled that it required a two-thirds vote to take up the resolution out of its order.

Mr. Nunn appealed from the decision of the chair.

The Convention sustained the chair.

Mr. Stewart offered the following resolution:

Resolved, That three millions of acres of the public domain is hereby reserved and set apart for the purpose of building a State Capitol and other necessary public buildings at the seat of government, which lands shall not be sold within ten years from the adoption of this constitution.

Referred to Committee on State Affairs.

“Article—, Judicial Department,” taken up.

Mr. Flournoy’s substitute pending.

Mr. Whitfield moved to lay Mr. Flournoy’s substitute on the table.

Whereupon the yeas and nays were called, and the Convention

refused to lay the substitute on the table by the following vote:

YEAS—Abernathy, Ballinger, Brown, Cardis, Cline, Davis of Brazos, Davis of Wharton, DeMorse, Dillard, Dohoney, Ferris, Fleming, Henry of Limestone, Henry of Smith, Kilgore, Killough, Lockett, McCormick, Mitchell, Moore, Murphy, Martin of Hunt, Nugent, Nunn, Reagan, Rentfro, Reynolds, Sansom, Smith, Stockdale, Waelder, Whitfield—32.

NAYS—Abner, Allison, Barnett, Blassingame, Bruce, Burleson, Crawford, Darnell, Douglas, Flournoy, Gaither, German, Graves, Haynes, Johnson of Collin, Johnson of Franklin, Lacy, McKinney of Denton, McKinney of Walker, McLean, Martin of Navarro, Norvell, Pauli, Ramey, Robertson of Bell, Robison of Fayette, Ross, Russell of Wood, Sessions, Spikes, Stayton, Wade, Whitehead—33.

The hour having arrived for considering the special order, viz: "Article—, General Provisions," it was taken up, and on motion of Mr. King, postponed until the pending business shall be disposed of.

Mr. Wade moved to close debate on the pending substitute. Carried by the following vote:

YEAS—Abernathy, Allison, Ballinger, Barnett, Blassingame, Brown, Bruce, Burleson, Cardis, Chambers, Cooke of San Saba, DeMorse, Dillard, Dohoney, Douglas, Ferris, Fleming, Flournoy, Gaither, Graves, Haynes, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Kilgore, Killough, Lacy, McCormick, McKinney of Denton, McKinney of Walker, McLean, Moore, Murphy, Martin of Navarro, Martin of Hunt, Norvell, Nugent, Nunn, Pauli, Ramey, Reagan, Rentfro, Robison of Fayette, Ross, Sansom, Sessions, Spikes, Stewart, Stockdale, Wade, Waelder, Whitehead, Whitfield—53.

NAYS—Abner, Brady, Cline, Crawford, Darnell, Davis of Brazos, Davis of Wharton, Flanagan, Henry of Smith, King, Lockett, Mitchell, Reynolds, Robertson of Bell, Russell of Wood, Smith—16.

The question then recurring on the adoption of Mr. Flournoy's substitute, the same was put, and the substitute lost by the following vote:

YEAS—Allison, Barnett, Blassingame, Bruce, Cardis, Crawford, Flournoy, Johnson of Collin, Johnson of Franklin, McLean, Russell of Wood—11.

NAYS—Abernathy, Abner, Ballinger, Blake, Brady, Burleson, Chambers, Cline, Cooke of San Saba, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dillard, Dohoney, Douglas, Ferris,

Flanagan, Fleming, Gaither, German, Haynes, Henry of Limestone, Henry of Smith, Kilgore, Killough, King, Lacy, Lockett, McCormick, McKinney of Walker, Mitchell, Moore, Murphy, Martin of Hunt, Norvell, Nugent, Nunn, Pauli, Reagan, Rentfro, Reynolds, Robertson of Bell, Robison of Fayette, Ross, Sansom, Sessions, Smith, Spikes, Stayton, Stewart, Stockdale, Wade, Wharton, Whitehead, Whitfield—56.

Mr. Graves was paired off with Mr. Scott, but for which he would have voted "no."

Mr. Nugent moved to reconsider the vote just taken, and to lay the motion on the table.

Carried.

Mr. Waelder offered the following amendment:

Insert after the word "court," in line 2, section 1, the words "in a Court of Appeals."

Adopted by the following vote:

YEAS—Abernathy, Ballinger, Barnett, Brown, Cline, Cooke of San Saba, Davis of Brazos, Davis of Wharton, Ferris, Fleming, Gaither, Henry of Limestone, Henry of Smith, Killough, King, Lacy, Lockett, McCormick, Moore, Murnhy, Norvell, Nugent, Nunn, Pauli, Reagan, Rentfro, Robison of Fayette, Sansom, Sessions, Smith, Stayton, Stewart, Stockdale, Wade, Waelder, Whitehead, Whitfield—37.

NAYS—Allison, Blassingame, Bruce, Crawford, DeMorse, Dillard, Dohoney, Douglas, Flournoy, German, Graves, Haynes, Johnson of Collin, Johnson of Franklin, Kilgore, McKinney of Denton, McLean, Martin of Navarro, Martin of Hunt, Ramey, Ross, Russell of Wood, Spikes—23.

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

Strike out all of section 1 after the word "law," in fourth line.

Mr. Nugent moved to lay the amendment on the table.

Lost by the following vote:

YEAS—Ballinger, Barnett, Cooke of San Saba, Darnell, Davis of Brazos, Ferris, Gaither, Haynes, King, Murphy, Nugent, Nunn, Reagan, Sansom, Smith, Stewart, Stockdale, Waelder—18.

NAYS—Allison, Blassingame, Bruce, Burleson, Cardis, Chambers, Cline, Crawford, Davis of Wharton, DeMorse, Dillard, Dohoney, Fleming, Flournoy, German, Graves, Henry of Limestone, Henry of Smith, Johnson of Collin, Johnson of Franklin, Kilgore, Killough, Lacy, Lockett, McCormick, McLean, Moore, Martin of Navarro, Norvell, Pauli, Ramey, Rentfro, Robison of

Fayette, Ross, Russell of Wood, Sessions, Spikes, Stayton, Wade, Whitehead, Whitfield—41.

Mr. Russell, of Wood, by leave withdrew his amendment.

Mr. Dohoney offered the following amendment:

Amend section 1, line 7, by striking out "fifteen" and insert "thirty."

On motion of Mr. Johnson, of Collin, the Convention adjourned—Wade, Whitehead, Whitfield—41.

EVENING SESSION—2½ o'clock.

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

The pending business was taken up, being the amendment of Mr. Dohoney to section 1 of article on Judiciary, to strike out the word "fifteen" before the word "thousand," and insert "thirty."

The amendment was adopted by the following vote:

YEAS—Abernathy, Allison, Bruce, Chambers, Cooke of San Saba, Davis of Wharton, DeMorse, Dohoney, Douglas, Fleming, Gaither, German, Graves, Haynes, Henry of Limestone, Henry of Smith, Johnson of Collin, Johnson of Franklin, Kilgore, Lacy, McCormick, McKinney of Denton, Mitchell, Moore, Martin of Navarro, Martin of Hunt, Norvell, Nugent, Nunn, Pauli, Ramey, Rentfro, Reynolds, Robison of Fayette, Ross, Russell of Wood, Sessions, Spikes, Stayton, Wade, Whitehead—41.

NAYS—Ballinger, Barnett, Brown, Burleson, Cardis, Cline, Crawford, Darnell, Dillard, Ferris, Flournoy, Killough, King, McKinney of Walker, Murphy, Reagan, Sansom, Smith, Stewart, Stockdale, Waelder, Whitfield—22.

Mr. Russell, of Wood, offered the following as an amendment to be added to section 1, as amended:

"Provided, such town or city shall support said Criminal District Court, when established."

Adopted.

Mr. Cline offered the following amendment:

Strike out all of section 1, beginning with the words "such," in line 3, and insert the words "municipal courts."

Lost.

Mr. King offered the following amendment to section 1:

In lines 6 and 7 strike out the words "containing at least fifteen thousand inhabitants," and insert after the word "city" the words, "which, together with the county in which it may be situated, contains an aggregate population of thirty thousand."

Lost.

Mr. Waelder offered the following amendment:

In section 2, line 12, strike out "four" and insert "two;" in line 13 strike out "three" and insert "two;" and in line 14 strike out "a majority of the" and insert "two;" and also strike out the word "sitting" in line 14.

Adopted.

Mr. Whitfield offered his substitute, heretofore presented, as a substitute for section 2; and also offered to amend his substitute by striking out the word "five," in line 4, and insert "and as many district judges as may be hereafter provided."

Lost by the following vote:

YEAS—Allison, Ballinger, Burleson, Cardis, Cooke of San Saba, Crawford, Davis of Brazos, Dillard, Fleming, Flournoy, Haynes, Henry of Limestone, Killough, King, McCormick, McKinney of Walker, Moore, Murphy, Nugent, Nunn, Reagan, Robison of Fayette, Sansom, Stayton, Stewart, Stockdale, Wade, Whitehead, Whitfield—29.

NAYS—Abernathy, Barnett, Blassingame, Brady, Brown, Bruce, Chambers, Cline, Darnell, Davis of Wharton, DeMorse, Dohoney, Douglas, Ferris, Gaither, German, Graves, Henry of Smith, Johnson of Collin, Johnson of Franklin, Kilgore, Lacy, Lockett, McKinney of Denton, Mitchell, Martin of Navarro, Martin of Hunt, Norvell, Pauli, Ramey, Rentfro, Reynolds, Ross, Russell of Wood, Sessions, Smith, Spikes, Waelder—38.

Mr. Bruce offered the following amendment:

In section 2, line 22, strike out "eight" and insert "six."

Mr. German offered the following amendment to the amendment:

Amend section 2, line 22, striking out the words "shall hold their offices for eight years," and insert "shall hold their offices for four years."

Mr. Barnett moved to lay the amendment on the table.

Carried, by the following vote:

YEAS—Abernathy, Abner, Allison, Ballinger, Barnett, Blassingame, Brady, Brown, Bruce, Burleson, Cardis, Chambers, Cline, Cooke of San Saba, Darnell, Davis of Brazos, Ferris, Fleming, Flournoy, Gaither, Graves, Haynes, Henry of Smith, Kilgore, Killough, King, Lacy, Lockett, McCormick, McKinney of Walker, Mitchell, Moore, Murphy, Martin of Navarro, Martin of Hunt, Nugent, Pauli, Ramey, Reagan, Reynolds, Robertson of Bell, Robison of Fayette, Ross, Russell of Wood, Sansom, Sessions, Smith, Spikes, Stayton, Stewart, Stockdale, Wade, Waelder, Whitehead—54.

NAYS—Crawford, Davis of Wharton, DeMorse, Dillard, Do-

honey, Douglas, German, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Norvell, Nunn, Rentfro—13.

Mr. Bruce offered the following amendment:

In section 2, line 23, strike out the words "four thousand," and insert "three thousand."

Mr. Sansom offered the following as a substitute for the amendment:

Strike out the words "four thousand," and insert "three thousand and five hundred."

Mr. Gaither moved to lay the amendments on the table.

Mr. Russell, of Wood, called for a division on the question.

The amendment of Mr. Bruce to strike out the word "eight," and insert "six," in section 2, line 22, was voted on.

The Convention then laid the motion on the table by the following vote:

YEAS—Abernathy, Abner, Allison, Ballinger, Brown, Burleson, Cline, Davis of Brazos, Ferris, Fleming, Flournoy, Gaither, Haynes, Henry of Smith, Kilgore, Killough, King, McCormick, McKinney of Walker, Moore, Murphy, Martin of Navarro, Martin of Hunt, Pauli, Reagan, Reynolds, Ross, Sessions, Stayton, Stewart, Stockdale, Wade, Waelder—33.

NAYS—Barnett, Blassingame, Brady, Bruce, Chambers, Crawford, Darnell, Davis of Wharton, DeMorse, Dohoney, Douglas, German, Graves, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Lacy, Lockett, McKinney of Denton, Mitchell, Norvell, Nugent, Nunn, Ramey, Rentfro, Robertson of Bell, Robison of Fayette, Russell of Wood, Sansom, Spikes, Whitehead—31.

The Convention then laid the substitute offered by Mr. Sansom on the table by the following vote:

YEAS—Abernathy, Ballinger, Brady, Brown, Cline, Davis of Brazos, Davis of Wharton, Dohoney, Ferris, Flournoy, Gaither, Haynes, Henry of Limestone, Henry of Smith, Kilgore, King, McCormick, McKinney of Walker, Moore, Murphy, Martin of Navarro, Nunn, Pauli, Reagan, Reynolds, Ross, Sessions, Stayton, Stewart, Stockdale, Wade, Waelder, Whitfield—33.

NAYS—Abner, Allison, Barnett, Blassingame, Bruce, Burleson, Chambers, Crawford, Darnell, DeMorse, Douglas, Fleming, German, Graves, Johnson of Collin, Johnson of Franklin, Killough, Lacy, Lockett, McKinney of Denton, Mitchell, Martin of Hunt, Norvell, Nugent, Ramey, Rentfro, Robertson of Bell, Robison of Fayette, Russell of Wood, Sansom, Spikes, Whitehead—32.

The amendment offered by Mr. Bruce, to strike out "four

thousand" and insert "three thousand," was then laid on the table by the following vote:

YEAS—Abernathy, Abner, Ballinger, Brown, Burleson, Cline, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dohoney, Douglas, Ferris, Flournoy, Gaither, Haynes, Henry of Smith, Kilgore, Killough, King, McCormick, McKinney of Walker, Moore, Murphy, Martin of Navarro, Martin of Hunt, Norvell, Nunn, Pauli, Reagan, Reynolds, Robison of Fayette, Ross, Sessions, Smith, Stayton, Stewart, Stockdale, Waelder, Whitfield—40.

NAYS—Allison, Barnett, Blassingame, Brady, Bruce, Chambers, Crawford, Fleming, German, Graves, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Lacy, Lockett, Mitchell, Nugent, Ramey, Rentfro, Robertson of Bell, Russell of Wood, Sansom, Spikes, Wade, Whitehead—25.

Mr. Haynes offered the following amendment:

Section 2, strike out lines 12 and 13 to the word "and," in line 13, and insert the following: "The Supreme Court shall consist of three justices, who shall be elected for the term of twelve years, and after the first election after the adoption of this constitution shall be divided by lot into three classes. The term of the first class to expire at the end of four years; the term of the second class to expire at the end of eight years; and the term of the third class to expire at the end of twelve years."

Lost.

Mr. German offered the following amendment:

In section 2, line 23, strike out "four thousand dollars," and insert "not more than three thousand five hundred and fifty dollars."

Mr. McCormick moved to lay the amendment on the the table.

Carried by the following vote:

YEAS—Abernathy, Ballinger, Barnett, Brady, Brown, Bruce, Burleson, Cline, Darnell, Davis of Brazos, Davis of Wharton, Dohoney, Ferris, Flournoy, Gaither, Graves, Haynes, Henry of Smith, Kilgore, Killough, King, McCormick, McKinney of Walker, Moore, Murphy, Martin of Navarro, Nunn, Pauli, Reagan, Reynolds, Robison of Fayette, Ross, Sessions, Stayton, Stewart, Stockdale, Waelder, Whitfield—38.

NAYS—Abner, Allison, Blassingame, Chambers, Crawford, DeMorse, Douglas, Fleming, German, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Lacy, Lockett, McKinney of Denton, Mitchell, Martin of Hunt, Norvell, Nugent, Ramey, Rentfro, Robertson of Bell, Russell of Wood, Sansom, Smith, Spikes, Wade, Whitehead—28.

Mr. Nunn moved to reconsider the vote just taken, and to lay the motion to reconsider on the table.

Lost by the following vote:

YEAS—Abernathy, Ballinger, Brady, Brown, Burleson, Darnell, Davis of Brazos, Davis of Wharton, Dohoney, Ferris, Flournoy, Gaither, Haynes, Henry of Smith, Kilgore, Killough, King, McCormick, McKinney of Walker, Moore, Murphy, Nunn, Pauli, Reagan, Rentfro, Reynolds, Ross, Sessions, Stayton, Stewart, Stockdale, Waelder, Whitfield—33.

NAYS—Abner, Allison, Barnett, Blassingame, Bruce, Chambers, Cline, Cooke of San Saba, Crawford, De Morse, Douglas, Fleming, German, Graves, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Lacy, Lockett, McKinney of Denton, Mitchell, Martin of Navarro, Martin of Hunt, Norvell, Nugent, Ramey, Robertson of Bell, Robison of Fayette, Russell of Wood, Sansom, Smith, Spikes, Wade, Whitehead—34.

Mr. Graves moved to adjourn until 9 o'clock A. M. Saturday.

Carried, by the following vote:

YEAS—Abner, Allison, Ballinger, Barnett, Brady, Brown, Cline, Cooke of San Saba, Crawford, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dohoney, Douglas, Fleming, Flournoy, Graves, Henry of Smith, Kilgore, Killough, King, Lockett, Mitchell, Moore, Murphy, Martin of Navarro, Martin of Hunt, Nugent, Pauli, Rentfro, Reynolds, Stayton, Stockdale, Whitehead—35.

NAYS—Abernathy, Blassingame, Bruce, Burleson, Chambers, Ferris, Gaither, German, Haynes, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Lacy, McCormick, McKinney of Denton, McKinney of Walker, Norvell, Nunn, Ramey, Reagan, Robertson of Bell, Robison of Fayette, Ross, Russell of Wood, Sansom, Sessions, Smith, Spikes, Stewart, Wade, Waelder, Whitfield—32.

FIFTY-NINTH DAY.

HALL OF REPRESENTATIVES, }
AUSTIN, TEXAS, November 13, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. R. H. Willenburg, of the Cumberland Presbyterian Church, at Austin. Journal of yesterday read and adopted.