increase of judges as the increase of population, and the wants of the country should demand. The time might come when the State of Oregon would have twenty judges under this constitution. Mr. Olney's motion provided for increase as the necessities of the country demanded.

Mr. LOGAN argued that this article was indefinite and uncertain as to the time of the election, and terms of office. He was for five judges—two south of the Calapooia and three north. Four was the least we should have. The supreme court was wrongly constituted—composed of three judges, one of whom tried the case in the court below, and necessarily took his bias upon the supreme bench, and communicated it to his associates. He would prefer a separate supreme court, but we cannot have that, on account of the expense Then he insisted that we should have four circuit judges, who should compose the supreme court—the one trying the case below not sitting.

Mr. OLNEY was satisfied with the bill as reported. He thought as the judges increase, the terms should increase. He should make no reply to remarks on this floor foreign to the question under consideration.—He knew neither majorities or minorities.

Mr. DEADY said that Mr. Olney's amendment left the legislature to fix the term of office. He hoped it would not prevail. The terms ought to be fixed in the constitution, and not left to the ups and downs of legislation.

Mr. WILLIAMS thought the objection was not well taken. The power was left to the legislature to increase the judges, and he thought they might well be empowered to preserve the classes.

Mr. WAYMIRE thought we had better first determine how many judges we would have, and then how long shall be the terms; and then we can classify them. We were beginning the building at the roof.

Mr. Olney's motion was lost.

Mr. BURCH moved to amend so as to make the term eight years, and elect one judge every two years.

Mr. DRYER moved to amend by inserting four judges instead of three. Mr. Burch accepted the amendment.

Mr. KELLY said the amendment met his approval. There was a serious objection to having the judge who tried the case sit upon the supreme bench and try the appeal. He believed four judges were needed to do the business, now, and he thought the people would go for that number.

Mr. DRYER thought four judges were already needed. One was required south of the canyon, and three this side.

Mr. OLNEY preferred four judges to three, and the only reason he hesitated was he feared the people did not expect and were not prepared for four. In all the discussions and estimates of expenditures under a state government, more than three judges had never been mentioned. Again, if we had four instead of three, it would be more difficult to get for them an adequate compensation. What would be given three might be divided among the four, and thus we should get poorer judges. He appreciated as much as anybody here, the objection to the trying of appeals on the supreme bench by the judge who tried the case below.

Mr. WILLIAMS had practiced before courts constituted as ours are, and under a system where the supreme court was separate and distinct. He preferred the latter. But lawyers and judges could not have things their own way in this country. He doubted whether the people would adopt a constitution which provided for more than three judges. He had rather have three judges, and have them well paid, than to have four poorly paid; he believed we would have better courts. He was not himself tenacious about the number of three, and had put it in in deference to the opinions of others. The legislature might bestow some powers upon county courts, which would relieve us from many of the difficulties we now labored under.

Mr. SHATTUCK thought that four or five judges could afford to do the business for a lower salary than three could. He thought the people would look more to the salaries than the number of judges. He should support the motion for four, and would for five if that had been proposed.

Mr. DRYER said some men here talked about salaries as though the Oregonians were a penurious clock-peddling set of Yankees, who looked upon a six-pence like a full moon in Indian summer. They were not so. They were a liberal, generous people. The people of this country were able and willing to pay their public servants. If it was necessary to have six or ten judges, the people would grant them, and pay them a reasonable compensation. Some men were riding this hobby of economy; he had got tired of the hearing of it. It was a reflection upon the character of the people of Oregon. It was a slander upon them to say that they would reject a constitution because it contained all the officers necessary, and paid them a good salary. Make a constitution with four judges, and pay the present salary, and he did not believe there were ten men in his district who would vote against it on that account. He would not vote to go into any picayune system of saving. Those who wanted to ride that hobby could jump on. Mr. Deady thought we would have 100,000 inhabitants in twenty years. He thought we should have 100,000 in two years:

The motion of Mr. Burch to elect four judges was carried. It was divided, and the eight years term lost.

Mr. PACKWOOD moved to amend by striking out the provision empowering the legislature to increase the judges—lost.

Mr. APPLEGATE moved that the committee rise and report the bill to the house, with certain instructions—lost.

Mr. DEADY moved to amend so that until the State had 100,000 white inhabitants, it should not have more than five judges, nor more than seven at any time.—He was for a long term for judges; he tho't it made better judges and better people.—He was for electing judges for a long term, and for giving them good fair salaries. If the people are not prepared for such a system, we had better remain as we are. He was in favor of four judges also to start with. He had said he thought we should have 100,000 people in Oregon in 20 years. This calculation was made upon the rule that the population of the United States doubled every 20 years. He did not think we had more than 50,000 people now.

Mr. OLNEY was opposed to restricting the legislature as to the number of judges.

Mr. WILLIAMS thought we had better commence with three judges, and let the legislature increase them as they thought necessary. Three was sufficient to do the business now, and he believed it enough to start with. It was his opinion that if you put the word five in the constitution, the people would see that, and reject the constitution. He thought it had better be left without limit, and let the legislature judge of the necessity.

Mr. DEADY did not offer his amendment considering whether the people would reject or adopt it. He offered it because he tho't it right. He presumed that the people would vote for what was right and necessary, and he would not vote for what he did not consider just and right, upon the assumption that the people would not do what was right and just.

Mr. BOISE was in favor of [illegible]. He was unwilling to leave the legislature to increase the judges indefinitely. It was the object of a constitution to restrain the legislature, with the other departments of government. Certainly not more than five judges could be needed until our population was 100,000. He was for the limit, and we then knew what we were voting for.

Mr. FARRAR moved to amend so that whenever three-fourths of the votes of any county should desire to be constituted a judicial district, the said county should be so organized, and the people thereof authorized to elect a judge—lost.

Mr. Deady's motion was adopted.

Mr. BRISTOW moved that the committee rise, carried and adjourned.

Evening Session, 26th.

Mr. KELLY offered a resolution declaring that the term for judges should be six years. He offered this to obtain the sense of the house. He was not strenuous himself as to the length of term. He was opposed to limiting the number of judges; he thought we might leave that to the legislature.

Mr. DRYER said we had agreed upon four judges—if they were elected for six years, they could not be classified. We should have to make the term eight years, and then let one go out each two years. He was in favor of short terms if there was any way to classify them.

Mr. KELLY explained that the classification would have to be irregular.

Mr. GROVER was glad that this proposition had been introduced. Upon it the convention could declare its opinion respecting the term of judges disconnected from all other questions. He saw no difficulty in classing them, though we had four, and six years should be declared the term. We could not always have just half the number of judges there were years in the term even if we should so start with them. This was not a permanent arrangement. In a few years we might have five judges.

Mr. SHORT moved to amend so as to require the judges to be elected in the several districts, and to make the term four years.

Mr. LOGAN was in favor of the amendment.

Mr. WAYMIRE said the plan of the amendment would leave the districts one year without judges. He was opposed to it.

Mr. MOORES was opposed to the amendment. It would require annual elections, and he was in favor of biennial.

Mr. DRYER favored the amendment, for he was in favor of short terms. Why were gentlemen talking about biennial elections here? The convention had decided nothing of the kind. It might be when they come in here with their biennial election scheme, they would find it defeated. Were the gentlemen telling party tales out of school? He was in favor of yearly elections, and yearly sessions of the legislature, as we have had heretofore. How do gentleman over there know we are to have biennial elections?—Has there been a party caucus?

Mr. WATKINS favored a long term, and a short term would be a serious objection to the constitution with him. He could not go for less than eight years. He wanted our supreme judges should be men of stability, talent, learning and honesty, and we could not have these, with short terms, and the salaries the judges would get. With a term shorter than six years he should be inclined to vote against the constitution.

Mr. SHATTUCK was in favor of annual elections, and thought the interests of the State demanded it. It seemed from what Mr. Waymire said that the party had decided for biennial elections. He was for a long term because he wanted our judges should be men of judicial experience, and they could not become such in four years.—He went for six years—more rather than less.

Mr. BOISE was for a long term, and thought we ought to consider it dispassionately; it was an important question. We ought to fix these terms so long as to remove the judges from politics, and from temptation to the making of the judgship a stepping-stone to political promotion—to prostitute the ermine to political ends. It was the great bane of impartiality and justice upon the bench. It had been the study of governments to guard against this evil. Elect your judges for short terms, and you would find them electioneering for the next term, upon the bench, or perhaps courting some other office. Elect them for long terms, bind them by oath not to accept other office, and you direct their ambition in the line of the judiciary, and have some guaranty of pure fountains of justice. States which had adopted short terms were ready to go back to the old system. He was in favor of electing judges, and for at least an eight years' term.

Mr. MARPLE elucidated the subject at considerable length. He would vote for a long or short term, but thought there was a great principle underlying this. He tho't that ought to be settled first. The speaker was much confused and embarrassed by calls to order.

Mr. KELSAY would go for six years, but preferred less to more. He thought short term judges no more subject to political influences than long term ones. In Missouri they had better courts under short terms than they had under long ones. They now had justice dispensed in that State in fine order. Let us elect them for short terms, and if they were good ones we could elect them again. It was all stuff that an honest man could be bribed on the bench.

Mr. LOGAN moved to amend so as to elect one supreme judge, and forbid the increase of the judges until we have 100,000 inhabitants—decided out of order.

Mr. SMITH was for a long term. The government of the United States was a new one, was an experiment, though a very successful one so far. The States had of late years been experimenting with their judges, and the new States had adopted very short terms. It was not probable that they would ever go back to the appointive system, but he thought some of them would return to longer terms. The frequent return of power to the people was a good rule applied to the executive and legislative departments of government. It had been said that a good lawyer made a good judge. That was not always so. There were many men of distinguished fame as practitioners who had not the requisite qualifications of the judge. Not every lawyer would make a good judge. He did not believe there were a dozen lawyers in Oregon fit to be judges. He thought he had got the number full high. Give the judge such a term as shall be an inducement for him to study his profession, and excite his ambition in the line of the bench. Something had been said here about biennial sessions and the party. It was generally expected that we were to have biennial elections.

Mr. FARRAR moved the previous question—carried.

The question being on the amendment of Mr. Short, it was lost; yeas 11, nays 42.

Mr. LOGAN moved to strike out six years and insert four—lost, yeas 14, nays 38.

The vote recurring upon Mr. Kelly's resolution, it was carried; ayes 29, nays 23.

Adjourned.

Thursday, A. M., Aug. 27, 1857.

Mr. SMITH offered a resolution admitting within the bar Mr. Walton, of California, a reporter for the press of that State—adopted.

Mr. LOGAN offered a resolution in favor of the abolition of the grand jury; withdrawn.

Mr. PRIM moved that one judge should constitute the supreme court, to be independent of the circuit court, and be increased to three judges when we had a population of 100,000—lost, nays 38, ayes 18.

Mr. SMITH gave notice of a resolution declaring that the ayes and nays should not be called for except upon the final passage of articles, or when demanded by 10 members. He made this motion to gain time, and cut off the factious call for ayes and nays.

Mr. DRYER opposed the resolution—it was unusual, and there was a disposition on the part of the majority to shirk responsibility; he would not vote for a resolution which would disgrace the convention.

On motion the article on executive and administrative departments were referred to the committee of the whole.

The convention went into committee of the whole, Mr. Lovejoy in the chair.

Mr. SMITH moved to take up the executive department—lost.

Mr. GROVER moved to take up the bill of rights—lost.

Mr. LOGAN moved to take up the judiciary article—carried.

Mr. GROVER thought this article had better be referred to the judiciary committee—they could facilitate business by a re-report.

Mr. OLNEY thought we had better first go over it in convention, so that the committee would have the sense of the house upon it entire.

Mr. GROVER said we had spent nearly two days and one night upon one section, without accomplishing anything, and he thought that article might be separated so as to be better understood by this body—Withdrawn by request.

Mr. REED moved to strike out the words "that right and justice may be done according to law." It struck him that was buncombe.

Mr. OLNEY did not think the words material, but they were not buncombe.

Mr. DEADY objected to striking out—he thought the words had better stand, though they did partake a little of buncombe.

Mr. REED said he moved to strike out because it was unnecessary—he went for striking out everything not necessary, both in writing and speaking.

The motion to strike out was lost.

Mr. FARRAR moved to strike out the provision empowering the judges to fix special terms of court and give that power to the legislature. He thought this provision was included for the convenience of the judges, and not the people.

Mr. WILLIAMS thought it was for the convenience of the people, and not the judges. We had such a law upon our statute book now, and he believed it had worked satisfactorily to the people. He himself had held two special terms in Linn county for murder trials, at a saving of thousands of dollars to that county. Instances of that kind would frequently arise.

Mr. DEADY moved to restrict the special terms to the transaction of criminal and chancery business. Mr. Farrar accepted the amendment.

An animated, and in part, angry discussion, sprung up upon the question of proposed amendments of this article, participated in by Messrs. Farrar, Williams, Logan, Deady, Reed, Smith, Dryer, Waymire, Shattuck and Marple, during which it was charged or intimated that there had been party caucussing on the part of the majority of the convention, and that the majority were disposed to "gag," and "cram measures down the throats" of the minority.

Mr. SMITH replied saying that there had been no caucuses held by the majority—that there had been no desire or attempt to cram anything down anybody's throat, and the intimations that there had been were as false as hell. Nobody had attempted to rally party upon this floor, but members of the opposition and they lashed themselves into a rage, if the majority did not follow. Faction had begun to triumph here—frivolous and captious amendments, not expected to carry had been proposed by gentlemen in the opposition merely to consume time, and confuse and confound the convention, and the yeas and nays demanded upon them, standing frequently 40 or 45 to 10 or 15. This whole week had been consumed by such factious proceedings And the majority had patiently borne and permitted this. Did that evince a desire to "gag" men or "cram measures down their throats?" The second week of the session was drawing to a close, and we had accomplished nothing—we had passed over one report, laid aside another, and got to the third section of another, and we had nine reports before us. It was time this state of things was ended. He wanted to get through and go home.

The motion to amend was lost—22 yeas, to 27 nays.

Before the question was taken Mr. Logan for himself disclaimed any factiousness, but he was opposed to this judiciary article, and should oppose it. It was a bill of abominations, a running sore designed to suck out the substance of the people, and if it was adopted and the constitution accepted by the people, there would soon go up a call from them for a new convention to give them a new constitution.

Some slight amendments were made and the house adjourned.

Afternoon Session, 27th.

Mr. SMITH offered a resolution declaring that the convention regarded with favor the system of courts, including county courts, reported by the judiciary committee. He desired to obtain the sense of the convention upon the general system before we proceeded further. He apprehended there were gentlemen on the floor who were opposed to the system, and would not ultimately support it. Still they were seeking to amend it as though they intended to support the system. Why exhaust time, this way? Let us first ascertain what general system the convention will have, and then set to work to perfect it. He was not strenuous as to what system was taken, though he preferred the one reported by the committee.

Mr. MARPLE thought the objection to the proposed system lay against the manner in which the supreme court was constituted. He entered into a lengthy and searching examination of the system, but was frequently interrupted by vexatious calls to order.

Mr. FARRAR moved to insert the word not, before approved, in the resolution. He maintained that it was the intent of Mr. Smith's resolution to endorse the report of the judiciary committee in all its details.—If that was the case, this convention could not consistently adopt the resolution.

Mr. SMITH said the resolution was a short one, and easy of understanding. It simply covered the material feature of the report and the general system of courts it comprised; was it possible that any one could understand that resolution to cover the report in all of its details when the language of the resolution was material features?—He would accept the amendment of Mr. Farrar. He did not care whether the resolution declared for or against the report.—Either way would accomplish his object—that of determining the sense of the house.

Mr. FARRAR maintained that the convention had already materially changed the system, in adopting four instead of three judges of the supreme court. The system of county courts was an untried one. The people had not asked and did not desire any change in the present system of administration of our county affairs. Why then change it?

Mr. ELKINS moved to substitute a resolution declaring [illegible] of the convention to be favorable to the system of county courts reported by the judiciary committee.

Mr. SMITH accepted the amendment.

Mr. DRYER opposed the county courts—thought they gave one man too much power. He was opposed to a one-horse court. He preferred the present system to the proposed one. "Let us have three judges of the peace to sit with this county judge. This was a whitewashing resolution.

Mr. ELKINS said we had been here ten days, at an expense of $2,000 to the people, and what had we accomplished?—nothing, absolutely nothing. A little resolution could not be introduced here without consuming three or four hours. He was discouraged, and almost despaired of the convention's arriving at any result. Under the course we were pursuing now, we never could form a constitution, and we had better adjourn and go home, if no amendment was to take place. He was in favor of the county courts—thought they would be a great saving to the people.

Mr. REED moved the previous question—sustained

The resolution was lost—yeas 27, nays 30.

The convention went into committee of the whole, Mr. Kelly in the chair.

On motion of Mr. DEADY, the house took up the judiciary report.

Mr. OLNEY moved to amend by providing that two commissioners, to be elected in districts, should sit with the county judge, and with him compose the county court.

Mr. WILLIAMS thought the county courts the best feature of the report of the judiciary committee. Much had been said about one-horse courts. His theory of government was to give one man the power, and make him directly and immediately responsible to the people. How was it now, under our present system of county affairs?—When the money of the county was misappropriated or lavishly expended, who was responsible for it? Can you trace responsibility anywhere? No. You might run to one and another, but you could never fasten direct responsibility anywhere. Thousands of dollars had been lost to counties in this way. Commissioners could not leave their business—could not afford to—to bestow that time upon the affairs of the county which the interests of the people required. Give us one competent man to administer the affairs of the county, whose compensation would enable him to devote his time to his duties, and we would have a much more satisfactory and economical administration of county affairs.

It would always be open also for the transaction of the people's business. These county courts would be a cheaper system than the present one, a self sustaining system. Pay to this judge what you now pay to county commissioners, judges of probate and auditors, and you would have a round salary. He was opposed to the amendment of Mr. Olney. It but complicated and rendered more expensive the county business. He wanted a simple system. Every State which had adopted this system of county courts, had adhered to it and found it to work most satisfactory. Minor, civil and criminal suits could be much more promptly and cheaply tried than now when forced into the district court. He believed the people of Oregon would to-day favor the county court.

Mr. OLDS thought the provision gave one man too much power. He was satisfied that many years would not pass before we should have altogether a different system from what we now have. He was in favor of township organizations. He was in favor of giving the people the power, and holding them responsible, and not put all the businesses in one man's hands and hold him responsible. He thought these county courts would be more expensive than the present system.

Mr. MARPLE moved to amend by appointing two justices of the peace to sit with the county judge.

Mr. REED was in favor of the county court, but would not abolish the commissioners court. He had not said anything about his constituents yet, and was considerably behind most other members in this particular. He would say he had the distinguished honor to represent a portion of the people of Jackson county, O. T. His constituents were a splendid set and the most amicable relations existed between them and their delegate. Their relations were somewhat like those of Daniel's in the lion's den, as represented in the picture.—Some one who looked at the picture said it appeared as though Daniel didn't care a d—m about the lions, and the lions didn't care a d—m about Daniel. He apprehended his constituents were not watching him, but were enjoying themselves as usual, and leaving him here to suffer in the flesh in this convention.

Mr. DRYER thought that the revival of this subject after its rejection by the convention was an insult to this body. But the party was still attempting to cram it down our throats.

Mr. KELSAY said there had been much said about party here. He regretted to hear it. There had been no caucus he had heard of since the one that nominated the officers of this body. Mr. Dryer cried party, like the boy scared at a ghost. He was against the county court, and thought the commissioners court better.

Mr. WATKINS moved that the committee rise—carried.

Mr. OLNEY offered a resolution to meet at 8 o'clock in the morning and 2 o'clock P. M., and dispense with the night session.

Mr. LOVEJOY moved to lay on the table—lost.

Mr. DRYER moved a call of the house.

Mr. KELLY moved the call be dispensed with—carried.

The resolution was adopted. Adjourned.

Friday, A. M., August 28, 1857.

Mr. SMITH moved the adoption of his resolution, offered yesterday, in relation to calling the yeas and nays.

Mr. DRYER said that if this resolution passed ten men would combine together and call the yeas and nays oftener than they would be called without it. It was an unheard of proposition.

Mr. SMITH said most people had heard of such a rule. In most legislative bodies such a rule obtained, and in Congress it required one-fifth of the members to call the yeas and nays. We hear much about the oppression of the minority here; they are whining about it continually. I need not tell you there is a minority on this floor—they have told you this often enough. Sir, there is a minority here, and by their drill they have thus far controlled this convention. They have voted and acted together all the time, and by their factious calls for yeas and nays, have confused the convention, and thus have to this day controlled this body, and consumed the time without accomplishing anything else. How many this minority was composed of, he would not say—Mr. Dryer said it comprised thirteen. There was such a connecting link between them and a portion of so called democrats that it was hard to tell the number. The only party that had caucussed, was this very opposition. They caucussed all the time, and fired all the time at one mark, while they thought to intimidate democrats by their whang-whanging about c-a-u-c-u-s. They would endeavor to load this constitution with odious features, and then go home home and say to the people, we didn't make this constitution; we are not responsible; we were in the minority, you know, and we couldn't do anything; the rascally locofocos were in the majority, and it is their constitution. It was his opinion that the Democratic members had better have a caucus, and understand what we are agreed upon and put down this factious spirit, and transact the business we have come here for. The opposition caucussed. He was not to be frightened by this barking about rods and caucuses. He had heard it for three years. Mr. Dryer had threatened the convention with a combination of ten men to call the yeas and nays, and obstruct the business if this resolution was passed. Was not this faction—was here no rod?

Mr. DRYER replied with the customary charges against the democratic party.

Mr. KELLY should support the resolution, not because he wished to cut off any minority, but because he thought it a good rule, and one calculated to save time. It would oppress no minority, and he did not wish it should.

Mr. FARRAR should oppose tho resolution. He was in favor of incorporating a clause into this constitution requiring the yeas and nays upon the final passage of every measure in the legislature.

Mr. SMITH said this resolution provided for that very thing.

Mr. OLDS was opposed to the resolution. He knew nothing about party here.

Mr. LOGAN said he had not called for the yeas and nays to delay business. He had not opposed every report that had come into this house—he had supported the military report just as it came in, because he thought it perfect in all its parts. But he had opposed the judiciary report, and intended to to the end. He maintained that the minority had not manifested [illegible] factiousness, or for [illegible] combinations.

Mr. OLNEY thought every man on this floor must by this time be satisfied of the necessity of this rule. We had been in session nearly two weeks, and accomplished nothing. It was time we went to work.—He would wrong no minority, but he would save the time of the convention, and prevent the call of yeas and nays upon frivolous and trifling questions.

Mr. WATKINS was surprised that the author of the viva voce law should be in favor of avoiding the record.

Mr. SMITH. Mr. Olds had said he knew no party. Was it by *accident* that he received every vote of the opposition for President of this body? Was it by *accident* that he voted with the opposition whenever anything that looked like party came up? Ignorant of party, indeed. Before the opposition talked more of party, they should purge themselves of their hate of the democratic party, and its manifestation on this floor.

Resolution adopted; yeas 35, nays 20.

Mr. REED gave notice of a motion to amend the rules so that no member could speak more than once upon any one question without leave of the house, and not more than twenty minutes.

Mr. FARRAR gave notice of a motion to amend so as to limit to fifteen minutes.

Mr. APPLEGATE asked leave of absence for the session. He did not think the convention had power to detain him, but unless leave of absence was granted, he would be presumed to be in attendance, and entitled to pay. He wanted to cut this off. He did not think he could be of any service in the convention. "I have no doubt there is honesty and talent enough in this body to frame a constitution that will be approved by the people of Oregon without my assistance. The majority, by the vote just taken, as well as the general character of the proceedings here, have demonstrated their ability to do so, without consulting members they are pleased to term the opposition."

Mr. OLNEY opposed granting leave, on account of the reasons for asking it. Otherwise he should have cheerfully voted for it.

Mr. KELSAY should oppose it. He thought Mr. Applegate was an honest, and good working member, though he could not make speeches. We all sometimes got disgusted here but that was no reason why we should leave.

Mr. MARPLE thought leave should be granted if the reasons were sufficient, and refused if they were not.

Mr. DRYER wanted to know whether Mr. Kelsay was disgusted with himself or the convention? He should vote for leave.

Mr. WATKINS should vote for leave.

Mr. REED considered it a serious question. We were entitled to life, liberty and pursuit of hapiness. And if a man wanted to go free he ought not to be made to suffer here. When he left college he burnt his books and got drunk because he thought he was free. He had lived the several years since to little purpose if he could be compelled to stand up to this rack against his will.

Mr. SMITH should vote against leave, but would never vote to send the Sergeant-at-Arms after any member who wished to leave. Mr. Applegate beat a good man, and had he been elected he thought he would have remained here attending to his constituents' business. Mr. A. could leave when he chose, and he would not undertake to say the act would not meet the favor of a majority of his county. That was a question for him to decide.

Mr. FARRAR should oppose granting leave of absence unless there was some good reason assigned for it. He did not distinctly understand Mr. Applegate, but he not hear any good reason assigned.

Mr. OLNEY thought the reason assigned was a contempt of this body. It was, in effect, saying that it had behaved badly, that it was not a fit place for him. Leave was refused, ayes 6, nays 46.

Mr. LOGAN gave notice of a motion to change rules so as to require names of persons demanding yeas and nays to be entered upon the journal.

The article on schools and school lands was referred to the committee of the whole.

The convention went into committee of the whole, Mr. Grover in the chair, and took up the judiciary article.

Mr. DEADY preferred to amend so that the legislature may provide for two commissioners to sit with the county judge when doing county business, or for a separate board of county commissioners. He thought the time would come when the various counties of this Territory—when they became populous—would require a board of commissioners to transact the county business, in addition to a county judge. But for the present he thought the small counties could conduct their affairs more cheaply without a board of commissioners. He would give the legislature discretion in the premises.

Mr. WAYMIRE said he thought the present administration of county affairs was too expensive. We had too many officers. He thought a system might be adopted, with fewer officers, which would work better and cheaper—being a great saving of expense to the counties. In 1850, when the old system was adopted he was in favor of a probate court, but it was then thought that the probate business must be done by the three county commissioners. Since, a probate court has been created. Who complained of that one-horse power? He had heard much of one horse power—but it was all gammon. He believed the county court system would save to the county of Polk $1000 a year and to the larger counties more. Some of the lawyers were opposed to it, because cases would be tried and settled by it when they were not on the circuit, and they would lose the fees they would get in the circuit court if there were no county courts. That was why they opposed it. He was decidedly in favor of the system reported by the judiciary committee.

Mr. CHADWICK thought a change had for several years been desired in the manner of doing county business. It had become cumbersome and expensive. In many instances the county auditor transacted the business of the commissioners, while the counties were taxed to pay the commissioners. He believed the system reported, or a similar one, would be a great improvement on the present one. He favored the proposition of Mr. Deady, vesting a discretionary power in the legislature to create boards of commissioners.

Mr. KELLY approved the general system reported, but differed in respect to some of its details. He was in favor of a county court; they might call it a one-horse court if they chose, it made no difference with him. The probate and district courts were one-horse courts just as much as this would be. He would confer upon the county judges criminal and probate jurisdiction and such other as the legislature should confer upon them.

Mr. DRYER should support the amendment of Mr. Olney, offered yesterday. Not because he thought it went [illegible] thought the [illegible] in calling this a one-horse court, he referred to its having the powers of county commissioners. He was in favor of a county judge to do probate business, with powers of justice of the peace, and with two justices, greater jurisdiction, and the powers of county commissioners.

Mr. BOISE, was in favor of a county judge to transact the county business; believed the business would be done more accurately, cheaply and satisfactorily than now. Much of the county business consisted of examination of claims—simply the duties of an auditor. He believed one competent man could audit accounts more quickly and better than three. One man would have the sole responsibility, whereas now it was divided among three, and there was really none at all. He was in favor of simply creating the county court, and leaving the question of its jurisdiction and powers to the legislature.

Mr. LOGAN was in favor of the county court, and with some slight amendments would support the motion of Mr. Olney.—He objected to bestowing county commissioners' powers solely upon it. He did not wish to take the judgment of one man in county matters when there was no appeal. He preferred to unite with him justices or commissioners. It had been said by Mr. Waymire that the lawyers opposed this court. The more inferior the court, the better for the lawyer. The facilities were better for the people to put their foot into law, and when once in they would keep it there, and carry it up as long as there was a court to carry it to. Thus this court would be better for the lawyers. They might not be in at the first table, but they would come in before it was through with.

Mr. ELKINS did not know that this system of county courts would work well in this country but he thought it would.—He had long thought a court between the justices and circuit court necessary. He would create the court and leave the rest to the legislature.

Mr. WATTS thought the convention was generally in favor of a county court, and the difference was upon the question of conferring commissioners powers of it. Let us first establish the court, as we are all agreed upon that, and then let us vote upon the other question. In that way only could we get on here. We coupled too many things together.

Mr. FARRAR was opposed to the motion of Mr. Olney, and hoped it would be voted down. The convention yesterday declared itself opposed to the system. He was in favor of something of the kind proposed by Mr. Deady. He was in favor of a county court, but would couple with it two commissioners in the transaction of county business, and desired to see this requirement incorporated into the constitution.

Mr. WATKINS was in favor of a county judge with such criminal and civil jurisdiction as the legislature should give it.—He had no objection to declaring that the county judge should be a member of the board of county commissioners. He would not go further than that.

Mr. SHATTUCK was opposed to giving the county court commissioners powers in the constitution. He thought in five years we should have township organizations.

Mr. KELSAY preferred the system proposed by Mr Deady, and should vote against the motion of Mr. Olney, that it might come up.

The motion was lost.

Mr. DEADY moved to substitute an amendment providing for a county court, with civil jurisdiction to the extent of $500, criminal, jurisdiction over all offences except those punishable by death or imprisonment in the penitentary, and power to issue writs of attachment ne exeat and habeas corpus. And providing for the creation of a board of county commissioners, or two commissioners with the the county judge to do county business, if the legislature thought fit. Adopted.

Convention rose—adjourned.

Afternoon Session, 28th.

Mr. DEADY moved to fix the number of grand jurors at 15. Mr. Kelly proposed 7; Mr. Boise 12; Mr. Lovejoy 9; Mr. Kinney 18; the propositions were all rejected.

Mr. LOGAN moved to substitute examinations before a magistrate for presentment by grand jury—striking out the grand jury provision.

Mr. OLNEY was in favor of five grand jurors. He thought that would be a more convenient and infinitely cheaper system, than that proposed by Mr. Logan's amendment. People would shrink from complaining of criminals before a magistrate, and in hundreds of instances crime would go unpunished. It ought to be the office of some tribunal to complain of all offences coming to their knowledge.

Mr. WAYMIRE objected to the grand jury—it was also an expensive mode of presentment, and the people were anxious to get rid of it.

Mr. LOGAN was not opposed to grand jurors solely on the ground of expense, though it was an expensive system. The reason which called into being the institution of a grand jury had long since passed away, and the grand jury should have been swept away with it. He believed the substitute furnished a much cheaper and juster mode. But he was not tenacious of it—if any better can be suggested he would favor it.—He objected to the grand jury on account of its expense, and its secret character.

Mr. WILLIAMS was opposed to the motion, though he concured in many of the objections urged against the grand jury.—He opposed the motion on the ground that it partook too much of legislation; he was unwilling to declare in the constitution that no criminal should be tried except he had first been examined before a magistrate; the circumstances of the country might at some time require another mode of presentment. He would create a grand jury of five, and empower the legislature to abolish the system if they deemed it wise. In this new country, where we are exposed to the incursion of desperadoes from all parts of the world, and particularly from California, there was a reason for a secret mode of entering complaints of crime. Persons did not like to make a complaint before a justice of the crimes of those desperadoes. It would be attended with a heavy expense to the complainant, and might cost him the loss of his property—burning of buildings—or injury to his person. Magistrates, through fear, favor, or mistake might discharge a criminal when he ought to have been required to appear for trial. Cases of this kind had occurred and would continue to. And under Mr. Logan's substitute he could not be put upon his trial. It was true that malicious complaints were frequently made to grand juries, and they were sometimes imposed upon. This was an objection to the system—but no system was perfect. The reduction of the number to five obviated the objection of expense, and made it a much cheaper system than the one before a [illegible] The expenses of an [illegible] expensive than before a magistrate or jury.

Mr. LOGAN changed his motion so as abolish grand juries, and leave the legislature to create a substitute.

Mr. MARPLE read from the constitution of the U. S., that no person should be placed on trial for capital or infamous crimes unless upon indictment by a grand jury.

Mr. DEADY said every question which came up here was first discussed on the ground of its expense—as though a government could be devised without expense. We had met here to make a government, and we could have none without expense. Government undertook to protect the person, reputation and property of its subjects—it undertook to administer criminal justice at its own expense. But under the mode proposed by Mr. Logan, turn it as you would, the individual was compelled to set in motion the machinery of the criminal law at his own risk, and expense, and upon his own volition. And it placed the law in the hands of the rich, or those who could afford to put in execution the law. The poor could not avail themselves of this remedy—they could not afford to employ lawyers, or incur other expenses. He was for a grand jury of 15, and had made some calculation of the expense. Two sessions of fifteen persons per annum, at the county seat of each county, could not cost over $400. The whole expense of summoning and paying 15 grand jurors would not be over $400 per year for each county. That is a much less sum than the expense of complaints before magistrates. With that system what was crime in one county would be innocence in another. Then too there were bold, bad outlaws in the community, whose presentment required the power and secrecy of the grand jury.

Mr. BOISE was for a grand jury, though he would not object to the modification of its number—he would go for 12 or 15. He believed it was the best system for the arraignment of criminals yet devised. It had the sanction of ages and of the civilized world. And while he would not reject anything because it was new—he was in favor of progress—he would not pull down because of age. In government the only safe guide we had was the lamp of experience. It was easy to find objections to a system of government, but it was hard to devise a system without objection. Experience shows that the system of complaints before a magistrate is far more expensive than by a grand jury. He had seen the system tried side by side. The grand jury also furnished the most vigilant system of police, and most efficient enforcement of criminal law, we could have. And if we put criminal laws upon our code, let us enforce them or let us blot them out. Don't let them stand, violated, inviting to the commission of higher crimes. If we are to have a government, let us have an efficient one; if not let us remain as we are.

Mr. LOGAN had heard no insufferable objection to his proposition to abolish grand juries. It would be noticed that every gentleman who had attacked his proposition was a lawyer or judge. They were sticking to an old system they had got used to. The same class of persons strenuously opposed the system of electing judges, and fought it to the bilt, when first proposed. They predicted all sorts of evils would flow from it. But the experiment was tried, and had worked well. Yet judges for life was an institution as old as the grand jury, and like it incorporated into the constitution of the United States, and of all the States. Let us be the first to abolish the grand jury, and if it worked well, as he believed it would, every new State which shall be formed, and every old one which shall change its constitution, will follow our example. It should be made the duty of the prosecuting attorney to conduct the examination before the magistrate, without fee from the complainant.

Mr. DEADY moved the committee rise—lost.

The motion of Mr. Logan was lost, ayes 19, nays 25.

Mr. WILLIAMS moved to make five the number of the grand jury, and give the legislature power to abolish or modify it—lost.