

TWENTY-FOURTH DAY.

MONDAY, Aug. 10, 1857.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by Rev. Mr. PENMAN.

The Journal of Saturday was read and approved.

Mr. SHERBURNE, from the Committee on the Judicial Department, submitted the following Report, the reading of which was, on motion of Mr. CHASE, dispensed with:

"The Committee to whom was referred the subject of a Judicial Department of the State Government, have had the same under consideration, and ask leave to submit the following report:

ARTICLE —.

JUDICIAL.

"SECTION 1. The Judicial power of the State shall be vested in a Supreme, District Courts, Courts of Probate, Justices of the Peace, and such other Courts inferior to the Supreme Court as the Legislature may from time to time establish by a two-thirds vote.

"SEC. 2. The Supreme Court shall consist of one Chief Justice and two Associate Justices: but the number of Associate Justices may be increased to a number not exceeding four by the Legislature by a two-thirds vote, when it shall be deemed necessary.

"It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said Court. It shall hold one or more terms in each year, as the Legislature may direct, at the seat of government; and the Legislature may provide, by a two-thirds vote, that one term in each year shall be held in each Judicial District.

"It shall be the duty of such Court to appoint its own clerk or clerks, and a reporter of its decisions.

"SEC. 3. The Governor shall nominate, and by and with the advice and consent of the Senate, shall appoint the Supreme Judges, whose term of office shall be seven years.

"SEC. 4. The State shall be divided by the Legislature into five Judicial Districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each Judicial District, one Judge shall be elected by the electors thereof, who shall constitute said Court, and whose term of office shall be seven years.

"Every District Judge shall at the time of his election be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office.

"SEC. 5. The District Courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months' imprisonment or a fine

of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The Legislature may provide by law that the Judge of one district may discharge the duties of the Judge of any other district not his own, when convenience or the public interests may require it.

"SEC. 6. The Judges of the Supreme and District Courts shall be men learned in the law, and shall receive such compensation at stated times as may be prescribed by the Legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

"SEC. 7. There shall be established in such organized county in the State a Probate Court, which shall be a Court of Record and open at all times. It shall be held by one Judge, who shall be elected by the voters of the county for the term of four years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own clerk where none has been elected: but the Legislature may authorize the election, by the electors of any county, of one clerk, or Register of Probate, for such county—whose powers, duties and compensation shall be prescribed by law, and whose term of office shall be four years. A Probate Court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction except as prescribed by this Constitution.

"SEC. 8. The Legislature shall provide for the election of a sufficient number of Justices of the Peace in each county, whose term of office shall be three years, and whose duties and compensation shall be prescribed by law: *Provided*, That no Justice of the Peace shall have civil jurisdiction of any cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment or a fine of over one hundred dollars, nor in any cause involving the title to real estate.

"SEC. 9. All Judges other than those provided for in this Constitution, shall be elected by the electors of the judicial district, county or city, for which they shall be created, not for a longer term than seven years.

"SEC. 10. In case the office of any judge shall become vacant before the expiration of the regular term for which he was elected or appointed, the vacancy shall be filled by appointment by the Governor until a successor is elected or appointed and qualified.

"SEC. 11. The Justices of the Supreme Court and the District Courts shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office, except a judicial office, given by the Legislature or the people, during their continuance in office, shall be void.

"SEC. 12. The Legislature may at any time change the number of Judicial Districts or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any Judge, unless the number of districts shall be diminished.

"SEC. 13. There shall be elected in each County where a District

Court is held, one Clerk of said Court, whose qualifications, duties, and compensation, shall be prescribed by law and whose term of office shall be four years.

"SEC. 14. Legal proceedings and proceedings in the Courts of this State shall be under the direction of the Legislature, but they shall be in substance according to the course of the common law. The style of all process shall be "The State of Minnesota," and all indictments shall conclude "against the peace and dignity of the State of Minnesota."

"SEC. 15. There shall be an Attorney General elected by the electors of the State, whose term of office shall be three years, and whose compensation and duties shall be fixed by law.

"SEC. 16. The Legislature may provide for the appointment or election of one person in each organized county in this State with judicial power and jurisdiction not exceeding the power and jurisdiction of a Judge of the District Court at Chambers, or the Legislature may, instead of such appointment or election, confer such power and jurisdiction upon the several Judges of Probate in the State.

M. SHERBURNE,	} Committee."
B. B. MEEKER,	
CHAS. E. FLANDRAU,	
except Sec. 1, 3 and 14.	
HENRY E. WAIT,	
JOSIAH BURWELL.	

Mr. MEEKER moved that a Standing Committee of five, on Impeachment and Removals from Office, be appointed by the President.

Which motion prevailed.

Mr. SETZER having been called to the Chair, the PRESIDENT moved to suspend the rules so as to admit a re-consideration of the vote by which Mr. GORMAN's amendment to Section 15 of the Bill of Rights was adopted, and the previous question ordered thereon.

Which motion prevailed.

Mr. SIBLEY then moved a re-consideration of the vote by which said amendment was adopted.

Which motion was carried.

The question recurring on adopting the amendment of Mr. GORMAN, by inserting the words "of which he shall have been duly convicted," in Section 15, of the Bill of Rights.

Mr. SIBLEY having moved the previous question thereon, and the same having been ordered, and the yeas and nays being called for and ordered, there were yeas 9, nays 30.

Those who voted in the affirmative were :

Messrs. Baker, Cantell, Day, Gorman, Jerome, McGrorty, Rolette, Stacey, and Sturgis—9.

Those who voted in the negative were :

Messrs. A. E. Ames, Becker, Barrett, Burns, Brown, Baasen, Chase, Davis, Emmett, Faber, Flandrau, Gilman, Kingsbury, Keegan, Murray, Meeker, McFetridge, McMahan, Nash, Prince, Setzer, Sanderson, Sherburne, Streeter, Swan, Taylor, Ten Voorde, Vasseur, Wait, and Mr. President—30.

So the amendment of Mr. GORMAN was rejected.

Mr. GORMAN then moved to amend the report of the Committee on Section 15 of the Bill of Rights, by inserting after the word "fraud" therein, the following words : "First proved to the satisfaction of the Court or officer issuing the writ."

On motion of Mr. SIBLEY, the previous question was ordered, and the yeas and nays being called for and ordered, there were yeas 10, nays 26.

Those who voted in the affirmative were :

Messrs. M. E. Ames, Baker, Davis, Day, Gorman, Lashelle, McGrorty, Sanderson, Stacey, and Sturgis—10.

Those who voted in the negative were :

Messrs. A. E. Ames, Becker, Barrett, Burns, Brown, Chase, Emmett, Faber, Flandrau, Gilman, Jerome, Kingsbury, Keegan, Murray, Meeker, McFetridge, Nash, Prince, Setzer, Sherburne, Streeter, Swan, Ten Voorde, Tuttle, Wait, and Mr. President—26.

So the amendment was lost.

Mr. GORMAN moved to amend Section 15, by striking out the words "except in case of fraud."

The previous question was then ordered, and the yeas and nays being called for and ordered, there were yeas 24, nays 16.

Those who voted in the affirmative were,

Messrs. A. E. Ames, M. E. Ames, Becker, Baker, Barrett, Cantell, Chase, Davis, Day, Faber, Gorman, Jerome, Kingsbury, Lashelle, Murray, McGrorty, McFetridge, Nash, Sanderson, Stacey, Sturgis, Tuttle, Vasseur and Mr. President—24.

Those who voted in the negative were,

Messrs. Burns, Brown, Baasen, Emmett, Flandrau, Gilman, Keegan, Meeker, Prince, Setzer, Sherburne, Streeter, Swan, Taylor, Ten Voorde and Wait—16.

So the motion was carried.

Mr. A. E. AMES moved to strike out section 15 and insert the following:

"SEC. 15. There shall be no imprisonment for debt in this State."

Which motion was lost.

Mr. Wait moved to strike out section 15.

Which motion was lost.

Mr. EMMETT moved to amend by adding to section 15, after the word "State," the following:

"But this shall not prevent the Legislature from providing for imprisonment or holding to bail persons charged with fraud in contracting said debt."

Which motion prevailed.

The question recurring on concurring in the amendments of the Committee of the Whole, as amended by the Convention, to section 15, they were concurred in.

The question arising on concurring in the amendment to section 16, and the yeas and nays being called for and ordered, there were yeas 22, nays 16.

Those who voted in the affirmative were,

Messrs. Baker, Burns, Cantell, Chase, Day, Emmett, Faber, Gorman, Jerome, Keegan, Lashelle, Meeker, McGrorty, McPetridge, Sanderson, Stacey, Streeter, Swan, Taylor, Ten Voorde, Vasseur and Wait—22.

Those who voted in the negative were,

Messrs. A. E. Ames, M. E. Ames, Becker, Barrett, Brown, Baasen, Davis, Flandrau, Gilman, Kingsbury, Murray, McMahan, Prince, Setzer, Sherburne, Sturgis, Tuttle and Mr. President—18.

So the amendment to section 16 was concurred in.

Mr. EMMETT moved to amend section 11 of the Bill of Rights, by striking out the word "or," in the first line, and insert after the word "*ex post facto*," the words "or retroactive."

Which amendment was adopted.

The amendments to the Bill of Rights having all been concurred in, the question recurred on ordering the same to be engrossed.

And it was so ordered.

On motion of Mr. KINGSBURY, the Convention resolved itself into Committee of the Whole,

Mr. FLANDRAU in the Chair,

Having under consideration the report of the Committee on the "Executive Department."

Mr. MURRAY moved to strike out of section 2, the word "two," and insert "four."

Mr. BROWN moved to amend the amendment by striking out of section 2, the words "Governor, Lieutenant Governor."

Which motion prevailed.

The question arising on the original amendment as amended,

Mr. MURRAY, by consent, withdrew the same.

Mr. MURRAY moved to strike out of section 2, as amended, the word "two," and insert "four."

Which motion was lost.

Mr. KINGSBURY moved to strike out of section 2, as amended, the word "two," and insert "three."

Which motion was lost.

Mr. MURRAY moved to amend by striking out all of section 2.

Which motion was carried.

Mr. SIBLEY moved to amend section 4 by striking out the words "by birth or adoption."

Which motion prevailed.

Mr. EMMETT moved to amend by striking out of section 4 the words "each have attained the age of twenty-five years and."

Which motion was lost.

Mr. EMMETT moved to amend by striking out the words "twenty-five" and insert in lieu thereof the word "fifty."

Mr. A. E. AMES moved to amend the amendment by striking out the words "twenty-five," and insert "twenty-one."

Which motion was lost.

The question recurring on the original motion, it was lost.

Mr. EMMETT moved to strike out "twenty-five," and insert "twenty-one."

Mr. SETZER moved to amend the amendment by striking out "twenty-five," and insert "ten."

Which motion prevailed.

The question recurring on the original motion as amended, It was not agreed to.

Mr. BECKER moved to strike out of section 5, the words "he shall be Commander-in-Chief of the Militia, except when called into service by the United States," and insert in lieu thereof, "he shall be Commander-in-Chief of the Military and Naval forces, and may call out such forces to execute the laws, to suppress insurrections and repel invasions."

Which motion prevailed.

Mr. STACEY moved to insert in section 5, after the word "pardons," the words "after conviction."

Which motion was lost.

Mr. SETZER moved to amend section 5, by inserting after the word "State," the words "by and with the consent of the Senate."

Which motion was lost.

Mr. BROWN moved to amend section 5, by inserting after the words "Notaries Public," the words, "and such other officers as may be provided by law."

Which amendment prevailed.

Mr. MURRAY moved to strike out of section 5 the words "not beyond the next regular session."

Which motion prevailed.

Mr. EMMETT moved to strike out of section 5 all after the word "Legislature," to the end of the paragraph.

Which motion prevailed.

Mr. SHERBURNE moved to strike out of section 6, the first paragraph.

Which motion was carried.

Mr. MURRAY moved to amend section 7, by striking out \$1500 as compensation for Secretary of State, and insert \$2000.

Which motion was lost.

Mr. M. E. AMES moved to strike out in section 7 the words "two hundred and fifty dollars and fees," and insert "one thousand dollars."

Which motion was carried.

Mr. BAASEN moved to add to section 9 the words "and until their successors shall have been duly elected and qualified."

Which motion prevailed.

Mr. GORMAN moved to amend section 7 by adding after the first paragraph the words "and each shall continue in office until their successors shall have been elected and qualified."

Which motion prevailed.

Mr. M. E. AMES moved to strike out of section 10, the word "thereof," and insert the words "of their office."

Which motion prevailed.

On motion of Mr. BROWN, section 11 was stricken out.

On motion of Mr. M. E. AMES, the Committee rose, reported the Article back to the Convention with amendments, and asked the concurrence of the Convention therein.

On motion of Mr. BECKER, the Convention adjourned until half past 2 o'clock P. M.

2½ O'CLOCK, P. M.

The Convention met pursuant to adjournment and was called to order by the PRESIDENT.

The PRESIDENT announced the following gentlemen as a Committee on Impeachment and Removal from office: Messrs. WAIT, MEEKER, MURRAY, STACEY and KINGSBURY.

On motion of Mr. KINGSBURY, the report of the Committee of the Whole on the Executive Department was then concurred in, in gross.

On motion of Mr. STACY, the words "after conviction," were inserted in section 5 after the word "pardons."

Mr. CHASE moved to amend by adding to section 10 the following:

"And the Treasurer elected in accordance with this Article shall give a bond in the penal sum of one hundred thousand dollars to the Governor, and to be approved by him before entering upon his duties."

Mr. EMMETT moved to amend the amendment by striking out the words "one hundred thousand dollars," and insert instead thereof the words "such sum as the Legislature may from time to time prescribe."

Which amendment to the amendment prevailed.

The question recurring on the original amendment as amended it was rejected.

The report of the Committee of the Whole on the Executive Department was then concurred in.

On motion of Mr. KINGSBURY, the Convention resolved itself into Committee of the Whole,

Mr. BECKER in the Chair.

Having under consideration the report of the Committee on Finances of the State, Banks and Banking.

On motion of Mr. NORRIS, the word "ordinary" was inserted in section 2, in the third line, before the word "expenses."

Mr. CURTIS moved to amend section 2 by inserting the words "of the State," after the word "expenses" in the second line.

Mr. SHERBURNE moved to amend the amendment by striking out the words "of the State" in the third line.

Which motion prevailed.

Mr. SIBLEY moved to strike out the word "the" in the third line of section 2, and insert in lieu thereof the word "such."

Which motion prevailed.

And all the aforesaid amendments were then adopted.

On motion of Mr. McGRORTY, the words "Public Hospitals," were inserted after the words "School Houses," in section 3.

Mr. BAKER moved to insert the words "Church Property" after the word "Churches," in section 3.

Mr. CURTIS moved to amend the amendment by adding thereto the words "and houses of worship."

Which motion prevailed.

Mr. M. E. AMES moved to amend further by adding thereto the words "not exceeding in amount the sum of fifty thousand dollars."

Which motion was lost.

Mr. WAIT moved to amend the amendment by inserting after the words "Church Property," the words "and for religious purposes."

Which motion was carried.

Mr. SETZER moved to amend the amendment by inserting the word "public" before the word "worship."

Which amendment was adopted.

The question recurring on the original amendments, they were concurred in.

Mr. MURRAY moved to amend section 3 by striking out the words "may by general laws," and insert the word "shall."

Which motion was carried.

Mr. BAASEN moved to amend by striking out of section 3 the words "two hundred," and insert in lieu thereof the words "two hundred and fifty."

Mr. BAKER moved to amend the amendment by adding thereto the following :

" All regular ordained ministers of the gospel who make the calling of their Master their sole profession and refuse holding civil offices, shall be exempt from taxation to the amount of \$2,500 in real and personal property."

Which amendment to the amendment was rejected.

The question recurring on the original amendment of Mr BAASEN, It was decided in the negative.

Mr. CURTIS moved to insert after the words "personal property," the words " for household purposes."

Which motion was lost.

On motion of Mr. M. E. AMES, the words " be subject to" were inserted in Sec. 4, in lieu of the words " be on."

Mr. MURRAY moved to strike out the words " without deduction," in Sec. 4.

Which amendment was rejected.

Mr. SIBLEY moved to strike out of Sec. 5, third line, the words " singly nor."

Which motion prevailed.

Mr. M. E. AMES moved to strike out of Sec. 5, all after the word " dollars."

Which motion was rejected.

Mr. CHASE moved to strike out of Sec. 5, the words "two-thirds of."

Which motion was rejected.

On motion of Mr. TUTTLE, the word " seven" in 5th Sec. was struck out and " ten" inserted.

On motion of Mr. STURGIS, the word "house," in seventh line was struck out and the words "branch of the Legislature" inserted in lieu thereof.

On motion of Mr. TUTTLE, the word " seven," in the third line 6th Sec., was struck out and "ten" inserted.

On motion of Mr. M. E. AMES, the words " by the State," were inserted after the word "sold," in the fifth line of Sec. 6.

Mr. BROWN moved to strike out Sec. 13, and insert the following :

"Sec. 13. No debt shall be deemed to be liquidated in this State by virtue of the payment of the paper of any banking corporation in circulation as money."

Which motion was rejected.

Mr. A. E. AMES moved to strike out of Sec. 14, all from the commencement to the words "The Legislature."

Which motion did not prevail.

On motion of Mr. GORMAN, the Committee rose, reported progress and asked leave to sit again.

Leave was granted.

On motion of Mr. GORMAN, the Convention adjourned.

H. H. SIBLEY, President.

Attest :

J. J. NOAH, Secretary.

TWENTY-FIFTH DAY.

TUESDAY. Aug. 11, 1857.

The Convention met pursuant to adjournment, and was called to order by the PRESIDENT.

Prayer by Rev. Mr. PENMAN.

The Journal of yesterday was read and approved.

Mr. BROWN, from the Committee on Credentials, presented the following Report :

Report of the Committee on Credentials in the case of Thos. H. Armstrong :

"Your Committee, having examined the documents placed before them in reference to the election of Thomas H. Armstrong as delegate to the Constitutional Convention, have obtained the following facts from verified copies of the poll books of the several precincts, and from verified statements as to the illegality of votes cast at the election.

The poll books of the precincts in Mower County exhibits the votes polled as follows :

A. B. Vaughn received	-	-	-	-	420	votes.
Rob't Lyle	"	-	-	-	401	"
J. M. Wychoff	"	-	-	-	363	"
T. H. Armstrong	"	-	-	-	370	"
Boyd Phelps	"	-	-	-	418	"

"By this exhibit it appears that Robert Lyle obtained a majority of 31 votes over T. H. Armstrong.