FORTY-THIRD DAY.

BISMARCK, *Thursday, August 15, 1889.*

The Convention met pursuant to adjournment, the PRESIDENT in the Chair.

Prayer was offered by the Rev. Mr. KLINE.

Mr. SPALDING. I move that the resolution on page seven of the Journal of Wednesday, July 17th, as amended on page five of the Journal of July 18th, with the exception that the word "eight" be substituted for the word "six," on page eighteen, in the fourth line from the bottom, be adopted. The object of my motion is this. As will be remembered this resolution passed and was then reconsidered, and it has been left there all this time. I think the motion to reconsider has served its purpose, and as it now stands there is no authority to have any debates of this Convention printed or preserved, and the stenographer knows nothing about how much of the debates or whether any of them, shall be transcribed. It being near adjournment there is no more proper time than now that we should settle this matter definitely, and I therefore make this motion.

Mr. STEVENS. As I understand it there has already been a motion passed that a thousand copies should be printed. This is mainly a question of distribution. The members of the Convention are all in favor of printing these debates, and the question is as to whether each member should have six copies or eight.

Mr. BARTLETT of Griggs. My recollection of this was that this matter was voted down. If this Convention has heretofore given authority and that authority has not been repealed—to print the debates, let us go ahead, but as I understand it they re-considered the matter and voted down the proposition to publish the debates.

Mr. STEVENS. There was no question as to the publishing of the debates. The only question is as to the number we shall have.

Mr. PARSONS of Morton. The matter was reconsidered, and an amendment offered to the resolution of the gentleman from Burleigh, excluding from the debates all proceedings in Committee of the Whole, and the matter was left without any vote whatever. There is nothing before the House in regard to the matter now. There was a vote taken on an amendment offered to the resolution of the gentleman from Burleigh, but the original motion as amended was never put to the House. I don't wish to take the floor but once in this matter, but I wish to state this fact—that of the proceedings in the Committee of the Whole the only record we have are the stenographers' records. We have a brief synopsis or report of the Committee of the Whole as it appears in the minutes, but the only positive record we have is the stenographer's report. It seems to me to be the height of folly to pay a man to take down these speeches—for that is the principal part of what he has been doing—unless we are going to make use of them. The records of the other proceedings the secretary keeps closely. A thousand and one questions will arise as to this course and that course taken by different members here. That is the only true record, and I don't know of a constitutional convention ever held in the United States where these proceedings were not preserved and printed. I have taken particular pains to speak to the public printer in regard to this matter, and he informs me that the proceedings thus far had would not make a book of more than 400 pages.

The motion of Mr. SPALDING was lost by a vote of 21 to 45.

WOMEN VOTING ON SCHOOL MATTERS.

Mr. ROWE. I move to amend section 128 by striking out all after the word "territory" the following words: "May vote for all school officers and upon all questions pertaining solely to school matters and be eligible to any school office."

The section was read as follows:

SEC. 128. Any woman having the qualifications enumerated in section one of this article as to age, residence and citizenship, and including those now qualified by the law of this Territory, may vote at any election held solely for school purposes.

Mr. BARTLETT of Dickey. I move to further amend the section by inserting after the word "any" in line one, the word "single."

Mr. STEVENS. I hope this motion will not prevail. I hope this Convention will not offer a premium on old maids. That is

what this motion means, and I am opposed to offering a premium on old maids. I haven't any use for them.

Mr. MOER. I would like to know what effect the motion of the gentleman from Dickey will have? I at one time said that I would vote for this amendment, but I apprehended then that it only covered officers of the county. The only question I desire to ask is whether it allows a woman to vote for State School Superintendent.

Mr. ROLFE. The question as I understand it is on the adoption of the section as amended. The amendment is a singular one. I don't object to the purpose of it, but the general effect. If there is anything that we hold sacred it is the secrecy of the ballot. How will the secrecy of the ballot of women offering to vote on school matters be preserved if this section is adopted? If a woman presents herself and offers to vote for school superintendent she must exhibit her vote before she will be permitted to cast her ballot. That is not only contrary to the genius of our elective franchise, but contrary to section 129 following this, that was passed unanimously, which provides that all elections shall be by secret ballot. If our elections for State School Superintendent and county school superintendent come at general elections as in all probability will be the case, any women offering to vote at that election cannot have reserved to her the privilege of a secret ballot, such as is guaranteed to men.

Mr. ROWE. I don't understand that it will be necessary for any woman who goes to the polls to exhibit her ballot. This amendment covers all school officers and all questions pertaining to school matters. In the case of an election of a State School Superintendent at the general election, it can be so arranged that the ladies would be allowed to vote on School Superintendent. There can be a separate ballot box for the women, and it will not be necessary for them to exhibit their ballots.

Mr. STEVENS. These men who have fought this thing from the first will still fight it. If a woman is entitled to vote for a county superintendent the same rule should apply to State Superintendent. The county superintendent under our present Territorial laws is not elected at the same time as other county officers, but there is no provision that he shall not be. The Legislature may prescribe methods by which the evils predicted by the gentleman from Benson will be avoided. Undoubtedly the details of the question will have to be settled by the Legislature. There

can be nothing done till the Legislature has prescribed rules. The question before us is this—shall the women be allowed to vote for school officers? I say it is absurd to say that women are entitled to vote for school directors and not for school superintendent and other school officers. If they are entitled to vote for school director as they are now allowed to do under our territorial laws, it is on the principle that they are entitled to have something to say in the government of our common schools. They are as much interested—and more in fact—as the men. Whatever little education I may have I owe to my mother, and not to my father. I say the women of this country are interested more in the subject of education than the men, and I say they should be entitled to vote on this question, and if they vote on any branch of it, they should vote on all of it. It is a queer state of things to say that a man shall be entitled to enlist as a private and stand up as a target, but that he shall never aspire to be a general or captain of a company. That is what you say when you say that women can go and vote for a school director and county superintendent, but not for the State Superintendent. He is the general of the army, and to say that the women can have no right to help select that general is inconsistent with the first proposition. Either they are not entitled to vote on educational subjects at all or they are entitled to vote on all educational subjects. I hope no man on this floor that is in favor of women voting on any branch of education, will vote against this amendment.

Mr. MOER. The gentleman from Ransom is very popular with the ladies now, and it would seem to have been wholly unnecessary for him to have made this speech in view of the fact that the question has been passed. The objection raised by the gentleman from Benson was not, in my opinion, a captious one. I propose to vote for this section. I have opposed one form of woman suffrage. But, at the same time, it seems to me that when an objection is raised that may be a valid one, it should be met in some other manner than by such a speech as has been made by the gentleman from Ransom. I believe the objection of the gentleman from Benson has something in it. I don't see how a woman is to vote unless there is a special provision made by the Legislature, and we don't know whether the Legislature will make it or not.

Mr. BARTLETT of Griggs. Again I shake hands with the gentleman from Ransom. He expresses my sentiments exactly.

One or two gentlemen are considerably worried over the matter of the secrecy of the ballot. That section regarding the secrecy of the ballot was put in there before we decided that women should vote on school matters. Probably that would not have been put in, because it is pretty well known that women have no secrets. I rise to move the previous question.

Section 128 was adopted as amended.

Section 129 was also adopted.

AUSTRALIAN BALLOT SYSTEM.

Mr. PARSONS of Morton. I move that what is know as Council Bill No. 60 be added to section 129.

Mr. SPALDING. This matter has been voted upon several times, and there is but a small minority in favor of having this done. To save time, I move that the motion be laid upon the table.

Mr. MOER. I am in favor of the Australian bill system, but I don't believe the Constitution is any place for it. I have consistently opposed any proposition that would put this bill in here. A great many other things have, in my judgment, gone into the Constitution that had no business there.

Mr. WALLACE. I am in favor of the Australian ballot system, but I don't think it would be wise to put it with all its complexity in the Constitution, and I vote no.

The motion of Mr. PARSONS was laid on the table.

Mr. WILLIAMS. I desire to offer the following substitute for section 129:

"The secrecy of the ballot shall be preserved inviolate; and the Legislative Assembly shall pass suitable laws to secure the same. All ballots shall be printed, distributed and delivered at the polls to electors for voting at public expense and under public supervision, and at each polling place there shall be provided a sufficient number of booths or compartments in which the electors shall singly prepare their ballots in secret."

Mr. LAUDER. If we are going into this thing we may as well do it thoroughly. But this substitute is legislation pure and simple, and should be left to the Legislature.

Mr. MILLER. This substitute simply announces the fundamental principle. It is a just and proper provision. It gives the Legislature power to go on and make a complete election law and should be adopted by this Convention.

Mr. LAUDER. If that is not the Australian system what is

the use of incurring all this expense? If that is not legislation I don't know what legislation is.

Mr. MOER. I believe the substitute should be adopted. The gentleman from Richland talks about legislation, and he has been advocating legislation in this Constitution from the day we came here. I say that this substitute goes to the purity of the ballot, and there is no farmer on the floor of this House that should not advocate this system. The purity of the ballot is what will prevent corruption in the Legislature and we should take a step towards purifying our ballot system. This provides that the State shall provide ballots to be printed and they shall be secret. What objection can the gentleman from Richland have to this? Let us do something in expressing our approval of the principle of the secret ballot.

Mr. CAMP. I am in favor of having something in the election laws which will secure the secrecy of the ballot. During the last month or so I have been looking into a system which does away with ballots entirely and provides an entirely new method, which is absolutely secret and does away with all solicitation at the polls, and it seems to me is an almost perfect voting system and an improvement on the Australian system. The Legislature, in order to carry out the provisions of this substitute would be obliged to pass something like the Australian bill. While I am in favor of the Australian system, I don't want to fix it so that the Legislature cannot adopt an improvement on it if there is one found.

Mr. PARSONS of Morton. The system the gentleman refers to is very well in theory. It is a machine, and if the least thing gets out of order with it the whole thing would be thrown out and you would have to have a new election.

Mr. SCOTT. I think, as the gentleman from Richland says, if we are going into providing a half Australian bill we had better provide the whole thing. Section 129 provides that we shall have a secret ballot system, and it leaves the Legislature free to adopt a system. I don't think we want to put this in the Constitution.

AFTERNOON SESSION.

REGISTRATION OF VOTERS.

Mr. WILLIAMS. I desire to move the following as a substitute for section 129:

SEC. 129. The General Assembly shall immediately, and from time to time, provide for by law a complete and uniform registration by election districts of the names of qualified electors in this State; which registration shall be evidence of the qualification of all registered electors to vote at any election thereafter held; but no person shall be excluded from voting at any election, on account of not being registered, until the General Assembly shall have passed an Act of Registration which shall have gone into effect. No person shall vote, except as provided in this Constitution, unless his name shall have been registered as required by law at least ten days before the day of election. A new registration shall be made within sixty days next preceding the tenth day prior to every election; and after it shall have been made no person shall establish his right to vote by the fact that his name appears on any previous register. All laws for the registration of electors shall be uniform throughout the State.

Mr. WILLIAMS. I think every member of this Convention is in favor of honest and fair elections, and this provision will, I think, insure it. It requires the Legislature immediately to pass a registration law which will insure honest elections. That is what the future State will desire, and I think it is a measure that should find a place in our Constitution.

The substitute was laid on the table.

Mr. STEVENS. I move as a substitute the following:

"The Legislature shall provide by law for the registration of voters."

On motion the substitute was laid on the table.

Mr. BARTLETT of Griggs. I believe a majority are in favor of a registration law, but I believe the principal objection to this proposed section is that it goes into legislation, and provides what the Legislature shall do, therefore I move to strike out all after the word "held" in the fifth line of Mr. WILLIAMS' motion.

Mr. MILLER. That would exclude the provision beginning in the fifth line "but no person shall be excluded from voting, etc." If a man must be registered in order to vote, and there is no law providing how he shall be registered, I don't know who would be qualified voters.

The amendment of Mr. BARTLETT was adopted, and the section as amended was adopted.

DISTRICT COURT JURISDICTION.

Section 103 being a special order was considered with 116.

Section 103 reads as follows:

SEC. 103. The district court shall have original jurisdiction each within its territorial limits, except as otherwise provided in this Constitution, of all

causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of *habeas corpus*, *quo warranto*, *certiorari*, injunction and other original and remedial writs, with authority to hear and determine the same.

Section 116 reads as follows:

SEC. 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

Mr. LAUDER. We have had a good deal of discussion over this section, and there seems to be some difference of opinion in regard to it, and there were those who believed if the section were adopted as it now stands it would prevent one judge from exercising any authority in another district. For that reason they desired that it should not be adopted in this form. As you remember, a large number of the delegates believed that to amend the section as sought to be amended here last evening, would leave us practically in the same position we are in now—that a man might be sued in any part of the State. I think I have an amendment which will obviate the difficulty and place this section in such shape that all delegates can support it. It is as follows: Strike out in the second line the words "each within its territorial limits" and add at the close of the section the following: "All proceedings had and taken in any action not commenced in the county in which the defendant or one of the defendants resides, shall be null and void; *Provided, however*, That this section shall not apply to non-residents of this State, or persons about to depart from the county of their residence."

You will see that it does not prevent a change of venue in proper cases, but it simply provides that in the first instance the suit shall be commenced in the county in which the defendant resides, or one of the defendants. Then if the cause of justice will be promoted by a change of venue an application can be made, but in the first instance the action must be commenced in the county in which the defendant resides. That is all there is of it, and I think that is what we want. It does not prevent a provisional remedy from operating in another county. Action may be commenced in the county where the man resides, and it secures to every man that when he is sued he shall be sued in the county in which he lives, and if he is sued in any other county he will pay no attention to it, knowing that proceedings taken in the suit will be null and void. It does not restrict the process of the court, but it does

secure to every citizen of the State the right of being sued if he is sued at all, in the county in which he lives, and then if for any reason the suit should be tried elsewhere, application can be made to the court and a change of venue granted.

Mr. ROLFE. I believe the amendment has not been seconded. I would second the amendment believing that it covers all objections made and secures the principle we would like to incorporate in this section. Our laws heretofore have been framed in such a way that action might be commenced wherever the plaintiff choose to bring it, throwing on the defendant the burden of procuring a change. We give to the defendant the right to have his case tried in his own county, but the plaintiff may institute the suit in some other county. Since we recognize the right of a defendant to have his case tried in his own county, why not have it instituted in the same county? Then if there is a reason for a change of place of trial, let the expense and the trouble of securing the change fall on the plaintiff rather than on the defendant. The amendment offered by the gentleman from Richland secures the defendant the right to have his case instituted in the county where he lives. The process of the district court will be valid throughout the limits of the States and the objection will be done away with that was raised that the process of the court would be only valid within the territorial limits. That was a point we had not considered.

Mr. SPALDING. I call for a division of the question.

Mr. CARLAND. What became of my motion to strike out the words "each within its territorial limits."

Mr. SCOTT. We are entitled to a division of the question. I am in favor of striking out these words, but not in favor of adding the amendment, because there are a good many exceptions which perhaps the gentleman from Richland does not think of, and I don't think it is a proper place now and here for us to say under what circumstances and where a man may be sued. That question is properly left to the Legislatue if any question is to be left to them. Though I am in favor of striking out the words as indicated in the motion of the gentleman from Burleigh, I am not in favor of adding the clause introduced by the gentleman from Richland. I believe the plaintiffs have rights in courts as as well as the defendants, and the convenience of both parties should be consulted and the matter would be very properly left to the Legislature to attend to. It is not our province and jurisdiction now to go into the matter.

Mr. LAUDER. The objection was made to this section last evening that it restricted the process of the court Now this amendment proposes to remove that, and the only purpose of the section is to provide that a man can only be sued in his own county. It simply shows that the gentlemen were not acting in good faith when they urged that objection, but they seek not only to erase those words, but to leave it just as it is now so that a man in Rollette county, if caught in Fargo, may be sued there. It is a question whether this Convention desires such a provision in its Constitution.

Mr. ROWE. I would like to ask what effect this would have on a party living in a county that was attached to another for judicial purposes?

Mr. LAUDER. There will be no such county in this Constitution, for it provides that in every organized county there shall be held two terms of court a year.

Mr. SPALDING. I call for a division of the question. I want it divided so that the part which pertains to the striking out can be voted on first and then a proper amendment may be added. I don't believe the amendment offered is a proper amendment. But I do want to have an amendment prepared that will voice the sentiments of the minority here and at the same time leave the thing in proper shape, and that is why I call for a division of the question.

Mr. BARTLETT of Griggs. I hope this motion to strike out will be voted down. It is evident that some of these gentlemen are not sincere. They do not want a man to have the privilege of being sued in the county where he resides. Last night it was postponed till this afternoon so that they could investigate it. Now they say this is not a proper amendment. Have they a proper amendment to offer? If they have they have not presented it. They want these first words stricken out, and then they propose to vote down the amendment. I say let us keep these words in the section and until the amendment is adopted.

The motion to strike out the words was lost by a vote of 29 to 34.

Mr. WILLIAMS. I think a majority of the members of this Convention are in favor of allowing a man to be sued only in his own county. I think the Convention should agree and I will move that this section be re-committed to the Committee on Judiciary.

I believe they will report a section which will be satisfactory to a majority of this Convention.

The motion of Mr. WILLIAMS was seconded and carried.

Mr. BARTLET of Griggs. I move that the Committee on Judiciary be instructed to prepare a section which will provide that a man may be sued only in his own county. If we don't pass some such motion as this it will simply come back to us as it did before, and be discussed all over again.

Mr. SCOTT. I would like to inquire who is to be the judge as to where the residence of the defendant is? The question of residence is a question of fact, pure and simple, and a man may be in Burleigh county to-day, or for three, or four, or six months, and his actual residence, in the eye of the law, is not in any county—not in any county at all. I say, who is going to be the judge as to where the defendant resides? Suppose a man came here and did business, and got into debt and another resident desired to sue him, and he proved that his residence was in Eddy county or some other county? Then all the proceedings would be void. It seems to me that we should not instruct the committee to put such a provision in the section as that. The question of residence is a question of fact, and very frequently the law determines that the residence of a man is determined according to his intentions —where he claims his residence, and not where he actually resides.

Mr. MOER. I am heartily in sympathy with the movement to get a defendant sued in the county where he resides, if it can be done without any danger to our court system. But when you tie up the hands of the judiciary in this way you don't let them exercise any judgment at all. I move that the motion of the gentleman from Griggs be laid on the table.

The motion was seconded and carried.

Section 116 was adopted.

THE REGISTRATION QUESTION.

Mr. SPALDING moved that the vote by which article five was adopted be reconsidered.

Mr. SPALDING. I don't believe we want to provide, or make any provision, so that the simple fact that a man has registered shall prevent anybody else from challenging his vote at the polls. I don't believe such a provision is safe. It is easy to get registered and still not be a voter, and the tendency will be to put the

responsibility of illegal voting on the registration, and parties who are not present at the time the registration is going on will have no power to challenge those who may be improperly registered.

Mr. PARSONS of Morton. I move that the motion of the gentleman from Cass be laid on the table.

The motion was lost and the motion to reconsider prevailed.

Mr. MILLER. As a matter of fact I don't believe the matter can be taken from before this Convention until it finally adjourns. This Convention has control of it till it finally adjourns. I want to ask this Convention before this motion to reconsider is finally voted upon, in what position we were in if we do not reconsider? There is a system providing for a registration law—providing that when a man has registered, the fact that he has registered shall be evidence of his qualifications to vote at any election held thereafter. No subsequent registration is necessary—no qualifications required. Any man can go and register, and the fact that he has registered is evidence of his right to vote. That is the position we are in. This section taken altogether as introduced would make a complete law. But this little fragment makes an absurdity. I am in favor of a registration law, but I am not in favor of something that is an absurdity on its face.

Mr. BARTLETT of Dickey. I am not in favor of the registration law. In cities it is fine, but in the country you won't get men to register, and it is a trick for political tricksters to come around and get their friends who will vote for them, to register, and when they come around to look, good honest men are not allowed to vote. It is a trick to run men into office who are not worthy. A great many of our voters have to come ten, fifteen or twenty miles to vote, and you can't get them to leave their work. They say they won't go twice. Such a law will defeat the honest sentiment oftener than otherwise.

Mr. MILLER. I move the adoption of section 129. I believe it covers every want. It gives all elections by the people by secret ballot, subject to such regulations as shall be prescribed by law. The Legislature may provide a registration law for both cities and counties or for the cities alone, which will probably be done.

Mr. WALLACE. I agree with the gentleman from Cass in the objection he made to section 129 as it stood, and I think with him that the provision which has been made which reads "which regis-

tration shall be evidence of the qualification of all registered electors to vote at any election thereafter held," is absurd. I move to amend the amendment of the gentleman from Burleigh so as to strike out all after the word "State" in the third line.

Mr. SELBY. It would seem that as we have the original proposition before us and two amendments, that we are now in the position that there is first the main motion, the motion to amend and then the amendment to the amendment.

Mr. WILLIAMS. I would like to see this Convention go on record for honest elections. I don't agree with the remarks of the gentleman from Dickey. He finds the registration law works injustice, and the local voter is deprived of his vote. I believe it is better for a legal voter to lose his vote, than for ten or fifteen illegal voters to vote for him.

Mr. LAUDER. I heartily agree with everything said by the gentleman from Burleigh. I am in favor of a strict registration law, and in throwing all the safeguards possibe around the ballot box. I am in favor of the Australian system of voting, but that was voted down because it was legislation. If that was legislation I would like to know what this is. Let us have the Australian system as it was introduced here, or let us leave the whole matter to the Legislature. I therefore move that the amendment be laid on the table.

All amendments to section 129 were laid on the table.

Mr. WILLIAMS then moved again his original motion as a substitute. The motion was ruled out of order, and article five was adopted.

Sections 130 to 143 inclusive were adopted with the recommendations of the committee.

RAILROAD RATES.

Section 144 was read with the recommendation of the committee as follows:

SEC. 144. Railways heretofore constructed or that may hereafter be constructed in this State are hereby declared public highways, and all railroad, sleeping car, telegraph, telephone and transportation companies of passengers, intelligence and freight, are declared to be common carriers and subject to legislative control; and the Legislative Assembly shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight, as such common carriers from one point to another in this State.

[Committee recommended that the word "intelligence" be inserted after the word "passengers" in the next to the last line.]

Mr. PURCELL. This is in substance what is embraced in section nine of File No. 135. As it stands now it will leave the corporations in no position to take an appeal from the rates that might be unjust or unreasonable. This question has received some attention from the Supreme Court of the State of Minnesota, covering a position similar to this. All we ask is that the railroad company have the right to go into the same tribunal where every other person goes to have his rights adjudicated, and have it determined there whether or not the rates are just and reasonable. Judge Brewer in Minnesota, when deciding this question, enjoined the Railroad Commissioners in Minnesota from enforcing certain rates they had fixed. They then changed their rates and fixed another rate. There was an injunction obtained forbidding them from enforcing their rates. But when deciding the constitutional question raised in Minnesota the judge held that it did not appear that the rates were unreasonable. But where the Railroad Commissioners may fix rates that are unreasonable without a constitutional provision allowing the companies to appeal to some tribunal, they have no remedy. An amendment I shall move simply gives the courts the power to decide whether the rates are reasonable. It does not seem to me that there is any advantage to the company or against the company in a provision of this sort. I move to amend the section by adding the following:

Provided, That the common carriers above named, or any party interested, shall have the right to appeal to the courts from the rate so fixed by the Legislative Assembly whenever said rates as fixed appear to be unreasonable or unjust.

Provided, further, That pending the determination of appeal, the court shall fix and determine what rates shall be in force.

Mr. LAUDER. This is perhaps one of the most important questions that has ever been before this Convention. It seems to me that when this section is acted upon it should be acted upon before a full Convention. I move the call of the House.

After the call of the House proceedings had been disposed of Mr. JOHNSON said: I understand the question before the House is the amendment of the gentleman from Richland. I don't wish to go over the same ground that has been gone over before. I recognize in the amendment of the gentleman from Richland at least an old acquaintance, if not an old friend. It is essentially the same question that we went over a week ago Saturday night, and I shall endeavor as far as possible to make my remarks brief

unless we should have some new arguments or some new positions for us to consider. Our present predicament is very much like that of the colored brother who went fishing. He caught a very large catfish. He did not want to carry it all day with him, so he put a string in the fish's gills and tied the other end of the string to a sapling. Pretty soon a little colored brother came along who had caught a little catfish. He determined that a fair exchange would be no robbery, so he untied the string from the gills of the big catfish and tied them into the gills of the little catfish. Toward evening the large colored brother came along to get his fish. To his astonishment, his fish had shrunk up wonderfully. He said "This is the same place—same sapling, same string and it must be the same catfish, but Lor, how he has shrunk up." We have here the same section, the same amendment and the same argument, and I hope the majority we tied in the section by the gills has not shrunk up—that there has been no little darkey around making an exchange. The position that we would be in if the amendment carries is one that would not relieve the company or the patrons of the road. It is essentially this—to provide a means to go into court and determine what is reasonable. You who were here when this question was argued before know very well that it is utterly impossible to fix rates a year or six months in advance. They will fluctuate with the rain and the storm—good crops and poor crops. Hence, the enlightened states have all placed their railroad systems under railroad commissioners, and these commissioners have fixed rates and changed them from time to time, as is necessary. Suppose this amendment were adopted, authorizing these men to disregard the rates fixed by the Railroad Commissioners till a decision of the court could be reached. That would take, probably, several years, and when finished it would simply determine what was right and reasonable at the time it was started. There is no way to reach this question except through Railroad Commissioners that can fix rates and change them from time to time—an appeal to public sentiment—an appeal to the elections—an appeal that can be felt promptly. If injustice should be done to anybody or to any community, letters and telegrams would pour in on these Commissioners, and anything that was fair, and just and reasonable they would listen to.

Mr. STEVENS. I am not a catfish, and I have not been tied to any sapling. I am not in any pool, but yet, according to the

gentleman's theory, I have shrunk up. I have shrunk up for this reason—the amendment as it now appears is just and fair. The greatest stay to a republican form of government is the courts of justice. If we cannot depend upon our courts of justice, upon what can we depend? Railroad Commissioners might possibly be biased. But these judges are sworn officers, and they are the best judges of what should be done—of what the law should be. I understand under the amendment, as it has been offered, that the judges of the courts shall have the right to determine what seall be the rate, pending litigation. That is what I have been in favor of from the first. I have fought for this idea—that an appeal should not be taken and the question hung up until the appeal had been determined. Now if the courts decide what those rates shall be, it is eminently fair, and right and proper. The courts have finally to decide this question, and upon a showing if they say that the rate is reasonable that rate should be established pending this litigation. I say that is right. The United States court, under our present laws in similar cases—and in fact in almost every case that may come before them, have a right to issue an order which shall control and govern the property in litigation pending a decision. Our territorial court should have the same right. We ought not to go further in the Constitution of the State of North Dakota than the United States Constitution has seen fit to go. We are subject to that Constitution—we are subject to its provisions—we have adopted it, and that Constitution allows the United States courts by laws enacted by Congress to tie up your property and my property, and the property of corporations subject to the decision of that court. They may issue an order, which order will remain in force and will control until such time as they may have rendered their final decision in the case. So, too, in my opinion should the courts of this territory have a right when the question before them has been appealed from, to issue an order which will control until a final decision in the case is rendered. Nobody can complain at that. No farmer, no business man, no citizen, would have a right to complain at an order which whould be made by the court to which he submitted his grievances. The court has the question before it, and temporarily it will decide what is just and right between the parties until such time as they have rendered their final decision. I am opposed to monopolies and oppression. I am opposed to putting anything in this Constitution

that will give a railroad company any influence—any benefit—any right that every citizen does not enjoy. I am opposed to putting anything in this Constitution, any provision which will allow a railroad company or any other corporation by any rule that may be established, to take advantage of their position and thereby oppress anybody. But when the question is to be submitted to the courts—when the question comes in the form that it would between two citizens, then I say if I fought against that provision I fought to say I am afraid the corporations will control the judiciary of the State. If you say that, what advantage will you have by the temporary advantage you gain by this section? If the courts have the right to finally determine this, and you are bound by that determination, why have not they also the right to determine it, pending that decision. I told the gentleman from Richland that if he would put in that amendment a provision which would allow the courts to determine what the rates should be pending the litigation, I would be in favor of it. Without I would be opposed to it. When it is proposed that the courts shall establish the rate pending the trial of the case, I would not be loyal to our courts if I did not say that I was in favor of it.

Mr. PARSONS of Morton. I am not in favor of this because I do not favor any method of procedure by which the Legislature or the people may be wronged out of their rights. For instance, in the present amendment before the House if the rate were fixed by a board of Railroad Commissioners, appeals could be had from that decision and the court would fix the rate. My objection is that no court could fix a rate intelligently until it had heard the question. An appeal would be had from court to court and it might be three years before any remedy could be found or any decision arrived at. It seems to be the object of some of the gentlemen here to defeat the very thing that we are asking for in this measure. If that is possible—if this amendment should carry—it would defeat the very thing we have struggled for for years in other states, and is our right in this State. There was a measure offered before this House allowing an appeal from the decision of the board of Railroad Commissioners, but the provision that their decision should be in force pending the decision of the court. Now it seems to me if we deviate from that in the least particle we will be giving away and forfeiting all we have struggled for in

the last fifteen or twenty-five years in the other states. We wish to profit by the mistakes and the battles in the other states. My amendment was defeated on the second reading. It was offered—it was part of the report of the committee and from an oversight of the clerk of that committee it was not printed. I hope the amendment will not prevail, for one reason that it sacrifices our interests. But I do not wish to go on record as supporting a proposition which leaves any three men under heaven to fix rates from which rates a railroad corporation cannot appeal. The time has not come when the people should be afraid to trust their interests in the hands of a court and a jury of twelve men. I am in favor of leaving it in such a way that whatever the decision of the Board of Railroad Commissioners is, if any party feels aggrieved he may appeal to the courts of the State. But the decision of that board should be in force until the courts have decided. If this is carried out, then the right to appeal cannot be used as a means of evading what is right and just in the matter of rates, by the railroad company. Therefore I move as a substitute a clause which, remember, was accepted as the report of the committee once, and which I hope will pass:

"*Provided*, That appeal may be had to the courts of this State, from the rates so fixed, but the rates fixed by the Legislative Assembly or Board of Railroad Commissioners shall be in force pending the decision of the courts."

Mr. PURCELL. There was some question as to whether or not a railroad company had the right to appeal under a section of a constitution similar to ours. Under section 144 as we now have it, we provide that the railroad companies and others known as common carriers shall be subject to legislative control, but the Legislative Assembly shall have power to enact laws regulating and controlling rates. The purpose of offering my amendment is that in the Constitution we may provide that if the rates fixed by the Legislature or a body to whom the Legislature may delegate its power, shall be unjust or unreasonable, the company may have the right to an appeal to the courts. A great many of the members are under the impression that they have that power already—that it does not require a constitutional provision to give the company the right to an appeal to the courts. That is untrue, for in Minnesota under a similar clause the Supreme Court of that State in the case of the State vs. the Chicago, Milwaukee & St. Paul railroad company, (found

in volume 37 of the Northwestern Reporter,) the Supreme Court holds that they have no right to appeal. They hold that the power vested in the Board of Railroad Commissioners is conclusive, and that no right to appeal lies from their decision to the courts of that state. Now in one instance the Railroad Commissioners of the State of Minnesota have fixed rates which in the judgment of many railroads are unreasonable. For instance, as was stated by the gentleman from Cass, they fixed on $1 a car which should be charged for switching cars, when it was found that the cost of switching cars was $2.12, so that to-day under the rates fixed by the Railroad Commissioners of Minnesota, they are compelled to do the work at a loss of $1.12 per car. If they had a right to appeal to the courts, they might take into consideration the reasonableness or the unreasonableness of the rates so fixed. That is all we ask. Simply that whenever a question arises between a company and the Board of Railroad Commissioners or any party in interest, they shall have the right to go into the courts and say what is reasonable and right. It has been admitted by the substitute of the gentleman from Morton that the rates fixed by the Commissioners remain in force pending the trial. Now a little instance occurs to me of this kind. The Board of Railroad Commissioners not only have the power to fix rates for the transportation of freight, but they can control the running of trains. In one instance the Commissioners required the Northern Pacific to make connections with trains at Glyndon, running north on the Manitoba. At the same time they required that same railroad company to make connections at Casselton, and as was stated by one man it was beyond all the power of human possibility to make connections such as were insisted on at Glyndon and Casselton. So that the gentlemen of this Convention will easily see that where it is left in the hands of three men they will at times put railroad companies in a position that no corporation should be put in, if there is no appeal from their decision.

There is no man here but will say that when railroad companies have invested their money they should be entitled to a fair profit. Where they are compelled to carry passengers and freight at a loss, it is reasonable that they should have the same rights as individuals in appealing to the courts. In our Bill of Rights we give every man the right to go into the courts and have his wrongs remedied, and all we ask is that we give the corporations the same rights. If this substitute prevails the rates fixed by the Board of

Commissioners remains in force. Now the appeal taken in the case I have mentioned was taken on the 20th April, 1880. An appeal was taken from the Supreme Court of the State of Minnesota to the Supreme Court of the United States, and that case is undecided yet, and the companies to-day are switching cars in Minneapolis at a loss of $1.12 a car. We ask, is that reasonable and right? On the other hand is not the amendment I have offered here reasonable and just, and such as every man on this floor would be willing to have in this Constitution if he represented either the railroads or the people? If the rate appealed from by the company is unjust, that rate should not exist one minute. If it is unjust to the individual it should not exist. But whether it is reasonable or just will be determined by the court, temporarily. He will for the time being fix a reasonable rate on freight and transportation. That rate as fixed by the court will remain in force till the question is determined in the courts. If there is anything unreasonable in this proposition I should like to know what it is. There is no man who can justify the statement of the gentleman from Morton that a rate should remain in force as fixed by the Commissioners until it is changed by the court's final decision. The only question is this—do we, as members of this Convention, have sufficient faith in our judiciary to say that with them shall rest the power of fixing what is reasonable and just after a fair hearing, or are we going to be carried away by prejudice and say that the action of the board, whether it is right or wrong, shall operate against a corporation because it is a corporation? Every man should be willing to treat a corporation as he would be treated himself.

Mr. PARSONS of Morton. The amendment I have offered I have offered more in a spirit of compromise than anything else. I reiterate—it is in substance the report of the committee, and I am well satisfied that it is in accordance with the temper of this House. I introduce this because I believe this Convention will be willing to leave a question of fact to be determined by a jury of twelve men. I don't think it is right to leave a loop-hole whereby the people will suffer, because under the present ruling the case might be evaded from year to year and then be unsettled. I will acknowledge that under my proposed substitute, if the Railroad Commissioners should fix an unjust rate the corporations would suffer until they got it reversed by the courts. But then every effort would be made on their part as well as ours, to arrive at a

decision as soon as possible. It seems to me we must consider the greatest good to the greatest number, and if it does work a hardship it is only in a few cases and it is a rare case in the history of the people and only an exception to the rule, that any decision of the Railroad Commissioners is reversed.

Mr. BARTLETT of Griggs. When this matter was under discussion before, I voted with the Committee on Corporations. I don't know whether I made any remarks to the Convention at that time or not. I have been converted to the extent of the amendment of the gentleman from Morton. I believe they are entitled to that appeal, but pending that appeal the decision of the board should be and remain in force. This is going further than any other State has gone—further than the United States has gone, for if I understand it there is no appeal from the Board of United States Railroad Commissioners. Their decision is final. As a conciliatory measure, and to give them the rights which they can reasonably ask, I am willing to allow them the appeal provided the rate fixed by the Railroad Commissioners shall be enforced pending the appeal. I undertake to say that the men who will be elected Commissioners of Railroads in this State will be supposed to know more about what is reasonable than a court. They will have made it a study. That is what they will be elected for. They will view all the circumstances and all the combinations and they ought to know what a reasonable rate is. I do not vote on the assumption that these Railroad Commissioners are going to be elected for the purpose of oppressing the railroads. They are as much the representatives and arbitrators of the roads as of the people, and I say they are more likely to know what is reasonable and right than a court after a few hours of investigation. Therefore I will vote for the substitute of the gentleman from Morton.

Mr. LAUDER. When this question was before the Convention I believe I voted against a proposition somewhat similar to the one now introduced by the gentleman from Morton. I have not been converted at all. My mind is not changed on that question, though I shall vote for the proposition of the gentleman from Morton. The gentleman from Richland has spoken of a decision of the Supreme Court of the State of Minnesota. It seems to me that in all fairness the gentleman should have read us from other decisions bearing on this same question. I believe that there is but one proper solution of this question. In all cases of this kind a railroad corporation has a right to appeal, or in other words they

have a right to a decision of the court to protect their property from confiscation. That is the decision of Judge Brewer of the United States Supreme Court. I believe that a company has a right to an appeal to a court, and this amendment makes no difference, because this gives to them all they have already. For that reason I shall vote for it. In the arguments made on the other side of this question, particularly of the gentleman from Richland, they proceed on the theory that the Railroad Commissioners are going to be elected for the purpose of oppressing the railroads. Now I would call the attention of members of this Convention to this fact—that fixing the rate for passengers and freight is not a question of law at all. Because a man happens to sit on a bench as a member of the Supreme or the District Court, it does not qualify him any better to decide this matter of fact, than any one of twenty members of this Convention. What are reasonable rates? There is no law in it. The question of law comes up when the fact has been found that the rates are unreasonable—then the question comes up whether the Commissioners have a right to fix rates that will be a practical confiscation of the property of the road. The fixing of the rate is a question of fact, in the fixing of which any good business man is just as competent as a judge upon the bench. For that reason, why are the railroad companies any better off in having the rate fixed by a judge? He is simply a sworn officer—sworn to do his duty. Railroad commissioners are sworn to do their duty. They have to fix rates that are reasonable—to do equal justice between the people and the railroad companies. They do not represent the people as against the railroad companies, but they have specific duties to perform, and I undertake to say the people of this State will elect men to fill those positions who are just as well qualified to perform that duty as will be the men whom they elect as members of the Supreme Court or the District Court.

It has also been tried to create the impression that the railroad companies are in danger from these commissioners. I would call attention to the fact—that so far as I know the railroads, during all the time railroads have been built in North Dakota or that part of the Territory which will soon be the State of South Dakota, during all the time the office of Railroad Commissioner has been in existence, there has not been a single effort to place the least restriction on railroads. I don't believe—as far as my information goes—as far as I have been able to learn—the right of the Rail-

road Commissioners to fix rates has never been exercised in a single instance. What right have we to believe that these men are all at once going to jump on the railroads with both feet and drum the life out of them? It is a false alarm for the purpose of getting something into this Constitution which should not be there. There is no ground for this apprehension. I think it should be left as provided in the resolution of the gentleman from Morton, for this reason—that if the rates as fixed by the commissioners should at any time be oppressive or unjust, if those rates were allowed to remain, certainly a final determination of the question would be had much quicker than if they were not allowed to remain. If the rates were oppressive on the people, they would be interested in having it determined. If they were oppressive on the companies they should be interested in a speedy, final determination. It would be an unwieldly arrangement if you had to run to the court every time you want to change a schedule. It seems to me that would be cumbersome. By leaving it just in the way suggested by the gentleman from Morton, the railroad company will be interested in having the case finally determined. The gentleman has cited a case from the Supreme Court of Minnesota. This question, as I understand it would not go to the Supreme Court. I cannot see—perhaps I don't look at it right—I cannot see how any federal question could arise on an appeal from the rates as fixed by the commission. The commission has a right to fix the rates, and the court has the right to decide on a question of fact. I cannot conceive how any question of a federal character can come in there. I cannot see how any question that the Supreme Court of the United States would have any jurisdiction to determing would arise, because all these cases would have to be brought in our territorial court. We have our Supreme Court, and unless some federal question arises I don't see how it could get into the Supreme Court of the United States at all, when we become a State. For these reasons I hope the substitute of the gentleman from Morton will prevail.

Mr. PURCELL. The gentleman from Richland, my colleague, asks me to cite other decisions. It is strange if the decisions I have cited are not in accordance with the law that he does not cite some cases that will contradict them. He has stood on the floor of this Convention from the time it opened till to-day and has had his hands and feet going on every question that has come up, and there is no man who ever dared to sit here and question a

single statement of law he has propounded. He is so large and big that he does not require books to substantiate the statements he makes, but when the Supreme Court of Minnesota makes a decision, he comes in here with all his magnitude and says—"It ain't so. The Supreme Court of Minnesota is wrong and I am right." There is some consistency in all men, and I would ask that at least before this Convention he show it. I have made no statement, and I have made no proposition of law wherein I have tried to deceive any man. The gentleman has stated that the decision of the Supreme Court of the State of Minnesota is not the law. But the Supreme Court of that state says that the railroad companies have no right of appeal under a similar constitutional clause to that which we have here. The gentleman says here that Judge Brewer of the Supreme Court of the United States has decided so and so. I say Judge Brewer is not a member of the Supreme Court of the Unitid States. He is simply a federal circuit judge, and I defy him to produce his authority showing Judge Brewer's decision. I have argued this question simply as it is presented. When he sets himself up here as a bigger man than the Judges of the Supreme Court of the State of Minnesota I desire to call the attention of this Convention to him. He says that there is no question of law involved in this case. He says that it is entirely a question of fact. I ask where does a man go to determine what is just and reasonable but into court, and what constitutes a court but a judge, and if the question of fact is involved, a jury? We don't create a new court. We say they shall go into our courts as they are now established and constituted, and those courts consist of a judge and jury if a question of fact is involved. See the bugaboo he raises that when you appeal you take the case to one man. But you don't. If it is a question of fact, you take it to a judge and a jury.

There is no man, so far as I know, that charged that any man who will be elected a Railroad Commissioner intends to deprive any man of his rights, but there are men who will be elected who will honestly make mistakes, and if they do make mistakes it might militate against the company. We ask that the company shall have the right to appeal. The railroad companies do not charge that there is a conspiracy existing between those who may be commissioners to deprive them of a single right. But we know we are all liable to err, and in case we do err these parties have a right to appeal. The gentleman speaks about the Legislature

being able to meet and rectify the mistakes they may make. They will only meet once in two years, and here is a wrong they will have to endure till the Legislature meets, and they will not have the right to go to any tribunal such as are open to other people, but must go to the Legislature. He says there is no federal question involved. I ask if there is an appeal taken by the Northern Pacific if there is not a federal question involved, the company being a foreign corporation? I would ask if there is not a federal question involved if there is an appeal taken by the Manitoba company? When there is a difference between two citizens of different States, they have a right to go to the Supreme Court of the United States.

Mr. LAUDER. I hardly think it is necessary for me to answer that portion of the gentleman's harangue which was directed towards me personally. He tells me about my jumping up on the floor every few minutes and swinging my arms, and so forth. I hardly think that part of his speech is worthy of notice. It certainly is a very strong argument in favor of his proposition. It is an old saying among attorneys that when you have got a case that is absolutely without merit, about the only thing for you to do is to abuse the other fellow's attorney. Evidently he has heard of that old saw and is taking advantage of it. The members of this convention are as well acquainted with the number of times I have been on the floor as the gentleman is. What I have said here I have said probably with as much sincerity as the gentleman from Richland has displayed, and I hardly think it was necessary for him to shoot off his mouth the way he did. Certainly it displays a case of want of confidence in the real merits of his case, or he would not get up here and indulge in personal abuse in order to prejudice the minds of this Convention. I have not said that the Supreme Court of the State of Minnesota has not decided the case as cited. I know about that as well as he does. I knew it perhaps as soon as he did. What I did say was this: that Judge Brewer, not of the Supreme Court of the United States—another misstatement, I never said he was; I know him personally, and I know a great deal better than that—I said that Judge Brewer, a United States judge, has held that a railroad corporation or any other corporation or person is entitled to the interposition of the courts of this country when his property was being confiscated, or when a schedule of rates had been fixed at such a figure as would amount practically to confiscation—

that he was entitled to the interposition of the courts. The gentleman from Richland knows about that decision. I state further that the decision of Judge Ryan in sustaining the right of the Legislature to fix rates intimated the same thing. I have not the books here. There is not a lawyer who does not know it. I say this question has not been tested squarely by the Supreme Court of the United States. I know these things from reading them. I have conversed on these things with one of the most eminent lawyers in Dakota—none more eminent or able—and he agrees with me entirely on this question. I say the matter of fixing rates is not a question of law, and I appeal to every lawyer to bear me out. It is purely and simply a question of fact, and if this question was brought into court it would be so decided to be. He undertakes to slide out by saying it should have a jury. He never intended to have a jury pass on this question. The argument was all predicated on the theory that it was the court, clothed in his judicial robes—that is the man who shall determine the question whether it was a reasonable rate or not, and with a contemptible quibble he comes in and says he will have a jury. Who had contemplated that a jury would be called in? It is nothing but a contemptible quibble and every lawyer knows it is so. He speaks of this being a federal question—says there may be a gentleman here from Minnesota or a corporation engaged in litigation. If he sues in the United States Court he can take an appeal to the United States Supreme Court, but if the action is brought in our territorial courts the Supreme Court of the Territory is the end of the rope, and there is not a lawyer here but that knows that.

Mr. CAMP. I do not know the cause of the civil war in Richland county. The gentleman who has just left the floor has been arguing against the proposition which he tells us he is going to support by his vote. I hope his argument will not induce any gentleman who favors that motion to vote against it, and vote against the gentleman who makes the argument. In all cases actions speak louder than words. This is especially true of the gentleman who has just left the floor.

Mr. SCOTT. As I understand it there is a substitute made by the gentleman from Morton. The only difference between the original and the substitute is this—the substitute provides that pending an appeal both persons can appeal to the courts, and in the motion of the gentleman from Richland the rate pending that

appeal is fixed by the court, and in the motion of the gentleman from Morton the rate fixed by the Railroad Commissioners or the Legislative Assembly is the one that stands until the appeal is decided. I think the substitute of the gentleman from Morton is the correct and the proper one. I believe that pending the appeal the Railroad Commissioners are supposed to know more about rates than any court, and I think with the gentleman from Richland that it is not contemplated that a jury should be called in in order to decide on the reasonableness of the rates. It is contemplated by the original motion that the court itself should decide those rates, and I believe the people would be better satisfied to abide by the decision of the Railroad Commissioners whom they elected than the decision of the court, no matter how just or honest the court might be. Again, if these matters are going to be appealed to the court, it is certainly for the interest of the State that the rates as fixed by the Railroad Commissioners should be the rates by which they are bound until an appeal is finally determined. It would be safer than leaving it to the court.

Mr. STEVENS. I am glad to know that I am not the only one that has shrunk—got smaller—that with me is the gentleman from Richland, the gentleman from Griggs, the gentleman from Barnes and the gentleman from Nelson. The gentleman from Griggs has been honest enough to get up and say so; the gentleman from Richland says it is wrong yet. He says so in this way—he says a resolution similar to this was introduced and he voted against it, and he has not been converted to this proposition. I desire to say that I introduced that resolution nearly verbatim, and the records will show it; and the records will show that every one of these gentlemen, with the exception of the gentleman from Nelson, voted against it. If it was wrong then it is wrong now. If it is right now it was right then, and I am glad to know that I was right then, and I am glad that though the gentleman from Richland is not willing to admit it, yet by his actions he says I was right and he was wrong.

Mr. SCOTT. I desire to correct a statement made by the gentleman from Ransom. I did not vote one way or the other because I was not present when this was discussed, and I have not voted or had a chance of expressing my convictions on the matter.

Mr. JOHNSON. As Chairman of the Committee on Corporations other than Municipal it is no more than just to the gentleman from Morton that I should state what he has stated twice,

now and in the discussion a week ago, that the pending substitute was approved by the committee and would have been so reported but for a clerical error on the part of the clerk. When the question came up a week ago Saturday night I had some doubts and we were deciding matters very rapidly, and I thought the conservative course would be to vote against it. I have had opportunity to study the question since, and talk it over with those on the floor, and I have come to the conclusion to vote as the gentleman from Ransom has stated I would. I apprehend there will not be much difference of opinion on this question. The speech from the gentleman from Richland, Mr. LAUDER, may have been misconstrued slightly, and there may have been some warmth of feeling, but I dare say they will vote alike on this question, and there is not so much occasion for anxiety as it would appear from the language. I have come to the conclusion that the substitute offered by the gentleman from Morton is fair and safe—safe for those interests for which I have stood throughout this Convention, and I shall vote for it, principally for the reason that it provides that the decisions of the commissioners shall stand until reversed by the courts. I consider the rights of the farming community and the producing classes would be amply protected by the substitute of the gentleman from Morton.

Mr. SPALDING. Some time ago we had under discussion an article introduced by the gentleman from Burleigh requiring the judges of the Supreme Court to give their opinions on any matters referred to them by State officers, without discussion on either side or without suit. I was opposed to that proposition and I fail to see wherein the proposition submitted to us now by the gentleman from Richland (Mr. PURCELL) is not open to the same objection. It seems to me it is open to the same objection, and would require the judges to deliver opinions before the matter was finally adjudicated in court. I vote aye on this motion.

The substitute of Mr. PARSONS was adopted by a vote of 59 to 13.

THE WORLD'S FAIR.

Mr. STEVENS, by request of Mr. GRIGGS, introduced the following resolution:

Resolved, That this Convention heartily endorses the proposition to hold the World's Fair in the City of Chicago, thus bringing this great exposition nearer the homes of the people of the west, nearer the center of the continent and nearer the center of the population which goes to make up the American union.

Mr. STEVENS. It is desired that an expression be obtained from each State and Territory on this question, and it is supposed that we represent the new State of North Dakota. The cities of New York, Washington, Chicago, St. Louis, Boston and Philadelphia are working for the location of this fair. I believe every citizen of the State of North Dakota is interested in having this fair as near to us as we can get it. When we assist in getting this exposition at Chicago, we assist not only in building up her resources but in building up our own, and by bringing nearer to our homes one of the grandest sights that has ever yet been seen by man.

The resolution was carried.

EVENING SESSION.

Section 145 was adopted.

PRIVATE PROPERTY FOR PUBLIC USES.

Section 146 was read, with the recommendation of the committee as follows:

SEC. 146. Municipal and corporations and individuals invested with the privilege of taking private property for public use, shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The Legislative Assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals, made by viewers or otherwise; and the amount of such damage in all cases of appeal shall, on demand of either party, be determined by a jury as in other civil cases.

[Committee recommend that section be stricken out as the ground is covered by section fourteen of the Bill of Rights.]

Mr. MILLER. I move that the section be adopted.

Mr. CAMP. On behalf of the committee I would ask the gentleman from Cass what particular point is not covered.

Mr. MILLER. I think the phraseology is better and more complete. The phrase "injure and destroy" makes a more important reservation for property injured. By this section the Legislative Assembly is prohibited from depriving any person of an appeal from any preliminary assessment of damages. That is not in the other section. I think the two sections together will make it more satisfactory.

Mr. STEVENS. When I turn over to page twenty-one I see "Corporations other than Municipal." When I turn to section 146 I see "Municipal and other Corporations." There is an inconsistency. If this is to be in the articles headed "Corporations other than Municipal," and it prescribes the powers of Municipal Corporations, it is undoubtedly wrong. So far as it refers to Municipal Corporations it should be stricken out. The reference to roads particularly should be stricken out. A county is a *quasi* municipal corporation, and they may see fit to run out roads throughout the counties. Under this section a county could not do this till the damages had been appraised and the money deposited. It should not be required in this State. The Legislature should have a right to prescribe that any person who may feel aggrieved will have the right to object to a road being laid out, but we have so many non-residents in this State that it would do the Territory an injustice to those who live here to leave this section as it is. I don't think it could ever have been intended to apply to municipal corporations. I don't think the Committee on Corporations other than Municipal had any right to place it here.

Mr. SPALDING. It just occurred to me that we had only adopted one section of article six and have stricken out one article and this leaves one other section to be acted upon. In view of the word "municipal" being used here and perhaps in other places and the small amount of matter that is likely to be in article six, it seems to me it would be better to incorporate the sections of article six in article seven. I move that the sections such as have been or may be adopted under the head of article six be transferred to article seven, and change the heading to read "Municipal and other Corporations."

Mr. MOER. It seems to me that section 146 is covered absolutely by section fourteen. This is a general provision in the Bill of Rights that private property shall not be taken for public uses without compensation. It is covered so far as the objection of the gentleman from Cass is concerned. So far as the latter part of the section is concerned, it provides in section 146 that the amount of such damage in all cases of appeal shall, on demand of either party, be determined by a jury as in other civil cases. In section fourteen it is provided that the compensation shall be ascertained by a jury, unless a jury be waived as in other cases of a court of record, as shall be prescribed by law. I don't see why this does not fully cover it. The Bill of Rights covers all corporations of

all kinds, *quasi* or otherwise. It does not make any difference what kind of a corporation it is. I cannot see why it does not cover it; therefore I move that the recommendation of the committee be concurred in.

The motion of Mr. MOER was adopted.

Sections 147 and 148 were read and adopted.

AGAINST TRUSTS.

Section 149 was read as follows:

SEC. 149. Any combination between individuals, corporations, associations, or either having for its object or effect the controlling of the price of any product of the soil or any article of manufacture or commerce, or the cost of exchange, is prohibited and hereby declared unlawful and against public policy; and that any and all franchises heretofore granted or extended in this State, whenever the owner or owners thereof violate this article, shall be deemed annulled and become void, and their property within the State escheated.

Mr. SPALDING. I move to strike out all after the word "void." It seems to me that this is too harsh a penalty. It not only makes a corporation forfeit all its franchise and rights, but it makes their property go the State. It is harsher than is necessary or just.

The amendment of Mr. SPALDING was carried.

The section was adopted as amended.

Mr. SCOTT. There is only one article in section six, and I think it would be better to put articles six and seven in one article under the head of Municipal and Other Corporations.

Mr. SPALDING. I was of the same opinion, but on looking along further and especially in section 147 I am not certain but that if the section in six were incorporated in article seven, it would require further amendments to prevent a conflict. Therefore I did not renew my motion. I would not feel safe in doing so.

Mr. BENNETT. As Chairman of the Committee on Municipal Corporations I object to having our work completely wiped out and transferred to some other part of the Constitution. Your Committee on Municipal Corporations devoted some little time and attention to getting up the part of the Constitution entrusted to them, and we got it up, according to my idea, in good shape till it was amended by the gentleman from Cass. However, I think the recommendations of the Committee on Revision just, and are correct, and should be adopted by this Convention.

Mr. McHUGH. I heartily coincide in the remarks of the gentleman from Grand Forks. After the long nights of labor and weary days we put in over that article I don't think it should be wiped out as proposed.

The motion of Mr. SCOTT was lost.

Section 149 was adopted. Section 150 was read and adopted.

PUBLIC SCHOOLS.

Section 151 was read as follows:

SEC. 150. The Legislative Assembly shall provide at their first session after the adoption of this Constitution, for a uniform system of free public schools throughout the State, beginnnig with the primary and extending through all grades up to and including the normal and collegiate course.

Mr. McHUGH moved to amend the section by striking out all after the word "State" in line three and insert the following:

"And each county of the State shall be divided into a convenient number of independent school districts. But no school district shall be formed containing less than twenty-five inhabitants."

Mr. CLAPP. This matter of the school district system came before the committee and it was their idea, and the idea of the Convention that while the school district system might be the best, at some other time there might be some better method, and we thought the better plan would be to adopt a uniform system and if so the Legislature will make it uniform. I hope it will stand as it is here.

The motion of Mr. McHUGH was laid on the table and the section was adopted as recommended by the committee.

Sections 154, 155, 156, 157 and 158 were adopted.

PUBLIC LANDS.

Section 159 was read as follows:

SEC. 159. After one year from the assembling of the First Legislative Assemby, the lands granted to the State from the United States for the support of the common schools, may be sold upon the following conditions and no other: No more than one-fourth of such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same becomes saleable as aforesaid. The residue may be sold as soon as the same becomes saleable. The Legislative Assembly shall provide for the sale of all school lands subject to the provisions of this article.

Mr. WILLIAMS. I move to amend this section by adding at the end thereof the following words:

"The coal lands of the State shall never be sold, but the Legislative Assembly may by general laws provide for leasing the same."

At the present time these coal lands are regarded as not possessing any great value, but it is a fact that they are being bought up by syndicates, and as a matter of looking to the future I think it would be well to reserve these lands from sale in order to protect the fuel supply, and allow the State of the future to lease them. It seems to me under such rules and regulations as the Legislature may prescribe, it would be wise to protect these lands and allow the title to remain in the State.

Mr. WILLIAMS' amendment was adopted, and the section as amended was adopted.

Sections 160 and 161 were adopted.

SELLING THE LANDS.

Section 162 was read as follows:

SEC. 162. No land shall be sold for less than the appraised value, and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per centum payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same. *Provided*, That the lands contracted to be sold by the State, shall be subject to taxation from the date of such contract. In case the taxes assessed against said lands for any year remain unpaid until the first day of October of the following year, then and thereupon the contract of sale for such lands shall become null and void.

Mr. ROLFE. I move that the section be amended by inserting after the word "advance" in line seven the following words: "*Provided*, That any purchaser may at his option complete his final payment at the expiration of ten years from date of purchase." Last week I went home and quite a number of interested parties spoke to me on this point, and were very much disappointed to find that they could not make final payment for the land they might buy before twenty years after they took it. We

sat down to figure what a quarter section would cost a man at the minimum of $10 an acre in twenty years, and we found it to be $2,545 or thereabouts. A piece of land the face value of which would be $1,600 would be finally turned over after a payment of $2,545 for it. It appeared that this would be rather unjust to the farmer, who wanted to purchase a piece of school land adjoining his own farm. Therefore I offer this amendment which makes it optional that he complete his payment at the end of ten years.

Mr. STEVENS. I desire to second that motion, for I made the same motion myself, and the gentleman from Benson was one of its chief opponents. I am glad to know that he has been converted.

Mr. ROLFE. I did not remember that I had opened my mouth on school lands while it was under discussion.

Mr. BARTLETT of Dickey. Is there any gentleman who believes for one moment that the simple fact of not having the privilege to pay for the land in ten years would hinder one sale? If not, surely after they had made ten annual payments the balance would be well secured. It is as good security as there is. Our object is to put it out on long time that the rising generation can have the benefit. Only think the amount that the people of Dakota would miss in the next ten years' interest, and there would not be one single dollar. There would be as much land sold on twenty years' time as on ten. It is a chance to give the speculators to come in and take advantage of this section. It gives the man with money a chance to come in and keep us out of this money.

Mr. BEAN. There is one other objection. It was talked over in committee. The principle objection is that in case payment is allowed in ten years, this Committee on School and Public Lands will not be able to figure in advance how much cash they would have on hand at any part of the year. As it is only the interest they can use, they can figure about how much money they would have on hand; what disposition they would make of it; in what amounts to loan it and where to place it; whereas if this motion prevails they can at no time know how much money is coming in.

Mr. SPALDING. I move to amend the amendment by providing that the purchaser may at any time pay the full purchase price by paying a year's interest in advance. This would give the State ample time to reinvest the funds—probably more than would

be necessary, and leave some discretion with the purchaser, so that it would not prevent a sale.

The motion was seconded.

Mr. BARTLETT of Dickey. I am surprised at men coming in here and professing to be the friends of the poor man and making such a motion as this. He means all right; I know he is a friend of the poor man, but the idea of making a motion that will let capitalists in and take the land that we can just as well save for the benefit of the poor. We know that the farmer who wants to get land has a good opportunity under this law to get a home. It is for the benefit of the poor. This committee has figured on that thing very carefully, and I am sure that it will be a very beneficial thing for the poor, and I hope the members will get up and insist on it.

Mr. HARRIS. I have sat here about three weeks listening to the gentlemen of this Convention talking on the question of school lands and trying to make a provision for an immigration bureau. My idea of the disposition of school lands is that we want to dispose of them in a manner that will bring the most money for the school fund. This question is not a question of speculators or a question of poor men or farmers, but a question as to which way we can get the most money for the school fund. That is important in my judgment. This is not for the support of an immigration bureau at all, but for the support of the public schools, and I believe that anything that will enable us to get more money out of these school lands for the purpose of supporting the public schools is just the method we want.

Mr. STEVENS. Either the gentleman from Dickey has been wool gathering or I have. I understand that this is simply optional. The land can be sold to a poor man to be paid for in annual installments for twenty years, but it is not necessary for a man to stay on it for that length of time. I don't think we are working for the poor man in this question, but we are working for the poor man's children. They are the ones that are going to school, and the more money we can get out of the lands and the quicker we can get it the better. The poor man has grown up. It is the children that we want to take care of. This is the poor man's children's fund and not a poor man's fund.

Mr. MOER. I disagree with the gentleman from Ransom. This is a school fund, and not a poor man's or a poor man's children's fund. The object sought for is to get the most money pos-

sible for the schools, and this section as it stands will accomplish that, and it takes a long investment at six per cent.

Mr. STEVENS. What is the public school for if not for the poor man's children?

Mr. LAUDER. I move that the amendments of the gentleman from Cass and the gentleman from Benson be laid on the table.

Both amendments were then laid upon the table.

Mr. SPALDING. I have sat here and listened to gas and buncomb and demagoguery on all sides, on what was supposed to be in behalf of the poor man. But I would like to know what this fund is for? What are we getting up a constitution for? Are we working for the poor man, or in this special section for the school fund and for the people of Dakota as a whole without regard to class, station or condition? Look at the absurdity of the thing as it stands here. A man may buy a piece of land at ten dollars an acre, and pay one-fifth down, and he pays interest at six per cent. In five years he has paid about 88 cents an acre for the use of that land. He may then refuse to make the next payment of interest and the land reverts to the State. They have received on lands in the Red River Valley a smaller sum than these lands will rent for, and if he still continues to pay, they have disposed of a fifth of the title for less than they would have rented them for. What policy or principle can be involved in any section providing for that disposition of the lands? Is there a business man here who would do business on his own hook in that way? Not one. You nor I, nor any other man of common sense would sell our property on installments for five years on such terms that at the end of five years we had got less for it than we could have rented it for. Our neighbors would designate us as fools and idiots. I believe the business of the Commonwealth should be conducted on the same principle that the best business men would conduct their own business on. I don't believe this is the principle that any business man would do business on. I don't believe we are here to provide for the sale of these lands to such parties as may want to get the use of them for less than they would pay for their rental. I don't believe that is the kind of a school fund we want to provide for, and I don't believe it is common sense to do it nor justice to the school fund we are working for, nor for the interests of the school children of the future State of North Dakota.

Mr. LAUDER. I have listened to the arguments. I cannot see anything in the arguments that have been adduced here in

favor of the section that should be designated as gas or tomfoolery. I believe it is good, practical, common sense, and this question has been argued and re-argued. The same motions the gentlemen make now were made before and voted down, and this section was agreed upon and I believe it contained the judgment of the Convention.

Mr. SPALDING. When this was up before there was no provision for the investment of the funds besides in government bonds, school bonds and state bonds. Since then they have provided for the loaning of the funds on first mortgages on real estate, which makes the field of investment under and at a much larger rate of interest, so the same arguments that were used then do not apply now.

Mr. BARTLETT of Dickey. The gentleman is a lawyer, speaks as a lawyer, but when he thinks there is not a business man who is not a lawyer that does not understand business, he is mistaken. He says any man would be a fool, using his language, if he would do his own business in this way. I ask any gentleman here if $660 in five years is not good security, and it is over $660 that they will get on each 160 acres of land? Is not that good security? He says any man who would lend money that way would be a fool.

Mr. SPALDING. I did not use any such language.

Mr. BARTLETT of Dickey. Six hundred and sixty dollars in five years makes it very safe and good security. Any gentleman here who knows anything about business would look at it that way. I hope his motion will not carry, because we will have good security the way we have got it, and I say let us get the most we can out of the land.

The motion to lay Mr. SPALDING'S motion on the table was carried.

The section was then adopted.

Sections 163 and 164 were read and adopted.

LEASING LANDS.

Section 165 was read as follows, with the recommendation of the committee:

SEC. 165. The Legislative Assembly shall have authority to provide by law for the leasing of lands granted to the State for educational and charitable purposes; but no such law shall authorize the leasing of said lands for a longer period than five years. Said land shall only be leased for pasturage and meadow purposes, and at public auction after notice as heretofore provided in

case of sale; *Provided*, That all of said school lands now under cultivation may be leased for other than pasturage and meadow purposes. All rents shall be paid in advance.

[Committee recommend to add after the words "five years" the words "in quantities not exceeding one section to any one person or company."]

Mr. MILLER. This section would be a proper provision in case of the lands situated east of the Missouri river, and in sections of country where they could be cultivated or used in small quantities, but a large part of the lands that will become the property of the State when the Territory becomes a State will be selected west of the Missouri in grazing lands, and in order to lease them to advantage it would seem to be necsssary to lease them in much larger quantities than one section—perhaps a township or two or three townships together. It seems to me it would be perfectly safe to strike this out. I move that after the word "may" in the eighth line, the following be inserted:

"In the discretion and under the control of the Board of University and School Lands."

Mr. BARTLETT of Dickey. The committee would have fixed it that way but the Enabling Act would not allow them.

Mr. MILLER. Read section eleven of the Enabling Act. As to lands granted for charitable purposes it might be otherwise.

Mr. STEVENS. That argument does not apply in this case. If Congress has provided that we cannot lease several townships to one party, it is already provided and it is not necessary to put it in the Constitution. It is not necessary because Congress has used certain language that we should use the same language. Congress may see fit to change this. They do not know that a great amount of the land we are to get will be fit for nothing else but grazing, and when this is explained they will modify it, but if we tie it up in our Constitution we cannot modify it ourselves—we cannot pass an act as Congress can, and by a single bill do away with that part of the Constitution and allow our Legislature to lease these lands in larger quantities. If Congress sees fit not to change this it is not necessary to put it in our Constitution. But if they do see fit to change it we don't want to tie ourselves up. It is impossible to rent this land west of the Missouri river in quantities of a section. It would take two or three sections to keep one cow, and it would be ridiculous. I believe it would be well to have an amendment which would provide that the land west of the Missouri river could be leased in quantities of less than a section. That would be

right. I am in favor of having the recommendation of the committee stand to apply to that part of the State that can be used for agricultural purposes, but when we take land that cannot be used for agriculture, let us not by our Constitution tie it up in this way.

Mr. HARRIS. As I understand section eleven of the Enabling Act it only applies to school lands. Every gentleman is aware that the lands to be selected for charitable purposes outside the school lands must be selected in the Devils Lake and Bismarck land districts. A great deal of this land is only good for pasturage. I don't see why we should tie ourselves up to leasing this land one section at a time. We cannot lease it at all unless we can lease it in large quantities, and if the Omnibus Bill should be so construed as to cover the lands granted for charitable purposes, which in my judgment it does not do, then it would only be necessary to have an Act of Congress to bring this matter to their attion, and have an Act of Congress in order that it might be changed and have these lands leased. But if we tie ourselves down by this Constitution it would require an amendment to the Constitution in order that these lands might be made profitable to the State. For that reason I am in favor of a re-consideration of this, and strike out this amendment.

A motion to lay Mr. MILLER'S amendment on the table was lost.

Mr. BARTLETT of Dickey. I am satisfied we are right and this section should be amended. I did not think so at the time, but the land will be practically valueless, and if we reconsider it and leave it open, all we will have to do will be to get an Act of Congress.

The amendment of Mr. MILLER was adopted, and the recommendation of the committee was not concurred in.

Sections 166, 167, 168, 169 and 170 were adopted.

COUNTY ORGANIZATION.

Section 171 was read as follows:

SEC. 171. The Legislative Assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines; but no new county shall be organized nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than 1,000 *bona fide* inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships the natural boundaries shall be observed as nearly as may be.

Mr. APPLETON. I move to amend this section by striking out the words: "As to include an area of less than twenty-four congressional townships." My reasons for moving this are that I find quite a number of gentlemen here who think the requirements of 1,000 population is sufficient, and sometimes the thickly populated counties might wish to divide up, and this might work a hardship. I hope the amendment will carry.

Mr. ROLFE. I am surprised that the chairman of the Committee of County and Township Organization should make a motion of this sort, considering the full discussion there was on this subject in the committee, and also the part he took in that discussion. It was agreed with one exception in that committee that twenty-four was about the proper limit. The Convention thought so the other day, and I hope they will think so yet.

Mr. FLEMINGTON. We are reaching some very important sections in this article, and I see a great many vacant seats, and I move a call of the House.

The previous question was then moved, and Mr. APPLETON'S motion was lost.

Mr. CLAPP. I move that the word "four" in line five be stricken out.

The motion was lost.

Mr. APPLETON. I move to substitute the word "eighteen" for "twenty-four." I hope this will carry. The great argument against the supervisor system has been that some of the counties are too large. I hope this amendment will prevail.

The section was adopted as it came from the committee.

Sections 172 and 173 were read and adopted.

TOWNSHIP ORGANIZATION.

Section 174 was read as follows, with the recommendation of the committee:

SEC. 174. The Legislative Assembly shall provide by general law for township organization under which any county may organize whenever a majority of the legal voters of such county, voting at any election called for that purpose, shall so determine; and townships when organized shall be bounded as near as may be by congressional township lines and natural boundaries; and upon a petition signed by not less than one-fourth of the legal voters, as shown by the preceding election, of any county organized into civil townships, asking that the question of the establishment of a county board, to be composed of the chairmen of the several boards of township supervisors, be submitted to the electors of the county, it shall be the duty of the county board

to submit the same at the next election thereafter, and if at such election a majority of such electors shall vote in favor of such proposition, then the county board of such county shall consist of such chairmen of the several boards of township supervisors, and of such others as may by law be provided for any incorporated city or village within such county.

[Committee recommend that the whole section be stricken out, for the reason that it is ambiguous and confusing.]

Mr. STEVENS. I move that the recommendation of the committee be not concurred in.

Mr. MILLER. I don't see why the motion should be made by as clear a headed gentleman as the gentleman from Ransom. This section was made up from various amendments, and is a conglomerated mass of inconsistencies, and would be a disgrace to the Constitution. No man can take that section and tell what it means. There are no two men who would reach the same conclusion as to what it did mean, and it would be a very unwise thing and not reflect credit on any member of this Convention to make it part of the Constitution. I am willing to support the idea that is intended by this section if the section will be drawn up to describe the idea distinctly and concisely, so that it won't be a disgrace to us.

Mr. BARTLETT of Griggs. I desire to say that the Committee on Revision were not opposed to the idea supposed to be conveyed by this section, as the gentleman from Ransom intimated some time ago. There is a long section of twenty or thirty lines that embraces four or five different subjects. It is all one sentence. We could not find a place to put a period, and the only thing we could do with it was to recommend that it be stricken out.

Mr. STEVENS. If I move to adopt the recommendation of the committee, that strikes the section out and that is the end of it. If I move to adopt the section itself, that is bad. If it is the temper of this Convention that this recommendation should be concurred in, that is the end of it, and so that the section might remain open I move that the recommendation of the committee be not concurred in, and then such amendments as are suitable can be adopted. We want to settle the question as to whether or not this Convention is favorable to the idea which it is supposed the section contains.

Mr. MILLER. I move that the section be recommitted so that they may draw a section that may be satisfactory.

Mr. ROLFE. We had this section right—the Committee on County and Township Organization, as we thought, and we worked

over it a good deal in order to convey the idea that was intended, but the Convention did not think it was right, and they have made a bad matter worse. So far as that committee is concerned I don't believe it can do anything except to bring in the section that was contained in the original report. I should be very much obliged if the gentlemen who opposed the original section will hand us something on the subject.

Mr. PARSONS of Morton. After the time we spent on this section I think it is no time to recommit it. It may not be that the section is the most elegant in expression that could be found. It seems to me that there is a decided effort to get the idea conveyed in this section, out of the Constitution. If you want to fight this issue over again we wlll fight it if you want to take the time. I hope the motion will not prevail.

Sections 174 and 175 were referred back to the committee.

Mr. MILLER. I move to adjourn.

The motion prevailed, and the Convention adjourned.

FORTY-FOURTH DAY.

BISMARCK, *Friday, August 16, 1889.*

The Convention met pursuant to adjournment, the PRESIDENT in the Chair.

Prayer was offered by the Rev. Mr. KLINE.

The Committee on County and Township Organization offered the following in place of section 174:

SEC. 174. The Legislative Assembly shall provide by general law for township organization, under which any county may organize whenever a majority of all the legal voters of such county, voting at a general election, shall so determine, and whenever any county shall adopt township organization, so much of this Constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners may be dispensed with by a majority vote of the people voting at any general election, and the affairs of said county may be transacted by the chairmen of the several township boards of said county, and such others as may be provided by law for incorporated cities, towns or villages within such county.