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JOURNAL

OF THE

RECONSTRUCTION CONVENTION,

WHICH MET AT

AUSTIN, TEXAS, DEC. 7, A. D. 1863.

SECOND SESSION.

AUSTIN, TEXAS:
TRACY, SIEMERING & CO., PRINTERS, STATE JOURNAL OFFICE.
1870.

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JOURNAL

OF THE

RECONSTRUCTION CONVENTION,

STATE OF TEXAS.

SECOND SESSION.

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CAPITOL, AUSTIN, TEXAS,
December 7, 1868.

Pursuant to resolution adopted August 31, 1868, the Convention met at nine o'clock A. M.

Roll called.

No quorum.

Mr. Patten moved the Convention adjourn till to-morrow morning at nine o'clock.

Carried.

CAPITOL, AUSTIN, TEXAS,
December 8, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journals of August 31 and December 7, 1868, read and adopted.

The President caused the resignation of H. M. Taylor, second assistant secretary of the Convention, to be read.

Resignation accepted.

The President announced the death of G. W. Smith and W. H. Mullins, during the recess of the Convention.

Mr. Flanagan offered the following resolution :

Resolved, That the amended rules for the action of the Convention pertaining to evening session and order of business be rescinded, and that the Convention proceed to act under the original regulations.

Mr. Flanagan moved a suspension of rules for the immediate consideration of the resolution.

Rules suspended.

Mr. Thomas offered to amend the resolution by inserting the words "previously adopted" after the word "regulations," and striking out the word "original."

The question recurring upon the adoption of the amendment,

It was adopted.

The question recurred upon the passage of the resolution as amended.

It was adopted.

Mr. Caldwell moved the Convention proceed to the election of a second assistant secretary, made vacant by resignation.

Mr. Caldwell put in nomination S. B. Tilley.

Mr. Hamilton, of Bastrop, put in nomination J. M. Brock.

Mr. Burnett put in nomination E. R. Bracken.

Mr. Armstrong, of Lamar, put in nomination DeWitt C. Brown.

Mr. Patten put in nomination J. F. Stokes.

Mr. Stöckbridge put in nomination L. E. Edwards.

The President appointed Messrs. Patten, Sumner and Burnett tellers.

Upon the first ballot—

S. B. Tilley received.....	14	votes.
J. M. Brock received.....	4	“
E. R. Bracken received.....	8	“
DeWitt C. Brown received.....	14	“
J. T. Stokes received.....	10	“
L. E. Edwards received.....	3	“

There being no election, the Convention proceeded to a second ballot.

Mr. Tilly received.....	16	votes.
Mr. Brock received.....	4	“
Mr. Bracken received.....	6	“
Mr. Brown received.....	16	“
Mr. Stokes received.....	14	“
Mr. Edwards received.....	1	“

There being no election, Mr. Burnett withdrew the name of Mr. Bracken.

The President announced that under the rules adopted by the Convention in June last a plurality of the votes cast was sufficient to elect.

Upon the third ballot—

Mr. Tilly received.....	18	votes.
Mr. Brock received.....	2	“
Mr. Brown received.....	25	“
Mr. Stokes received.....	8	“
Mr. Edwards received.....	—	“
Scattering.....	1	“

DeWitt C. Brown having received a plurality of the votes cast, was duly declared elected second assistant secretary of the Convention.

Nominations being in order for first assistant sergeant-at-arms, the following candidates were put in nomination :

Mr. Patten nominated J. M. Reed.

Mr. Bryant, of Grayson, nominated N. P. Norton.

Mr. Goddin nominated J. L. Thomas.

Mr. Scott nominated J. D. Nickols.

Mr. Fleming nominated O. H. Millican.

Mr. Butler nominated William A. Smith.

Mr. Smith nominated J. H. Waldron.

Mr. Ruby nominated Thomas Nelson.

Mr. Board nominated H. Manney.

Upon the first ballot—

Reed received.....	11	votes.
Norton received.....	10	“
Thomas received.....	1	“
Nickols received.....	6	“
Millican received.....	2	“
Smith received.....	3	“
Waldron received.....	3	“
Nelson received.....	14	“
Manney received.....	5	“
Scattering.....	1	“

Mr. Nelson having received the plurality of the votes cast, was declared duly elected first assistant sergent-at-arms.

Mr. Buffington introduced the following declaration, and asked its reference to the Committee on County and County Boundaries:

We, the people of Texas in Convention assembled, do declare:

That in honor of Dr. R. R. Peebles, that all of that portion of territory embraced within the following limits: beginning in the mid-channel of the Brazos river at the mouth of Beasin's creek, thence due east to the Western boundary line of the county of Montgomery, thence south with said line to the southwest corner of Montgomery county, thence on a straight line to the southeast corner of Austin county, thence with the southeast boundary line of said county of Austin to the mid-channel of the Brazos river, thence up the mid-channel of said river to the place of beginning shall be and is hereby created into a new county to be called the county of Peebles.

2. That the town of Hempstead in said new county is hereby declared to be and is made the county seat of the county of Peebles.

3. That B. F. Elliott, T. S. McDade, Robert Edwards, James Mitchel and H. W. Woodward are hereby appointed commissioners to survey and plainly mark the boundary lines of said county.

4. That this declaration take effect from and after its passage.

It was so referred.

Mr. Thomas introduced the following resolution:

Resolved, That sixty members shall constitute a quorum, and

that this rule shall be ir repealable unless by a two-thirds vote of the whole body.

Mr. Caldwell moved to reject the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bellinger, Board, Brown, Buffington, Caldwell, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Kealy, Kuechler, Kirk, Lippard, McWashington, Morse, Mundine, Munroe, Pedigo, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Williams, Wilson of Milam, Wright—38.

Nays—Messrs. President, Bledsoe, Bryant of Grayson, Butler, Burnett, Cole, Goddin, Hamilton of Bastrop, Newcomb, Patten, Rogers, Sumner, Thomas—13.

So the resolution was rejected.

Mr. Caldwell offered the following resolution :

WHEREAS, Since the recess of this Convention the Hon. George W. Smith, one of the delegates from the counties of Marion, Davis and Bowie, has been most atrociously murdered by a band of masked and disguised assassins in the city of Jefferson, therefore

Be it resolved by the Delegates of the people of Texas in Convention assembled, That whilst we humbly bow to the inscrutable decrees of Providence, with a united voice we utter our detestation of the horrible crime of his "taking off."

2. That we deplore the untimely fall of our fellow member, and in his death recognize another martyr to the cause of liberty and free speech.

3. That a copy of these resolutions be forwarded by the President to the father of the deceased.

4. That in token of respect to his memory this Convention do now adjourn until to-morrow at nine o'clock.

Mr. Armstrong moved a suspension of the rules for the consideration of the resolution.

Rules suspended.

Mr. Patten moved to amend by inserting till to-morrow morning at ten o'clock.

Carried.

Mr. Hamilton, of Bastrop, moved to amend as follows :

Resolved, That the atrocities attending his assassination by the citizens of the town of Jefferson, and the cowardice or connivance of the officer in command of the United States troops present on the occasion, were alike disgraceful to the citizens of Jefferson, to the United States Army, and to the Government of Texas.

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

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bellinger, Board, Buffington, Burnett, Caldwell, Cole, Evans of Titus, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Kealy, Kirk, Lindsay, McWashington, Morse, Mundine, Munroe, Pedigo, Schuetze, Slaughter, Stockbridge, Wright—27.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Brown, Bryant of Grayson, Bryant of Harris, Curtis, Degener, Downing, Fayle, Goddin, Hamilton of Bastrop, Kuechler, Long, Mullins, Newcomb, Patten, Rogers, Ruby, Scott, Smith, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Milam—27.

So the amendment was laid on the table.

The question recurring on the adoption of the resolution as originally introduced, the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Curtis, Degener, Fayle, Flanagan, Fleming, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Kealy, Kuechler, Lindsay, Long, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Pedigo, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Milam—46.

Nays—Messrs. Armstrong of Jasper, Evans of Titus, W. Flanagan—3.

So the resolution was adopted.

Mr. Buffington asked leave of absence for Mr. Harn, of Grimes.
Leave granted.

In accordance with the resolution the President declared the
Convention adjourned until ten o'clock to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
December 9, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

Mr. Pedigo presented a petition of Abel Adams, of Jasper county, and asked its reference to Committee on the Judiciary.

Mr. Flanagan presented a petition asking the incorporation of the East Texas Agricultural and Mechanical Association, and asked its reference to the Committee on Internal Improvements.

Mr. Gaston introduced the following resolutions :

Resolved, That we have heard with regret of the untimely death of Capt. W. H. Mullens, late a member of this Convention, as delegate from the counties of Cherokee and Angilena.

Resolved, That we sympathise with the bereaved and disconsolate widow, and offer our sincere condolence in her bereaved condition.

Resolved, That the Secretary of the Convention furnish the afflicted widow with a copy of these resolutions.

Mr. Goddin moved a suspension of rules for the consideration of these resolutions.

Rules suspended.

Mr. Armstrong, of Lamar, moved to strike out the word "secretary" and insert "president."

Accepted.

Mr. Thomas moved the adoption of the resolution as amended.

Resolution read and adopted.

Mr. Flanagan offered the following resolution :

Be it declared by the people of the State of Texas in Convention assembled, That the sum of thirty-two hundred dollars (\$3200) be appropriated out of any money in the treasury, not otherwise appropriated, for defraying the expense of printing and distributing the Constitution, so far as it has been passed upon; and

that the Comptroller be instructed to draw his warrant on the Treasurer for the amount due the several proprietors of newspapers who published the same under the order of this Convention.

That the President and Secretary certify to the accuracy of the accounts, which shall be a sufficient voucher for the Comptroller to draw his warrants.

Mr. Flanagan moved the rules be suspended to consider the resolution.

On motion, the resolution was referred to the Committee on Contingent Expenses.

Mr. Buffington moved the Convention adjourn till to-morrow morning at ten o'clock, in respect to the memory of Mr. Mullins, deceased.

Carried.

The Convention was declared adjourned in accordance with the adopted motion.

CAPITOL, AUSTIN, TEXAS,
December 10, 1863.

Convention met pursuant to adjournment.
Roll called.
Quorum present.
Prayer by the chaplain.
Journal of yesterday read and adopted.

Mr. McCormick, from the Committee on Contingent Expenses, reported as follows :

COMMITTEE ROOM,
December 9, 1863.

HON. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Contingent Expenses, to whom was referred the resolution introduced by Mr. Flanagan, of Rusk, making an appropriation to defray the expenses of printing and distributing the Constitution, etc., have had the same under consideration, and have instructed me to report the resolution back to the Convention with the recommendation that it be passed with the following amendment, to-wit :

After the words "thirty-two hundred dollars" insert the words "or so much thereof as may be necessary."

Respectfully,

A. P. McCORMICK,
Chairman.

Be it declared by the people of the State of Texas in Convention assembled, That the sum of thirty-two hundred dollars (\$3200) be appropriated out of any money in the treasury, not otherwise appropriated, to defray the expense of printing and distributing the Constitution, as far as it has been passed upon; and that the Comptroller be instructed to draw his warrant upon the Treasurer for the amounts due the several proprietors of newspapers who published the same under the order of this Convention. That the president and secretary certify to the accuracy of the accounts, which shall be a sufficient voucher for the Comptroller to draw his warrants.

Mr. Flanagan moved the suspension of the rules to allow the consideration of the resolution, as reported by the committee.

Rules suspended.

Mr. Flanagan moved the adoption of the resolution as amended by the committee.

Carried.

Mr. Flanagan moved a further suspension of the rules to put resolution on its passage.

Rules suspended.

Resolution read third time and passed.

Mr. Newcomb offered the following resolution :

WHEREAS, Messrs. C. Caldwell and M. C. Hamilton, members of this body, sent as delegates to Washington, report that the Congress of the United States desires this Convention to take the initiative in the matter of a division of the State ; therefore, be it

Resolved, That the rule or resolution introduced by Mr. Thomas, on the 14th of July last, and passed on the 16th of that month, to the effect that no question relating to a division of the State will be entertained by this Convention, unless by authority of the Congress of the United States, is hereby rescinded or considered obsolete.

Laid over under the rules.

Mr. Thomas offered the following resolution :

Resolved, That this Convention do now proceed to form a Constitution for the State of Texas, and that until such Constitution shall have been perfected no resolution or declaration which does not relate to its formation or is not necessary to the dispatch of the ordinary and legitimate business of the Convention shall be entertained.

Mr. Thomas moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Varnell moved the rejection of the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs President, Adams, Armstrong of Lamar, Bellinger, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Degener, Downing, Evans of Titus, Fayle, Flanagan, Flanagan W., Gaston, Goddin, Hamilton of Bastrop, Harris, Kendal, Keuchler,

Lippard, Long, McWashington, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Watrous—35.

Nays—Messrs. Armstrong of Jasper, Brown, Bryant of Grayson, Cole, Fleming, Hamilton of Travis, Johnson of Harrison, Kealy, Kirk, Lindsay, McCormick, Morse, Mundine, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Williams, Wilson of Brazoria, Wilson of Milam, Wright—24.

The resolution was rejected.

Mr. Caldwell offered the following resolution :

Resolved, That the Secretary of this Convention be instructed to subscribe for one thousand copies of the Austin Daily Republican and five hundred copies of the San Antonio Daily Express for the use of the members of the Convention; provided said papers publish the daily proceedings of the Convention, and will furnish them at the same price as during the summer session.

Mr. Caldwell moved a suspension of the rules for the consideration of the resolution.

Mr. Hamilton, of Bastrop, moved that the resolution be rejected.

The president called the attention of the Convention to the language used in debate by Mr. M. C. Hamilton and Mr. C. Caldwell, and asked the action of the Convention upon the offence committed.

Mr. Buffington moved that the conduct of Mr. Caldwell be referred to a committee of five members.

Carried.

Messrs. Armstrong of Lamar, Thomas of Collins, Bryant of Grayson, Lindsay and Watrous were appointed by the president as a committee to investigate the conduct of Mr. Caldwell.

Mr. Hamilton, of Bastrop, made an apology to the Convention for the language used.

Mr. Patten moved the apology of Mr. Hamilton be accepted by the Convention.

Carried.

Mr. Burnett moved the vote appointing a committee to take into consideration the conduct of Mr. Caldwell be reconsidered.

Lost.

The question recurred upon the motion of Mr. Hamilton to reject the resolution of Mr. Caldwell.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Brown, Bryant of Harris, Butler, Cole, Curtis, Downing, Evans of Titus, Flanagan

Webster, Gaston, Hamilton of Bastrop, Lippard, Long, Morse, Mullins, Patten, Phillips of San Augustine, Ruby, Scott--20.

Nays--Messrs. President, Armstrong of Lamar, Bellinger, Bledsoe, Board, Bryant of Grayson, Buffington, Burnett, Caldwell, Degener, Flanagan, Fayle, Fleming, Goddin, Hamilton of Travis, Harris, Johnson of Harrison, Kealy, Kendal, Keuchler, Kirk, Lindsay, McCormick, McWashington, Mundine, Munroe, Newcomb, Pedigo, Rogers, Schuetze, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright--40.

So the Convention refused to reject.

Upon the question of suspension of rules, the rules were suspended.

Mr. Degener moved the previous question.

Previous question seconded.

The question recurred, "shall the main question be put?"

Main question not ordered.

Mr. Schuetze offered the following amendment :

Amend by inserting "five hundred copies of the German Press."

Mr. Thomas moved that the whole matter be referred to the Committee on Contingent Expenses.

Lost.

Mr. Hamilton, of Bastrop, offered the following substitute :

WHEREAS, The contingent expenses of the former session of the Convention were unnecessarily heavy, the people heavily taxed, and the tax levied by the Convention coming into the Treasury very slowly, therefore,

Resolved, That the President appoint a committee of "five" to consider and report without delay upon the propriety of reducing the daily expenses of the Convention by the discharge of the Reporter, a portion of the under officers and employes, and the wages and per diem of those retained, together with the newspapers ordered to be furnished to the delegates.

Mr. Hamilton, of Travis, rose to a point of order, stating that Mr. Hamilton, of Bastrop, was out of order, in calling the attention of the House to the politics of the editors of the Republican.

The President decided the point of order in the affirmative, and called Mr. Hamilton, of Bastrop, to order.

Mr. Hamilton, of Bastrop, appealed from the decision of the chair to the Convention.

Upon the question, shall the decision of the chair stand as the decision of the House?

The Convention sustained the chair.

The question recurred upon the adoption of the substitute offered by Mr. Hamilton, of Bastrop.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bellinger, Bledsoe, Brown, Bryant of Grayson, Bryant of Harris, Butler, Cole, Curtis, Downing, Flanagan, Flanagan W., Gaston, Goddin, Hamilton of Bastrop, Keigwin, Kendal, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Scott, Thomas, Williams, Wilson of Milam, Wright—32.

Nays—Messrs. President, Armstrong of Jasper, Board, Burnett, Caldwell, Degener, Fayle, Fleming, Hamilton of Travis, Harris, Johnson of Harrison, Kealy, Keuchler, Kirk, Lindsay, Mundine, Munroe, Pedigo, Rogers, Ruby, Schuetze, Stockbridge, Sumner, Varnell, Watrous, Wilson of Brazoria—26.

The substitute was adopted.

Mr. Ruby offered the following amendment :

“ All that part of substitute affecting the discharge of employes be stricken out.”

The question recurring upon the adoption of the amendment, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Bryant of Grayson, Ruby—2.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Harris, Burnett, Caldwell, Cole, Curtis, Degener, Downing, Fayle, Flanagan, Flanagan W., Fleming, Hamilton of Bastrop, Goddin, Hamilton of Travis, Harris, Johnson of Harrison, Keigwin, Kendal, Keuchler, Kirk, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Scott, Stockbridge, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—51.

So the amendment to strike out was lost.

Mr. Patten offered the following resolution :

Be it declared, That the sum of _____ dollars——. out of any moneys in the Treasury, collected under the provisions of the special tax levied by this Convention at its last session. be, and the same is hereby appropriated for the payment of the mileage and per diem of members, and pay of employes of this Convention.

That the check of the Secretary, countersigned by the President, shall be sufficient for the Comptroller to issue his warrant upon the Treasurer in furtherance of the provisions of this declaration.

Mr. Patten moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Armstrong, of Lamar, moved to fill up the blank with fifty thousand dollars, (\$50,000).

Carried.

The question recurred upon the adoption of the resolution as amended.

It was adopted.

Mr. Patten moved a further suspension of the rules to put the resolution on its passage.

Rules suspended.

Mr. Thomas moved to amend by inserting the words, "or so much thereof as may be necessary."

Carried.

The question recurred upon the final passage of the resolution.

It was read the third time and passed.

Mr. Hamilton, of Bistrop, moved the Convention adjourn until to-morrow morning at 10 o'clock.

Carried.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 11, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

The President caused a letter to be read from Hon. D. C. Constant, explaining his absence.

Mr. Ruby asked that Mr. Constant be granted leave of absence for twenty days.

Carried.

Mr. Stockbridge asked that Mr. Leib be excused.

Carried.

Mr. Armstrong, of Lamar, asked leave of absence for Mr. Gray.

Leave granted.

Mr. Patten asked leave of absence for A. J. Evans, of McClennan.

Leave granted.

Mr. Harris asked that Mr. Yarborough be excused from attendance on the Convention.

Carried.

Mr. Burnett asked leave of absence for Mr. Glenn until Monday morning.

Leave granted.

The President announced the committee under Mr. Hamilton's substitute, passed yesterday, to be Messrs. M. C. Hamilton, Thomas, Scott, Wright and Lindsay.

Mr. Smith, of Galveston, presented a petition from Mrs. Julia E. Conner, and asked its reference to the Committee on Judiciary.

It was so referred.

Mr. Patten introduced the following declaration, and asked its reference to the Committee on Internal Improvements :

AN ORDINANCE

To authorize the levy and collection of a special tax in Falls and McLennan counties, to aid in the construction of the Waco Tap railroad, and for other purposes.

SECTION 1. *Be it declared by this Convention,* That the county judges respectively of the county of McLennan and the county of

Falls shall cause polls to be opened, and an election to be holden at the town of Waco, in McLennan county, and the town of Marlin, in Falls county, within forty days from the final passage hereof by this Convention, or as soon thereafter as practicable, and shall give public notice of said election for at least twenty days, by publication in newspapers, posters or bills.

SEC. 2. At said election so holden the qualified voters of each county shall determine by ballot whether a special tax shall be assessed and collected upon all the property in their said respective counties taxable under the laws of the State, to aid in the construction of the Waco Tap railroad; and at said election the voters in favor of said special tax shall write or print upon their ballots the words, "For the tax," and those opposed to the special tax shall write or print upon their ballots the words, "Against the tax."

SEC. 3. Said county judges shall, on the day or days respectively designated by them for the election, open the polls at the court houses in their counties, and with the assistance of two clerks, to be appointed by them respectively, shall give to each qualified voter in their respective counties a full and fair opportunity to cast his ballot freely, as he may choose. The poll shall be opened at ten o'clock A. M., and shall be closed at four o'clock P. M., for two successive days. The said county judges, assisted by their clerks, shall count out the ballot, and shall file in the county clerk's office of their respective counties a full statement of said votes.

SEC. 4. Should a majority of the votes cast in either or both counties be for the tax, then the county court of either or both counties thus voting, shall enter an order on the minutes of the said court, declaring that the special tax provided for by this ordinance is imposed and shall be assessed and collected, and shall enter an order that the assessor and collector of the county do proceed to assess and collect the same.

SEC. 5. It shall be the duty of the assessor and collector of the county in obedience to said order to make immediately an assessment of three per cent. ad valorem of all the property in his county taxable under the laws of the State in force, and to collect the same in manner as follows, to wit: One per cent thereof on or before the first day of July, 1869, and one per cent thereof on or before the first day of December, 1869, and the remainder on or before the first day of June, 1870; and in assessing and collecting this tax the assessor and collector shall conform to the several laws in force at the time, so far as the same may be applicable and not inconsistent herewith.

SEC. 6. The deeds of the assessor and collector to the property

sold for taxes assessed by virtue of this ordinance shall be good and effectual to convey the title, and shall be conclusive evidence that all the requisites of the law have been complied with, and shall be subject to be impeached only for fraud. Provided that the owners of property thus sold (if it is real estate) shall be entitled at any time within twelve months after sale to redeem the same, by paying to the purchaser five times the amount paid by him for the land, and five times the amount of taxes that may have been paid by said purchaser on said property since the sale.

SEC. 7. The assessor and collector, before entering upon his duties under this ordinance, shall give bonds, with two or more good and sufficient securities, in the sum of twenty-five thousand dollars, conditioned for the faithful performance of his duties under this ordinance, and payable to the president and directors of the "Waco Tap Railroad Company," and to be approved by them; and said bond to be filed in the office of said company; and suit thereon shall be for breach of any of its conditions, to the full amount thereof, in favor of said company. The assessor and collector shall receive for compensation for duties under this ordinance one-half the amount allowed by general laws for similar duties; and he shall pay over to the treasurer of the Waco Tap Railroad Company the money collected under this ordinance as fast as the same may be collected, and shall take duplicate receipts from the treasurer for the same, one of which shall be filed in the office of the county clerk of his county.

SEC. 8. The assessor and collector shall give to each taxpayer under this ordinance his official receipt for the sum paid or collected, which receipts may be consolidated, and shall, when presented to the president and directors of said Waco Tap Railroad, in sums of fifty dollars, entitle the holder thereof to receive a certificate of paid up stock in said road for one share, and an additional share for each additional fifty dollars of receipts, which certificates shall entitle the holder to all the rights and privileges of stockholders in said railroad company.

SEC. 9. In case of vacancy in the office of county judge or his absence, inability or refusal to act, any one of the county commissioners may discharge his duties under this ordinance. By qualified voters, mentioned in this ordinance, is meant registered voters, who shall vote only in the county in which they are registered.

SEC. 10. If a new constitution for the State of Texas shall go into force and effect before the provisions of this ordinance shall have been executed, and by the provisions of the same, or the laws passed in pursuance thereof, the tribunal or any of the officers charged with the execution of this ordinance shall cease to exist as provided for by existing laws, then the tribunal or tribunals and officer or officers

succeeding under the new constitution and laws to the jurisdiction and duties now held, exercised and discharged by the tribunal and officers named in the preceding sections of this act, shall be required to execute the provisions of this ordinance; and if additional legislation shall be deemed necessary to carry out and effectuate the provisions of this ordinance, the same shall be enacted by the first Legislature convening under the new constitution; and this ordinance shall take effect from and after its passage by this Convention.

It was so referred.

Mr. Newcomb offered the following resolution, and asked its reference to the Committee on Public Lands:

Be it ordained, That no rights held by any individual or corporation, by virtue of a valid land certificate, shall be considered forfeited by reason of its failure to have been located or surveyed since the second day of March, 1861, under any laws heretofore passed limiting the time for the location or survey, and the time for the location or survey of all such certificates shall be extended until three months after the adjournment of the next Legislature.

It was so referred.

Mr. Scott offered the following resolution:

In order that a just compensation may be awarded to the members of this body; therefore

Be it declared, That no member of this body whose seat is now vacant, and has been since the reassembling of the Convention, shall receive any per diem until said vacancy shall be filled.

Be it further declared, That it shall be made the duty of the secretary, in making out certificates, only to allow pay from the time such vacancy is filled, unless in case of sickness or some providential hindrance.

Be it further declared, That in case of a call of the House no one will be required to be present but such as have returned and answered to their names.

Laid over under the rules.

Mr. Gaston offered the following resolution:

Resolved, That the commanding general, Brevet Major General

J. J. Reynolds, be requested to order an election to fill the vacancy created by the death of Hon. W. H. Mullins, of Cherokee, and Hon. G. W. Smith, of Marion county.

Mr. Munroe moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Buffington offered the following amendment :

“ And for all such districts whose representatives have resigned their seats.”

The question recurring upon the adoption of the amendment, It was adopted.

The question recurring upon the adoption of the resolution as amended,

It was adopted.

Mr. Munroe moved a further suspension of rules to put the resolution on its passage.

The Convention refused to suspend the rules, two-thirds not voting in the affirmative.

Mr. Thomas introduced the following resolution :

WHEREAS, The “ Reconstruction Acts ” creating this Convention declare that, when assembled and organized, it shall proceed to frame a Constitution and civil government for the State of Texas ; therefore,

Resolved, That we will obey the laws of the United States, and will entertain no business incompatible therewith, or with the duties for which we have been chosen.

Mr. Degener moved its reference to the Committee on Immigration.

It was so ordered.

Mr. Schuetze offered the following resolution :

Resolved, That this Convention recommend to the Commanding General the removal from office of any civil officer who, in his official capacity, may disregard the validity of the ordinances, and the repeal of the so-called. “ Sunday Laws,” passed by this “ body.”

Mr. Schuetze moved a further suspension of the rules to take up resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

Whereupon the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Brown, Buffington, Degener, Downing, Evans of Titus, Flanagan, W. Flanagan, Fleming, Goddin, Johnson of Harrison, Kuechler, Mackey, Munroe, Patten, Schuetze, Slaughter, Smith, Stockbridge, Wilson of Brazoria, Wilson of Milam—22.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Board, Bryant of Grayson, Bryant of Harris, Burnett, Cole, Curtis, Fayle, Gaston, Hamilton of Bastrop, Hamilton of Travis, Harris, Jordan, Kealy, Keigwin, Kendal, Kirk, Lippard, McCormick, McWashington, Morse, Mullins, Newcomb, Phillips of San Augustine, Rogers, Ruby, Scott, Sunner, Thomas, Watrous, Williams—33.

So the resolution was lost.

Mr. Schuetze offered the following resolution :

Resolved, That the Commanding General be respectfully requested to declare the so-called Sunday laws, passed by the Legislatures of 1863 and 1866, as repealed in accordance with an act passed to that effect by the Convention.

Mr. Schuetze moved a suspension of the rules to take up the resolution.

Lost.

The President announced that the business in order was the consideration of the resolution introduced by Mr. Newcomb, of Bexar, on yesterday, repealing a resolution passed at the first session of the Convention, prohibiting the Convention to act upon the subject of the division of the State, except by authority of Congress.

Mr. Flanagan moved the previous question upon the passage of the resolution.

Previous question seconded.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained.

Absentees—Messrs. Bell, Boyd, Carter, Coleman, Foster, Grigsby, Horne, Johnson of Calhoun, Mills, Muckleroy, Phillips of Wharton, Posey, Sorrell, Talbot, Vaughan, Whitmore.

Mr. Newcomb moved that the Convention adjourn *sine die*.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bledsoe, Cole, Degener, Gaston, Goddin, Hamilton of Bastrop, Keigwin, Kuechler, Lippard, Newcomb, Patten, Scott—13.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Kendal, Kirk, Lindsay, Long, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Pedigo, Phillips of San Augustine, Rogers, Ruby, Schuetze, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—50.

So the Convention refused to adjourn.

Mr. Thomas moved to adjourn until ten o'clock to-morrow morning.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Hamilton of Bastrop, Hamilton of Travis, Johnson of Harrison, Mackey, Munroe, Schuetze, Slaughter, Stockbridge, Sumner, Thomas, Watrous, Wilson of Milam—12.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Pedigo, Phillips of San Augustine, Rogers, Ruby, Slaughter, Smith, Varnell, Williams, Wilson of Brazoria, Wright—49.

So the Convention refused to adjourn.

Mr. McCormick moved to adjourn until three o'clock this afternoon.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Burnett, Caldwell, Cole,

Hamilton of Travis, Johnson of Harrison, Jordan, Kealy, Lindsay, Mackay, McCormick, McWashington, Munroe, Pedigo, Phillips of San Augustine, Scott, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—21.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Harris, Keigwin, Kendal, Kuechler, Kirk, Lippard, Long, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Sumner, Varnell, Williams, Wright—38.

So the Convention refused to adjourn.

Mr. Patten moved the Convention take a recess until the fourth day of January next.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Lippard, Patten—2.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Travis, Hamilton of Bastrop, Harris, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Kirk, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—60.

So the Convention refused to take a recess.

Mr. Butler moved that the call of the House be suspended.

Carried.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained.

Absent members—Bell, Boyd, Carter, Coleman, Foster, Grigsby, Horne, Johnson of Calhoun, Mills, Muckleroy, Phillips of Wharton, Posey, Sorrell, Talbot, Vaughan, Whitmore.

Mr. Flanagan moved that the call of the House be suspended.

Call suspended.

Mr. Degener moved that the members that have not occupied seats this session be excused.

Mr. Hamilton of Travis moved a call of the House.

Call sustained.

Mr. Flanagan rose to a point of order that the motion of Mr. Hamilton was not in order.

The President decided the point of order in the negative.

Mr. Flanagan appealed from the decision of the chair.

Upon the question, "shall the decision of the chair stand as the decision of the House?" the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Cole, Curtis, Downing, Fleming, Gaston, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. Butler, Burnett, Degener, Evans of Titus, Fayle, Flanagan, W. Flanagan, Goddin, Hamilton of Bastrop, Keuchler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith—19.

So the decision of the chair was sustained.

Mr. Thomas moved the Convention adjourn till ten o'clock to-morrow morning.

Lost.

Mr. Hamilton of Travis moved that the Convention adjourn till to-morrow morning, at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Burnett, Caldwell, Cole, Fleming, Gaston, Johnson of Harrison, Jordan, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Milam, Wright—29.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan,

Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Kendal, Kuechler, Kirk, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Wilson of Brazoria—35.

So the Convention refused to adjourn.

Mr. Hamilton of Travis moved to adjourn till ten o'clock to-morrow morning.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellingier, Burnett, Caldwell, Cole, Fleming, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Keuchler, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—31.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Jordan, Kendal, Kirk, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell—33.

So the Convention refused to adjourn.

Mr. Evans of Titus moved that Mr. Grigsby be excused from attendance on the Convention.

Mr. Thomas moved to adjourn till to-morrow morning, at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellingier, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Gaston, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Kendal, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—32.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Goddin, Hamilton of Bastrop, Harris, Jordan, Keuchler, Kirk, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell—31.

So the Convention was declared adjourned until ten o'clock to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 12, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Slaughter asked that Mr. Butler be excused from regular attendance on the Convention.

Leave granted.

Mr. Armstrong of Lamar asked that Mr. Mundine be excused on account of sickness.

Excused.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM,
December 12, 1868.

To the Hon. E. J. DAVIS,
President of the Constitutional Convention :

Your Committee on Internal Improvements have had before them a declaration to incorporate the East Texas Agricultural and Mechanical Association. Upon investigation they find it simply a local matter and of a nature that certainly, in their opinion, ought to be approved, for it is well calculated to stimulate and improve the country, and surely has a great influence, and that very favorable to the morals of the same. All things considered I am instructed to report back the ordinance, with a recommendation that it pass.

Respectfully,

J. W. FLANAGAN,
Chairman Committee.

Mr. Flanagan moved a suspension of the rules to put declaration on its passage.

Rules suspended.

Mr. Thomas moved to refer the declaration to the Committee on the Judiciary.

Lost.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Flanagan moved a further suspension of the rules to put declaration on its passage.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Board, Brown, Bryant of Harris, Buffington, Burnett, Caldwell, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Johnson of Harrison, Kealy, Kendal, Keuchler, Kirk, Lippard, Long, Mackey, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—50.

Nays—Messrs. Armstrong of Jasper, Bryant of Grayson, Keigwin, Sumner, Thomas—5.

So the rules were suspended.

The question recurred upon the final passage of the declaration.

It was read a third time and passed.

Mr. Fayle, from the Committee on Enrolled Bills, reported a follows :

COMMITTEE ROOM,
Austin, December 11, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The Enrolling Committee have had the following resolutions, numbering from thirty-eight to forty-two inclusive, under consideration, and find them correctly enrolled.

No. 38. A resolution for the payment of the per diem of William Horne, a member of this Convention.

No. 39. A resolution appropriating \$15,000 to pay officers appointed by Governor A. J. Hamilton.

No. 40. A resolution referring a resolution for the appropriation of \$25,000 to Major-General Reynolds.

No. 41. A declaration incorporating the Belleville, Hempstead and Brazos Bridge Company.

No. 42. A resolution authorizing the Secretary to pay Fred.

Slaughter one dollar and fifty cents per day as mail carrier of the Convention.

Respectfully,

WM. R. FAYLE,
Chairman Enrolling Committee.

Mr. Flanagan, Chairman of the Committee of Internal Improvements, reports as follows:

COMMITTEE ROOM,
December 12, 1868.

To the Hon. E. J. DAVIS,
President Constitutional Convention:

SIR: Your Committee on Internal Improvements have had before them a petition and declaration presented by the Hon. N. Patten, asking the Convention to pass the accompanying ordinance, allowing the legal voters in the counties of McLennan and Falls, to hold an election and to vote for or against said tax, as expressed in said petition and ordinance.

Your committee having carefully examined the same, find it strictly a local matter, and at the same time come to the conclusion that it is a very worthy and important one, calculated to work great good for those counties immediately interested, including the commerce of the large and rapidly growing city of Waco.

The premises all considered, I am instructed to report back the ordinance and recommend that the same pass.

Respectfully,
J. W. FLANAGAN,
Chairman.

AN ORDINANCE

To authorize the levy and collection of a special tax in Falls and McLennan counties to aid in the construction of the Waco Tap Railroad, and for other purposes.

SECTION 1. *Be it declared by this Convention,* That the county judges respectively of the county of McLennan and the county of Falls shall cause polls to be opened, and an election to be holden at the town of Waco, in McLennan county, and the town of Marlin, in Falls county, within forty days from the final passage hereof by this Convention, or as soon thereafter as practicable, and shall give

public notice of said election for at least twenty days, by publication in newspapers, posters or bills.

SEC. 2. At said election so holden, the qualified voters of each county shall determine by ballot whether a special tax shall be assessed and collected upon all the property in their said respective counties taxable under the laws of the State, to aid in the construction of the Waco Tap railroad; and at said election the voters in favor of said special tax shall write or print upon their ballots the words, "For the tax," and those opposed to the special tax shall write or print upon their ballots the words, "Against the tax."

SEC. 3. Said county judges shall, on the day or days respectively designated by them for the election, open the polls at the court houses in their counties, and with the assistance of two clerks, to be appointed by them respectively, shall give to each qualified voter in their respective counties a full and fair opportunity to cast his ballot freely, as he may choose. The poll shall be opened at ten o'clock, A. M., and shall be closed at four o'clock P. M., for two successive days. The said county judges, assisted by their clerks, shall count out the ballots, and shall file in the county clerk's office of their respective counties a full statement of said vote.

SEC. 4. Should a majority of the votes cast in either or both counties be for the tax, then the county court of either or both counties thus voting, shall enter an order on the minutes of the said court, declaring that the special tax provided for by this ordinance is imposed, and shall be assessed and collected, and shall enter an order that the assessor and collector of the county do proceed to assess and collect the same.

SEC. 5. It shall be the duty of the assessor and collector of the county, in obedience to said order, to make immediately an assessment of three per cent. ad valorem of all the property in his county taxable under the laws of the State in force, and to collect the same in manner as follows. to wit: One per cent. thereof on or before the first day of July, 1869, and one per cent. thereof on or before the first day of December, 1869, and the remainder on or before the first day of June, 1870; and in assessing and collecting this tax the assessor and collector shall conform to the several laws in force at the time, so far as the same may be applicable and not inconsistent herewith.

SEC. 6. The deeds of the assessor and collector to the property sold for taxes, assessed by virtue of this ordinance, shall be good and effectual to convey the title, and shall be conclusive evidence that all the requisites of the law have been complied with, and shall be subject to be impeached only for fraud. Provided that the owners of property thus sold (if it is real estate) shall be entitled at any

time within twelve months after sale to redeem the same, by paying to the purchaser five times the amount paid by him for the land, and five times the amount of taxes that may have been paid by said purchaser on said property since the sale.

SEC. 7. The assessor and collector, before entering upon his duties under this ordinance, shall give bonds, with two or more good and sufficient securities, in the sum of twenty-five thousand dollars, conditioned for the faithful performance of his duties under this ordinance, and payable to the president and directors of the "Waco Tap Railroad Company," and to be approved by them; and said bond to be filed in the office of said company; and suit thereon shall be for breach of any of its conditions, to the full amount thereof, in favor of said company. The assessor and collector shall receive for compensation for duties under this ordinance one-half the amount allowed by general laws for similar duties; and he shall pay over to the treasurer of the Waco Tap Railroad Company the money collected under this ordinance, as fast as the same may be collected, and shall take duplicate receipts from the treasurer for the same, one of which shall be filed in the office of the county clerk of this county.

SEC. 8. The assessor and collector shall give to each taxpayer under this ordinance his official receipt for the sum paid or collected, which receipts may be consolidated, and shall, when presented to the president and directors of said Waco Tap Railroad, in sums of fifty dollars, entitle the holder thereof to receive a certificate of paid up stock in said road for one share, and an additional share for each additional fifty dollars of receipts, which certificates shall entitle the holder to all the rights and privileges of stockholders in said railroad company.

SEC. 9. In case of vacancy in the office of county judge, or his absence, inability or refusal to act, any one of the county commissioners may discharge his duties under this ordinance. By qualified voters, mentioned in this ordinance, is meant registered voters, who shall vote only in the county in which they are registered.

SEC. 10. If a new constitution for the State of Texas shall go into force and effect before the provisions of this ordinance shall have been executed, and by the provisions of the same, or the laws passed in pursuance thereof, the tribunal or any of the officers charged with the execution of this ordinance, shall cease to exist, as provided for by existing laws, then the tribunal or tribunals and officer or officers succeeding under the new constitution and laws to the jurisdiction and duties now held, exercised and discharged by the tribunal and officers named in the preceding sections of this act, shall be required to execute the provisions of this ordinance; and if additional legislation shall be deemed necessary to carry out and effectuate the

provisions of this ordinance, the same shall be enacted by the first Legislature convening under the new constitution: and this ordinance shall take effect from and after its passage by this Convention.

Mr. Flanagan moved a suspension of the rules to put the declaration, as reported, on its passage.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Patten moved a further suspension of the rules to put declaration on its passage.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Bryant of Harris, Buffington, Butler, Caldwell, Cole, Curtis, Degener, Downing, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Harris, Johnson of Harrison, Keigwin, Kendal, Kuechler, Kirk, Lippard, Long, Mackey, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—43.

Nays—Messrs. Armstrong of Jasper, Board, Bryant of Grayson, Burnett, Hamilton of Bastrop, Phillips of San Augustine, Rogers, Sumner, Thomas—9.

Rules suspended.

On motion of Mr. Patten, the reading of the declaration was dispensed with.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Smith, of Galveston, offered the following resolution:

Resolved, That a special committee of three be appointed by the President to investigate the right of the gentleman from Leon to a seat in this Convention.

Mr. Thomas, of Collin, offered the following resolution:

Resolved, That this Convention do now resume the consideration of the report of the Committee on Education, and continue to consider the same from day to day until it shall have been disposed of.

Mr. Munroe offered the following resolution:

Resolved, That the per diem pay due the late W. H. Mullins be paid over to his widow for her benefit, and that Hon. L. D. Evans be authorized to draw and receipt for the same, and that the Hon. P. P. Adams, of Henderson, and McCormick, of Brazoria, having been absent by leave of this Convention, be authorized to draw their per diem pay during said absence.

Mr. Munroe moved the rules be suspended to consider resolution.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Board, Bryant of Grayson, Buffington, Burnett, Caldwell, Cole, Degener, Downing, Evans of Titus, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Harris, Johnson of Harrison, Jordan, Keigwin, Kuechler, Kirk, Long, Mackey, McWashington, Munroe, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria—38.

Nays—Messrs. Bledsoe, Brown, Bryant of Harris, Butler, Curtis, Hamilton of Bastrop, Kendal, Morse, Mullins, Patten, Phillips of San Augustine, Rogers, Williams, Wilson of Milam, Wright—15.

Rules suspended.

The question recurred upon the adoption of the resolution.

Mr. Armstrong, of Lamar, moved to amend by inserting the name of B. N. Gray, of Red River county.

Mr. Burnett offered the following resolution:

Resolved, That the resolution now under consideration be referred to a special committee of three, whose duty it shall be to report to the Convention the names of each delegate who may be entitled to back pay.

The resolution was adopted.

Mr. Armstrong, of Lamar, offered the following resolution, and asked its reference to the Committee on the Judiciary.

1. *Be it declared by the people of the State of Texas in Convention assembled:*

That in all suits now pending, or that may hereafter be instituted in any of the courts of this State, founded upon any bill, bond, note, or other contract in writing, made between the second day of March, A. D. 1861, and the first day of July, A. D. 1865, it shall be lawful to show by parol testimony the actual consideration of

such contract, and if the same be founded upon a good and lawful consideration, the real or true value thereof at the time of the performance of such contract, may be proved by parol testimony.

2. *Be it further declared,* That in all suits now pending, or that may hereafter be instituted in any of the courts of this State, founded upon a good and lawful consideration or cause of action, which accrued prior to the second day of March, A. D. 1861, and it shall appear on trial that the same has been paid off and discharged in any pretended currency, issued and put in circulation during the existence of the late rebellion, and in aid of the same, such payment shall be null and void, and the creditor shall recover as though no such payment had been made, unless it be shown that he voluntarily sought the debtor and demanded the same; and the creditor shall retain all liens that he or she may have had on real or personal property for the security of such claim against all third persons who may have purchased such property with notice of such payments, and against all persons who may have purchased the same, with or without notice, and paid the price thereof in such unlawful currency; provided, that this ordinance shall not be so construed as to include payment made in the lawful money of the United States; and provided further, that it shall be construed to have reference to payments only made subsequent to the second day of March, A. D. 1861, and prior to the first day of July, A. D. 1865.

3. *Be it further declared,* That all sales or transfers of real, personal or mixed property heretofore made in consideration of the payment of any pretended currency, issued and put in circulation in aid of the late rebellion, shall be null and void as to all prior *bona fide* creditors of the vender of such property.

4. *Be it further declared,* That in any suit now pending, or that may hereafter be brought in any of the courts of this State, wherein any question under either of the two last subdivisions of this ordinance shall arise with reference to any statute of limitation, the time between the second day of March, A. D. 1861, and the first day of January, A. D. 1869, shall not be computed in the reckoning or application of such State.

Mr. Sumner moved to reject the declaration.

Withdrawn.

The declaration was referred to the Committee on Judiciary.

Mr. Caldwell introduced a declaration, and asked its reference to the Committee on Internal Improvements without reading.

It was so ordered.

The President announced that the business in order was upon the

declaration of Mr. Newcomb's resolution to suspend the rules of the House in reference to "Division of the State,"* and upon the motion of Mr. Evans, of Titus, to excuse Mr. Grigsby.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained.

On motion, Mr. Pedigo was excused on account of sickness.

Mr. Burnett made the following point of order:

That when a "call of the House" is ordered, the names of members who may not have taken their seats since the re-assembling of this Convention, shall not be called nor noted as absentees.

The President decided that the point of order could not be entertained by the chair under the ruling of yesterday.

Mr. Burnett appealed from the decision of the chair to the Convention.

The question recurred. "Shall the decision of the chair stand as the decision of the Convention?"

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Cole, Curtis, Fleming, Glenn, Hamilton of Travis, Harris, Johnson of Harrison, Kealy, Keigwin, Kirk, Lindsay, Mackey, McCormick, McWashington, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milan—32.

Nays—Messrs. Adams, Board, Brown, Butler, Burnett, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Jordan, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Wright—30.

So the decision of the chair was sustained.

Mr. McCormick offered a resolution, which was ruled out of order:

Resolved, That when action in any matter taken into consideration by the Convention is suspended by a call of the House, the Convention shall proceed to take up the matter next in order on the President's table, and dispose of it, and after it is disposed of, the matter on which action was so suspended shall be called up again for action; and if the call is renewed and still sustained, and action

* To be found in proceedings of December 10th.

thereby still sustained, the next matter of business on the President's table shall be taken up and disposed of, and so on indefinitely, that the time of the House may not be unnecessarily consumed.

On motion, the Convention adjourned until ten o'clock Monday morning.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 14, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

The president caused the following letters to be read from Messrs. Grigsby, Boyd, Muckleroy, and Talbot, resigning their seats in the Convention :

NACOGDOCHES, TEXAS,
November 3, 1868.

To Brigadier General J. J. REYNOLDS,
Commanding Fifth Military District :

Owing to impaired and failing health, I am admonished that I will be unable to attend another session of the Convention for forming a Constitution for the State of Texas. I am a delegate from the county of Nacogdoches, and have, therefore, to request, respectfully, that this be received as my resignation of the position, and that an election be ordered to fill the vacancy.

I have the honor to be,
Very respectfully,

(Signed)

D. MUCKLEROY.

JEFFERSON, TEXAS,
September 30, 1868.

To Major General J. J. REYNOLDS,
Commanding Fifth Military District :

DEAR SIR: Having determined to abstain from any further participation in political affairs, I deem it due to the people of this the first election district to give them an opportunity of selecting a delegate whose thoughts run in such channels. I, therefore, hereby tender my resignation as a member of the Constitutional Convention of Texas.

It may not be amiss to add that I take this step with no feeling of hostility to the reconstruction party with which I have acted, but purely on private grounds.

Respectfully,

Your obedient servant,

(Signed)

AARON GRIGSBY.

PAOLA, MIAMI COUNTY, KANSAS,

October 19, 1868.

To Major General J. J. REYNOLDS,
Commanding Fifth Military District:

SIR: My private business will not permit of my return to Texas before spring. I, therefore, tender my resignation of membership of the Constitutional Convention of the State of Texas for the counties of Williamson and Burnett.

Most respectfully,

Your obedient servant,

(Signed)

JOSEPH W. TALBOT.

Official copies respectfully furnished the President of the Constitutional Convention for his information, and in compliance with request of December 13th, 1868.

J. J. REYNOLDS,

Brevet Major General U. S. Army.

OWENSVILLE, TEXAS,

December 4, 1868.

Hon. E. J. DAVIS,

President of the Constitutional Convention:

DEAR SIR: I hereby tender my resignation as delegate to the Constitutional Convention of Texas.

Very respectfully,

J. B. BOYD.

The president announced the committee under the resolution of Mr. Burnett, respecting the pay of absent members, to be Messrs. Burnett, Long, and Phillips, of San Augustine.

Mr. Hamilton, of Bastrop, offered the following resolution:

Resolved, That Brevet Major General J. J. Reynolds, commanding the District of Texas, be, and he is hereby respectfully requested, to cause the Provisional Governor of Texas to communi-

cate to this Convention what steps or action, if any, he has taken to give effect and force to the ordinance passed by this body at its late session, touching the rights, privileges and interest of the Houston and Central Texas Railroad Company, and also the rights which the people of this country claim to have in the school fund which is invested in the railroad bonds of this and other companies, and to furnish a copy of any guarantees or receipts which he may have given to the agents or officers of said Central Road.

Mr. Butler moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. McCormick offered the following amendment :

Resolved, That the Provisional Governor of Texas be, and he is hereby, requested to give information, etc.

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

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Bryant of Harris, Curtis, Degener, Downing, Flanagan W., Goddin, Hamilton of Bastrop, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Wilson of Milan—17.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Board, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Cole, Fayle, Flanagan, Fleming, Gaston, Glenn, Harris, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Keuchler, Lindsay, Mackey, McCormick, Mc-Washington, Morse, Munline, Munroe, Rogers, Schuetze, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—43.

So the Convention refused to lay the amendment upon the table.

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurred upon the adoption of the resolution as amended.

It was adopted.

Mr. Caldwell offered the following resolution :

Resolved, That this Convention has heard with regret of the removal of Brevet Major General J. J. Reynolds, from the command of the Fifth Military District, by the order of the President,

and that the thanks of this Convention are hereby tendered to Gen. Reynolds for the faithful and impartial manner in which he has executed the laws of Congress, and especially for his efforts in suppressing lawlessness and violence in the State.

Resolved, 2. That an official copy of the resolution be forwarded to him.

Mr. Caldwell moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Caldwell moved that the resolution be made the special order for Friday next at ten o'clock.

Carried.

The president announced that the business in order was upon the resolution of Mr. Newcomb,* to repeal the resolution of Mr. Thomas, passed at the first session of the Convention respecting the division of the State.

The previous question being seconded, Mr. Thomas raised the point of order that under rule eleventh the resolution of Mr. Newcomb was not before the Convention.

The president decided the point of order in the negative.

Mr. Thomas appealed from the decision of the chair to the Convention.

The question then recurred, "Shall the decision of the chair stand as the decision of the House.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Adams, Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Degener, Downing, Faye, Flanagan, W. Flanagan, Gaston, Glenn, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Williams, Wilson of Milam, Wright—51.

Nays—Messrs. Bryant of Grayson, Fleming, Kealy, Keigwin, McCormick, Rogers, Thomas, Wilson of Brazoria—8.

* For resolution see page 13.

So the decision of the Chair was sustained.

The question recurred upon the adoption of the resolution offered by Mr. Newcomb.

Mr. Thomas moved a call of the House.

Call sustained.

Absentees---Messrs. Armstrong of Lamar, Bell, Coleman, Evans of Titus, Fleming, Harn, Hunt, Johnson of Calhoun, Kirk, Mills, Phillips of Wharton, Sorrell, Vaughan, Whitmore---14.

Mr. Degener asked that Mr. Posey be excused.

Excused.

Mr. Glenn asked that Mr. Sorrell be excused.

Excused.

Mr. Patten moved that the call of the House be suspended.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas---Messrs. President, Adams, Bellinger, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Degener, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Glenn, Goddin, Hamilton of Bastrop, Jordan, Kendal, Keuchler, Lippard, Long, Morse, Mullins, Munroe, Newcomb, Patten, Ruby, Schuetze, Scott, Slaughter, Smith, Varnell, Wright---37.

Nays---Messrs. Armstrong of Jasper, Bryant of Grayson, Caldwell, Cole, Fleming, Hamilton of Travis, Harris, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Mundine, Phillips of San Augustine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milan---24.

So the call of the House was sustained.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees---Messrs. Bell, Coleman, Evans of Titus, Foster, Horne, Hunt, Johnson of Calhoun, Kirk, Mills, Phillips of Wharton, Vaughan, Whitmore---12.

Mr. Smith offered the following resolution :

Resolved, That the absence of Mr. Coleman from the State of Texas is retarding the business of the Convention ;

It is therefore ordered. That the Secretary be directed to omit his name from the roll until he reports in person.

Resolution declared out of order and withdrawn.

Mr. Patten moved that the seat of Mr. Coleman be declared vacant.

Motion by leave withdrawn.

Mr. Degener offered the following resolution :

Resolved, That those members of the Convention who have not answered at the roll call since the recess shall be deemed excused until they resume their seats, and shall, until then, not draw any pay unless a good excuse for their absence be given.

Ruled out of order.

Mr. Glenn moved that Mr. Kirk be excused on account of sickness.

Excused.

Mr. Lindsay asked that Mr. Schuetze be excused until next Thursday.

Leave granted.

Mr. Stockbridge moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Caldwell, Cole, Hamilton of Travis, Johnson of Harrison, Keigwin, Kendal, Kuechler, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—22.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kealy, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Sumner, Varnell, Williams, Wright—41.

So the Convention refused to adjourn.

Mr. Bryant, of Grayson, moved to adjourn till to-morrow morning at nine o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Burnett, Caldwell, Cole, Hamilton of Travis, Johnson of Harrison, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—23.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kealy, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Williams, Wright—39.

So the Convention refused to adjourn.

Mr. Hamilton, of Travis, moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Burnett, Caldwell, Cole, Evans of Titus, Fleming, Glenn, Hamilton of Travis, Johnson of Harrison, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—27.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Carter, Curtis, Degener, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kealy, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Varnell, Wright—35.

So the Convention refused to adjourn.

Mr. Evans, of Titus, was excused on account of sickness.

Mr. Smith moved the suspension of the call of the House.

Lost.

Mr. Bryant, of Grayson, moved to adjourn till ten o'clock to-morrow morning.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Burnett, Caldwell, Glenn, Hamilton of Travis, Johnson of

Harrison, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Williams, Wilson of Brazoria, Wilson of Milam—22.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Carter, Curtis, Degener, Downing, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kealy, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Wright—37.

So the Convention refused to adjourn.

Mr. Armstrong of Lamar, moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Belinger, Bledsoe, Bryant of Grayson, Buffington, Burnett, Caldwell, Cole, Fleming, Gaston, Hamilton of Bastrop, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Kuechler, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Newcomb, Patten, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—34.

Nays—Messrs. President, Adams, Board, Brown, Bryant of Harris, Butler, Carter, Curtis, Degener, Downing, Fayle, Flanagan, W. Flanagan, Goddin, Harris, Horne, Jordan, Kendall, Lippard, Long, Mullins, Munroe, Phillips of San Augustine, Ruby, Slaughter, Smith, Varnell, Wright—28.

So the Convention was declared adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 15, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Burnett made the following report :

CONVENTION HALL,
December 14, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The special committee to whom was referred the resolution in regard to per diem pay due the late Hon. W. H. Mullins and others, and who were instructed to report the names of members of this Convention who may be entitled to back pay, etc., have duly considered the matter, and instruct me to report as follows :

That on the 6th of August last a resolution was adopted by this Convention, which declared that "The per diem pay of members who are now absent or who may hereafter absent themselves from the regular sessions of the Convention, unless on the business of this Convention, or by reason of sickness, shall cease during the term of their absence;" to which was added, "that nothing contained in the resolution shall stop the pay of any member who shall be excused to wait on a sick colleague;" and that, from a careful examination of the journals of the Convention and the pay account of the members, we find that every member who was excused on business of the Convention, or by reason of sickness, or to wait on a sick colleague, had drawn his per diem pay up to the time of his absence from the Convention and including the time for which he was excused; and that, under the rules of the Convention, no back pay is due to any delegate.

But we find that the late Hon. Mr. Mullins was excused on account of sickness of his family, and left the Convention on the 5th of August, just twenty-five (25) days prior to adjournment; and inasmuch as Mr. Mullins was called home to attend his sick family, and excused before the adoption of the above-mentioned resolution, a majority of the committee instruct me to report the accompanying

resolution as a substitute for the one referred to us, and to respectfully recommend its adoption.

Very respectfully,

JAMES R. BURNETT,

Chairman.

Resolved. That the Secretary draw and the President approve a certificate on the treasury of the State for the sum of two hundred dollars (\$200), for the use and benefit of the widow of the Hon. W. H. Mullins, deceased, and that Hon. L. D. Evans is hereby authorized to receive and receipt for the same.

Mr. M. C. Hamilton offered the following report :

COMMITTEE ROOM,
December 15, 1868.

Hon. E. J. DAVIS,

President of the Convention :

SIR : The special committee appointed to "consider and report, without delay, upon the propriety of reducing the daily expenses of the Convention, by the discharge of the reporter, a portion of the under officers and employes, and the wages or per diem of those retained, together with the newspapers ordered to be furnished to the delegates," have had the matters given in charge under careful consideration.

Your committee observe, in the first place, that deliberative bodies throughout the United States, down to comparatively a recent period, managed to conduct business with a much smaller corps of officers than are here employed. During the first fifteen years of our existence as a government no such extravagance was indulged in. The habit grew up while our treasury was full of money, when all felt rich and generous. Many, in fact, were under the delusion that we should never be able to employ or dispose of the vast surplus on hand. Similar abuses have grown up in some of the other States, especially of the South, and in the national government.

There are always persons wanting place and employment, who rarely fail to find friends on the floor or in the lobby to insist upon making places where none were vacant, upon the plea that such additional officers were necessary to the dignity and respectability of the body, if for no other purpose. However members may feel in regard to such propositions, as a rule they dislike to disoblige friends by interposing objections, and hence, in this way, constant additions

are made to the staff of officers employed, in the hope and belief that they are but temporary. But when concessions are once made, those who profit by a division of the necessary labor to be done never fail to take advantage of it, and insist upon making the office permanent. Not only so, but it invites encroachments, until, after awhile, none of the duties would be performed by the officers originally designed for the duty.

While your committee disclaim any intention of reflecting upon any member of the Convention, it will not be denied that the body, as a whole, has, by inattention, fallen into the extravagance of employing many more persons, in one capacity or another, than are found to be needful for the comfort or convenience of members, or for the dispatch of business.

In early days—in fact, until a recent period—a sergeant-at-arms and a doorkeeper, at the full per diem of a member, with one assistant each, at half the pay of the principal, were considered amply sufficient to keep the hall in order, and to wait upon the House while in session. Of course, these officers could not perform the whole of the duties themselves. They were expected to employ porters and a page or two if necessary. It was for this reason and this alone that their pay was made equal to a member of the body. Gradually, however, these necessary helps were imposed upon the public treasury. First, additional assistants, called second assistants, were demanded and conceded; then pages, and a little later messengers, and finally porters, postmasters, etc. Thus a body of under officers have grown up upon the floor, who perform the most of the work which ought to be under the supervision of the sergeant-at-arms or the doorkeeper; yet they appear to be independent of both, and are paid, not the ordinary wages which individuals pay for the like character of service, but from four dollars to eight dollars per diem.

From the best information accessible to your committee, the opinion is hazarded that no deliberative body in Europe employ one-half the officers, pages, messengers, etc., etc., which this body have now under pay. We have followed former bodies, who copied after the Congress at Washington—the most extravagant body in the world.

The Sergeant-at-Arms at full pay of a delegate, and his two assistants at half pay of the principal, with two active messengers at two dollars per day; another door-keeper at full pay and his assistant at half, with two pages at two dollars per day, constitute a force quite ample, in the judgment of your committee, to perform all the duties incumbent upon the officers of this Convention. Of course, they will have to work, but this is expected. It is clearly the duty of the door-keeper and his assistant to keep the Hall in order, and,

if they cannot do the work themselves, they must employ porters to assist them; this is the rule everywhere, or was once the rule.

As to whether a reporter should be employed, your committee deem it a useless expenditure of money. When the proposition was made, at the beginning of the former session, to employ such an officer, it is in the recollection of all of us that those who urged his application promised for him that, for the sum of fifteen dollars per day, he would furnish the debates for the daily press. It was important, the gentlemen said, that the debates should be preserved for future reference, and as valuable material for history. We all know how much of the promise then made has been fulfilled. If, as is contended, it was impossible (as your committee can well conceive) for the reporter to take down and write out the debates without assistants, he should have employed the needful help. His compensation was sufficient to justify him in doing so. Inasmuch, however, as the debates were of little worth, it is matter of small consequence whether they are preserved or not; and it is still less important for the remainder of the sitting. Certainly, it would be unwise in the Convention to expend fifteen hundred dollars more for the notes of the very few speeches of which members are willing to pay for copies for the press.

The subject of subscribing for newspapers for the delegates to send to their respective constituents has been a fruitful source of contention and ill-feeling, besides being a very heavy item in the list of expenses—not much under \$10,000—without any adequate benefits resulting from such an expenditure. When it is considered that every enterprising journal in the State will publish, if not the full daily proceedings, a synopsis which will be more readable, while it will contain sufficient information; and when many of these journals have three or four times the circulation of any of the papers of this place, we should not be distressed about the proceedings of the body going out to the public. Your committee entertain the opinion that however many papers may be ordered for the use of the Delegates, that it will not, in any appreciable degree, facilitate the transmission of the doings of this body through the country. Private enterprise is always in advance of the government. The papers purchased by the latter are sure to be behind those sent directly from the office to subscribers, and this—the rapidity of dispatch—is the only argument in favor of subscribing for papers. Your committee consider that one copy for each member of the Daily Austin Republican, to be laid upon the desks of members by the hour of meeting, and containing the full proceedings of the day previous, is all that would be of any real service to the public. If, however, the Convention think differently, then your committee beg leave to suggest *weekly* papers

instead of dailies. The former will better subserve the wants of the people. They will have a whole week's proceedings in a body, and a longer portion of reading matter; and you only have mail facilities, as a general thing, to transmit weeklies. Dailies will reach no one daily, except the Delegates themselves; while the expense of the dailies will be three times greater than the weeklies.

If the foregoing recommendations be adopted, your committee calculate that the expenses of the body, if in session ninety days, will be reduced, by comparison with the summer session, in a sum not under fifteen to eighteen thousand dollars; besides the nett value of the example to bodies which may hereafter meet.

Your committee report the accompanying resolution, and recommend its passage.

All of which is respectfully submitted.

M. C. HAMILTON,
Chairman.

RESOLUTION.

Resolved, That the officers on the floor other than the Sergeant-at-Arms and Door-keeper, and their respective assistants, are hereby discharged; and it shall be the duty of the President to re-appoint two active boys as pages and two as messengers, whose per diem pay shall not exceed two dollars per day.

Resolved, Second. That the per diem pay of the Assistant Door-keeper and First and Second Assistant Sergeant-at-Arms shall hereafter be four dollars.

Resolved, Third. That the Secretary be instructed by the President to order one copy of the Daily Austin Republican to be furnished to each member of this body by the hour of nine A. M., on the day of its issue, which shall contain the full proceedings of the Convention of the preceding day, and it shall be the duty of the Secretary to check out of the account presented for his approval the daily price for every day which the paper be delivered after the hour specified, the price of which shall be eight cents per copy.

Mr. Thomas offered the following resolution :

Resolved, That this body shall hold morning and evening sessions, the morning session to commence at nine o'clock, A. M., and close at twelve, M.; the evening session to commence at three and

close at five P. M.; and that the evening session be devoted exclusively to the formation of a constitution.

Laid over under the rules.

Mr. Smith of Galveston, rose to a privileged question, and called up a resolution previously offered requiring a committee of three be appointed to inquire into the right of the delegate from Leon to a seat upon the floor.

Mr. W. Flanagan moved to lay the resolution upon the table :

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Butler, Burnett, Caldwell, Cole, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Harris, Johnson of Harrison, Kealy, Kuechler, Lindsay, Long, Mackey, McWashington, Morse, Mundine, Munroe, Phillips of San Augustine, Rogers, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—34.

Nays—Messrs. President, Bryant of Harris, Buffington, Carter, Curtis, Degener, Goddin, Hamilton of Bastrop, Kendal, Lippard, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Sumner, Williams, Wilson of Milam--20.

So the resolution was laid on the table.

The President announced the business in order was upon the resolution of Mr. Newcomb to repeal the rule of the Convention passed at the first session respecting the division of the State.

The question recurred upon the adoption of the resolution.

Mr. Thomas moved a call of the House.

Call sustained.

Absentees—Messrs. Adams, Bell, Coleman, Evans of Titus-Foster, Glenn, Hamilton of Travis, Horne, Hunt, Johnson of Calhoun, Jordan, Mills, Vaughan, Whitmore—14.

The President directed that Messrs. Evans of Titus, Glenn and Horne, being absent from the House after the call thereof, forfeit their per diem pay for this day.

Messrs. Evans of Titus and Horne explained that the cause of their absence was sickness, and were excused by the Convention.

Mr. Caldwell moved the Convention adjourn until ten o'clock tomorrow morning.

Upon which the yeas and nays were called, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bryant of Grayson, Caldwell, Cole, Glenn, Hamilton of Travis, Johnson of Harrison, Keigwin, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—20.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kendal, Kuechler, Kirk, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Sumner, Varnell, Williams, Wright—42.

So the Convention refused to adjourn.

Mr. Lippard moved that the call of the House be suspended.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bellinger, Bledsoe, Board, Brown, Bryant of Harris, Burnett, Carter, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Kuechler, Kirk, Lippard, McCormick, McWashington, Morse, Mundine, Varnell, Wilson of Brazoria, Wilson of Milam, Wright—25.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fleming, Glenn, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Long, Mackey, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Slaughter, Stockbridge, Sumner, Thomas, Watrous, Williams—35.

So the House refused to suspend the call.

Mr. Armstrong, of Jasper, moved that Mr. Glenn be excused indefinitely, on account of sickness.

Excused.

Mr. Hamilton, of Travis, moved the Convention adjourn until tomorrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bryant of Grayson, Burnett, Caldwell, Cole, Glenn, Hamilton of Travis, Johnson of Harrison, Keigwin, Mackey, McCormick, McWashington, Morse,

Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—23.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Flanagan W., Fleming, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kealy, Kendal, Keuchler, Kirk, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Varnell, Wright—39.

So the Convention refused to adjourn.

Mr. Hamilton, of Travis, moved the Convention adjourn till to-morrow morning, at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Bellinger, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Glenn, Hamilton of Travis, Johnson of Harrison, Keigwin, Lindsay, Mackey, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—23.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kealy, Kendal, Keuchler, Kirk, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Wright—41.

So the Convention refused to adjourn.

Mr. Hamilton, of Travis, moved that the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Bellinger, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—25.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Carter, Curtis, Degener, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Horne,

Jordan, Kendal, Keuchler, Kirk, Lippard, Long, Mullins, Newcomb, Patten, Phillips, Scott, Slaughter, Smith, Varnell, Wright—37.

So the Convention refused to adjourn.

Mr. Slaughter moved the Convention take a recess for thirty minutes.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bledsoe, Burnett, Caldwell, Lindsay, Slaughter—6.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson, Jordan, Kealy, Keigwin, Kendal, Keuchler, Kirk, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—58.

So the Convention refused to take a recess.

Mr. Hamilton, of Travis, moved that the Convention adjourn until to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Bellinger, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—24.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Flanagan W., Goddin, Hamilton of Bastrop, Harris, Horne, Jordan, Kendal, Keuchler, Kirk, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Wright—39.

So the Convention refused to adjourn.

Mr. Armstrong, of Lamar, moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bellinger, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Gaston, Hamilton of Travis, Johnson of Harrison, Kealey, Keigwin, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Patten, Rogers, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—28.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Flanagan W., Goddin, Harris, Horne, Jordan, Kendal, Kuechler, Kirk, Lindsay, Lippard, Long, Mullins, Newcomb, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Wright—38.

So the Convention refused to adjourn.

Mr. Goddin moved that the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bellinger, Bryant of Grayson, Caldwell, Fleming, Gaston, Goddin, Hamilton of Travis, McCormick, McWashington, Morse, Mundine, Rogers, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—20.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Burnett, Carter, Curtis, Degener, Downing, Flanagan, Flanagan W., Hamilton of Bastrop, Harris, Horne, Johnson, Jordan, Keigwin, Kuechler, Kirk, Lindsay, Lippard, Mackey, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Scott, Slaughter, Smith, Stockbridge, Varnell—36.

So the Convention refused to adjourn.

Mr. Horne moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Bellinger, Burnett, Caldwell, Fleming, Goddin,

Hamilton of Travis, Keigwin, Mackey, McCormick, McWashington, Mundine, Rogers, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—19.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Carter, Cole, Curtis, Degener, Downing, Flanagan, Flanagan W., Gaston, Hamilton of Bastrop, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Kendal, Keuchler, Kirk, Lindsay, Lippard, Long, Morse, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Sumner, Varnell—40.

So the Convention refused to adjourn.

Mr. Munroe excused on account of sickness.

Mr. Horne moved that the Convention adjourn until to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Lamar, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, Kirk, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Williams, Wilson of Brazoria, Wilson of Milam, Wright—26.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Flanagan W., Gaston, Goddin, Hamilton of Bastrop, Harris, Jordan, Kendal, Keuchler, Lindsay, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith—34.

So the Convention refuse to adjourn.

Mr. Hamilton, of Travis, moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Bellinger, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Goddin, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, Kirk, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—25.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffing-

ton, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Harris, Jordan, Kendal, Kuechler, Kirk, Lindsay, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell—36.

So the Convention refused to adjourn.

Mr. Bryant, of Grayson, moved that the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Burnett, Fleming, Goddin, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milan—22.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Caldwell, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Flanagan W., Gaston, Hamilton of Bastrop, Harris, Jordan, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, Mullins, Newcomb, Phillips of San Augustine, Scott, Slaughter, Smith, Varnell, Williams, Wright—36.

So the Convention refused to adjourn.

Mr. W. Flanagan moved that the call of the House be suspended.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Board, Brown, Burnett, Carter, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Horne, Jordan, Kuechler, Lippard, Long, McCormick, McWashington, Morse, Mundine, Newcomb, Ruby, Scott, Slaughter, Smith, Varnell, Wilson of Milan, Wright—32.

Nays—Messrs. Armstrong of Jasper, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Cole, Curtis, Degener, Downing, Fleming, Hamilton of Bastrop, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Kendal, Lindsay, Mackey, Mullins, Patten, Phillips of San Augustine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—29.

Call of the House suspended.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees--Messrs. Bell, Coleman, Foster, Hunt, Johnson of Calhoun, Mills, Phillips of Wharton, Vaughan, Whitmore--9.

Mr. Smith, of Galveston, asked that Mr. Kirk be excused on account of sickness.

Excused.

Mr. Burnett moved that the Convention adjourn till to-morrow at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas--Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Burnett, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam, Wright--22.

Nays--Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Caldwell, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Harris, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell--36.

So the Convention refused to adjourn.

Mr. Horne moved that the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas--Messrs. Armstrong of Lamar, Bellinger, Burnett, Fleming, Horne, Kealy, Morse, Mundine, Thomas, Wilson of Brazoria--10.

Nays--Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Caldwell, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Mullins, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Sumner, Varnell, Watrous, Wilson of Milam--48.

So the Convention refused to adjourn.

Mr. Burnett asked to be excused on account of sickness.

Excused.

Mr. Patten moved that the Convention take a recess till the 4th day of January, 1869.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Degener, Hamilton of Bastrop, Patten—3.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Carter, Cole, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Mullins, Newcomb, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—53.

So the Convention refused to take a recess.

Mr. Sumner moved that the Convention adjourn till seven o'clock P. M.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Kendal, Sumner, Varnell, Wright—7.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Keuchler, Lippard, Long, Mackey, McWashington, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Watrous, Williams, Wilson of Milam—47.

So the Convention refused to adjourn.

Mr. Carter moved that the call of the House be suspended.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bellinger,

Board, Brown, Bryant of Grayson, Carter, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Kuechler, Long, McCormick, McWashington, Mundine, Newcomb, Patten, Scott, Slaughter, Varnell, Wilson of Milam, Wright—27.

Nays—Messrs. Armstrong of Lamar, Bledsoe, Bryant of Harris, Buffington, Caldwell, Cole, Curtis, Degener, Downing, Fleming, Hamilton of Bastrop, Hamilton of Travis, Horne, Keigwin, Kendal, Lindsay, Lippard, Mackey, Mullins, Morse, Phillips of San Augustine, Rogers, Ruby, Smith, Stockbridge, Sumner, Thomas, Varnell, Williams, Wilson of Brazoria—29.

So the Convention refused to suspend the call.

Mr. Hamilton, of Travis, moved that the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Brown, Cole, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Keigwin, Kendal, McCormick, Rogers, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—20.

Nays—Messrs. President, Adams, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Harris, Jordan, Kuechler, Lindsay, Lippard, Long, McWashington, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Stockbridge, Varnell, Williams—37.

So the Convention refused to adjourn.

Mr. Armstrong moved that the Convention take a recess until eight o'clock this evening.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Horne, Kealy, Rogers, Wright—8.

Nays—Messrs. President, Adams, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Degener, Evans of Titus, Fayle, Flanagan, Fleming, Hamilton of Bastrop, Harris, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, McWashington, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of

San Augustine, Ruby, Scott, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam—47.

So the Convention refused to take a recess.

Mr. W. Flanagan moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant of Harris, Gaston, Horne, Kealy, Keigwin, Thomas, Wilson of Milam, Wright—10.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Grayson, Buffington, Butler, Caldwell, Cole, Curtis, Downing, Degener, Evans of Titus, Fayle, Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, McCormick, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Scott, Slaughter, Smith, Stockbridge, Sumner, Varnell, Watrous, Williams, Wilson of Brazoria—47.

So the Convention refused to adjourn.

Mr. Horne moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Fleming, Horne, Kealy, Thomas, Wilson of Milam, Wright—9.

Nays—Messrs. President, Bledsoe, Board, Brown, Bryant of Grayson, Buffington, Carter, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Johnson of Harrison, Jordan, Keigwin, Kendal, Keuchler, Lindsay, Long, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Patten, Phillips of San Augustine, Rogers, Scott, Slaughter, Smith, Stockbridge, Sumner, Varnell, Watrous, Williams, Wilson of Brazoria—46.

So the Convention refused to adjourn.

Mr. Morgan Hamilton was excused on account of sickness.

Mr. Hamilton, of Travis, moved the Convention adjourn until to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Gaston, Hamilton of Travis, Kealy, Keigwin, Thomas, Wilson of Milan—9.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Buffington, Bryant of Harris, Caldwell, Cole, Curtis, Degener, Downing, Evans of Titus, Flanagan, W. Flanagan, Fleming, Harris, Horne, Johnson of Harrison, Kendal, Keuchler, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Mullins, Mundine, Munroe, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria—45.

So the Convention refused to adjourn.

Mr. Hamilton moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Goddin, Johnson of Harrison, Kealy, Keigwin, McCormick, Mundine, Thomas, Wilson of Milan—10.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Carter, Curtis, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Travis, Harris, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, McWashington, Morse, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Sumner, Varnell, Watrous, Williams, Wilson of Brazoria—44.

So the Convention refused to adjourn.

Mr. Bryant moved the call of the House be suspended.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Caldwell, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Travis, Horne, Johnson of Harrison, Kuechler, Lippard, Mackey, McCormick, McWashing-

ton, Morse, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Williams, Wright—36.

Nays—Messrs. Bellinger, Bryant of Harris, Buffington, Burnett, Fleming, Hamilton of Bastrop, Johnson of Harrison, Kealy, Kendal, Keigwin, Lindsay, McCormick, Mullins, Mundine, Phillips of San Augustine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—32.

So the call of the House was sustained.

Mr. Smith moved the previous question.

Previous question seconded.

Mr. Thomas moved a call of the House.

Call sustained.

Absentees—Messrs. Bell, Coleman, Hunt, Johnson of Calhoun, Mills, Phillips of Wharton, Vaughan, Whitmore—8.

Mr. Armstrong, of Jasper, asked to be excused from attendance on the Convention.

Not excused.

Mr. Armstrong, of Jasper, moved the Convention adjourn till to-morrow morning, at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Buffington, Cole, Fleming, Hamilton of Travis, Horne, Jordan, Kealy, Kendal, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Rogers, Stockbridge, Sumner, Thomas, Wilson of Brazoria, Wilson of Milam, Wright—25.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Caldwell, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Stockbridge, Varnell, Williams—36.

So the Convention refused to adjourn.

Mr. Patten moved a suspension of the call.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Brown, Buffington, Carter, Curtis, Degener, Downing,

Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Johnson of Harrison, Jordan, Kuechler, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Scott, Smith, Varnell, Wilson of Milam, Wright—34.

Nays—Messrs. Armstrong of Lamar, Bellinger, Bryant of Grayson, Bryant of Harris, Caldwell, Fleming, Hamilton of Travis, Kealy, Kendal, Lippard, Long, Mackey, McCormick, Morse, Mundine, Phillips of San Augustine, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—24.

So the call of the House was suspended.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained.

Absentees—Bell, Foster, Hunt, Johnson of Harrison, Johnson of Calhoun, Mills, Phillips of Wharton, Vaughan, Whitmore—9.

Mr. Hamilton, of Travis, moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Buffington, Fleming, Hamilton of Travis, Johnson of Harrison, Keigwin, Lindsay, McCormick, McWashington, Rogers, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—20.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Caldwell, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Horne, Kealy, Kendal, Keuchler, Long, Mackey, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Stockbridge, Varnell—36.

So the Convention refused to adjourn.

Mr. Degener moved a suspension of the call of the House.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Buffington, Carter, Curtis, Degener, Downing, Evans of Titus, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Keuchler, Lindsay, Lippard, Mullins,

Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Wilson of Milam, Wright—32.

Nays—Messrs. Billinger, Brown, Bryant of Grayson, Bryant of Harris, Caldwell, Cole, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Phillips of San Augustine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—24.

So the call of the House was suspended.

Mr. Degener moved that the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Buffington, Caldwell, Carter, Cole, Degener, Downing, Evans of Titus, Fleming, Goddin, Hamilton of Travis, Horne, Johnson of Harrison, Jordan, Kealy, Kendal, Keuchler, Lindsay, Mackey, McCormick, McWashington, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—39.

Nays—Messrs. Beard, Brown, Bryant of Grayson, Curtis, Fayle, Flanagan, W. Flanagan, Harris, Lippard, Long, Mullins, Ruby, Scott, Slaughter, Smith, Varnell—17.

So the Convention adjourned till to-morrow morning at ten o'clock.



CAPITOL, AUSTIN, TEXAS,
DECEMBER 16, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Armstrong, of Lamar, presented the following memorial from Memphis and El Paso Railroad Company, and asked its reference to the Committee on Internal Improvements:

MEMORIAL

Of the Memphis, El Paso and Pacific Railroad Company.

To the Honorable the Constitutional Convention of Texas :

The memorial of the Memphis, El Paso and Pacific Railroad Company respectfully shows that the said company was incorporated under an act of the Legislature of Texas, approved February 4, 1856, and acts supplemental thereto and amendatory thereof, for the purpose of constructing and operating a railroad from the eastern line of the State, in Bowie county, to the Rio Grande, opposite to or near El Paso, and afterwards was authorized to build a branch to or to extend to Jefferson, in Marion county, which city now properly constitutes the commencement point of said road in Texas.

That all the conditions contained in said act of incorporation, up to the date of the so-called ordinance of secession, have been in every respect fully complied with; that one million of dollars of *bona fide* stock was subscribed by the citizens of the State living along the line of the road; that a large amount of this was paid into the treasury of the company, and expended in the prosecution of the enterprise; that at least five hundred thousand dollars, including two hundred and fifty thousand acres of land certificates donated by the State, have been expended in designating the line of the road to El Paso, in accordance with the requirements of the charter, in surveying and returning to the General Land Office the field notes and maps of the land within the reservation, which has been done from the eastern line of the State to the Brazos, a distance of three hundred miles, in grading, including bridging and culverts, and cross ties; that, at the time the war commenced, about

sixty miles of the road bed was completed and ready for the iron, Fifty-five miles had been examined by the engineer of the State, and received, and certificates for land issued upon it, in accordance with the provisions of the charter; that a contract had been made for iron for fifty miles, which was then on the way, and was seized in New Orleans by the Confederate authorities, and appropriated by the same without the consent, but in despite of the company; that after various ineffectual efforts upon the part of the company, since the war, to revive this enterprise and go on with the construction of the road, it has at last succeeded in reorganizing upon a basis and under auspices which promise entire success in building and equipping the railroad, and in settling the country along the line of the same as fast as it is completed, with a people given to agriculture, manufactures and mechanical pursuits, such a people as will force upon us peace and prosperity; that this negotiation has been so effected as to save to every citizen of the State who has ever subscribed and paid anything into the company, his interest in it, proportionate to the amount paid, or that may hereafter be paid; that it has memorialized the Congress of the United States for national assistance, by granting to it a subsidy, and placing it under the name of the "Southern Trans-Continental Railroad," upon the same footing of the Union Pacific and other Pacific railroads, now being built by the aid and under the auspices of the national government, with a rapidity which has no parallel in the history of such enterprises.

That your memorialists, in accordance with the authority conferred upon them in their charter, have recently entered into arrangements with other roads already constructed, looking to the consolidation of all the roads necessary to constitute one grand trunk line, from the point of Norfolk, Virginia, via Memphis, to the Pacific (adopting the designated line of the Memphis, El Paso and Pacific Railroad Company through the State of Texas), on the Gulf of Guaymas, or San Deigo, or at both points, and have caused a bill to be introduced into Congress to aid it, under the name and style of the Southern Trans-Continental Railroad, and to place it upon the same footing as the other Pacific railroads, backed by such influences and under such auspices as insure success, if the State of Texas will come to its aid, and support it in the manner hereafter pointed out by this memorial.

The scheme embraces in addition to the main trunk line, as above indicated, branch roads from Cairo, intersecting the main line on the eastern border of Texas, branches from Vicksburg, via Shreveport, Marshall, etc., and from New Orleans, via Houston, and from some point upon the Gulf of Mexico intersecting the main line at some point or points in Texas; and the obtaining of national aid to as

many of these branches, in addition to the main trunk, as possible. The deep interest of Texas in the consummation of this scheme is too obvious to require argument. It would inaugurate a new era, and more than compensate for the pecuniary losses occasioned by the late war; it would add countless millions to the value of her now waste and valueless lands, and fill her, as if by magic, with a teeming population, and bring the accomplishment of this result within her grasp. To this end your memorialists invoke the favorable action of your honorable body, representing, as it does, the State and the interest thereof, and the only body now authorized to speak and act for the State upon the following points, which, in the opinion of your memorialists, will greatly contribute to the end desired:

First--Your memorialists pray that you will, in the name of the State, and in behalf thereof, petition the Congress of the United States to aid the Southern Trans-Continental Railroad, and place the same upon an equal footing with the other Pacific railroads. The designated line of the said road presents many advantages for a national thoroughfare over any other north of it, by reason of its shorter distance, of the character of the country through which it passes, capable of sustaining a dense population, and never liable to interference from ice or snow. When completed, a great part of the commerce of the world must pass over it, and it will unite in closer and more indissoluble bonds the remote sections of the Union.

Second--That as the United States has, as one means of aiding the construction of the Pacific railroads, donated to them the alternate sections for a distance of twenty miles upon each side of the line of the same, besides a loan of an average of about thirty thousand dollars per mile; and as the United States does not own any lands in Texas, and cannot aid this road in this way, so far as its line is within the limits of Texas, your memorialists pray that Texas, the proprietor of the public lands in her limits, do for this road what the United States has done for the Pacific roads passing through her public lands, to wit: enlarge the reservation hitherto granted to the Memphis, El Paso and Pacific Railroad Company, so as to extend the same twenty miles upon each side of the designated line, with the conditions and restrictions contained in the original charter. Your memorialists believe that an opportunity now offers for securing within the limits of this State one of the Pacific roads, it may never occur again. Such action on the part of the State would concentrate and fix public attention upon the enterprise, and secure the speedy construction of the road; it would render certain that which is now doubtful. After such action by the State, Congress would not hesitate in coming to the aid of the enterprise in behalf of the national interest involved.

Third.—Your memorialists have recently succeeded in making arrangements with capitalists in the United States and Europe, who have undertaken to furnish a portion of the money necessary for the construction of the road, and they confidently expect to be able to recommence work upon the road as soon as Texas is restored to her proper relations in the Union. but grave doubts have arisen in the minds of some as to the validity of the acts of the *de facto* Legislatures of Texas during the war, which provided that the time of the war should not be computed against incorporated internal improvement companies, and providing that they should have two years after the war to complete the work required by their charters, etc. Now, in order to set at rest forever such doubts, your memorialists pray that your honorable body will pass such an ordinance or declaration as is necessary, declaring that the time intervening between the passage of the so-called ordinance of secession and the restoration of the State, shall not be reckoned against the company, but that it shall have the same time after the restoration of the State as if no time had elapsed since the second day of March, 1861.

Your memorialists believe that this prayer is so reasonable and just, that whatever may be the fate of the other prayers that your honorable body will not deny it.

Fourth—In accordance with the charter, the State has, for grading fifty-five miles of the road, issued to the company land certificates for about 250,000 acres of land. These certificates have all been transferred to third persons for work and labor upon the road, and many of them have been often transferred. They are absolute and unconditional upon their face, and patents have been issued to lands located by them in some instances; but patents are now refused upon them upon the grounds that they were improperly issued. The company performed all that was required by its charter, and they were regularly issued by the Commissioner of the General Land Office. For the State to now repudiate them, brings discredit upon the whole scheme of aiding railroads in the State by grants of land; besides, this is injustice to innocent holders for valuable consideration. If there is any fault it is not in the holders, nor in the railroad company. It is therefore respectfully suggested that the Convention declare, by some proper act, these certificates valid, and thus remove all doubts as to title to lands derived through them.

Fifth—It is the proximity of lands to the line of the contemplated railroad which makes them valuable and available in the construction. This is why the grant of lands in Texas has contributed so little aid in comparison to what was done in Illinois. Here the lands given in most instances have been remote from the line. The Memphis, El Paso and Pacific Company, by its charter, is entitled

to the alternate sections for eight miles upon each side of its designated line, and if the land had been vacant, so as to have been available to the road, it would have afforded means for the construction of the road for at least three hundred miles; but it was not so. The lands had, previous to the grant of the charter, been appropriated by surveys, so as to leave but a few thousand acres in each county through the settled part of the State, and, in some, none of value. The grant of this reservation appears to be far more valuable than it really is. The State reserves the even sections. Now, if it is the purpose of the State to aid roads by the grant of lands, it ought to do it in a substantial way, so that her vast domain would not be frittered away, and no corresponding advantage result from it. If the State would release to this road all the land in the reservation, instead of merely the alternate sections to the extent of giving to the road the equivalent of these alternate sections, then substantial and material aid would be given to its construction. Your memorialists therefore pray that your honorable body will take such action as may be necessary to secure to this company such aid as such a donation would afford. Your memorialists now respectfully submit this whole matter to your body, with the earnest request that you will give it that potent consideration, which the magnitude of the interest involved requires, and trust that if you, in your wisdom, do not deem it expedient to grant the specific prayers of this memorial, that you will, nevertheless, give such material aid as will enable your memorialists to go on speedily with the work they have undertaken, and such aid as will justify them in the eyes of the capitalists, whom they have enlisted in the same, by the assurances your memorialists have given, that Texas was anxious to secure one of the Pacific roads through her territory, and that the State would give such aid as was or might be necessary—assurances which they believed they might well give, because of the immense advantage to result to the State, from the construction, across her borders, of such a road, a road that would quicken the sleeping energies of her people, and awaken to life enterprise in every department, and cause the wilderness to blossom as the rose.

B. H. EPPERSON,
 President of the Memphis,
 El Paso, and Pacific Railroad Company.

Attest:

C. B. BERRY, Assistant Secretary.

DIRECTORS.

B. H. Epperson, W. H. Johnson, T. G. Wright, J. C. Moore,

John C. Fremont, of New York; W. G. Snethen, Maryland; Wm. Schmorle, of Pennsylvania; J. M. Daniel, Samuel Hancock.

It was so ordered.

Mr. Armstrong, of Lamar, presented a petition on behalf of the Southern Texas Continental Railroad Company, and asked its reference to the Committee on Internal Improvements.

It was so ordered.

Mr. Brown presented a petition from J. H. Hallongoist, asking the payment of salary as chief engineer of the State.

Referred to Committee of Finance.

Mr. Burnett offered the following declaration :

WHEREAS, It is important that this Convention should be advised whether the condition of the State is such that a fair election could be held at an early day, and if not, that this Convention may ascertain and make known to the Congress of the United States now in session, what additional legislation, if any, is necessary to effect the speedy re-organization in this State of a loyal civil government, and to meet the demands of the people for special and general legislation; therefore be it

Resolved, That the President appoint a special committee, to consist of thirteen members, (said committee to appoint its own chairman, and if necessary, a secretary or clerk,) to enquire into and report to this Convention, at the earliest day practicable, the condition of this State in reference to the enforcement of law and preservation of order, and the probability of the registered voters being allowed or guaranteed free speech and free ballot; and whether, in their opinion, a fair and impartial election could be held at an early day on any constitution that this Convention might submit to the people for their ratification or rejection, and for State, county and municipal officers; and if not, what additional legislation, if any, is necessary to effect the speedy re-organization in this State of a loyal civil government that will protect the people in their lives, liberty and property, and to meet the necessities of the people now existing for special and general legislation; said committee to report by resolution, memorial or otherwise.

Mr. Buffington moved a suspension of the rules to take up the resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Armstrong, of Jasper, offered the following resolution, and asked its reference to the Political and Legislative Committee:

Be it resolved by the delegates of the people in Convention assembled:

That no person shall be deprived of his property or privileges, or in any manner charged or condemned, for participation in the late rebellion.

It was so referred.

Mr. Wright offered the following declaration:

WHEREAS, The State of Texas was admitted into the Government of the United States under the express provision that there might be four additional States created out of the territory of Texas; and

WHEREAS, A very respectable portion of the people of the State believe that the time has arrived when a division is absolutely necessary to good government and the interest of the people; therefore be it

Resolved by this Convention, That all that part of Texas west of the Colorado river and south of a straight line from Henderson county to the mouth of the Pecos river, be organized into one State. And that all that part of Texas lying north of latitude 32° and east of ——— be organized into another State.

Provided, That authority of the qualified voters ratify this act of the Convention at the election for the ratification or rejection of the constitution to be framed by this Convention.

Laid over under the rules.

Mr. Horne offered the following declaration, and asked its reference to the Committee on Education:

Be it declared and ordained by the delegates of the people of Texas in Convention assembled:

That it shall be and it is hereby made the duty of the present Provisional Governor of this State to cause the Buffalo Bayou, Brazos and Colorado Railroad to be sold for the payment of the indebtedness of the company owning it to the special school fund of the State, which sale shall be conducted in conformity and according to the conditions and specifications described and directed in a declaration passed by this Convention, providing for the sale of the Texas and New Orleans Railroad, and the Southern Pacific Railroad: and the purchaser or purchasers of the Buffalo Bayou, Brazos and

Colorado Railroad shall be subject to the same terms and conditions prescribed in the said declaration already passed by this Convention.

Mr. Degener moved its reference to the Committee on Internal Improvements.

It was so ordered.

Mr. McCormick offered the following resolution :

Resolved, That when action on any matter taken into consideration by the Convention is suspended by a call of the House, the Convention shall take up the matter next in order on the President's table, and proceed with it until it is disposed of, unless the House becomes full by bringing in all the absentees; and after it is disposed of the matter on which action was so suspended, shall then be called up again, and if the call of the House is renewed, and action thereby still suspended, the next matter of business on the President's table shall be taken up and proceeded with in like manner, and so on indefinitely, that the time of the House may not be unnecessarily consumed. Upon the House becoming full by the bringing in of all the members absent without satisfactory excuse, the action of the Convention on any other matter than that on which the call of the House was made, shall be suspended, and the business which had been suspended by said call of the House shall be proceeded with.

Mr. Lindsay moved that the rules be suspended.

Mr. Flanagan, of Rusk, moved to reject the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Goddard, Hamilton of Bastrop, Harris, Jordan, Kendall, Keuceler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Scott, Slaughter, Smith, Varnell, Wright—35.

Nays—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Caldwell, Cole, Fleming, Glenn, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Phillips of San Augustine, Posey, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milan—26.

The Convention rejected the resolution.

Mr. Lindsay offered the following resolution :

It is hereby declared by the people of Texas in Convention assembled, That the presiding officer of this House, in consequence of his incessant and unremitting labors, and the necessary privations to which he is unavoidably subjected during its session to which the individual members of the body are exempted, is entitled to and ought to receive double pay for his services. It is accordingly ordered as the sense of this House that his per diem be so fixed and established for the full period of the present session of the Convention.

Mr. Degener moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Degener moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Patten moved a further suspension of the rules to put resolution on its passage.

Rules suspended.

Resolution read a third time and unanimously passed.

The President announced the business in order was the resolution of Mr. Newcomb repealing the resolution of Mr. Thomas respecting the "division of the State."

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Bell, Coleman, Foster, Gaston, Horne, Hunt, Johnson of Calhoun, Mills, Phillips of Wharton, Ruby, Vaughan, Whitmore—12.

Mr. Patten moved to suspend the call.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Bellinger, Bledsøe, Board, Bryant of Harris, Buffington, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Goddin, Hamilton of Bastrop, Harris, Jordan, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Munroe, Newcomb, Patten, Scott, Slaughter, Smith, Varnell, Wilson of Milam, Wright—35.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar,

Brown, Bryant of Grayson, Caldwell, Cole, Fleming, Glenn, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Phillips of San Augustine, Posey, Rogers, Stockbridge, Sumner, Watrous, Williams, Wilson of Brazoria—25.

Call suspended.

Mr. Thomas moved a call of the House.

Call sustained.

Absentees—Bell, Coleman, Foster, Gaston, Hunt, Johnson of Calhoun, Mills, Phillips of Wharton, Ruby, Vaughan, Whitmore---11.

The President, according to the rules, ordered that Messrs. Horne, Ruby and Gaston be each fined their per diem for absence without leave.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
December 17, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

The President announced the Special Committee on the Condition of the State; called for by a resolution of the Convention, to be Messrs. Burnett, Scott, Slaughter, J. W. Flanagan, Carter, Kirk, Mullins, Newcomb, McWashington, McCormick, Kealy, Kuechler, and Armstrong of Jasper.

Mr. Armstrong, of Lamar, presented a petition from citizens of Sherman and other counties, and asked its reference to the Committee on Counties and County Boundaries.

Mr. Thomas made a point of order upon the reception of the petition that the matter had been previously received and acted upon by the Convention.

The President reserved his decision upon the point until the matter could be investigated.

Mr. Kealy presented a petition from the citizens of Cook, Collin and Denton Counties, and asked its reference to the Committee on Counties and County Boundaries.

It was so ordered.

Mr. Munroe, from the Committee on Engrossed Provisions, reported as follows:

COMMITTEE ROOM,
December 16, 1868.

Hon. E. J. DAVIS,

President of the Convention:

The Committee on Engrossed Provisions, after examination, instruct me to report the following declaration and resolution as correctly engrossed, viz:

No. 1, a declaration respecting the Central Railroad Company, passed August 29, 1868.

No. 2, a resolution appointing a committee to remain in session during the recess, and for other purposes, passed August 27, 1868.
Respectfully submitted,

A. T. MUNROE,
Chairman.

Mr. Johnson, of Harrison, introduced the following declaration, and asked its reference to the Committee on Lands :

Resolved, That the people of Texas in Convention assembled set apart the sum of fifty-two thousand acres of land for the support of widows and orphans, and the aged who are not able to support themselves. Said land shall be designated in the most convenient places, and not more than one league to the county.

It was so referred.

Mr. Munroe offered the following resolution :

Resolved, That the Secretary of the Convention be instructed to subscribe for one thousand copies of the Austin Daily Republican, five hundred copies of the San Antonio Daily Express, and five hundred copies of the San Antonio Tri-Weekly Free Press for the use of the members of this Convention : *Provided*, That said papers publish the daily journals of the Convention, and that the price shall not exceed eight (8) cents per copy.

2. *Resolved*, That the proprietors of the above-mentioned journals be allowed eight (8) cents per copy for the papers furnished this Convention since seventh instant, provided the number of papers furnished does not exceed one thousand (1000) copies per day of the Austin Daily Republican, and five hundred (500) of the San Antonio Daily Express and Tri-Weekly Free Press.

Mr. Munroe moved a suspension of the rules to take up the resolutions.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas--Messrs. Adams, Armstrong of Lamar, Bellinger, Brown, Buffington, Burnett, Caldwell, Carter, Curtis, Fayle, Flanagan, W. Flanagan, Fleming, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Kendal, Keuchler, Long, Mackey, McCormick, McWashington, Munroe, Phillips of San Augustine, Ruby, Slaughter, Smith, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—37.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Board, Bryant of Grayson, Cole, Degener, Downing, Evans of Titus, Gaston, Glenn, Hamilton of Bastrop, Keigwin, Lippard, Morse, Mullins, Patten, Posey, Rogers, Scott, Varnell, Wilson of Milam, Wright—23.

So the Convention refused to suspend the rules.

Mr. Glenn's fine, imposed for absence, was by order of the Convention, remitted.

Mr. Smith offered the following resolution :

WHEREAS, The present provisional government of Texas is largely composed of officers who are, by the fourteenth amendment of the Constitution of the United States, ineligible ; therefore,

Resolved, That the commanding general be respectfully requested to remove all such civil officers, and substitute for them other men, who are constitutionally competent.

Mr Smith moved a suspension of the rules to consider the resolution.

Rules suspended.

Mr. Thomas moved that the resolution be referred to the Judiciary Committee.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bryant of Grayson, Buffington, Carter, Munroe, Sumner, Thomas—8.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Board, Bryant of Harris, Butler, Burnett, Caldwell, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Glenn, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Keuchler, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—55.

So the Convention refused to refer.

Mr. Caldwell moved to reject the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Buffington, Burnett, Caldwell, Cole, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Posey, Rogers, Stockbridge, Thomas, Wilson of Brazoria, Wright—31.

Nays—Messrs. President, Bellinger, Bledsoe, Board, Bryant of Harris, Butler, Carter, Curtis, Degener, Downing, Goddin, Hamilton of Bastrop, Horne, Jordan, Kendal, Keuchler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Watrous, Williams, Wilson of Milam—31.

So the Convention refused to reject.

Mr. Thomas moved that the resolution be laid upon the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Board, Bryant of Grayson, Buffington, Burnett, Caldwell, Cole, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Pedigo, Posey, Rogers, Stockbridge, Thomas, Wilson of Brazoria, Wright—32.

Nays—Messrs. President, Bledsoe, Brown, Bryant of Harris, Butler, Carter, Curtis, Degener, Downing, Goddin, Hamilton of Bastrop, Horne, Johnson of Harrison, Jordan, Kendal, Keuchler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Watrous, Williams, Wilson of Milam—32.

So the Convention refused to lay the resolution upon the table.

Mr. Degener moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bellinger, Bledsoe, Brown, Bryant of Harris, Butler, Carter, Curtis, Degener, Downing, Goddin, Hamilton of Bastrop, Johnson of Harrison, Jordan, Kendal, Keuchler, Lippard, Long, Mullins, Munroe, Newcomb,

Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Watrous, Williams, Wilson of Milam--32.

Nays--Messrs. Adams, Armstrong of Jasper, Board, Bryant of Grayson, Buffington, Burnett, Caldwell, Cole, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Kealy, Keigwin, Kirk, Lindsay, Mackey, McCormick, Morse, Pedigo, Posey, Rogers, Stockbridge, Sumner, Thomas, Wilson of Brazoria--32.

So the Convention refused to adopt.

Mr. Sumner moved to suspend the rules to take up the report of the Committee on Education.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas--Messrs. Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Caldwell, Carter, Cole, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Kealey, Keigwin, Lindsay, Mackey, McCormick, Morse, Phillips of San Augustine, Posey, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright--28.

Nays--Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Bryant of Harris, Buffington, Burnett, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Glenn, Goddin, Hamilton of Bastrop, Harris, Jordan, Kendal, Keuchler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell--34.

So the Convention refused to suspend the rules.

Mr. Butler rose to a privileged question, to wit: That Mr. Bryant, of Grayson, was outside of the bar of the House when he cast his vote upon the adoption of the resolution offered by Mr. Smith, of Galveston.

The President withheld his decision upon the question raised.

Mr. Thomas moved a suspension of the rules to take up the Bill of Rights and put it upon its final passage.

Mr. Degener moved that the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus:

Yeas--Messrs. President, Adams, Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Harris, Curtis, Degener, Downing, Fleming, Glenn, Hamilton of Bastrop, Hamilton of Travis, Horne,

Jordan, Kealy, Kendal, Keuchler, Kirk, Lindsay, Lippard, Me-Washington, Morse, Mullins, Pedigo, Phillips of San Augustine, Rogers, Scott, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wright—36.

Nays—Messrs. Board, Bryant of Grayson, Brown, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Johnson of Harrison, Keigwin, Long, Mackey, McCormick, Munroe, Newcomb, Posey, Slaughter, Wilson of Milan—26.

So the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
December 18, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

The President decided on the point of order raised by Mr. Butler yesterday, respecting the right of Mr. Bryant, of Grayson, to vote outside the bar, that the result would remain as recorded.

The President caused the following communication from his Excellency, E. M. Pease, Governor of Texas, respecting the action taken to give validity to the declarations passed by the Convention, to be read:

EXECUTIVE OFFICE,
Austin, December 17, 1868.

HON. E. J. DAVIS,
President of the Convention:

SIR--I have the honor to acknowledge the receipt, on the fifteenth instant, of your letter of that date, transmitting a resolution of the body over which you preside, requesting me to communicate to the Convention, "What steps or actions I have taken to give effect and force to the ordinances passed by that body at its last session touching the rights, privileges and interests of the Houston and Texas Central Railroad Company, and also the rights, which the people of this country claim to have in the school fund which is invested in the railroad bonds of these and other companies, and to furnish a copy of any guarantee or receipt which I may have given to the agents or officers of said Central Road."

In compliance with the terms of said resolution, I have the honor, through you, to inform the Convention that the ordinances or declarations, requiring me to advertise and sell the Texas and New Orleans Railroad, the Southern Pacific Railroad, and the Houston Tap and Brazoria Railroad, made no appropriation of money to enable me to pay the expenses of carrying them into execution, and no action has yet been taken by this office under them.

Under the ordinance or declaration respecting the Houston and

Texas Central, and the Washington county railroad companies, Wm. R. Baker, the President of the said Houston and Texas Central Railway Company, on the thirtieth of November last, tendered to me, on behalf of said company, seven hundred and six bonds for one thousand dollars each, of the seven per cent land grant, sinking fund, first mortgage gold interest bearing bonds of said company, described in said ordinance or declaration, for the whole amount of principal and interest due to the State by the said Houston and Texas Central Railway Company and the Washington County Railroad Company on the first day of July, A. D. 1868, including the sums paid by each of said companies in the treasury warrants or bonds of the State; the amount due as aforesaid being seven hundred and five thousand eight hundred and six dollars and sixteen cents, which said bonds, in obedience to the requirements of said ordinance or declaration, and so far as authority was vested in me as Governor under the same, I accepted in full satisfaction and discharge of the amount due to the State of Texas on the sums borrowed from the special school fund of said State by the said Houston and Texas Central and the Washington County Railroad Companies.

The document executed by me in favor of said company, showing this action, is recorded in the office of the Secretary of State, and a certified copy thereof is herewith transmitted.

This was all that I could do under the said ordinance or declaration; the original bonds of said companies, for the amount borrowed by them from the school fund, not being in my custody or under my control, I could not carry out that provision which required me to cancel and deliver them to the Houston and Texas Central Railway Company.

It will be seen that the amount of the bonds received exceeds the actual amount due from said companies on the first day of July, A. D. 1868. For this excess a portion of the coupons due on the first of January, 1869, was cut off from the bonds.

The bonds so received from said company have been placed, for safe keeping, in the vault of the State treasury, to await the future action of the Convention or the State government when reorganized.

Very respectfully, your obedient servant,

E. M. PEASE.

Mr. Keigwin presented a petition from citizens of Brazos county, and asked its reference to the Committee on Internal Improvements.

It was so referred.

On motion, Mr. Horne was added to the Committee on Emigration.

Mr. McCormick, from the Committee on Contingent Expenses, reported as follows :

COMMITTEE ROOM,
December 18, 1868.

To the Hon. E. J. DAVIS,
President Constitutional Convention :

SIR---The Committee on Contingent Expenses has instructed me to report the accompanying declaration, appropriating fifteen thousand dollars for the printing and contingent expenses of the Convention.

If the Convention decides to take the same number of papers as were taken at the summer session, and it remains in session sixty days, it is believed the appropriation provided for in the declaration is not too large. The cost of the papers and of the postage necessary to send them to the people amounts to about \$180 per day, or \$10,800 for sixty days. For printing bills, procuring stationery, letter postage, wood, lights, etc., the remainder of the appropriation is not more than adequate.

Respectfully,

A. P. McCORMICK,
Chairman.

A DECLARATION

Making an Appropriation for the Printing and Contingent Expenses of the Convention.

Be it declared by the people of the State of Texas in Convention assembled : That the sum of fifteen thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated to pay the printing and contingent expenses of the Convention.

Be it further declared, That the certificates of the Secretary of the Convention, approved by the President thereof, shall be a sufficient voucher to authorize the Comptroller to draw his warrant upon the Treasurer for the various items of printing and contingent expenses, to meet which this appropriation is made.

Mr. Phillips, of San Augustine, introduced the following declaration, and asked its reference to the Judiciary Committee :

WHEREAS, There is much lawlessness and crime, and frequent acts of murder and assassination in this State, without due punishment under the laws thereof, therefore

Be it resolved by the people of Texas in Convention assembled: That a tax of five thousand dollars be levied upon the property of each and every county in the State in which a murder is committed, said tax of five thousand dollars to be paid over to the family or relations of him or her so murdered. Should such murder occur on or about the line of any county, so that it may be difficult to determine in which county such murder was committed, then and in that case the tax shall be levied upon the two or more counties joining them; said tax shall be levied and collected by the county assessor and collector as other taxes, and paid over as above directed.

It was so referred.

Mr. Adams offered the following resolution :

Resolved, That the hall of this Convention be tendered to the Episcopal Church on Tuesday, the 29th instant, day and evening, for the purpose of celebrating a Sabbath school festival.

Mr. Adams moved a suspension of the rules to consider resolution.

Rules suspended.

Mr. Davis moved to substitute "Senate Hall."

Carried.

The question recurred upon the adoption of the resolution as amended.

It was adopted.

Mr. Munroe moved a suspension of the rules to take up the resolution offered yesterday, providing for the subscription of Sunday newspapers by the Convention.

Upon which the yeas and nays were called, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bellinger, Board, Brown Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lindsay, Mackey, McCormick, McWashington, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Slaughter, Smith, Sorrel, Stockbridge, Sum-

ner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria—52.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Butler, Degener, Glenn, Hamilton of Bastrop, Long, Morse, Mullins, Patten, Varnell, Wilson of Milam—13.

So the rules were suspended.

Mr. Hamilton, of Bastrop, moved that the resolutions offered by the Special Committee on the Expenses of the House be substituted for the resolution of Mr. Munroe.

Mr. Caldwell moved to lay the substitute upon the table.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Adams, Bellinger, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Fayle, Flanagan, W. Flanagan, Fleming, Goddin, Hamilton of Travis, Harris, Johnson of Harrison, Kealy, Keigwin, Kendal, Keuchler, Mackey, McCormick, McWashington, Mullins, Pedigo, Ruby, Smith, Stockbridge, Sumner, Vaughan, Watrous, Williams, Wilson of Brazoria—33.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Butler, Degener, Downing, Evans of Titus, Gaston, Glenn, Hamilton of Bastrop, Jordan, Morse, Newcomb, Patten, Phillips of San Augustine, Posey, Rogers, Scott, Slaughter, Sorrel, Thomas, Varnell, Wilson of Milam, Wright—29.

So the substitute was laid upon the table.

The hour of eleven o'clock having arrived, the President announced the special order of the day to be the resolution of Mr. Caldwell, tendering the thanks of the Convention to Brevet Major General J. J. Reynolds.

Mr. Caldwell moved the previous question.

Previous question seconded.

The question recurred "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Hamilton moved a suspension of the rules to put the resolution on its passage.

Rules suspended.

The question recurred upon the passage of the resolution.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Kirk, Lindsay, Mackey, McCormick, McWashington, Morse, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Sorrel, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—44.

Nays—Messrs. Bledsoe, Bryant of Harris, Curtis, Downing, Evans of Titus, Glenn, Hamilton of Bastrop, Kendal, Kuechler, Long, Mullins, Newcomb, Patten, Scott, Slaughter, Smith—16.

So the resolution was adopted.

Mr. Degener moved the previous question upon the passage of the resolution respecting newspapers.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Curtis, Degener, Downing, Fayle, W. Flanagan, Fleming, Goddin, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Mackey, McCormick, McWashington, Mundine, Munroe, Newcomb, Pedigo, Posey, Rogers, Slaughter, Smith, Sorrel, Stockbridge, Sumner, Vaughan, Watrous, Williams, Wilson of Brazoria—40.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Bryant of Harris, Cole, Evans of Titus, Flanagan, Glenn, Hamilton of Bastrop, Kirk, Lippard, Long, Morse, Mullins, Patten, Phillips of San Augustine, Ruby, Scott, Thomas, Varnell, Wilson of Milam, Wright—24.

So the resolution was adopted.

The President announced that the business next in order was the resolution of Mr. Newcomb, to repeal the rule of the Convention respecting division.

Mr. Hamilton, of Brastrop, moved the previous question.

Previous question seconded.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Messrs. Bell, Coleman, Horne, Hunt, Johnson of Calhoun, Mills, Phillips of Wharton, Whitmore, Foster—9.

Mr. Patten moved that the call of the House be suspended.

Carried.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Messrs. Bell, Coleman, Foster, Horne, Hunt, Johnson of Calhoun, Mills, Phillips of Wharton, Scott, Whitmore—10.

Mr. Buffington moved that the Convention adjourn until to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Bellinger, Brown, Bryant of Grayson, Buffington, Degener, Goddin, Hamilton of Bastrop, Kuechler, Long, McCormick, McWashington, Morse, Mundine, Newcomb, Patten, Pedigo, Ruby, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Milam—23.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lindsay, Lippard, Mackey, Mullins, Munroe, Phillips of San Augustine, Posey, Rogers, Scott, Slaughter, Smith, Sorrel, Stockbridge, Sumner, Wilson of Brazoria—44.

So the Convention refused to adjourn.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
December 19, 1868.

Convention met pursuant to adjournment.

Quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

The President requested the Committees on Finance, Education, State of Affairs, Federal Relations, and Commerce and Manufactories to reorganize and report their chairman.

Mr. Hamilton, of Travis, offered the following declaration, and asked its reference to the Committee on Internal Improvements without reading:

A DECLARATION

To incorporate the Austin Bridge Company.

SECTION 1. *Be it declared by the people of Texas in Convention assembled, That W. M. Walton, R. N. Lane, Leigh Chalmers, and such other persons as they may associate with them, and their successors in office, be and they are hereby declared a corporation under the name and style of the "Austin Bridge Company," and as such may sue and be sued, may have a corporate seal, and may hold and own such property, both real and personal, as may be necessary to carry out the objects of this charter, not to exceed three hundred thousand dollars.*

SEC. 2. That it shall be the duty of said company to build a good, safe and substantial bridge across the Colorado river, at the city of Austin, Travis county, Texas; said bridge to be commenced within three years from and after the passage of this declaration, and to be built with a single or double track as said company may determine.

SEC. 3. That when said bridge shall be completed, said company are authorized to demand and receive from each and every non-resident of the county of Travis, crossing said bridge, or crossing their property over the same, a toll not to exceed the following rates, viz: For each wagon, cart, carriage or other vehicle drawn by more than two horses or other animals, twenty cents per wheel and five cents for each animal by which the same is drawn, and when the same is drawn by two animals or less, ten cents per wheel and five cents for each animal by which the same is drawn; for each animal and rider, ten cents; for each loose horse, mule, jack or jennet, five

cents; for each loose animal of the cattle kind, five cents; for each foot passenger, five cents; for each sheep, hog or goat, three cents; and for citizens of Travis county one-half the above rates.

SEC. 4. That no person shall be authorized or allowed to erect a bridge or keep any ferry across said Colorado river at or within five miles of the city of Austin after the said bridge herein authorized is completed, without the consent of said company; provided, that in case said bridge shall get out of repair said company may keep a ferryboat until the said bridge is put in order.

SEC. 5. That the gates of said bridge shall, at all times, night and day, be open for the passing of persons and property; and said company shall be responsible in damages for unreasonable delays, and for injuries to persons or property resulting from the bad condition of said bridge.

SEC. 6. That this charter of incorporation continue and remain in force for twenty-five years from and after the completion of said bridge, and that this declaration be in force from and after its passage.

It was so referred.

Mr. Buffington introduced the following resolution and asked its reference to the Committee on Contingent Expenses:

Resolved, That the sum of one thousand dollars, or so much thereof as may be necessary to defray the expenses of advertising the Southern Pacific, New Orleans and Matagorda Railroads for sale, be appropriated.

It was so referred.

Mr. Williams introduced the following resolution, and asked its reference to the Committee on General Provisions:

Be it declared by the people of Texas in Convention assembled, That from and after the passage of this declaration no man shall be allowed to practice medicine in this State without first having obtained a diploma from some medical college, or otherwise a certificate from some regular medical board. All physicians who have practiced medicine in our midst for years, and are known to be useful medical students, are excused; any others arisen in our midst shall be examined by a board of five regular practicing physicians. If they deem him a fit subject to practice, he shall get a certificate to that effect, otherwise he shall be fined five hundred dollars or sent to the Penitentiary for the period of five years.

Mr. Wilson, of Brazoria, introduced the following resolution and asked its reference to the Special Committee on the Condition of the State:

WHEREAS, It is important that the Congress of the United States now in session, should have authentic information in relation to the present condition of Texas, and the wants of her loyal people, and it is incumbent on this Convention to furnish such information; therefore,

Resolved, That for the purpose of effecting said object, four of the members of this body, to-wit: The Honorable _____, members elected respectively from the northern, eastern, western and southern portions of the State, and intimately acquainted with the condition and wants of their respective sections, are hereby authorized to proceed to Washington City to bring to the attention of the Congress of the United States, all such matters relating to Texas, as in the judgment of this Convention or of said Commissioners, require the consideration and action of Congress.

It was so referred.

Mr. McCormick moved a suspension of the rules to take up resolution respecting newspapers, the question being upon its third reading.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Cole, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Horne, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Mackey, McCormick, McWashing-ton, Munroe, Newcomb, Pedigo, Posey, Rogers, Ruby, Schuetze, Scott, Smith, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—46.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Bryant of Harris, Butler, Curtis, Glenn, Hamilton of Bastrop, Lippard, Long, Moise, Mullins, Patten, Phillips of San Augustine, Varnell, Wilson of Milam—16.

So the rules were suspended.

The question recurred upon the third reading of the declaration.

Mr. Thomas offered the following amendment:

Amend first resolution so as to read :

Resolved, That the Secretary of the Convention be instructed to subscribe for five hundred (500) copies of the Austin Daily Republican, two hundred (200) copies of San Antonio Daily Express, and one (100) hundred copies of the San Antonio Tri-Weekly Free Press, &c.

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

Carried.

Mr. Flanagan offered the following amendment :

Amend by adding " five hundred (500) copies of Flake's Bulletin."

Mr. Degener moved the previous question.

Previous question not seconded.

Mr. Glenn offered the following amendment to the amendment :

Amend by inserting " five hundred (500) copies of the Tri-Weekly State Gazette."

Mr. Sumner moved to lay the amendment to the amendment upon the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bellinger, Bledsoe, Board, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Curtis, Flanagan, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Kendal, Keuchler, Mackey, McWashington, Mullins, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—38.

Nays—Messrs. Adams, Armstrong of Jasper, Bryant of Harris, Butler, Cole, Degener, Downing, Evans of Titus, W. Flanagan, Gaston, Glenn, Goddin, Hamilton of Bastrop, Harris, Jordan, Keigwin, Kirk, Lippard, Long, McCormick, Morse, Mundine, Patten, Scott, Smith, Sorrell—26.

So the amendment to the amendment was laid upon the table.

Mr. Patten offered the following amendment to the amendment :

Amend by inserting " five hundred (500) copies of the Galveston Civilian, five hundred (500) copies of the Galveston News, and five hundred (500) copies of the Houston Telegraph."

Mr. Degener moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bellinger, Bledsoe, Board, Buffington, Caldwell, Carter, Curtis, Degener, Downing, Hamilton of Travis, Harris, Horne, Jordan, Kealy, Kendal, Kuechler, Mackey, McCormick, McWashington, Mundine, Munroe, Newcomb, Posey, Rogers, Schuetze, Smith, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—36.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Brown, Bryant of Harris, Butler, Burnett, Cole, Evans of Titus, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Bastrop, Johnson of Harrison, Keigwin, Kirk, Lippard, Long, Morse, Mullins, Patten, Pedigo, Phillips of San Augustine, Ruby, Scott, Sorrell, Varnell, Wilson of Milam—30.

So the main question was ordered.

The question recurred upon the final passage of the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Curtis, Degener, Fayle, W. Flanagan, Fleming, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Kendal, Kuechler, Mackey, McCormick, McWashington, Mundine, Munroe, Newcomb, Pedigo, Posey, Rogers, Schuetze, Sorrel, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria—41.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Board, Bryant of Harris, Cole, Evans of Titus, Flanagan, Gaston, Glenn, Hamilton of Bastrop, Keigwin, Kirk, Lippard, Long, Morse, Mullins, Patten, Phillips of San Augustine, Ruby, Varnell, Wilson of Milam, Wright—24.

So the resolution was adopted.

By the consent of the Convention, Mr. Degener presented a petition from citizens of Medina county to alter boundaries of said county, and asked its reference to the Committee on Counties and County Boundaries.

It was so referred.

Mr. Schuetze offered the following resolution :

WHEREAS, G. W. Slaughter and others, members of the Convention, were compelled to flee from the town of Jefferson to save their lives, and were compelled to come to the city of Austin via New Orleans, it being impossible for them to come away from Jefferson by any other route, because of assassins seeking their lives,

Resolved, That they be allowed mileage via New Orleans, and the Secretary is hereby authorized to issue their certificates in accordance with this resolution.

Mr. Schuetze asked for a suspension of the rules to consider the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bledsoc, Bryant of Grayson, Buffington, Cole, Degener, Evans of Titus, W. Flanagan, Gaston, Glenn, Hamilton of Bastrop, Harris, Jordan, Kealy, Keigwin, Kirk, Lippard, Mackey, Morse, Phillips of San Augustine, Posey, Sorrell, Sumner, Thomas, Watrous, Wilson of Milam, Wright—28.

Nays—Messrs. President, Armstrong of Lamar, Bellinger, Board, Bryant of Harris, Butler, Burnett, Caldwell, Carter, Curtis, Fayle, Flanagan, Fleming, Goddin, Hamilton of Travis, Horne, Johnson of Harrison, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Mundine, Munroe, Newcomb, Pedigo, Rogers, Ruby, Schuetze, Smith, Stockbridge, Varnell, Vaughan, Wilson of Brazoria—35.

So the Convention refused to suspend the rules.

Mr. Sumner moved a suspension of the rules to take up the report of the Committee on Education.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bellinger, Bryant of Grayson, Caldwell, Carter, Cole, Fleming, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Pedigo, Posey, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam—28.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bledsoc, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W.

Flanagan, Gaston, Hamilton of Bastrop. Harris, Horne, Jordan, Kendal, Kuechler, Kirk, Lippard, Long, Mullins, Munroe. Patten. Ruby, Scott, Slaughter, Smith, Sorrell, Varnell, Williams, Wright—39.

So the Convention refused to suspend the rules.

The President announced that the next business in order was the resolution of Mr. Newcomb respecting the division of the State.

Mr. Caldwell offered the following amendment:

Amend by adding the following proviso:

Provided, That no declaration or proposition shall be entertained by the Convention unless it is coupled with a plan to submit the proposed division of the State of Texas as a separate measure to a vote of the qualified electors of the State at large at the same time that the vote upon the ratification or rejection of the Constitution is had.

Mr. Newcomb moved the previous question.

Previous question seconded.

Mr. McCormick moved the Convention adjourn until Monday morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Bellinger, Evans of Titus, Glenn, Hamilton of Bastrop, Johnson of Harrison, Kealy, Kirk, McCormick, McWashing-ton, Morse, Mundine, Posey, Schuetze, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria—18.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Degener, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Horne, Jordan, Keigwin, Kendal, Keuchler, Lindsay, Lippard, Long, Mackey, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Sorrel, Stockbridge, Sumner, Varnell, Wilson of Milam, Wright—50.

So the Convention refused to adjourn.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Messrs. Bell, Coleman, Foster, Hunt, Johnson of Calhoun, Mills, Phillips of Wharton, Whitmore—8.

Mr. Patten moved that the call of the House be suspended.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Harris, Jordan, Kendal, Kuechler, Lippard, Morse, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Wilson of Milam, Wright—38.

Nays—Messrs. Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Caldwell, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria--29.

So the call of the House was suspended.

Mr. Ruby asked that Messrs. Long and Degener be excused for fifteen days from Monday.

Excused.

Mr. Patten moved that the Convention adjourn until Monday morning at ten o'clock.

Carried.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 21, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

Mr. Varnell offered the following resolution :

Resolved. That the Secretary of the Convention be instructed to issue certificates for mileage to the First Assistant Secretary and the Enrolling Clerk from their respective homes to Austin, and for returning to the same.

The President, by request of the First Assistant Secretary, announced that that officer respectfully declined the benefits which the resolution contemplated in his behalf.

Mr. Sumner moved to reject the resolution.

Carried.

Mr. Hamilton, by leave of the Convention, introduced a petition of W. B. Pace respecting the Tonkaway Indians, and asked its reference to the Committee on Contingent Expenses.

It was so referred.

Mr. Goddin offered the following resolution :

WHEREAS, A division of the State seems to be the primary object of a majority of the members of this body, and the present obstacle in the way of its proceeding, to adopt a Constitution, therefore

Be it resolved, That the Convention now declare this subject open to discussion, with a hope to harmonize conflicting views and opinions.

Mr. Smith, of Galveston, introduced a declaration, and asked its reference to the Committee on Internal Improvements without reading.

It was so ordered.

Mr. Caldwell offered the following resolution :

WHEREAS, An effort is being made to repeal a rule adopted by
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this Convention on the —— day of ——, 1868, known as Thomas' resolution, which precludes any action on the subject of a division of the State without the previous assent of Congress, now therefore

Be it declared by the Delegates of the people of the State of Texas in Convention assembled, That should said rule or resolution be rescinded, all plans of dividing the State of Texas shall be coupled with a proposition to submit the proposed division to a vote of the qualified electors of the State at large, as an independent measure, at the same time that the Constitution shall be submitted for ratification or rejection.

Mr. Patten moved to reject the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Jordan, Kendal, Keuchler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell—33.

Nays—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Caldwell, Cole, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrel, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—32.

So the Convention rejected the resolution.

Mr. Thomas asked that Mr. Armstrong, of Lamar, be excused for to-day.

Excused.

Mr. Harris asked leave for Mr. Kirk on account of sickness.

Leave granted.

Mr. Patten offered the following resolution :

WHEREAS, F. A. Vaughan, member from Gaudalupe county having been detained by sickness and high water, causing a delay of a few days in reaching this place ; therefore be it

Resolved, That Captain Vaughan be paid his per diem from commencement of the session.

Mr. Patten asked a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Lindsay moved to amend by inserting the name of Mr. Posey.

Carried.

The question recurred upon the adoption of the resolution :

It was adopted.

Mr. Patten moved a further suspension of the rules to put resolution on its passage.

Rules suspended.

Resolution read a third time and passed.

Mr. Smith, of Galveston, offered the following declaration, and asked its reference to the Committee on Judiciary :

WHEREAS, By a decision of the United States Court of Virginia, delivered by Judge Underwood, it has been decreed that if even a clerk of a court is disqualified under the Fourteenth Amendment of the Constitution of the United States, it vitiated the proceedings ; and

WHEREAS, By the opinion of Chief Justice Chase, delivered at the last term of the United States Circuit Court of Virginia, it is expressly declared that the late pretended Confederate Government was not a *de facto* government, and is not distinguishable in principle from other unlawful combinations ; and

WHEREAS, There exists in the counties of Harris and Galveston a court, or pretended court, the offspring of a combination of men hostile to the Government of the United States, the creature of a rebel and unlawful Legislature and officered by men disqualified under the Constitution of the United States ; therefore

Be it declared by this Convention of the people of Texas, represented by their delegates, That the criminal court of Galveston and Harris counties be and it is hereby abolished.

Laid over under the rules.

Mr. Carter offered the following declaration, and asked its reference to the Committee on Counties and County Boundaries :

WHEREAS, Great injustice has been done the citizens of some of the counties in this State by the removal of the county seats, thereby involving loss upon those citizens who have located at said county seat ; therefore be it

Resolved, That whenever a county site is established by the lawful vote of the citizens of any county, that said county seat shall

be removed only by a two-thirds vote of the registered voters of said county; provided, that the citizens of the county seat already established shall be remunerated by a tax levied upon the citizens of the county for any depreciation of property consequent upon said removal.

It was so ordered.

Mr. Newcomb moved that the fines imposed on delegates during the second session of the Convention be remitted.

Carried.

Mr. Smith, of Galveston, offered the following resolution :

WHEREAS, A bill has been introduced into the Senate of the United States repealing the admission of Georgia on the ground that the Legislature violated the Fourteenth Amendment of the constitution in not purging itself of members ineligible under that article, and directing that the Legislature when it assembles shall exclude all who are ineligible under the Fourteenth Amendment. Therefore, in order that the official acts of this Convention may not in the future be called in question or held to be invalid,

Be it resolved, That a committee upon the qualification of the members of this Convention be appointed by the President, to consist of three, who shall proceed forthwith to examine into the case of each delegate and ascertain whether he occupies his seat in violation of said constitutional amendment, and report at as early a day as possible.

Laid over under the rules.

The President announced that the business next in order was upon the resolution of Mr. Newcomb to repeal the resolution of Mr. Thomas respecting the division of the State.

Mr. Newcomb moved the previous question.

Previous question seconded.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Messrs. Bell, Coleman, Foster, Hunt, Mills, Phillips, of Wharton, Whitmore—7.

Mr. Phillips, of San Augustine, moved to adjourn *sine die*.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bryant of Grayson, Cole, Gaston, Glenn, Goddin, Hamilton of Bastrop, Keigwin, Patten, Phillips of San Augustine, Scott, Sorrell—12.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Kendal, Keuchler, Lindsay, Lippard, Long, Mackey, McCormick, Mc-Washington, Morse, Mullins, Mundine, Munroe, Newcomb, Pedigo, Posey, Rogers, Ruby, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—55.

So the Convention refused to adjourn *sine die*.

On motion of Mr. Varnell, the use of the hall was tendered to Mr. Gregory for this evening.

Carried.

Mr. Patten moved a suspension of the call of the House.

Carried.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 22, 1863.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Fayle introduced a petition and asked its reference to the Committee on Counties and County Boundaries without reading.

It was so ordered.

Mr. Patten introduced a declaration and asked its reference to the Committee on Internal Improvements without reading.

It was so ordered.

Mr. Smith introduced the following

DECLARATION.

Be it declared by the Convention of the people of Texas,

That the charter heretofore granted by the Legislature of the State of Texas to the "Union Marine and Fire Insurance Company," by act of said Legislature approved January 26, 1848, entitled "An act to incorporate the Union Marine and Fire Insurance Company," and the amendments thereto passed August 13, 1856, entitled "An act to amend an act to incorporate the Union Marine and Fire Insurance Company, approved January 26, 1848," be and the same is hereby continued in force until the adjournment of the first Legislature of the State of Texas meeting after the adjournment of this Convention.

Mr. Smith moved a suspension of the rules to take up the declaration.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Smith moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

The question recurring upon the passage of the declaration, it was read third time and passed.

Mr. Armstrong of Lamar introduced a declaration and asked its

reference to the Committee on Internal Improvements without reading.

Mr. Armstrong of Lamar introduced the following declaration and asked its reference to the Committee on Internal Improvements :

A DECLARATION

For the relief of the holders of the land certificates issued to the Memphis, El Paso and Pacific Railroad Company.

It is declared. That the certificates for land issued by the Commissioner of the General Land Office to the Memphis, El Paso and Pacific Railroad Company, for grading the first two sections of said road of twenty-five miles each, and for five miles on the Jefferson extension or branch of said road, are valid, and the Commissioner of the General Land Office is authorized to issue patents upon said certificates, as upon other valid certificates.

It was so ordered.

Mr. Armstrong of Lamar introduced the following declaration and asked its reference to the Committee on Internal Improvements :

AN ORDINANCE

For the relief of the Memphis, El Paso and Pacific Railroad Company.

It is declared. That the time intervening between the twenty-first day of February, 1861, and the restoration of the State of Texas to representation in the Congress of the United States, shall not be reckoned against the Memphis, El Paso and Pacific Railroad Company, in computing the time in which it is required to complete the grading of certain sections of its road, but that it shall be entitled to the same time to fulfill all the requirements of its act of incorporation, after the restoration of the State of Texas to representation in Congress, as if no time had intervened since February twenty-first, 1861.

It was so ordered.

Mr. Munroe introduced the following resolution :

Resolved, That the Engrossing Clerk be allowed per diem pay from the first day of September, 1868, to the first day of October,

1868, the same being the time occupied in engrossing the constitution framed, and resolutions and declarations passed by this body.

Mr. Sumner moved its reference to the Committee on Contingent Expenses.

It was so referred.

Mr. Thomas introduced the following resolution :

Resolved, That the proceedings heretofore had by this Convention, relating to a division of the State, be forwarded to the Congress of the United States for such action as in the judgment of that body the constitution may authorize and the public good require.

Resolved further, That until the will of Congress respecting a division shall have been made known, this Convention will abide by the resolution adopted on the sixteenth day of July, 1868.

Ruled out of order.

Mr. McCormick moved a suspension of the rules to take up resolution appropriating fifteen thousand dollars (\$15,000) to pay the contingent expenses of the Convention.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. McCormick moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

Resolution read third time and passed.

The President announced the business in order was the resolution of Mr. Newcomb, repealing the resolution of Mr. Thomas respecting the division of the State.

Mr. Newcomb moved the previous question.

Previous question seconded.

Mr. Thomas moved a call of the House.

Call sustained.

On motion of Mr. Patten the Convention adjourned until ten o'clock to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
December 23, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Patten moved that the Convention take a recess till the fourth day of January, 1869, at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bellinger, Evans of Titus, Goddin, Hamilton of Bastrop, Keuchler, Mundine, Newcomb, Patten, Varnell, Vaughan—11.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Mullins, Munroe, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—56.

So the Convention refused to take a recess.

Mr. Goddin moved the Convention adjourn *sine die*.

Lost.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM,
December 23, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration reviving the act incorporating the Galveston Dry Dock Company, etc.

I am instructed by a majority of the committee to report back the same, and recommend its passage.

All of which is respectfully submitted.

J. W. FLANAGAN,
Chairman Committee.

A DECLARATION

Reviving the Act "Incorporating the Galveston Dry Dock Company," and the subsequent laws in relation thereto.

Be it declared by the people of Texas in Convention assembled, That L. M. Hitchcock, Tipton Walker, M. V. McMahan, Williams H. Hawkins, B. Tiernan and Daniel A. Sullivan and their associates be and are hereby invested with all the rights, privileges, grants and franchises heretofore made and conferred upon the Galveston Dry Dock Company by virtue of an act of incorporation approved February 16, 1852, and by subsequent laws approved February 7, 1853, and February 8, 1858. And that the above named corporators be and they are hereby invested with all the powers, rights, privileges, franchises and grants made under and by virtue of said acts, and that no lapse or limitation of time shall effect the same. Provided, however, That the said incorporators and their associates shall build or cause to be built a dry dock within two years from the first day of January, A. D. 1869.

Be it further declared, That this declaration take effect and be in force from and after its passage.

Mr. Smith, of Galveston, moved a suspension of the rules to consider the declaration.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Smith, of Galveston, moved a further suspension of the rules to put the declaration on its passage.

Rules suspended.

Declaration read a third time and passed.

Mr. Fayle, from Committee on Engrossed Bills, reported as follows :

COMMITTEE ROOM,
Austin, December 18, 1868.

Hon. E. J. DAVIS,
President of the Convention :

The Enrolling Committee have had the following declarations and resolutions under examination (from No. 43 to 47 inclusive), and find them to be correct :

No. 43, resolution authorizing the transcribing the journals of the Convention.

No. 44, declaration requesting Congress to pass the International Railroad bill.

No. 45, declaration incorporating the Houston City Railroad Company.

No. 46, resolution authorizing the Secretary to draw a warrant in favor of Fred Slaughter for \$1 50 per day for services as a page.

No. 47, declaration for port of entry, Sabine Pass, to be forwarded to Congress of the United States.

Respectfully,

W. R. FAYLE,
Chairman Enrolling Committee.

Mr. Burnett, from the Special Committee on the condition of the State, reported as follows, with accompanying declaration :

COMMITTEE ROOM,
Austin, Texas, December 23, 1868.

To the Hon. E. J. DAVIS,
President of the Constitutional Convention :

SIR : The special committee appointed "to inquire into and report at the earliest day practicable the condition of this State in reference to the enforcement of law and preservation of order," and whether, in our opinion, "a fair and impartial election could be held at an early day, and if not, what additional legislation, if any, is necessary to effect the speedy reorganization of a loyal civil government that will protect the people in their lives, liberty and property, and to meet the necessities of the people now existing for special and general legislation," having duly considered thereof, a majority of the committee have the honor to make the following report :

The first inquiry to which we addressed ourselves was the condition of the State in reference to the existence or enforcement of law

and order, and whether a peaceable and fair election could be held at an early day; and, indeed, upon the conclusion that such an election could not be held, depended any further deliberations of this committee. We have had before us in our investigations the official report of Brevet Major General Reynolds, commanding this military district, to the Adjutant General, United States Army, of date Austin, December 4, 1868; the official reports of the several agents of the Freedmen's Bureau for the three months preceding the re-assembling of this Convention and to this date; letters from judicial and other civil officers of the State to his Excellency the Provisional Governor, and the personal attendance before us of members of this Convention, and a few reliable and prominent citizens temporarily at the capital, and letters from trustworthy sources received by members of this Convention since its reassembling. The facts elicited from the foregoing sources of information form the basis of this report as to the condition of the State, and to them we confidently appeal for the correctness of our conclusions in the premises.

The result of our investigation is, that we find that in many counties of this State law and order do not exist and fail to be enforced; and that we unhesitatingly affirm that no fair and impartial election could be held in this State at this time, and probably not until several months after the inauguration of the President elect of the United States. We do not deem it required of us to incorporate in this report the evidence upon which these conclusions are founded, or to go into any details of the condition of the State as developed by this evidence, which would swell this report to undue dimensions. The official report of General Reynolds, already mentioned, a copy of which is annexed hereto, ought, it seems to us, to be of itself conclusive of the fact that the time has not yet arrived when the registered voters of this State can, without violence, express their sentiments in public meetings or at the ballot box: and the endorsement by this Convention of this able and distinguished officer and of his administration forbids us from in the least doubting the truthfulness and correctness of this report. And did this official report require any support, it would be found in the official letter of his Excellency Governor Pease, addressed to the chairman of this committee in answer to a communication requesting in behalf of the committee the use of any evidence in his possession that might aid us in our investigation, and which letter we also annex to this report. These documents, coming as they do from the respective heads of the military and civil governments of this State, speak for themselves, and need no comment from us, and we will only add that the official reports of the agents of the Freedmen's Bureau and other evidence examined by us have failed to establish in our minds any

doubt that they are based on facts and a correct knowledge of the condition of the State.

But while we feel compelled to make the above record of want of law and order, we by no means include therein all portions of the State; and it affords us great pleasure to be able to say that the witnesses from the various portions of the State, generally testify of a better feeling toward the government and its supporters as well as of the decrease of lawlessness and crime, since the adjournment of this Convention in August last. Many of the desperadoes of north-eastern Texas have abandoned and are abandoning the country under the fear of punishment inspired by the result of the Presidential election; and many leading and influential citizens, who have heretofore directed their influence and efforts against reconstruction, have proclaimed their determination to support the laws and to cease all opposition to the reconstruction of loyal civil government. But that there is a deep-seated hostility to the policy and laws of the government still lingering in the minds of many of our white fellow-citizens, and which frequently exhibits itself in violence and terrorism toward loyal white and colored citizens, cannot be denied; and until peace and security can be guaranteed in all parts of the State, no fair and impartial election can be held.

As to what additional legislation is necessary to effect the speedy reorganization in this State of a loyal civil government, and to meet the demands of the people for special and general legislation, we report herewith a resolution embodying the result of our deliberations on this subject, and respectfully recommend its adoption. The preamble to the resolution fully expresses its objects and the reasons for its adoption, and we believe they are such as to command the favorable consideration of the Convention.

In closing our labors we return our thanks to General Reynolds and Governor Pease, and the members of this Convention for courtesies extended to us.

Respectfully submitted,

BURNETT, Chairman.
SLAUGHTER,
A. P. McCORMICK,
W. FRANK CARTER,
S. MULLINS,
J. McWASHINGTON,
JACOB KUECHLER,
THOMAS KEALY.
J. R. SCOTT.

RESOLUTION.

WHEREAS, It is the opinion of this Convention that no peaceable and fair election can be held in this State at this time or at an early day; and whereas, the interests of the State and of the people, in many instances of pressing and immediate importance, require special and general legislation; and whereas, in consequence of the law requiring appointees in the provisional government to take the test oath, the State is deprived of the services of many loyal and competent citizens, owing to which fact, and the peculiar condition of the people of this State, the present provisional government is composed largely of officers elected in 1866 and still holding over, who are disloyal to the government, and who do not faithfully and impartially discharge the duties of their respective offices, and it is necessary to effect the reorganization of loyal and civil government in this State, and to secure the due enforcement of the laws, that the offices should be placed in loyal hands; therefore be it

Resolved, That the Congress of the United States be, and it is hereby respectfully but earnestly requested to give to this Convention the powers of a State Legislature; provided, that every act passed by the Convention shall, before it takes effect, be approved by the Provisional Governor, or passed by a two-thirds vote of the Convention, after the Provisional Governor shall have disapproved the same and returned it to the Convention with his objections thereto.

And further, to authorize the Provisional Governor to make removals and appointments of the officers of the provisional government; and that no further or other oath shall be required of the officers of the provisional government than the oath prescribed by the reconstruction acts for electors and the oath of office prescribed by the constitution and laws of the State of Texas.

OFFICIAL REPORT OF GENERAL REYNOLDS.

HEADQUARTERS FIFTH MILITARY DISTRICT,
State of Texas,
Austin, November 4, 1868.

Adjutant General United States Army,
Washington, D. C. :

GENERAL: I have the honor to forward herewith an annual tabular statement of expeditions, scouts and report of movements of the various regiments serving in this district, for the year ending September 30, 1868.

Armed organizations, generally known as "Ku-Klux Klan," exist, independently or in concert with other armed bands, in many parts of Texas, but are most numerous, bold and aggressive east of the Trinity river.

The precise object of these organizations can not be readily explained, but seems in this State to be to disarm, rob, and in many cases murder Union men and negroes, and, as occasion may offer, murder United States officers and soldiers; also, to intimidate every one who knows anything of the organization, but will not join them.

The civil law east of the Trinity river is almost a dead letter. In some counties the civil officers are all, or a portion of them, members of the Klan. In other counties, where the civil officers will not join the Klan, or some other armed band, they have been compelled to leave their counties. Examples are, Van Zandt, Smith and Marion counties. The county seat of the latter is Jefferson.

In many counties where the county officers have not been driven off their influence is scarcely felt. What political ends, if any, are aimed at by these bands I can not positively say; but they attend in large bodies the political meetings (barbecues) which have been and are being held in various parts of the State, under the auspices of the Democratic clubs of the different counties.

The speakers encourage the attendance, and in several counties men have been indicated by name from the speaker's stand as those elected for murder. The men thus pointed out have no course left them but to leave their homes, or be murdered on the first convenient opportunity.

The murder of negroes is so common as to render it impossible to keep an accurate account of them.

Many of the members of these bands of outlaws are transient persons in the State. The absence of railroads and telegraphs, and the great length of time required to communicate between remote points, facilitates their devilish purposes. These organizations are evidently countenanced, or, at least, not discouraged, by a majority of the white people in the counties where the bands are the most numerous. They could not otherwise exist.

I have given this matter close attention, and I am satisfied that a remedy to be effective must be gradually applied, and combined with the firm support of the army, until these outlaws are punished or dispersed. They can not be punished by the civil courts until some examples of military commissions show that men can be punished in Texas for murder and kindred crimes. Perpetrators of such crimes have not heretofore, except in very rare instances, been punished in the State at all.

Free speech and free press, as the terms are generally understood

in other States, have never existed in Texas. In fact, the citizens of other States can not appreciate the state of affairs in Texas without actually experiencing it.

The official reports of lawlessness and crime, so far from being exaggerated, do not tell the whole truth.

Jefferson is the centre from which most of the trade, travel and lawlessness of Eastern Texas radiates, and at this point or its vicinity there should be stationed about a regiment of troops. The recent murder at Jefferson of Hon. G. W. Smith, a delegate to the Constitutional Convention, has made it necessary to order more troops to that point. This movement weakens the frontier posts to such an extent as to impair their efficiency for protection against the Indians, but the bold, wholesale murdering in the interior of the State seems at present to present a more urgent demand for troops than Indian depredations.

The frontier posts should, however, be reinforced, if possible, as it is not improbable that the Indians of the Northwest, after having suffered defeat there, will make heavy incursions into Texas.

To restore measurable peace and quiet to Texas will require, for a long time, that troops be stationed at many county seats, until, by their presence, and aid, if necessary, the civil law can be placed in the hands of reliable officers, *and executed*. This will be the work of years, and will be fully accomplished only by an increase of population.

I am, General, very respectfully,

Your obedient servant,

J. J. REYNOLDS,

Brevet Major General U. S. A.,

Commanding.

The accompanying letter from his Excellency E. M. Pease was read:

EXECUTIVE OFFICE,

Austin, Texas, December 23, 1868.

Hon. James R. Burnett,

Chairman of Committee on the Condition of the State :

SIR: In reply to your communication of the seventeenth instant, in which you ask my co-operation in the investigation of the matters submitted to the committee, and request me to furnish the committee with such information or reports in my possession as may aid said committee in arriving at a correct conclusion as to whether the con-

dition of the State is such that a fair election can be held at an early day, I beg leave to say that all the correspondence of this office is subject to the inspection of your committee.

I suppose that it will be conceded by all fair and impartial minds, in any degree familiar with affairs in Texas, that previous to the presidential election in November last, no election could have been held in this State in which the free will of all the registered voters would have been expressed. The question now for consideration is, has there been such an improvement in the popular mind and feeling, and in the enforcement of the laws, since the election of General Grant, as to insure protection and a free ballot in a general State election? That there has been such an improvement in given localities, and that a fair election could be held now in certain sections of the State, I have no doubt. But I will submit a few facts, gathered from correspondence and other sources, which should satisfy any unprejudiced mind that our State is not in a condition to have a fair popular election at this time.

It is generally known that only a few weeks ago there were numerous organizations in the State resolved on controlling the vote of the freedmen by fraud and intimidation when necessary, and that these organizations committed many outrages upon colored citizens in order to force them into their ranks. Now there is no evidence in my possession that these organizations have broken up or abandoned their purpose of controlling the colored vote by violence.

It is equally notorious that bands of outlaws, at open war with the authorities of the general government, as well as with the civil officers of the State, traverse twenty or thirty counties in northeastern Texas, robbing and murdering peaceful citizens; and that in the counties infested by these bands there is little or no protection for life and property, and much less for the liberty of political discussion.

There are two judicial districts in Texas in which it was necessary to have a military force accompany the court at the fall term for this year, to aid the civil authorities in executing warrants and preserving the peace.

There are several counties in which some of the civil officers have resigned, because they could not discharge their duties in safety, on account of the hostility of the citizens toward persons appointed by military authority.

There is a large number of complaints from sheriffs of large and populous counties, to the effect that it is impossible for them to get assistance to arrest persons charged with murder and acts of violence committed upon freedmen.

At the recent election held to fill the vacancy in the Convention

from the counties of Bell, Falls and McLennan, a very small number of freedmen voted in the county of Bell; and I have been assured by a gentleman opposed to the reconstruction laws, that the freedmen did not vote because they were deterred by threats of violence.

From a large majority of the northern and eastern counties there are frequent complaints of the murder of freedmen, accompanied by representations that it is impossible to arrest the murderers without the aid of a military force.

There is a recent application from officers and citizens of the town of Hempstead, in Austin county, for troops to be stationed at that place to preserve order.

The condition of the counties of Marion, in which the Honorable George W. Smith and several freedmen were killed while under the protection of United States troops, and of Bowie, Davis and Hopkins, in which Baker, Biggerstaff and their associates have captured several trains belonging to the military, and have overawed the civil officers and the people generally, is now a matter of public notoriety.

I feel it my duty to state in this connection that the report of Major General J. J. Reynolds in regard to the condition of the State is a candid and truthful document, fully warranted by the various letters and reports forwarded to this office.

I am not aware that any public political discussions have been attempted in Texas since the first of November, but it is undeniable that previous to that date a free discussion of the political questions at issue would not have been tolerated in very many of the most populous districts of the State. Several such attempts were forbidden in the summer and fall, and I know of no reason for supposing that the intolerance so recently manifested has abated in any considerable degree within two months.

Now, a fair election means that every legal voter in the State shall be at liberty to discuss the political issues of the day without fear, and cast his vote according to his own convictions without intimidation of any kind from any quarter. But, from the facts herein enumerated, and from the inveterate and wide-spread prejudice against the exercise of the elective franchise by the freedmen, and from the yet lingering hope entertained by multitudes of defeating colored suffrage, as guaranteed by the reconstruction laws, and from the small number of troops in Texas to afford protection, I am satisfied that a fair election could not, under present circumstances, be held in this State.

I transmit herewith a few letters bearing on the matters herein treated. Many of the papers relating to violence in Texas, received

at this office, have been forwarded to the Commanding General of the District, and are not now accessible.

Very respectfully,

Your obedient servant,

E. M. PEASE.

Mr. Burnett, from said Committee, made the following additional report ;

REPRESENTATIVE HALL,
December 23, 1868.

Hon. E. J. DAVIS,

President of the Convention :

SIR : Your special committee of thirteen, to whom was referred the preamble and resolution introduced by Mr. Wilson, of Brazoria, have had the same under consideration, and are of the opinion that such a committee should be dispatched to Washington city, and that to select them from the various portions of the State, mentioned in the resolution, would best subserve the interests of the people. There are many matters in relation to Texas interest independent of the matters connected with reconstruction proper, on which Congress will need information from those duly accredited to speak for Texas, who are personally acquainted with the people of the different sections, and their wants. This information is usually furnished by members of Congress, elected from different sections of the State. Our population entitles us to four such members, and the extent of our inhabited territory is so great as to render more than ordinarily necessary that the men selected to represent the interest of Texas at the national capitol should be residents of the different parts of the State.

Your committee have agreed that it is best these commissioners should be elected by ballot by the Convention, and that it was proper to define what is meant by the northern, eastern, western and southern portion of the State ; and they have thought proper to add an amendment providing for defraying the expenses of said commissioners. These several amendments woven into and added to the original preamble and resolution, they have embodied in a substitute, which they have instructed me to report to the Convention, and recommend its passage.

Respectfully submitted,

BURNETT,
Chairman.

RESOLUTIONS.

WHEREAS, It is important that the Congress of the United States now in session, should have authentic information in relation to the present condition of Texas, and the wants of her loyal people, and it is incumbent on this Convention to furnish such information; therefore, be it

Resolved, That for the purpose of effecting said object, the Convention shall proceed to elect by ballot four commissioners, members of this Convention, one of whom shall be a resident of that portion of the State of Texas lying north of the thirty-second parallel of latitude; one a resident of that portion of the State lying east of the Trinity river and south of said thirty second parallel; one a resident of that portion of the State lying between the Trinity and Colorado rivers and south of said thirty-second parallel; and one a resident of that portion of the State lying west of the Colorado river; who, being intimately acquainted with the condition and wants of their respective sections of the State, shall proceed to Washington city, to bring to the attention of the Congress of the United States all such matters relating to the condition of this State and the wants of her loyal people, as in the judgment of this Convention, or of said commissioners, require the consideration and action of Congress.

Be it further resolved, That the sum of thirty-two hundred dollars be, and the same is hereby appropriated out of any money in the Treasury, not otherwise appropriated, to defray the expenses of said commissioners, which shall be divided into four equal parts, and one part paid to each of said commissioners; and the draft or certificate of the Secretary of the Convention, approved by the President, shall be a sufficient voucher to authorize the Comptroller to draw his warrant upon the Treasurer for each and every part of this appropriation.

Mr. Munroe moved a suspension of the rules to take up the resolution reported by the committee.

Convention refused to suspend the rules.

Mr. Smith introduced the following resolution, and asked its reference to the Committee on General Provisions:

Resolved, That the Committee on General Provisions be required to report a section of the Constitution forbidding any action or recovery in any court in this State, for any property in persons

claimed to be slaves subsequent to the first day of January, 1863, or for wages claimed to be due for the hire of any such persons after the date aforesaid.

It was so referred.

Mr. Fayle introduced the following resolution :

A DECLARATION

For the relief of the Houston and Texas Central Railroad Company.

It is hereby declared by the people of Texas in Convention assembled :

That the Houston and Texas Central Railroad Company shall not suffer any forfeiture of any rights secured to it by existing laws, by reason of the failure of said company to construct and put in running order their said railroad to the town of Calvert, in Robertson county, by the first day of January, A. D. 1869, as required by act of the 21st of September, A. D. 1866 ; provided, said railway shall be constructed and put in good running order for the use of the public, to the said town of Calvert, by the first day of April, A. D. 1869.

Mr. Patten moved the resolution be rejected.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bellinger, Board, Bryant of Grayson, Curtis, Downing, Evans of Titus, Hamilton of Bastrop, Jordan, Kuechler, Lindsay, Lippard, Newcomb, Patten, Slaughter, Thomas, Vaughan—18.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Bryant of Harris, Buffington, Burnett, Caldwell, Cole, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Glenn, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kirk, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Pedigo, Rogers, Scott, Smith, Sorrell, Stockbridge, Sumner, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

So the House refused to reject.

On motion, the declaration was referred to the Committee on Internal Improvements.

Mr. Sumner introduced the following declaration, and asked its reference to the Committee on Counties and County Boundaries :

A DECLARATION

Creating the county of Fleming.

SECTION 1. *Be it declared by the people of the State of Texas in Convention assembled,* That all the territory comprised within the following limits shall be a new county, to be called the county of Fleming, and that the name of the town of Pilot Point be changed to Mundine, and shall be the county site of said new county, to-wit: Beginning at a point on Big Elm, west of the division of J. W. Visor's east boundary line; thence south fifty-seven degrees east to the west boundary line of Collin county, and to the northeast corner of Louisa Westerlie's survey; thence north twenty-eight degrees east to the south boundary line of Grayson county; thence north forty-five degrees west to the east boundary line of Cooke county, on the west boundary line of H. Stewart's survey; thence south forty-five degrees west to the Big Elm; thence within the meandering of the stream to the place of beginning.

SEC. 2. *And be it further declared,* That it is hereby made the duty of the County Court of Collin county to organize the county of Fleming in strict conformity to an act entitled "An act to organize new counties, approved March 20, 1845."

SEC. 3. *It is further declared,* That it shall be the duty of the people of said county to recommend to the Commanding General of the Fifth Military District suitable persons to fill all the offices in said county; provided, however, if no election shall be held for the purpose of electing said officers.

Mr. Smith of Galveston introduced a declaration, and asked its reference to the Committee on Internal Improvements, without reading.

It was so referred.

Mr. Bryant of Harris introduced the following, and asked its reference to the Committee on Contingent Expenses :

WHEREAS, The Sergeant-at-Arms and the Enrolling Clerk were the only officers of this Convention who were absent during the recess; therefore,

Be it resolved, That the Secretary is instructed to issue them cer-

tificates for mileage from their respective homes to Austin and return.

It was so referred.

Mr. Munroe made the following report :

COMMITTEE ROOM.
AUSTIN, December 23, 1868.

HON. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Engrossed Provisions, after examination, instruct me to report the following declarations and resolutions as correctly engrossed, viz :

No. 62. Declaration levying a special tax for the payment of the per diem pay and mileage of members.

No. 66. Resolution authorizing the Secretary to pay Copying Clerk.

No. 67. Declaration authorizing the publication of the Constitution, as far as adopted, in newspapers specified.

No. 69. Declaration granting lands to actual settlers, to purchasers of lands and location of genuine land certificates within the limits of the Memphis and El Paso Railroad Reserve.

Respectfully submitted.

A. T. MUNROE.
Chairman Committee.

The President announced the business in order was the consideration of Mr. Newcomb's resolution to repeal Mr. Thomas' resolution respecting the division of the State.

Mr. Sumner moved a call of the House.

Call sustained.

Mr. Flanagan moved that the Convention adjourn till to-morrow morning at ten o'clock.

Lost.

Mr. Goddin moved the Convention take a recess until the fourth day of January, 1869, at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Bellinger, Brown, Evans of Titus, Goddin, Hamilton of Bastrop, Harris, Kealy, Kendal, Kuechler, Lindsay, New-

comb, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria—17.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Horne, Johnson of Harrison, Keigwin, Lippard, Long, McCormick, McWashington, Morse, Mullins, Munroe, Patten, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Wilson of Milam, Wright—46.

So the Convention refused to take a recess.

Mr. Patten moved the Convention take a recess till the fourth day of January, 1869, at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bellinger, Evans of Titus, Hamilton of Bastrop, Harris, Jordan, Kendal, Kuechler, Mullins, Mundine, Newcomb, Patten, Pedigo, Vaughan, Williams—15.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Fayle, Flanagan, Flanagan W., Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Munroe, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Thomas, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—53.

So the Convention refused to take a recess.

Mr. Varnell moved to adjourn till to-morrow morning at ten o'clock.

Carried.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 24, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM.

December 24, 1868.

To the Hon. E. J. DAVIS,

President of the Constitutional Convention :

Your Committee on Internal Improvement have had before them a declaration for the relief of the Houston and Texas Central Railroad Company.

Your committee have examined the declaration and find that it is clearly the interest of the State to grant the relief asked for ; the ordinance explains itself.

I am instructed by the committee to report it back and recommend that it pass. All of which is respectfully submitted.

J. W. FLANAGAN,

Chairman of the Committee.

Mr. Fayle moved a suspension of the rules to take up the declaration.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Board, Brown, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Keuchler, Long, McCormick, McWashington, Morse, Mundine, Rogers, Ruby, Smith, Stockbridge, Sumner, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—40.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Butler, Hamilton of Bastrop, Lindsay, Lippard, Mullins, Munroe, Newcomb, Patten, Posey, Scott, Sorrell, Thomas, Vaughan—17.

So the rules were suspended.

Mr. Bryant, of Grayson, was excused on account of sickness.

Mr. Evans, of McLennan, offered the following amendment :

Amend as follows by adding after the close of the first proviso :
 “ And provided further, that said Central Railroad Company shall cross Red River, Texas, at Preston, as provided in their original charter with their road ; and provided further, that they shall within three months from the passage hereof, define the line of their road through Texas to Red River.

The question recurred upon the adoption of the amendment.

It was adopted.

Mr. Johnson, of Harrison, moved to reconsider the vote by which the amendment was adopted.

Mr. Patten moved to lay the motion to reconsider on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bledsoe, Board, Butler, Evans of McLennan, Hamilton of Bastrop, Kuechler, Lippard, Mullins, Newcomb, Patten, Scott, Slaughter, Sorrell, Thomas—16.

Nays—Messrs. Adams, Armstrong of Lamar, Bellinger, Brown, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lindsay, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Smith, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—18.

So the Convention refused to lay upon the table.

The question recurred upon the motion to reconsider.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Board, Brown,

Buffington, Burnett, Caldwell, Carter, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Harris, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lindsay, McCormek, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Smith, Stockbridge, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Bryant of Grayson, Bryant of Harris, Butler, Cole, Curtis, Downing, Evans of McLennan, Hamilton of Bastrop, Kuechler, Lippard, Mullins, Newcomb, Patten, Scott, Slaughter, Sorrell, Sumner, Thomas—21.

So the Convention agreed to reconsider.

Mr. Patten offered the following substitute :

Be it declared by the people of Texas in Convention assembled :

That the Houston and Texas Central Railroad have forfeited their charter for non-compliance with the terms thereof.

Mr. Patten moved that the whole subject be made the special order for January 4, 1869, at eleven o'clock.

Mr. Burnett moved the previous question.

Previous question seconded.

Mr. Patten moved a call of the House.

Call sustained.

Upon the motion of Mr. Patten to take a recess until the sixth day of January, 1869, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Bellinger, Bledsoe, Brown, Butler, Hamilton of Bastrop, Jordan, Kuechler, Lindsay, Long, Mullins, Newcomb, Patten, Ruby, Schuetze, Thomas, Vaughan, Williams—18.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kirk, Lippard, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Scott, Slaughter, Smith, Sorrell, Stock-

bridge, Sumner, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—51.

So the Convention refused to take a recess.

Mr. Patten moved the Convention adjourn until to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Brown, Bryant of Harris, Butler, Caldwell, Downing, Evans of Titus, Glenn, Goddin, Hamilton of Bastrop, Hamilton of Travis, Horne, Johnson of Harrison, Jordan, Kealy, Kuechler, Lippard, Mundine, Munroe, Patten, Pedigo, Ruby, Schuetze, Slaughter, Sumner, Thomas, Varnell, Williams, Wilson of Brazoria—31.

Nays—Messrs. President, Adams, Armstrong of Lamar, Board, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Harris, Keigwin, Kendal, Kirk, Lindsay, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Phillips of San Augustine, Posey, Rogers, Scott, Smith, Sorrell, Stockbridge, Vaughan, Watrous, Wilson of Milam, Wright—38.

So the Convention refused to adjourn.

Mr. Evans, of McLennan, introduced the following resolution :

Resolved, That this Convention take a recess from twelve o'clock, M., to-day, to reassemble (the General commanding consenting) in the city of Galveston, Texas, on January 4, 1869, eleven o'clock, A. M., and that this body then proceed to frame a constitution and civil government for Texas.

Mr. Sumner moved the rejection of the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Keuchler, Lindsay, McCormick, McWashington, Morse, Mundine, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Smith,

Sorrell, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. Armstrong of Jasper, Bryant of Harris, Downing, Evans of McLennan, Kendal, Kirk, Lippard, Long, Mullins, Patten, Ruby, Scott, Slaughter—13.

So the resolution was rejected.

Mr. Hamilton, of Travis, moved that the Convention adjourn till ten o'clock on Monday morning.

Mr. Hamilton withdrew the motion and asked leave of absence for Mr. Kirk on account of sickness.

Mr. Newcomb made a minority report from the Committee on the condition of the State, and asked that it be printed.

It was so ordered.

MINORITY REPORT.

COMMITTEE ROOM.

Austin, Texas, December 24, 1868.

Hon. E. J. DAVIS,

President of the Convention:

SIR: Being a member of the special committee to inquire into the political condition of the State, I feel compelled to differ from the report made by the majority of said committee in some of its features, and mainly as to the remedy proposed for the evils pointed out.

The evidence produced before the committee was, as is stated in the report of the majority, conclusive as to the bad condition of the State at large, and the impossibility of holding a fair election; but, in my opinion, a statement particularizing the condition of the different sections of so large a territory as embraced in the State of Texas, would have been a fairer and more just representation.

For instance, it was shown conclusively by the evidence, that in all that section of the State east and north of the Colorado river, not more than three or four counties could hold a peaceable election, allowing the colored men to vote, without the presence of troops, and even then it would be doubtful; that the temper of the white people is not such as to guarantee a free, untrammelled exercise of the right of free speech, free press, and free ballot—in fact, that the predominant disposition is to set at defiance the laws, and ride down all efforts at loyal reconstruction. On the other hand, the section lying west and south of the Colorado river presents, in the main, a different and more favorable state of affairs. The temper of the people is for

peace and good government. The loyal element is in the ascendancy even in localities where the whites are in the majority; the disposition toward the colored people is kind; the presence of troops is not felt needful, but in one or two localities, and but in one or two counties has there been exhibited that rebellious and insurrectionary spirit so prevalent east of the Colorado. The conclusion is inevitable, that the people west of the Colorado, numbering at least one hundred and fifty thousand inhabitants, are prepared to enforce the reconstruction acts and carry on civil government.

The majority of the committee suggest, as a remedy for the evil condition of the State at large, that we ask Congress to clothe this Convention with the powers of a Legislature, and transfer the appointing and removing power from the hands of the Military Commander to the Provisional Governor.

For months together, we have presumed to sit here and legislate, and if we have no authority to legislate it would look as if this were an effort (which I believe far from the intention of the committee) to cure our acts which now stand as invalid, unless sanctioned by the military authority or the United States Congress, and, in my opinion, it is risking too much to offer to run the civil government of this State for the sake of curing the invalidity of a few railroad charters, bridge incorporations, new counties, and school fund legislation. If we are not a Legislature, then let us thank God for it, and not ask Congress to make us one.

The clothing of this Convention with the full power and authority of a Legislature, and the transfer of the control over the civil appointees of the State from the Military Commander to the present Provisional Governor, besides being a complete subversion of the object of the Convention, would be, in my opinion, the greatest misfortune which could befall the State.

The experience made by the present mixture of civil and military government; a civil government subordinate in fact, but assuming precedence to the military, has been conclusive against continuing that form of government, and an undeniable argument against weakening the military authority, and adding perplexity to our present condition by turning this Convention into a Legislature, and tacking it on to the present provisional civil military government. The transferring of the responsibility of keeping the peace and running a civil State government on to the shoulders of this Convention, with the sad failure of the present dual government, and all the facts staring us in the face, would, in my opinion, be an unwarranted presumption on the part of this Convention, sitting here to-day, alive and in safety by the grace of God and the power of the military arm of the government. If the suggestion of the majority of the com-

mittee be carried into effect, it will bring more disorder, if not anarchy itself.

If this State is to remain an entirety, if the people of the west are to be tagged on to the balance of the State, and suffer all the evils and inconveniences of an unreconstructed condition, because of the disaffection in the balance of the State: if there is to be no division of our immense territory into different sections, different in interests and sentiments, so that the good people in each section are cut off from the privilege of concentrating their efforts, and asking the kind of government their circumstances demand, if the case is to be presented as a whole, let us take the naked facts: Texas, as a whole, is not ready for civil State Government; Texas, as a whole, is in a state of outlawry; Texas, as a whole, is a land where murder and persecution of loyal men and disregard of law is the order of the day. Let us take these facts, present them to Congress, throw ourselves upon the mercy of that patriotic body, and ask that martial law be proclaimed from the Sabine to the Rio Grande, or a territorial government established over us. Let us surrender the government into the hands of the Federal authorities, adjourn this Convention and go back to our homes, and wait quietly for time and the strong arm of the government to bring the people to a sense of law and loyalty, before we presume to run a civil State government. Either do this, or ask Congress to divide our vast territory into several States, and treat each State as its condition demands.

In conclusion, I will say, I believe we are all inspired by the same wish, that is, to promote peace, security, and loyal civil government. Wisdom points to the shortest, and, in my opinion, only road to that attainment—a surrender into the hands of the Federal authority of the whole State, or a division of our territory. Holding these views, I beg leave to submit the following resolution:

WHEREAS, It is the opinion of this Convention that no peaceable election can be held in the State at large, that Texas cannot be entrusted, as a whole, with any form of civil State government; that the present form of quasi-military and civil government has proved a sad failure, and only served to expose loyal men in the disaffected sections, to the fury of rebel mobs; further, that it is the opinion of this Convention, if no division of the State occurs, that the United States government should declare Texas a territory, and preserve peace within our borders; therefore be it

Resolved, That we dispatch a delegation to Congress to properly represent these facts, and earnestly press upon that body our deplorable condition, and ask for a territorial government; and further,

should Congress so regard our petition, that upon the report of the delegation, this Convention adjourn *sine die*.

Respectfully submitted.

JAMES P. NEWCOMB.

Mr. Burnett offered the following resolution, and asked its reference to the Committee on Contingent Expenses :

Resolved, That the proprietors of the Houston Union, a newspaper published at Houston, Texas, be paid the sum of four hundred dollars out of any moneys in the treasury not otherwise appropriated for publishing and distributing five thousand copies of the Constitution, as far as it has been engrossed, and that the Secretary draw his certificate (to be approved by the President) on the Treasurer for said sum in favor of said proprietor.

It was so referred.

Mr. Lindsay offered the following resolution, and asked its reference to the Committee on Contingent Expenses :

WHEREAS, The members of this body have been gratuitously furnished from the commencement of its session to the present time with Flake's Bulletin, a journal in the interest of the public order and the reconstruction of loyal civil government in the State of Texas, and which journal has been acceptably received for the soundness of its general views and its impartial indication of the loyal sentiment of the people of the State, therefore

Be it declared by the people of Texas in Convention assembled, That as an act of justice to the publisher of that journal, and as a manifestation of our appreciation of the disinterested patriotism of the publisher in gratuitously furnishing each of the members of this body with a daily copy of his journal, he is hereby authorized to be paid the same amount per copy for his paper so furnished as is now allowed by a declaration of this body to the Austin Republican and San Antonio Express.

Be it further declared, That at the close of the Convention the certificate of the Secretary, with the endorsement of the President, shall be a sufficient warrant for the publishers of said paper to draw the money therefor from the Treasurer of the State.

It was so ordered.

Mr. Munroe, from the Committee on Engrossed Provisions, reported as follows :

COMMITTEE ROOM.
Austin, December 24, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The Committee on Engrossed Provisions, after giving the enclosed engrossed copies of the legislative department and general provisions as full an examination as they could from the originals before them, instruct me to report the same as correctly engrossed, so far as they have been able to determine, viz :

No. 1, general provisions passed August 21, 1868.

No. 2, legislative department, passed August 25, 1868.

Respectfully submitted,

A. T. MUNROE,
Chairman Committee.

Mr. Hamilton, of Travis, moved that the Convention adjourn till next Monday week, the fourth day of January, 1869.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Brown, Curtis, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Keuchler, Lindsay, Lippard, Long, McWashington, Mullins, Munroe, Newcomb, Patten, Posey, Rogers, Ruby, Schuetze, Scott, Thomas, Varnell, Vaughan, Williams—30.

Nays—Messrs. Adams, Armstrong of Lamar, Board, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Kealy, Kendal, McCormick, Morse, Mundine, Phillips of San Augustine, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—36.

So the Convention refused to adjourn.

Mr. Bryant, of Grayson, moved that the Convention adjourn till Monday morning at ten o'clock.

Carried.

So the Convention adjourned.

CAPITOL, AUSTIN, TEXAS,
December 28, 1868.

Convention met pursuant to the resolution passed on the twenty-fourth day of December.

Roll called.

Quorum present.

Prayer by the chaplain.

Journal of the twenty-fourth instant read and adopted.

Mr. Smith of Galveston, presented a petition from Messrs. Greenwall Brothers, and from the citizens of that city, respecting tax on theatres.

Mr. Buffington moved it be referred to the Committee on Lawlessness and Violence.

It was so referred.

On motion, leave of absence was granted to Messrs. Goddin, Stockbridge and Glenn.

On motion, W. P. Norton, a messenger, was granted leave of absence for a few days.

Mr. Sorrell presented a petition from the officers of the county of Limestone, and asked its reference to the Committee on Finance.

It was so referred.

Mr. McCormick, from the Committee on Contingent Expenses, reported as follows:

COMMITTEE ROOMS.

Austin, December 24, 1868.

Hon. J. J. DAVIS,

President of the Convention:

SIR: The Committee on Contingent Expenses, to whom was referred the resolution introduced by Mr. Munroe, providing "that the Engrossing Clerk be allowed per diem pay from the first day of September, 1868, until the first day of October, 1868," etc., have had the same under consideration, and the majority are of opinion that the allowance sought to be made the Engrossing Clerk by said resolution is excessive, and that the work pertaining to the office of said clerk, which should have properly remained unfinished at the time of the adjournment on the thirty-first of August last, ought not to have occupied said clerk more than five days in completing it. The majority, therefore, instruct me to report the resolution back

with the recommendation that it be so amended as to read, "to the fifth day of September, 1868," in the place of the words "to the first day of October, 1868," and that thus amended the resolution pass.

Respectfully submitted,

A. P. McCORMICK,
Chairman Committee.

COMMITTEE ROOM,
Austin, December 24, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Contingent Expenses, to whom was referred the resolution introduced by Mr. Buffington providing for an appropriation to defray the expense of selling certain railroads therein named, have had the same under consideration, and are of opinion that said expense would not be a proper charge against the special fund raised by the Convention tax, and that only that fund is subject to appropriation by the Convention. They have therefore instructed me to report the same back with the recommendation that it do not pass.

Respectfully submitted,

A. P. McCORMICK,
Chairman Committee.

COMMITTEE ROOM,
Austin, December 24, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Contingent Expenses, to whom was referred the petition of N. B. Pace, have carefully examined the same. No further evidence than the statement of petitioner has been furnished the committee, as to the amount of supplies furnished the Tonkawa Indians by him. But satisfactory evidence has been furnished that he did supply them while camped at Lampasas, and the committee have no reason to doubt that the amount of beef and flour stated in the petition was furnished. And the committee are of opinion that the State should reimburse the petitioner, but they think his claim is a proper charge against the general fund in the treasury, and not a proper or admissible charge against the special fund raised by the tax levied by the Convention; that the general treasury of the State is under the control of the Commander of the Fifth

Military District, upon whose order only will the Comptroller draw money out of the general treasury.

The Committee have therefore instructed me to report the same back, with the accompanying resolution, and recommend the passage of the resolution.

Respectfully submitted.

A. P. McCORMICK,
Chairman Committee.

Mr. Armstrong of Jasper, from the Special Committee on the Condition of the State, made the following minority report :

MINORITY REPORT OF THE COMMITTEE ON THE CONDITION OF THE STATE.

To the President of the Constitutional Convention :

The undersigned, members of the special committee to whom was referred the resolution offered by Mr. Burnett, requiring said committee to report the condition of the State as to law and order, and the probability of the registered voters being guaranteed free speech and free ballot ; if an impartial election can be had for a constitution and State and county officers at an early day, and if any additional legislation be needed, etc.; and the resolution of Mr. Wilson of Brazoria, for the election of four members of this body to proceed to Washington and present to Congress all such matters relating to Texas, etc., have considered these resolutions, and respectfully present their report, dissenting from the report of the majority, and offer their opinion of the matters involved in a very brief manner.

From the official reports of bureau agents for November last, in the counties of Polk, Panola, San Augustine, Bastrop, McLennan, Grayson, Hopkins, Houston, Harrison, Washington, Fayette, Smith and Red River, there have been disturbances, caused by unruly men, but that these men are leaving or becoming more quietly disposed ; and from the testimony of witnesses, in the counties of Lamar, Grimes, Houston, Washington, Harrison, Grayson and Tarrant, some disturbances have existed, seem quite tranquil at present. In view of the evidence relating to the above sixteen counties, it might be proper for the civil authorities to provide specially for the preservation of order in case of an election therein. From the official reports of other bureau agents for November last, in the counties of Austin, Jasper, Caldwell, Brazoria, Bexar, Travis, Liberty, Lavaca, Calhoun, Guadalupe, Kaufman, Galveston, Victoria, Falls, Colo-

rado, Harris, Robertson and Jefferson, law and order prevail. And from the statements of witnesses, in the counties of Freestone, Limestone, Montgomery, Parker, Denton, Cook, Johnson, Hill and Navarro, law and order prevail.

Also two letters from a district judge west of the Trinity river were presented, containing nothing of importance in this inquiry. Also the petition of nine persons, purporting to be citizens of Milam county, asking Governor Pease for soldiers. A petition of certain residents of Hempstead, Austin county, asking the Governor for soldiers, and a letter from an officer of the — court of Milam county, giving information to the Governor of a combination of three or four attorneys at the town of Cameron, conspiring to let their cases remain untried by negro jurors. With this ended the reports of the subordinate officials, the examination of witnesses, and individual communications. The undersigned think proper to say that the said bureau agents and witnesses are reputed to be in sympathy with the Republican party.

After deducting the first sixteen counties referred to, the testimony of the said subordinates, witnesses and communications, leave no doubt in the mind of the undersigned that law and order prevail, and that fair elections, for the benefit of the "registered voters" in the remaining one hundred and six organized counties of the State can be holden, and with as little probability of interruption as in past times of quiet. And in case of unfairness in any election holden in either or all of the sixteen counties, the statutes provide the manner of correction, so that no real impediment may be found to the speedy reorganization of our State.

The beliefs of the undersigned, with all due respect, are not weakened by the conclusions of the Civil Military Governors, on which the majority of the committees seems mainly to rely. For it must be presumed that all the evidence in reach was adduced in support of charges and conclusions of the Military Governor, and that all the information had by these Governors was obtained through their subordinates, the same presented to this committee, and which furnish nothing sufficient upon which to found such unfavorable charges and conclusions. And it suggests itself to our mind that the term of the Civil Governor depends, perhaps, on the duration of the Provisional Government, and that his action in this respect might be supposed not entirely uninfluenced by reasons best known to himself. In his report, the Military Governor has made passing reference to the murders and other depredations of the Indians on the frontier, but took special notice of the killing of Geo. W. Smith, at the town of Jefferson, in northeastern Texas (to which killing the undersigned would make no unkind allusion, but believe that time will

disclose another side of that individual affair), and speaks of the wholesale murder of freedmen and other "loyal" innocents, in number too many to enumerate upon his reckoning board. In his report, besides George W. Smith, some one person who has been banished, murdered or selected for murder since the summer session, should have been described by name or otherwise, and by whom committed, in order to support an accusation so grave and so general against the people over whom their hard fortune has placed him. But it is admitted by the undersigned that murders and other crimes have been committed, to our much regret, not more, however, than would follow great convulsions in government within this or any other State of the Union. And the undersigned believe that very few, if any, of these acts of violence have had their origin in the political opinions of the parties.

In regard to the freedom of speech and freedom of the press, the undersigned would say that the language uttered with impunity by the Republican members of this Convention, and others of like sentiments, inside and outside this building, in public and in private, in their newspapers and by word of mouth, on very many occasions, some calling on General Sheridan, with fire and sword, to destroy all opposed to them, and denouncing the Military Governor's conduct as disgraceful to the army of the United States, and the conduct of a subordinate officer as cowardly and treacherous, and insulting whom they disliked; the practice of such freedom ought to have disabused the minds of the Governors and this Convention, in this respect. And the undersigned would also say that the publication and circulation of the Austin Republican, Paris Vindicator, Tyler Index, Galveston Republican, Union Republican, Houston Union, San Antonio Express, Free Press, Freeman's Press and McKinney Messenger, Republican papers, with epithets of "disfranchised rebels, traitors, robbers, cowards, murderers, assassins, dens of assassins," familiarizing in many of their columns, against white people, citizens of this State, ought to induce the Military Governor to set aside his decree, that the freedom of the press is not tolerated by the people. In conclusion, the undersigned would respectfully say that it was in proof before the Committee that the unruly one-eyed Baker, Bickerstaff and companions, have abandoned our State, and that the alarms which agitate the minds of the two Governors ought no longer to obstruct the speedy reorganization of the same.

ARMSTRONG, of Jasper.
KIRK.

Mr. Caldwell, by leave of the Convention, occupied the floor to

make a personal explanation in reference to the attack made upon him by the San Antonio Express, in relation to the murder of the Hon. G. W. Smith.

Mr. Evans of McLennan introduced the following resolution :

Resolved, That Major General E. R. S. Canby, commanding the Fifth Military District, and his staff officers, be and they are hereby cordially invited to seats upon the floor of the hall of the Convention, inside the bar, at any time that it may suit their convenience or pleasure.

Mr. Evans moved a suspension of the rules to consider resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Patten introduced two declarations, which were read by caption, and asked that they be referred to the Committees on Internal Improvements and Emigration, respectively.

Mr. Buffington introduced a declaration to incorporate the Bolivar Point, Eastern Texas and Red River Railway Company.

Mr. Buffington moved a suspension of the rules to take up the declaration.

Rules suspended.

Mr. Pedigo moved that the declaration be read by caption and referred to the Committee on Internal Improvements.

It was so referred.

Mr. Vaughan introduced the following declaration :

WHEREAS, The people residing in the frontier counties of this State are subject to almost monthly incursions from predatory bands of Indians, resulting in the loss of immense numbers of horses, the frequent murder of citizens, and carrying into captivity women and children ; and

WHEREAS, These predatory bands will, in all probability, be reinforced by the tribes recently defeated on the plains by Major General Sheridan ; and

WHEREAS, The troops at the disposal of the commander of the Fifth Military District are believed to be insufficient for the work both of enforcing law and order in the interior and giving protection to the people on the frontier ; therefore

Be it resolved by the delegates of the people of Texas in Convention assembled:

That the Congress of the United States be respectfully but earnestly requested to call into the service of the United States one regiment of Texas cavalry volunteers for the period of one year, which regiment shall serve on the Texas frontier and form a portion of the active force operating under the command of the officer commanding the Fifth Military District.

Mr. Vaughan moved a suspension of the rules to take up the resolution.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Bryant, of Grayson, moved a further suspension of the rules to put declaration on its final passage.

Rules suspended.

Mr. Armstrong, of Lamar, offered the following amendment :

“ Resolved further, That the President of this Convention send certified copies of these resolutions to the President of the Senate and Speaker of the House of Representatives.”

Amendment agreed to.

Mr. Hamilton, of Bastrop, offered the following amendment :

“ Provided, That no person shall be mustered into said regiment who is unable to take the test oath.”

The question recurred upon the adoption of the amendment :

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Bell, Bledsoe, Board, Bryant of Harris, Curtis, Hamilton of Bastrop, Johnson of Harrison, Kendal, Kuechler, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Whitmore, Wilson of Milam—20.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Brown, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Cole, Downing, Fayle, Webster Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Lippard, Mackey, McCormick, McWashington, Morse, Mundine, Posey, Rogers, Sorrell, Sumner, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—37.

So the Convention refused to adopt the amendment.

The question recurred upon the adoption of the declaration as amended.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President. Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Bryant of Grayson, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Evans of McLennan, Fayle, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Jordan, Kealy, Keigwin, Kuechler, Kirk, Lindsay, Lippard, Mackey, Morse, Mundine, Munroe, Newcomb, Posey, Rogers, Smith, Sorrell, Sumner, Varnell, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. Bell, Board, Brown, Bryant of Harris, Curtis, Downing, Evans of Titus, Flanagan, Johnson of Harrison, Kendal, Mullins, Patten, Phillips of San Augustine, Williams—13.

So the resolution was adopted.

Mr. Sumner introduced the following resolution :

WHEREAS, The county jail of Grayson county having been destroyed by fire; and

WHEREAS, Said county has levied a special tax, to be collected within two years, and has let out the contract for the construction of a new brick jail containing two iron cages; and

WHEREAS, But for want of ready money said jail could be completed within six months; therefore be it

Resolved, That the State and county tax of Grayson county be loaned to said county for twelve months in order to complete said jail without delay.

Mr. Sumner moved a suspension of the rules to take up the resolution.

Convention refused to suspend the rules.

On motion, it was referred to Committee on Counties and County Boundaries.

Mr. Evans, of McLennan, introduced a declaration to incorporate the Belton Bridge Company, and asked its reference to the Committee on Internal Improvements.

It was so referred.

Mr. Smith introduced the following declaration :

Be it declared by the people of Texas in Convention assembled :

That the Galveston Theatre be and the same is hereby relieved from the State and county tax imposed by an act passed the sixth of November, 1866, taxing migratory shows.

Mr. Smith moved a suspension of the rules to take up the resolution.

Rules not suspended.

On motion, the resolution was referred to the Committee on Judiciary.

Mr. Ruby offered the following resolution :

WHEREAS, The Convention in publishing its daily journal in the Austin Republican and San Antonio Express, is, in part, responsible for the tone and decency of those papers; therefore be it
Resolved, That the aforementioned journals be and are hereby requested to discontinue in their official position further attacks of vituperation and abuse of members of this body and the indulgence of language tending to Billingsgate and obscenity.

Laid over under the rules.

Mr. Butler moved the Convention take a recess until next Monday morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bell, Bledsoe, Downing, Hamilton of Bastrop, Harris, Jordan, Keuchler, Newcomb, Patten, Rogers, Ruby, Vaughan, Williams—14.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kirk, Lindsay, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Phillips of San Augustine, Posey, Scott, Slaughter, Smith, Sorrell, Sumner, Varnell, Watrous, Whitmore, Wilson of Brazoria, Wright—50.

So the Convention refused to adjourn.

Mr. Slaughter moved the Convention adjourn till Monday morning at nine o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bell, Brown, Hamilton of Travis, Harris, Jordan, Kuechler, Newcomb, Patten, Rogers, Ruby, Slaughter, Varnell, Vaughan—14.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Bastrop, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kirk, Lindsay, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Phillips of San Augustine, Posey, Scott, Smith, Sorrell, Sumner, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—50.

So the Convention refused to adjourn.

Mr. Evans, of McLennan, moved the Convention adjourn until half-past seven o'clock this evening.

Lost.

Mr. Sumner moved the Convention take a recess till to-morrow morning, at ten o'clock.

Lost.

Mr. Patten moved the Convention adjourn till next Saturday morning, at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bell, Downing, Hamilton of Bastrop, Harris, Jordan, Kuechler, Lindsay, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Vaughan—15.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Evans of McLennan, Evans of Titus, Fayle, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kirk, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Phillips of San Augustine, Posey, Smith, Sorrell, Sumner, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—48.

So the Convention refused to adjourn.

Mr. Butler moved that the Convention adjourn until to-morrow morning, at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Caldwell, Cole, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Bastrop, Hamilton of Travis, Harn, Johnson of Harrison, Kealy, Keigwin, Kuechler, Lindsay, Mackey, McWashington, Morse, Mullins, Mundine, Munroe, Patten, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Sorrell, Sumner, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wright—47.

Nays—Messrs. President, Board, Bryant of Harris, Carter, Evans of McLennan, Harris, Horne, Jordan, Kendal, Kirk, Lippard, McCormick, Newcomb, Scott, Slaughter, Smith, Varnell, Williams—18.

So the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 29, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

The President presented a petition from the citizens of the county of Refugio, asking that the county seat of that county be changed to Lamar.

Referred to the Committee on Internal Improvements.

Also a petition from citizens of Western Texas, praying a division of the State.

Referred to the Committee on Division of the State.

Mr. Board introduced a declaration, asking its reference to the Committee on Internal Improvements, without reading.

It was so referred.

Mr. Varnell presented a petition from the citizens of Western Texas, praying a division of the State.

Referred to Committee on Division of the State.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM,
December 29, 1868.

To the Hon. E. J. DAVIS,
President of the Constitutional Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration to incorporate the Galveston Canal Company. Your committee have carefully examined the same, and instruct me to report it back, and to recommend its passage; with the proviso:

That it does not interfere with the present channel, leaving it as it now is, so that all interested parties can avail themselves of the improvement or not, as they may please.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Mr. Smith moved to suspend the rules to take up the declaration. The Convention refused to suspend the rules.

Mr. McCormick, from the Committee on Contingent Expenses, reported as follows :

COMMITTEE ROOM,
December 29, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Contingent Expenses, to whom was referred the resolution of Mr. Bryant, in reference to allowing mileage to the Enrolling Clerk and the Sergeant-at-arms; and the resolution of Mr. Burnett, in reference to the paying the Houston Union for printing the Constitution so far as engrossed; and the resolution in reference to paying for the copies of Flake's Bulletin furnished members, have had the same under consideration, and a majority of the committee instruct me to report that, in the opinion of the committee, the mileage to their respective homes, and returning therefrom to the Convention, should be allowed the Sergeant-at-arms and the Enrolling Clerk; and that the Houston Union should be paid the sum of four hundred dollars for the publication of the Constitution and distribution of five thousand copies thereof; and that they therefore recommend the passage of the two first named resolutions. In reference to the third resolution, a majority of the committee take pleasure in endorsing the sentiments expressed in it, and believe that it would be nothing more than a simple act of justice to make the payment provided for in said resolution; but the committee have information that the proprietor of Flake's Bulletin has, through his paper, publicly informed the Convention that he could not and would not accept any compensation for the papers furnished the Convention, and a regard for his feelings and wishes in the matter renders it, in the judgment of the committee, improper for the Convention to insist on paying for that which the proprietor has respectfully tendered as a complimentary present, and has previously declined to furnish on any other terms. The members of the Convention, in their individual capacities, can with great propriety, requite this courtesy extended to the body, and in a manner much more gratifying to the known feelings, and much more conducive to the permanent and substantial interest of the proprietor of Flake's Bulletin, than the urging upon him of acceptance of payment for his voluntary kindness. The majority of the committee feel that the Convention is under obligations to the proprietor of Flake's Bulletin for his conduct in the premises; but it is such an

obligation as cannot be cancelled by payment in money. They, therefore, recommend that this resolution do not pass.

All of which is respectfully submitted.

A. P. McCORMICK,
Chairman Committee.

Mr. Burnett moved the rules be suspended to take up the resolution for the payment of the Houston Union.

Rules suspended.

[Mr. Evans, of McLennan, in the chair.]

Mr. Patten moved to lay the resolution upon the table.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Bell, Bledsoe, Brown, Butler, Hamilton of Bastrop, Harris, Keigwin, Kirk, Lippard, Morse, Newcomb, Patten, Whitmore—14.

Nays—Messrs. Adams, Armstrong of Lamar, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Cole, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Kendal, Keuchler, Lindsay, McCormick, McWashington, Mullins, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Slaughter, Smith, Sorrel, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milan, Wright—50.

So the Convention refused to lay upon the table.

Mr. Patten offered the following amendment:

“Strike out four hundred dollars (\$400), and insert one hundred dollars (\$100).”

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

Mr. Patten moved the subject be made the special order of the day for the first Monday in February, at nine o'clock.

Mr. Burnett moved the previous question.

Previous question seconded.

The question recurred, “Shall the main question be now put?”

Main question ordered.

The question recurring upon the adoption of the resolution,

It was adopted.

Mr. Ruby moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

Resolution read a third time and passed.

Mr. Varnell introduced the following declaration, and asked its reference to the Committee on Public Lands :

CONVENTION HALL,
December 29, 1868.

Hon. E. J. DAVIS,

President Constitutional Convention :

SIR: Whereas, on the 22d day of May, 1854, there was issued from the Adjutant General's office a bounty land certificate in favor of Henry Koontz, for three hundred and twenty acres of land, for his services in the Army of the Republic, in the years of 1836-7, as set forth in said certificate ; and,

Whereas, Said certificate was never located, but was lost, as will appear from evidence herewith accompanying ; and,

Whereas, The said certificate rightfully belongs to and is the property of Henry Koontz, Jr., the son and only heir of grantee, deceased, and who is still a minor, and now about to attain his majority ; therefore,

Be it ordained by the Delegates in Convention assembled, That the Commissioner of the General Land office issue a duplicate certificate, in favor of the said Henry Koontz, for three hundred and twenty acres of land, on the production of satisfactory evidence that such certificate was issued from the Adjutant General's office, and was lost and never located.

Mr. Lindsay introduced the following declaration :

WHEREAS, The members of this Convention were elected and assembled together under the provisions of the several acts of Congress, known as the reconstruction laws, passed "for the more efficient government of the rebel States ;" and which acts prescribe a mode by which the loyal people in the rebel States may re-establish legal and loyal civil governments, in conformity with the constitution and laws of the national government ; the said rebel States having overthrown and destroyed all legitimate authority in their several local jurisdictions, and thus divested the people of all regularly organized legal municipal governments ; and,

Whereas, No legal, legitimate State governments can be formed in the rebel States, unless it be done in accordance with the Constitution of the United States and the national will, clearly and unmistakably expressed through its properly constituted organs, in what are called the reconstruction laws; which are the only means and guaranty left the loyal people in said States for the re-establishment of legal governments; and,

Whereas, This Convention derives all its *enabling powers* from the expression of the national will in the reconstruction laws, and which powers are coupled with a solemn pledge of protection to the loyal people of the rebel States, until such time as they can, in the manner pointed out in said laws, frame a constitution in conformity therewith, and shall receive the approval of a majority of the qualified electors of the several States, as well as of Congress; and,

Whereas, The framing of a constitution of the State, and of a loyal civil government therefor, according to the provisions of the act of Congress of March 23, 1867, is the specific and sole duty assigned by said act and its supplements to this body; therefore,

Be it resolved by the loyal people of Texas, thus assembled in Convention, That it is the imperative duty of this body to proceed, as speedily as may be, to frame a constitution for the State of Texas, to be submitted to a vote of the qualified electors of the State for their approval, at such time as this body, in its discretion, may consider authorized and warranted by said reconstruction laws.

Resolved further, That, if the constitution so framed shall be approved by the qualified electors, when so submitted, it will then be the duty of this Convention, unless it chooses to do so at the time of the submission of the constitution, to designate and fix a time, in its discretion, and *give notice*, for the election of loyal incumbents to the various offices created by and prescribed in said constitution.

And Whereas, There is great diversity of opinion among the members of this Convention in reference to its powers of legislation, and its rights and authority to divide the State of Texas—so much so that its action is clogged and obstructed in relation to the special business for which it was assembled; therefore,

Be it resolved, That by reason of this diversity of opinion, and in consequence of this doubt, this question of power to legislate, except as already specially granted in the reconstruction acts, and of the right to divide the State, be remitted to the consideration of Congress, along with the constitution, when approved by the people, to determine, in its wisdom, whether additional power should be con-

ferred upon this body, to enable it to accomplish such object; or whether the matter of division of the State shall be submitted to the first Legislature which may be convened under said constitution.

Mr. Newcomb made the point of order that, as the declaration had reference to the division of the State, its consideration was not in order while Mr. Thomas' resolution remained unrepealed.

The President decided that the declaration, contemplating indirectly the division of the State, was out of order.

Mr. Sumner introduced the following declaration, and asked its reference to the Committee on State Affairs :

WHEREAS, The counties of Montague, Wise, Jack, Clay, Wichata, Archer, Throckmorton, Baylor, Wilbarger, Hardeman, Knox, Haskill, Shackelford, Stephens, Palo Pinto, Parker, Hood, Erath, Comanche, Brown, Coleman, Runnels, Taylor, Callahan and Eastland, having been infested by hostile Indians; therefore be it

Resolved, That the Committee on State Affairs be requested to take into consideration the propriety of extending the time for collecting the tax in said frontier counties, and report at an early day.

It was so referred.

Mr. Evans, of McLennan, moved a suspension of the rules to take up the report of the Committee on Education.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bell, Bledsoe, Bryant of Grayson, Butler, Caldwell, Carter, Cole, Downing, Evans of McLennan, Fayle, W. Flanagan, Fleming, Hamilton of Bastrop, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kuechler, Kirk, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Newcomb, Patten, Phillips of San Augustine, Posey, Rogers, Scott, Sorrell, Stockbridge, Sumner, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—44.

Nays—Messrs. President, Adams, Armstrong of Jasper, Board, Brown, Bryant of Harris, Buffington, Burnett, Curtis, Evans of Titus, Flanagan, Gaston, Gray, Harris, Jordan, Kendal, Lippard, Munroe, Ruby, Slaughter, Smith, Varnell—22.

So the Convention suspended the rules.

Mr. Newcomb moved the report be recommitted to the Committee on Education.

It was so ordered.

Mr. Burnett moved a suspension of the rules to take up the resolution offered by Mr. Newcomb, repealing the resolution passed by the Convention respecting the division of the State.

The President announced the next business in order was the resolution named.

Mr. Sumner rose to the point of order that the resolution contemplating a division of the State was out of order.

Point of order not sustained.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Sumner moved a call of the House.

Call not sustained.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Bastrop, Harris, Harn, Jordan, Kendal, Kuechler, Lippard Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wright—38.

Nays—Messrs. Armstrong of Jasper, Bell, Bryant of Grayson, Caldwell, Cole, Fleming, Hamilton of Travis, Horne, Johnson of Harrison, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Sorrell, Stockbridge, Sumner, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—28.

The Convention ordered the main question.

The question recurring upon the adoption of the resolution, the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Bastrop, Harris, Jordan, Kendal, Kuechler, Lippard, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wright—37.

Nays—Messrs. Armstrong of Jasper, Bell, Caldwell, Cole, Fleming, Hamilton of Travis, Harn, Horne, Johnson of Harrison,

Kealy, Keigwin, Kirk, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Sorrell, Stockbridge, Sumner, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam—28.

So the resolution was adopted.

Mr. Lindsay made the point of order that a rule of the Convention could not be repealed except by a two-thirds vote.

The President decided against the point of order.

Mr. McCormick moved to suspend the rules to take up a declaration respecting the Central Railroad.

Mr. Patten moved the Convention adjourn till to-morrow morning at ten o'clock.

Lost.

The question recurred upon the question of the suspension of the rules.

The Convention suspended the rules.

Mr. Hamilton, of Bastrop, moved to make the consideration of the declaration the special order of the day for Monday next at eleven o'clock A. M.

The Convention refused.

Mr. Patten moved to adjourn till to-morrow morning at ten o'clock.

Lost.

Mr. Hamilton, of Travis, moved the previous question.

Previous question seconded.

Mr. Patten moved a call of the House.

Call not sustained.

Mr. Patten moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bledsoe, Brown, Butler, Downing, Evans of McLennan, Hamilton of Bastrop, Kuechler, Lippard, Morse, Mullins, Newcomb, Patten, Pedigo, Posey, Slaughter, Vaughan, Whitnore, Williams—20.

Nays—Messrs. Adams, Armstrong of Lamar, Bell, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lindsay, Mackey, McCormick, McWashington, Mundine, Munroe, Phillips of San Augustine, Rogers, Scott, Smith, Sorrell,

Stockbridge, Sumner, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—48.

So the Convention refused to adjourn.

The question recurred, " Shall the main question be now put? "

Main question ordered.

Mr. Patten moved to adjourn till this evening at eight o'clock.

Ruled out of order.

Mr. Patten moved a call of the House.

The President decided that the main question having been sustained a call of the House was out of order.

Mr. Patten appealed from the decision of the chair.

The question recurred, " Shall the decision of the Chair stand as the decision of the Convention? "

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Slaughter, Smith, Stockbridge, Sumner, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—58.

Nays—Messrs. Bledsoe, Evans of McLennan, Hamilton of Bastrop, Lippard, Mullins, Patten, Scott, Vaughan—8.

So the decision of the Chair was sustained.

The question recurring upon the adoption of the declaration, the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell, Stock-

bridge, Sumner, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milan, Wright—55.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Butler, Hamilton of Bastrop,, Keuchler, Lindsay, Lippard, Mullius, Newcomb, Patten, Posey, Vaughan, Whitmore—14.

So the declaration was adopted.

Mr. Evans, of McLennan, moved the vote adopting the declaration be reconsidered for the purpose of offering the following amendment :

Amend by adding after the proviso as follows :

And provided further, That the said company shall, within six months from and after the passage hereof, survey, define and mark the line of their road, for a distance of at least fifty miles above the town of Calvert, and shall thereafter keep the line of their road surveyed, defined and marked for a distance of at least fifty (50) miles in advance of running cars thereon.

And provided further, That the Governor, Comptroller and Treasurer of the State of Texas, within sixty (60) days from the passage hereof, or as soon thereafter as practicable, shall proceed to fix and arrange a tariff or rate of charges for the passage of all manner or character of freight as well as passengers, over the said Houston, Texas and Central Railroad, and when arranged shall notify the President of said road thereof; which tariff or rate of charges so fixed shall not exceed ten (10) per cent. in advance of the tariff or rate of charges of first class railroads in the United States south of Virginia; and said railroad company, shall, from and after the ratification of said tariff or rate of charges, transport over their road all freight and passengers according to the said above fixed tariff or rate of charges, and shall make said rate of charges so fixed as provided above fully known to the public by keeping the same constantly published in at least one newspaper published at each end of their road, and shall keep a printed schedule of said tariff or rate of charges posted in each running box or passenger car that they have on said road. And should said company ask, demand or receive a greater tariff or rate of charges upon freights or passengers than that so fixed as above, then said company shall forfeit five times the sum so asked, demanded or received, to be recovered by suit in any of the courts of this State having jurisdiction by the person interested.

Mr. McCormick moved to lay the motion to reconsider on the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Board, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Mackey, McCormick, McWashington, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Smith, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—46.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Bryant of Grayson, Butler, Evans of McLennan, Hamilton of Bastrop, Keuchler, Lippard, Morse, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Sorrell, Whitmore, Williams—19.

So the motion was laid on the table.

Mr. Patten moved the Convention adjourn till to-morrow morning at ten o'clock.

Lost.

Mr. McCormick moved a further suspension of the rules to put the resolution on its final passage.

Mr. Butler moved the Convention adjourn till to-morrow morning at ten o'clock.

Lost.

The question recurred upon the suspension of the rules.

The Convention suspended the rules.

The question recurred upon the adoption of the amendment offered by Mr. Evans, of McLennan.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bledsoe, Bryant of Grayson, Bryant of Harris, Burnett, Carter, Curtis, Downing, Evans of McLennan, Hamilton of Bastrop, Keuchler, Morse, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Sorrell, Sumner, Whitmore, Williams--24.

Nays—Messrs. Adams, Bell, Board, Buffington, Caldwell, Cole, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Kealey, Kendal, Kirk, Mackey, McCormick, McWashington, Mundine, Posey, Rogers, Smith, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—35.

The Convention refused to adopt the amendment.

The question recurred upon the final passage of the declaration.

It was read third time and passed.

Mr. McCormick asked leave of absence indefinitely for Mr. Mundine.

Leave granted.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
DECEMBER 30, 1863.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Sumner moved the minutes be amended so as to appear that Mr. Mundine offered the declaration releasing frontier counties from county and State tax.

The motion was agreed to.

Mr. Newcomb offered the following petition, and asked its reference to the Committee on State Affairs :

To the Hon. E. J. DAVIS,

President of the Constitutional Convention :

SIR : Your petitioner would respectfully state that he received the appointment of assessor and collector of the county of Bexar, in this State, about two months after the organization of the provisional government under Governor Hamilton, and proceeded to the assessment and collection of taxes in said county, under the laws passed prior to 1861. He also assessed and collected the taxes of said county for the year 1866, and paid the same into the treasury.

Your petitioner would also state that, in order to promptly comply with the law, and speeily to meet the demands of the then exhausted treasury, and owing to his late appointment, he was compelled to engage and pay two deputies to complete the assessment and collection of taxes in due time ; and further, that, upon settlement of his accounts with the Comptroller, he was informed that his commissions, fees, etc., were due only in currency, and not in specie, as the law then in force ; thereby your petitioner sustained a pecuniary loss, his expenses being very heavy in traveling to and from the seat of government to settle his accounts, mileage being allowed at five cents currency per mile, and traveling to the different precincts of the county, pay of deputies, postage, stationery and other incidental expenses, exceeded by far his fees, commissions, etc. ; and as your petitioner sustained a pecuniary loss, he prays that the government refund him his just fees earned in the faithful performance of his duties.

The whole amount was \$1667 44, paid in United States cur-

rency, then being only two-thirds value of specie, leaving a deficit of \$555 81, or balance due me, so as to make it equivalent to specie; which amount (\$555 81) your petitioner asks may be ordered to be paid him from the treasury of the State.

I would respectfully refer you to the inclosed letter from the present Comptroller, and the certificate of the county judge of Bexar county.

And your petitioner will ever pray, etc.

F. H. ARLITT.

EXTRACT

Of Fees, Commissions, etc., from Account Currents, on file in Comptroller's Office.

ACCOUNT FOR 1865.

State Tax Account :

Commissions for assessment of \$9,441 66.	\$383 25	
Commissions for collection of \$6,363 12.	290 89	
Commissions for collection of \$4,985 24.	249 41	
Mileage, 170 miles, at five cents.....	8 50	
	<hr/>	\$932 05

County Tax Account :

Commissions for assessment of \$536 96..	\$21 48	
Commissions for assessment of \$445 58..	17 82	
	<hr/>	39 30

ACCOUNT FOR 1866.

State Tax Account :

Commissions for assessment of \$13,276 47.	\$432 76	
Commissions for collection of \$3,626 61.	195 06	
Mileage, 170 miles.....	34 00	
	<hr/>	661 82

County Tax Account :

Commissions for assessment of \$849 03,		
and for collections of \$7 79.....	\$34 27	
	<hr/>	34 27

Total.....		<hr/>	\$1,667 44
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It was so ordered.

Mr. Burnett presented petition from citizens of Houston and Trinity counties, asking the passage of an ordinance prohibiting the

sale of liquors within five miles of Pennington Academy, in Trinity county, and asked its reference to the Committee on State Affairs :

PENNINGTON, TEXAS.

November 25, 1868.

To the Honorable Constitutional Convention of the State,
Now in session at Austin :

We, the undersigned, citizens of Houston and Trinity counties, residing at the town of Pennington and vicinity, would respectfully represent to your honorable body that we have erected commodious buildings in this town, for both male and female schools; that this little town, situated in the edge of Trinity county, near and on the line between Houston and Trinity counties, at the foot of Tyler Prairie, is surrounded by a well-to-do and prosperous population; and that at this place a large and prosperous school, composed of both sexes, has heretofore been carried on, and with proper protection and legislative guards the school can be kept up, and the youth of our vicinity and surrounding country can be educated and become useful and thrifty citizens. The evil which thwarts our efforts is the vending of ardent and intoxicating liquors. We therefore pray your honorable body to pass an ordinance prohibiting the sale of spirituous or intoxicating liquors within five miles of the town of Pennington, under such penalties as shall effectually prevent the evil.

DANIEL DAILEY,

J. H. PENNINGTON,

T. S. WORTHAM,

And three hundred others.

It was so ordered.

Mr. Flanagan made the following report :

COMMITTEE ROOM,

December 30, 1868.

To the Hon. E. J. DAVIS,
President of the Constitutional Convention :

SIR : Your Committee on Internal Improvements have had before them a declaration to incorporate the Belton Bridge Company.

After giving it a careful examination, the committee, many of them being well acquainted with the crossing and wants of the pub-

lic, approve most cordially the enterprise, and I am instructed by a majority of the committee to report back the ordinance, and to recommend the passage of the same.

All of which is respectfully submitted.

J. W. FLANAGAN,
Chairman Committee.

Mr. Patten moved a suspension of the rules to take up declaration reported.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Patten moved a further suspension of the rules to put declaration on its passage.

Rules suspended.

Mr. Armstrong of Lamar offered the following amendment :

“ And be completed within two years.”

Amendment accepted.

The question recurred upon the final passage of the declaration as amended.

It was read third time and passed.

The following additional report from said committee was also read :

COMMITTEE ROOM,
December 30, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration to incorporate the Austin Bridge Company, and after mature deliberation they came to the conclusion that the charter ought not to be granted, as asked for in said declaration. They require three (3) years before commencing, which the committee believe to be unwarrantable, and might very much prejudice the constructing of a bridge by other parties at a much earlier date.

The declaration also requires that no person or persons shall build a bridge or keep any ferry within five miles of Austin. This

the committee think very objectionable, and calculated to cripple a laudable enterprise.

Respectfully submitted.

J. W. FLANAGAN,
Chairman Committee.

Mr. Munroe moved a suspension of the rules to take up the report of the Committee on Contingent Expenses, paying Enrolling Clerk and Sergeant-at-Arms mileage.

Rules suspended.

Mr. Lippard offered the following amendment :

“ And all other officers of the Convention.”

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, “ Shall the main question be now put?”

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Bell, Bellinger, Board, Brown, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Curtis, Downing, Fayle, Flanagan, Fleming, Goddin, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Kendal, Kuechler, Kirk, Lindsay, Mackey, McWashington, Morse, Mullins, Munroe, Phillips of San Augustine, Rogers, Ruby, Smith, Sorrell, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Wilson of Brazoria—33.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Butler, W. Flanagan, Hamilton of Bastrop, Keigwin, Lippard, McCormick, Newcomb, Pedigo, Slaughter, Thomas, Whitmore, Williams, Wilson of Milam, Wright—18.

So the main question was ordered.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Munroe moved a suspension of the rules to put resolution on its passage.

Rules not suspended.

Mr. Munroe moved a suspension of the rules to take up the resolution to pay *per diem* to the widow of Honorable Mr. Mullins, deceased.

Rules suspended.

Mr. Flanagan offered the following amendment :

“Amend by adding the name of Dr. P. P. Adams, and all others that have been absent and regularly excused by the Convention, so that the said delegates may draw any allowance due them, now withheld on account of such absence.”

Mr. Burnett moved the previous question.

Previous question not seconded.

Mr. Buffington moved that the whole matter be re-committed to the committee.

Carried.

Mr. Sumner introduced the following resolution and asked its reference to the Committee on Counties and County Boundaries :

WHEREAS, During the rebellion the names of certain counties in this State were changed in honor of leading men of the rebellion; therefore,

Be it Resolved, That the name of Davis county be changed to Latimer; Johnson, to Munroe; Baylor, to Blunt; Hood, to Carter; Shelby, to Morrill.

It was so referred.

Mr. Evans of McLennan introduced a declaration granting relief to the Waco Tap Railroad, and asked its reference to the Committee on Internal Improvements without reading.

Mr. Newcomb introduced the following resolution, and asked its reference to the special committee on pay of absent and deceased members :

WHEREAS, On or about the twenty-first July last, B. W. Gray, member of this Convention, was indefinitely excused from attendance on the Convention on account of sickness of his wife, and soon afterward a resolution was passed cutting off the *per diem* pay of absentees; therefore be it

Resolved, That Mr. Gray be allowed his *per diem*, and the Secretary of the Convention is hereby required to draw his warrant upon the treasury for the same.

It was so referred.

Mr. Fayle introduced a declaration and asked its reference to the Committee on Internal Improvements without reading.

It was so referred.

Mr. Burnett moved the rules be suspended to take up the report of the Committee on the Condition of the State.

Mr. Hamilton of Bastrop moved that the Convention go into Committee of the Whole upon the report.

Carried.

[Mr. Armstrong of Lamar in the Chair.]

Committee rose, reported progress, and asked permission to sit again to-morrow morning at eleven o'clock.

Leave granted.

The President appointed Mr. Brown on the Committee of Emigration; Mr. Mullins on Committee on Public Lands; Mr. Brown on Committee on Contingent Expenses; Mr. Mullins on Committee on Commerce and Manufactures; to fill vacancies caused by death and resignation.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
December 31, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Flanagan moved a suspension of the rules to take up the International Pacific Railroad bill.

Mr. Hamilton of Travis desired the consideration of the bill postponed till next Saturday.

Agreed to.

The President presented a petition from citizens of St. Marys, and asked its reference to the Committee on Counties and County Boundaries.

It was so referred.

Also a petition from citizens of Starr county, asking a division of the State.

Referred to Committee on Division of the State.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM,
December 31, 1868.

To Hon. E. J. DAVIS,
President Constitutional Convention :

SIR: Your Committee have had before them a declaration, introduced by Mr. Buffington from Grimes, asking a charter for a railroad, starting at Bolivar Point and running to Red River, and to be known as the Bolivar Point, Eastern Texas and Red River Railroad Company. Upon examination, it is found that this charter does not contemplate any extravagant action, either by land grants or aid in money, or bonds, but simply to be placed upon a common basis.

Your committee believe it a laudable enterprise, and they are so very anxious for an early development of the State, they feel disposed on their part to favor all legitimate efforts tending to enrich the State.

I am instructed by the committee to report back the declaration and to recommend the passage of the same.

Respectfully submitted,

J. W. FLANAGAN,
Chairman of the Committee.

A DECLARATION

Incorporating the Bolivar Point, Eastern Texas and Red River Railroad Company.

SECTION 1. *Be it declared*, That Levi Jones, A. Buffington, A. T. Munroe, J. R. Burnett, A. M. Bryant, M. L. Armstrong, A. Bledsoe, N. V. Board, P. P. Adams, J. W. Flanagan, John Monroe and C. J. D. Horne, and such other persons as they may associate with them, are hereby declared to be a body politic and corporate, under the name and style of the "Bolivar Point, Eastern Texas and Red River Railroad Company," and by such name may sue and be sued, have a seal and perpetual succession, and shall have the right to have and hold real and personal property in this State to the amount of ten millions of dollars.

SEC. 2. That said company shall have the right to construct a first class double or single track railroad from the water's edge nearest to the middle channel of Galveston Bay, on said Bolivar Point, then along Bolivar Peninsula to the main land; thence northwesterly to a point on Red River, not to exceed fifty miles distant from the town of Warren, with the right to vary to meet the wants of the people of the section not to exceed a distance of sixty miles from a straight line from the main land at Bolivar Point to the designated point on Red River, with the right to build a branch road at any point along their line, in an easterly or westerly direction to the Sabine or Trinity river, with the same right to said branches as herein granted to the main route.

SEC. 3. Said company shall have the right of way along their entire route, not to exceed two hundred feet in width, over all lands of the State, and the free use of rock, timber, gravel and earth thereof, and the terms of the general laws of this State to procure the release of the right of way from the owners of lands along the route; and shall also have the right to construct and operate a telegraph line along their entire route.

SEC. 4. Said company shall have the right to procure, hold and use piers and wharfs at Bolivar Point for the use of the road, and to build and construct bridges across streams along their line or the line

of their branches; provided, that no right is here given to obstruct navigation.

SEC. 5. The capital stock of said company shall be five millions of dollars, divided into shares of \$100 each.

SEC. 6. Said company shall organize on or before the first day of July, 1869, and shall open books for subscriptions to the capital stock of said company for at least six months, and as much longer as they may see fit, at least at three places in Texas.

SEC. 7. Said company shall commence the construction of their road on Bolivar Point, and shall have completed and in running order at least twelve and a half miles of their road by the first day of January, 1872, and at least twelve and a half miles additional for every twelve months thereafter, until completed, or they are relieved from this obligation.

SEC. 8. Said company shall receive from the State of Texas the same aid in lands that has been or may hereafter be granted to the most favored company in this State.

Mr. Buffington moved a suspension of the rules to take up the declaration reported.

Rules suspended.

Mr. Sumner offered the following amendment :

“Amend by compelling said road to pass through Sherman, Grayson county.”

Mr. Buffington moved the previous question.

Previous question seconded.

Mr. Thomas moved to lay the declaration on the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas---Messrs. Bellinger, Board, Brown, Butler, Hamilton of Bastrop, Horne, Kealy, Lindsay, Mackey, Newcomb, Posey, Thomas, Vaughan, Wilson of Milam—14.

Nays---Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Harris, Carter, Cole, Curtis, Downing, Evans of McLennan, Fayle, W. Flanagan, Fleming, Gaston, Goddin, Gray, Harris, Johnson of Harrison, Jordan, Kendal, Kuechler, Kirk, Leib, Lippard, McCormick, McWashington, Morse, Mullins, Patten, Pedigo, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—44.

So the Convention refused to lay on the table.

The question recurred "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Patten moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

Mr. Butler offered the following amendment :

"Amend by adding the remaining members of the Convention as incorporators."

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

Carried.

The question recurred upon the final passage of the declaration.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Harris, Carter, Cole, Curtis, Downing, Evans of McLennan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kendal, Kirk, Leib, Lippard, McCormick, McWashington, Morse Mullins, Patten, Pedigo, Rogers, Ruby, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—43.

Nays—Messrs. President, Bellinger, Butler, Hamilton of Bastrop, Kealy, Lindsay, Mackey, Newcomb, Thomas, Vaughan, Wilson of Milam—11.

So the declaration was adopted.

Mr. McCormick moved a reconsideration of the vote adopting the declaration.

Mr. Patten moved to lay the motion to reconsider on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Harris, Carter, Curtis, Downing, Evans of McLennan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kendal, Kuechler, Kirk, Leib, Lippard, McWashington, Mullins, Patten,

Pedigo, Rogers, Smith, Sorrell, Stockbridge, Whitmore, Wright—33.

Nays—Messrs. President, Bellinger, Butler, Caldwell, Cole, Fayle, Kealy, Keigwin, Mackey, McCormick, Newcomb, Phillips of San Augustine, Posey, Ruby, Slaughter, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—23.

So the Convention refused to reconsider.

The President announced the hour of eleven o'clock having arrived, at which the Convention had made the report of the special committee on the condition of the State the order of the day in committee of the whole.

Mr. McCormick moved the Convention resolve itself into committee of the whole upon the report.

Carried.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported progress and asked to sit again at the next regular meeting of the Convention.

Leave granted.

Mr. Patten moved to adjourn till Monday morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Butler, Cole, Curtis, Downing, Fleming, Gaston, Goddin, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Keigwin, Kendal, Kuechler, McWashington, Mullins, Newcomb, Patten, Pedigo, Rogers, Slaughter, Thomas, Varnell, Vaughan, Whitmore, Williams—33.

Nays—Messrs. Adams, Bledsoe, Board, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Evans of McLennan, Fayle Flanagan, W. Flanagan, Harn, Johnson of Harrison, Jordan, Kirk, Leib, Lindsay, Lippard, Mackey, McCormick, Moise, Munroe, Phillips of San Augustine, Posey, Ruby, Scott, Smith, Sorrell, Stockbridge, Sumner, Watrous, Wilson of Brazoria, Wright—34.

So the Convention refused to adjourn.

Mr. McCormick asked that Mr. Phillips, of Wharton, be excused on account of sickness.

Excused.

Mr. Burnett moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Buffington, Burnett, Curtis, Flanagan, W. Flanagan, Gaston, Goddin, Johnson of Harrison, Jordan, Leib, Lindsay, Lippard, Mackey, McCormick, Morse, Munroe, Newcomb, Phillips of San Augustine, Posey, Sorrell, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—29.

Nays—Messrs. President, Bell, Bellinger, Board, Brown, Bryant of Harris, Butler, Carter, Cole, Downing, Evans of McLennan, Fayle, Fleming, Gray, Hamilton of Bastrop, Harris, Harn, Kealy, Keigwin, Kendal, Kuechler, McWashington, Mullins, Patten, Rogers, Ruby, Scott, Slaughter, Sumner, Varnell, Vaughan, Whitmore, Williams—33.

So the Convention refused to adjourn.

Mr. Varnell moved that the Convention adjourn till Saturday morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Buffington, Butler, Burnett, Cole, Fayle, W. Flanagan, Gaston, Goddin, Harris, Johnson of Harrison, Jordan, Keigwin, Leib, Lindsay, Lippard, McCormick, McWashington, Morse, Munroe, Posey, Rogers, Scott, Sorrell, Stockbridge, Sumner, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—35.

Nays—Messrs. Bell, Board, Brown, Bryant of Harris, Carter, Curtis, Downing, Evans of McLennan, Flanagan, Fleming, Gray, Hamilton of Bastrop, Harn, Kealy, Kendal, Kuechler, Mullins, Newcomb, Patten, Phillips of San Augustine, Slaughter, Vaughan, Whitmore, Williams—24.

So the Convention adjourned till Saturday at ten o'clock, A. M.

CAPITOL, AUSTIN, TEXAS,
JANUARY 2, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the chaplain.

Journal of Thursday read and adopted.

Mr. Flanagan moved a suspension of the rules to take up a declaration supplemental to a declaration respecting the International Railroad Company.

Rules suspended.

Mr. Varnell introduced the following substitute to the original declaration :

SUBSTITUTE

For a Declaration Supplemental to a Declaration in relation to the International Pacific Railroad, declared August 10, 1868.

WHEREAS, The Legislature of the State of Texas, by an act approved the tenth day of February, A. D. eighteen hundred and fifty-four (1854), entitled "an act to incorporate the Brazos Branch Railroad Company," did grant a charter to the Brazos Branch Railroad Company, and by other acts supplemental thereto did extend the same ;

And Whereas, Said company did organize under said charter, and has, within the last two years, in good faith, expended large sums of money in accordance with the provisions of said charter ;

And Whereas, Said company has in good faith obtained the control and ownership of the Henderson, Marshall and Jefferson Railroad charter, with the intention of complying with the provisions of said charter and constructing a continuous line of railroad from the eastern boundary of the State of Texas, in a southwesterly direction through the State ;

And Whereas, Said companies have organized and been long earnestly engaged in pressing forward their enterprize, and engaging in its behalf the favorable co-operation of capitalists ;

And Whereas, There is now pending before the Congress of the United States a bill entitled "a bill to aid in the construction of the International Pacific Railroad from Cairo, in Illinois, to the Rio

Grande river, to authorize the consolidation of certain railroad companies, and to provide homesteads for the laborers on said roads:"

And Whereas, The Convention of the State of Texas, by an ordinance passed August tenth, eighteen hundred and sixty eight (1868), did memorialize Congress, requesting the passage of said bill, and did also grant to said companies the right of way through the State, therefore,

SECTION 1. *Be it hereby enacted and ordained by the people of Texas in Convention assembled,* That the said Brazos Branch Railroad Company be and the same is hereby revived and re-incorporated under the name of the "International Pacific Railroad," with all the rights, grants, immunities, franchises and privileges conceded in said original charter not inconsistent with this ordinance.

SEC. 2. *Be it further enacted and ordained,* That the line of said International Pacific Railroad in Texas be and the same is hereby more clearly defined to commence at or near a point on the eastern boundary line of the State of Texas, where the States of Arkansas and Louisiana join, and to run in a southwesterly direction to the Rio Grande river to or near Laredo, with the right of way, the width of two hundred and fifty feet, for a double track; and to aid in the construction of said road there is hereby granted to said company sixteen sections of land to the mile of track laid on said line, and all the timber, stone, lime, rock and fuel from the public unlocated lands that may be necessary for the construction and maintenance of said road; and if said company complete said road between said points within six years from the passage of this declaration, its right to the public land herein granted shall become absolute.

SEC. 3. *Be it further enacted and ordained,* That said company shall have the right to vary the gauge of said road and branches in Texas so as to correspond with the uniform gauge from Cairo, and to use steel rails of less weight than iron rails required by law, without impairing the right of said Company to the benefits granted to other railroads by the general laws of the State of Texas.

SEC. 4. *Be it further enacted and ordained,* That said company shall have the sole right of constructing and operating telegraph lines along said road and branches, and the right of building the necessary switches, turn-outs, stations and machine shops; of acquiring lands by gift, purchase or otherwise, and selling or disposing of the same; of acquiring, building and using wharves and depots, and exercising all wharf privileges; of establishing and maintaining all the necessary agents to carry on their business, and exercise in Texas all the grants, privileges and franchises which shall be con-

ceded by Congress or the Mexican government in aid of the great work of constructing an International Pacific Railroad from Cairo to the Pacific ocean.

SEC. 5. *Be it further enacted and ordained*, That said International Pacific Railroad Company shall be entitled to all the grants, privileges, immunities and franchises conceded by the laws of Texas, or that may hereafter be conceded under any general law to any other railroad company.

SEC. 6. *Be it further enacted and ordained*, That the said International Pacific Railroad Company shall have the further right to extend two branches of said road from points of intersection to the Gulf of Mexico, and one branch on the old Brazos Branch line, from a point of intersection eastwardly into the long leaf pinery, and the right of way of two hundred feet on the branches, with all the rights, privileges, grants and franchises conceded to the main trunk of the International Pacific Railroad.

SEC. 7. *Be it further enacted and ordained*, That the said International Pacific Railroad be and is hereby authorized to have an office without the State for the transaction of business, with the necessary officers, who may be citizens of other States; provided, said company shall be required to keep an office within the State for transacting business, at which shall be kept original or duplicate books of its accounts; and the President, Secretary and Treasurer, or assistant officers of like grade, shall be residents of the State.

Mr. Patten moved the matter be made the special order of the day for next Wednesday at eleven o'clock, A. M.

The Convention refused to postpone.

Mr. Buffington moved the adoption of the substitute.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Board, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Degener, Downing, Fayne, Flanagan, W. Flanagan, Flenning, Gaston, Goddard, Gray, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Keuchler, Kirk, Leib, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Pedigo, Posey, Ruby, Scott, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—52.

Nays—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Brown, Hamilton of Bastrop, Kealy, Lindsay, Patten, Thomas—9.

So the substitute was adopted.

Mr. Degener moved to commit the substitute to the committee.

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded.

Pending the vote, the President announced that the hour had arrived fixed by the Convention to go into Committee of the Whole upon the report of the Committee on the Condition of the State.

Mr. Flanagan moved the special order be deferred until the vote be taken.

Carried.

The yeas and nays upon the adoption of the main question resulted as follows :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Bledsoe, Board, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Morse, Munroe, Pedigo, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—44.

Nays—Messrs. President, Armstrong of Jasper, Brown, Degener, Fleming, Hamilton of Bastrop, Kealy, Kuechler, Lindsay, Lippard, Newcomb, Patten, Ruby, Thomas—14.

So the main question was ordered.

The question recurred upon the final passage of the declaration substituted for the original.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Bledsoe, Board, Buffington, Burnett, Caldwell, Carter, Cole, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Scott, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—49.

Nays—Messrs. Armstrong of Jasper, Bellinger, Brown, Degener,

Hamilton of Bastrop, Kealy Lindsay, Patten, Ruby, Thomas, Whitmore, Williams—12.

So the declaration was adopted.

Mr. Patten moved to reconsider the vote by which the declaration was adopted.

Mr. Flanagan moved to lay the motion to reconsider upon the table.

Carried.

Mr. Buffington moved that Mr. Rogers be excused on account of sickness.

Excused.

Mr. Bryant of Harris moved that Mr. Newcomb be added to the Committee on Education.

It was so ordered.

Mr. Newcomb moved to go into Committee of the Whole upon the report of the Special Committee on the Condition of the State.

Carried.

[Mr. Armstrong of Lamar in the chair.]

Committee rose, reported progress, and asked leave to sit on Monday morning at eleven o'clock.

Leave granted.

On motion of Mr. Patten the Convention adjourned till Monday morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
JANUARY 6, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

Mr. Thomas presented a petition from citizens of Collin and Hunt, asking the formation of a new county, and asked its reference to the Committee on Counties and County Boundaries, without reading.

It was so ordered.

Mr. Sorrell presented a petition, and on motion was referred to the Committee on Counties and County Boundaries, without reading.

It was so ordered.

Mr. Newcomb introduced the following

RESOLUTION.

WHEREAS, Major General E. R. S. Canby has been placed in command of this Military District; and

WHEREAS, We recognize in our new commander a gallant soldier of the nation, whose meritorious services during the late rebellion, and whose patriotism and wisdom as shown in his administration of the reconstruction acts in the Carolinas, recommend him to the full confidence of the loyal people of this State; therefore,

Be it resolved by this Convention, That we cordially welcome General Canby to our State, and express our confidence in him as the military commander of this district, and our full faith in his ability and disposition to administer its affairs to the enforcement of law, the maintenance of order, and the good of the loyal people thereof.

Second—That a copy of this preamble and resolutions be enclosed by the President of this Convention to General Canby.

Mr. Newcomb moved a suspension of the rules to take up the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Caldwell, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kuechler, Lindsay, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell, Thomas, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—63.

Nays—Messrs. Armstrong of Jasper, Sumner—2.

Rules suspended.

The question recurred upon the adoption of the resolution.

Mr. Sumner offered the following amendment :

“While regretting the removal of Brevet Major General Reynolds, and whereas.”

Mr. Newcomb moved the previous question.

Previous question seconded.

The question recurred, “Shall the main question be now put?”

Main question ordered.

The question recurred upon the adoption of the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Curtis, Carter, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Keuchler, Leib, Lindsay, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—66.

Nays—Messrs. Armstrong of Jasper—1.

So the resolution was adopted.

Mr. Degener moved a further suspension of the rules to put resolution on its passage.

Rules suspended.

Mr. Flanagan offered the following amendment :

“That Texas welcomes, with warm feelings, the estimable lady of the General, and recollect with proud gratitude her very kind treatment to many of the Confederate soldiers in Arizona, when prisoners.”

Mr. Degener moved the previous question.

Previous question seconded.

The question recurred, “Shall the main question be now put?”

Main question ordered.

The question recurring upon the final passage of the resolution.

Resolution read third time and passed.

Mr. Adams, from the Committee on Contingent Expenses, made the following report, respecting payment to Flake's Bulletin :

COMMITTEE ROOM,
January 4, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: As one of the Committee on Contingent Expenses, having under consideration a resolution to pay the proprietor of Flake's Bulletin for certain copies of said paper furnished the members of this Convention, the undersigned respectfully begs leave to dissent from the majority report of said committee.

The majority of the committee, through the chairman thereof, says: “Regard for his (Flake's) wishes in the matter renders it, in the judgment of the committee, improper for the Convention to insist on payment for that which the proprietor has respectfully tendered as a complimentary present.”

The bold, dignified and able services of Flake's Bulletin in the cause of the Union, remaining through a series of years, ought, in the opinion of the undersigned, to recommend it to the warmest favor and consideration of every member of this body.

Preserving, as it does, a calm, determined, unflinching course; favoring no crime and outrages upon the laws; defending justice; preserving all in its power the domestic tranquility of the State; radical only in its honesty; it deserves and ought to receive the encouragement and sustenance of the representatives of the people.

It is, beyond all doubt, the strongest exponent of the opinions and views of the dominant party now published in the South. It supported with great earnestness and marked ability the claims of the distinguished President elect in the late presidential canvass. It possesses a circulation double, at least, of that of any other Republican paper published in Texas.

Therefore, and for the foregoing reasons (and I could adduce others equally potent), I respectfully recommend the adoption of the resolution paying Mr. Flake for the copies of his paper furnished the delegates of this Convention.

Respectfully submitted,
P. P. ADAMS.

Mr. Caldwell moved a suspension of rules to take up the report. Pending the action of the Convention upon the motion, the President announced the hour had arrived designated by the Convention to go into Committee of the Whole, upon the report of the Committee on the Condition of the State.

[Mr. Armstrong, of Lamar, in the Chair.]

Committee rose, reported progress, and asked leave to sit again to-morrow morning, at half-past eleven o'clock.

Leave granted.

Mr. Wright moved that the Convention adjourn until to-morrow morning at nine o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Burnett, Curtis, Evans of McLennan, Flanagan, Kendal, Kirk, Leio, Lippard, Mackey, McCormick, McWashington, Morse, Smith, Sorrell, Wilson of Brazoria, Wilson of Milam, Wright—18.

Nays—Messrs. President, Bellinger, Bryant of Harris, Butler, Degener, Downing, Fleming, Gray, Hamilton of Bastrop, Jordan, Kuechler, Lindsay, Long, Mullins, Munroe, Newcomb, Patten, Scott, Stockbridge, Sumner, Thomas, Watrous, Williams—23.

So the Convention refused to adjourn.

On motion of Mr. Degener the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
January 5, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

The President directed the following communication to be read:

HEADQUARTERS FIFTH MILITARY DISTRICT,
State of Texas,
Austin, December 31, 1868.

Hon. E. J. DAVIS,

President of the Constitutional Convention, Austin, Texas:

SIR: I have the honor to acknowledge the receipt of your communication of the 29th inst., enclosing a resolution of the Convention, inviting myself and the members of my staff to seats within the bar of the hall of the Convention, and to request that you will convey to the honorable body of which you are President, our cordial thanks for this invitation, and our desire to avail ourselves of it as often as may be practicable.

Very respectfully, your obedient servant,

E. R. S. CANBY,
Brevet Major General Commanding.

Mr. Pedigo, from the Committee on Counties and County Boundaries, reported as follows:

COMMITTEE ROOM,
Austin, Texas, January 5, 1869.

Hon. E. J. DAVIS,

President of the Convention:

SIR: Your Committee on Counties and County Boundaries, to whom was referred a declaration, introduced by Mr. Goddin, to create the county of San Jacinto out of portions of the counties of Polk, Liberty, Montgomery and Walker, have had the same under consideration, and after a very thorough investigation of the matter a majority of the committee have instructed me to report back to the Convention the accompanying substitute, which varies from the

original declaration only in some immaterial details pertaining to the organization of the new county, and to recommend its adoption by the Convention.

Respectfully submitted,

H. C. PEDIGO,
Chairman Committee.

Mr. Flanagan offered the following declaration, and asked its reference to the Committee on Internal Improvements without reading. (See Report.)

It was so ordered.

Mr. Flanagan made the following report :

COMMITTEE ROOM,
January 4, 1869.

HON. E. J. DAVIS,
President of the Convention :

SIR: Your committee have had before them the petition of J. M. Floyd to erect a bridge across the Navasota.

After examining the same, the committee instruct me to report the accompanying declaration, and to recommend the passage of the same.

Respectfully submitted,

J. W. FLANAGAN,
Chairman of the Committee.

Mr. Armstrong, of Lamar, moved the suspension of the rules to take up a declaration creating the county of San Jacinto.

Rules suspended.

The reading, on motion, was dispensed with.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Butler moved a further suspension of the rules to put the declaration on its passage.

Rules suspended.

The question recurred upon the final passage of the declaration.

It was read a third time and passed.

Mr. Hamilton, of Travis, offered a declaration on railroads, and asked its reference to the Committee on Internal Improvements without reading.

It was so ordered.

Mr. Pedigo, from the Committee on Counties and County Boundaries, reported as follows :

COMMITTEE ROOM,
January 4, 1869.

Hon. E. J. DAVIS,

President of the Convention:

SIR: Your Committee on Counties and County Boundaries, to whom was referred a declaration introduced by Mr. Buffington, to create the new county of Peebles, have had the same under consideration, and a majority of the committee have instructed me to report the declaration back to the Convention with two slight alterations in the wording thereof, which do not materially change the meaning, and to recommend that it be adopted in the shape in which it is so reported back.

Respectfully submitted,

H. C. PEDIGO,
Chairman Committee.

Mr. Buffington moved to suspend the rules to take up the declaration.

The Convention refused to suspend the rules.

Mr. Evans, of McLennan, offered a declaration incorporating the Austin Bridge Company, and asked its reference to the Committee on Internal Improvements without reading.

It was so ordered.

Mr. Smith, of Galveston, introduced the following declaration re-incorporating the city of Galveston, and asked its reference to the Committee on Counties and County Boundaries:

A DECLARATION

Re-incorporating the City of Galveston.

CHARTER.

WHEREAS, There is now no fixed charter for the city of Galveston by which its municipal government is directed, but that parts of two or three pre-existing charters are invoked as the organic laws; therefore be it declared:

TITLE I.

GENERAL POWERS AND BOUNDARIES.

SECTION 1. That all the inhabitants of the city of Galveston shall continue to be a body politic and corporate, with perpetual succes-

sion, by the name and style of "The City of Galveston;" and as such, they and their successors, by that name, shall have, exercise and enjoy, all the rights, immunities, powers, privileges and franchises, now possessed and enjoyed by said city, and herein granted and conferred, and shall be subject to all the duties and obligations now appertaining to or incumbent on said city as a corporation, and may ordain and establish such acts, laws, regulations and ordinances not inconsistent with the constitution or laws of this State, and the constitution of the United States, as shall be needful for the government, interest, welfare and good order of said body politic, and under the same shall be known in law, and be capable of suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever. May take, hold and purchase, lease, grant and convey, such real and personal, or mixed property or estate, as the purposes of the corporation may require within or without the limits thereof, and may make, have and use a corporate seal, and change and renew the same at pleasure.

SEC. 2. That the limits of said city shall, for the present, be all that portion of territory lying between Seventh street on the east, and Forty-third street on the west, as known by Sandusky's map or plan of said city, and on the south its boundary shall extend half a mile into the waters of the Gulf of Mexico, between the streets aforesaid, and on the north, between said streets, shall extend over and embrace the waters of Galveston Bay, and include Pelican Island, and one mile north of said island, so as to extend the authority and jurisdiction, inclusive of said Pelican Island, over all of the area and territory aforesaid; provided, nevertheless, that all the provisions of this declaration, and of all ordinances passed in pursuance thereof, applying or relating to the harbor or channel north of said city, and within its limits, shall extend and be in full force and effect over all that portion of Galveston Bay between the Island of Galveston and a line drawn across said bay, east and west, at the distance of a mile north of the Island of Pelican aforesaid, until the same shall intersect the lines drawn north from the Seventh and Forty-third streets aforesaid; and provided, further, that nothing herein contained shall extend the chartered limits of Galveston over any part of the channel known as Bolivar Channel, beyond the middle line of the same, or give to the city of Galveston any rights of property in, over, or to any portion of Bolivar Channel, or any jurisdiction whatever over the same, beyond said middle line, or to control the ingress, egress, or remaining of any vessel whatever, through or in the waters of Bolivar Channel, except so far as may be necessary to enforce quarantine regulations,

which may be necessary to secure the health of the city of Galveston against the introduction or spreading of infectious or contagious diseases. Nor shall the city of Galveston have any authority whatever to control the sailing of any vessel through Bolivar Channel, or to control the anchorage of any vessel in said channel, nor to impose any tax or burden on any vessel using said Bolivar Channel; provided, that when Bolivar Peninsula shall have a population of three hundred inhabitants, and become incorporated as a town or city, then the boundary of the city of Galveston on the east, and such town or city on said peninsula on the west, shall be midway of Bolivar Channel; and provided, furthermore, that all writs and process issued by the Recorder, in case of a violation of any penal law of the State, or any breach or violation of any ordinance of the city may be obeyed, served and executed by the Marshal, or any of his deputies, and either of said officers shall arrest any person charged with any offense as aforesaid, anywhere on the Island of Galveston, or within the limits above defined; and provided, furthermore, that all the municipal regulations of said city shall apply to, extend and be in full force over the harbor and anchorage of Galveston, and to the bar, at the entrance of said harbor; and the corporate authority and jurisdiction, except to impose taxes, shall extend from the eastern boundary of said city over the east end of Galveston Island; and provided, further, that the said limits may be hereafter extended, including and adding more territory to the same, whensoever a majority of the inhabitants of said territory shall indicate a desire to be included within the limits of said city.

TITLE II.

OFFICERS AND THEIR ELECTION.

SEC. 3. The municipal government of the city shall consist of a city council, composed of a mayor and three aldermen from each ward, a majority of whom shall constitute a quorum for the transaction of business, unless herein otherwise specified. The other officers of the corporation shall be a recorder, treasurer, an assessor and collector, a clerk, a marshal, and a superintendent of streets, and such other officers and agents as the city council may, from time to time, direct. The above named officers (except the mayor and aldermen), shall be appointed by the mayor at the first annual meeting, or as soon thereafter as possible, and shall hold their offices for one year, and until the qualification of their successors.

SEC. 4. An election shall be held in each of the wards of said city

on the first Monday of April in each year, at such place as the city council may appoint, and of which ten days' previous notice shall be given by publication in one or more newspapers of said city; said election shall be ordered by the city council or mayor. For the purpose of holding said election, and others ordered, the city council shall appoint annually in April, or earlier, in each ward, some competent and suitable person, who shall be the presiding officer at all elections held in his ward. The presiding officer of each ward shall select two judges and two clerks, who, together with the presiding officer, shall be managers of elections. The presiding officers and judges must be qualified voters in their ward. The city council shall provide for their compensation, and by ordinance, regulate and define their powers and duties, and determine the hour of opening and closing the polls. The mayor, whenever an election is ordered, shall give the required notice, and issue to the presiding officer a writ of election; and every published notice of election shall state the officer or officers to be elected, the place where the election will be held, and the name of the officer presiding thereat. In case the officer so appointed is unable, fails, refuses or neglects to act, the mayor shall make another appointment; and in case no appointed presiding officer appears to open the polls, the qualified electors present may appoint such officer, who shall perform the same duties and shall have like power and authority to act as the first appointee; but in such case the managers, in their returns, or otherwise, shall certify that the presiding officer failed to attend, or neglected to act, and that the person acting as such was duly chosen by the electors present.

SEC. 5. At the annual election there shall be elected by the qualified voters of said city, voting by ballot, in their respective wards, a mayor, who shall hold his office for three years, from the date of his election, and until his successor shall be elected and qualified. At the first election held under this charter, there shall be elected by the same voters, voting in their respective wards, three aldermen from each ward of the city. At the first meeting of the said board of aldermen so elected, it shall proceed to divide, by lot, the three members from each ward into three classes, and those of the first class shall hold their offices for one year; those of the second class for two years, and those of the third class for three years, and until their respective successors are duly elected and qualified; so that thereafter there shall be elected at each annual election of mayor one alderman from each ward, who shall hold their offices for three years, and until their successors are elected and qualified. The person having the highest number of votes in the whole city for mayor shall be declared elected, and the person receiving the highest number of

votes cast in the wards respectively for aldermen shall be declared elected. If any alderman remove from the ward represented by him, his office shall thereby become vacant. In case the person elected mayor shall refuse to accept the office, the city council, mayor, or acting mayor, shall order another election; and in case of vacancy in the office of mayor by death, resignation, removal or otherwise, it shall be filled for the remainder of the term by a new election, to be ordered by the acting mayor or city council; and in case of a vacancy in the board of aldermen by a refusal to accept, or to qualify, or by death, resignation, removal or otherwise, the mayor, or acting mayor, or city council, shall order a new election in the ward or wards in which any such vacancy may occur, to fill the residue of the unexpired term; and all special elections shall be conducted in the same manner as is herein provided for the annual election; provided, that in special elections five days' notice thereof shall be deemed sufficient. Where two or three aldermen are to be elected in a ward, at any election, the candidate receiving the highest number of votes shall be declared elected for the longest term. The candidate receiving the next highest number of votes shall be declared elected for the next longest term; and the candidate receiving the next highest number of votes shall be declared elected for the shortest term.

SEC. 6. The manner of conducting and voting at elections to be held under this act, and contesting the same, the keeping of the poll lists, canvassing of the votes, and certifying the returns, shall be the same, as nearly as may be, as is now or may hereafter be provided by law, as at general State elections; provided, the city council shall have full power and authority to regulate elections, and to pass all ordinances in relation thereto, which they may deem proper and necessary, and to prescribe what action shall be had in the event of there being no annual election, or a failure to elect the officers, or any of them, for which any election was ordered. The voting shall be by ballot, and the presiding officer and managers shall take the same oath and shall have the same power and authority as managers of general State elections. After closing the polls, the ballots shall be counted in the manner required by law, and the returns, including the ballots, shall be returned, sealed, to the city clerk, within three days after the election; and within five days from any election, the city council shall meet and canvass the same, and declare the result of the election. It shall be the duty of the city clerk to notify all persons elected or appointed to office, of their election or appointment; and unless such persons shall respectively qualify within five days thereafter, the offices shall become vacant. The city council elect shall meet at the usual

place of meeting at 4 o'clock, p. m., on the second Wednesday after the first Monday of March, or as soon thereafter as possible, and be installed under the provisions of this act.

SEC. 7. That every person, not disqualified by law, who shall have attained the age of twenty-one years, and be entitled to vote for members of the Legislature of this State, and shall have resided within the limits of the said city for twelve months next preceding the election, and who shall have been an actual resident of the ward in which he votes, for ten days, shall be entitled to vote for Mayor and Aldermen of the said city; provided, nevertheless, that no person shall vote who has not been duly registered according to law.

SEC. 8. The managers of elections shall be sworn to well and truly conduct the election without partiality or prejudice, and agreeably to law, according to the best of their skill and understanding, which oath shall be administered by the Mayor or Recorder of the city, or any justice of the peace. The presiding officer and judges thus qualified, shall have power to administer all oaths necessary in the performance of their official duties. When any person offering to vote shall be objected to by any one qualified to vote at such election, the managers shall examine him upon oath, touching the points objected to, and if he fail establishing his qualification to their satisfaction, his vote shall be rejected; provided, the voter shall be deemed a resident of the ward in which he is accustomed to lodge.

SEC. 9. Whenever it so happens in any election that there is a tie between two or more candidates for the same office, all of whom cannot be elected, the city council or Mayor shall declare such election void, as between such candidates only, and immediately order a new election for that office, first giving not less than, five days' notice thereof.

SEC. 10. In the event of a failure to meet on the part of the city council to examine the election returns, and declare the result, the Mayor shall discharge that duty; and in case of failure or omission on the part of both the city council or Mayor to perform said duty, the managers shall make out duplicate returns of the said election, and having certified, sealed and enveloped the same, as before, shall transmit them to the Chief Justice of the county, who shall forthwith proceed to determine the election, and deliver certificates of the same, under his hand and official seal, to the persons elected, in the same manner as the city council or Mayor should have done.

SEC. 11. No person shall be eligible to the office of Mayor, Recorder, or alderman of said city, unless, in addition to his being qualified to be a voter therein, he own real estate within the limits of

said city to the value of three thousand dollars, (including the improvements,) free from incumbrance.

SEC. 12. A City Attorney shall be appointed by the Mayor, whose duty and salary shall be prescribed by ordinance.

TITLE III.

POWERS AND DUTIES OF OFFICERS.

SEC. 13. Every person elected by the voters of said city to fill any office, or by the city council under this declaration, shall, before he enters on the duties of his office, take and subscribe the official oath prescribed in the Constitution of this State, and the Constitution of the United States: and the city council may, by ordinance, require such additional oath to secure faithfulness in the performance of duties by such officers as they may deem proper.

SEC. 14. The Mayor of the city shall be taken and deemed to be ex-officio Chief of Police within said city, and as such he shall maintain peace and good order, and for that purpose shall have the same authority to call out the power of the county and the military, as is given or may be given by law to sheriffs of counties. He shall be the chief executive officer of said corporation, and shall be vigilant and active at all times in causing the laws and ordinances for the government of said city to be duly executed and put in force: to inspect the conduct of all subordinate officers in the government thereof, and as far as may be in his power to cause all negligence, carelessness and positive violations of duty, to be duly prosecuted and punished. He shall have power, whenever in his judgment the good of the city may require it, to summon meetings of the city council, and he shall from time to time communicate to that body all such information, and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, ornament, and good government of said city.

SEC. 15. That whenever the Mayor shall deem it necessary, in order to enforce the laws of the city, or to avert danger, or protect life or property in case of riot, or any outbreak or calamity, or public disturbance, or when he has reason to fear any serious violation of law or order, or any other danger to said city, or the inhabitants thereof, he shall summon into service, as a special police force, all, or as many of the citizens as in his judgment and discretion may be necessary and proper, and such summons may be by proclamation, or order addressed to the citizens generally, or those of any ward of

the city, or subdivision thereof, or such summons may be by personal notification. Such special police, while in service, shall be subject to the orders of the Mayor; shall perform such duties as he may require, and shall have the same power while on duty as the regular police of said city; and any person so summoned, and failing to obey, or appearing, and failing to perform any duty that may be required by this act, shall be fined in a sum not exceeding one hundred dollars.

SEC. 16. The Mayor shall preside over the meetings of the city council, but shall have no vote, unless there be a tie, in which case he shall give the casting vote. He shall have like power with a justice of the peace, to administer oaths of office, and also all other oaths and affirmations, and to give certificates thereof. He shall possess and execute, in the city, in criminal cases, all the powers and duties of a justice of the peace. He shall be compensated for his services by a salary to be fixed by the city council, payable at stated periods, and shall receive such fees as may be allowed by law. He shall have power to dismiss and discharge any member of the police, (except the City Marshal,) and to remove or suspend any officer holding an office created by any ordinance of the city, until the cause of such removal or suspension can be acted upon by the city council, and may fill, by appointment, any vacancy so occasioned. He shall have authority, in case of a riot, or any unlawful assembly, or to preserve peace and good order in said city, to order and enforce the closing of any theatre, ball-room, grog-shop, tippling-house, bar-room, or other place of resort or public room, or building, and may order the arrest of any person in his presence violating the laws of the State, or any ordinance of the city, and he shall perform such other duties, and possess and exercise such other power and authority, as may be prescribed and conferred by the city council.

SEC. 17. In case of a vacancy in the office of Mayor, or of his being unable to perform the duties of his office, by reason of temporary or continued absence, or sickness, the city council shall appoint, by ballot, by a majority of all the members present, one of their number, to preside over their meetings, whose official designation shall be acting mayor, and the alderman so appointed, shall be vested with all the powers and perform all the duties of mayor of the city, until the mayor shall resume the duties of his office, or the vacancy be filled by a new election.

SEC. 18. All ordinances and resolutions shall, before they take effect, be placed in the office of the city clerk; and if the mayor approve thereof, he shall sign the same, and such as he shall not sign, he shall return to the city council, with his objections thereto. Upon the return of any ordinance or resolution by the mayor, the

vote by which the same was passed shall be reconsidered; and if, after such reconsideration, two-thirds of all the aldermen elected agree to pass the same, it shall be in force; and if the mayor shall neglect to approve, or object to any such proceedings, for a longer period than three days after the same shall be placed in the clerk's office, as aforesaid, the same shall go into effect.

SEC. 19. That the recorder of said city shall be the chief judicial magistrate thereof, and as such shall hold a court within said city, by the name of the recorder's court of the city of Galveston, which said court shall have jurisdiction and cognizance of all misdemeanors, breaches of the peace, infractions of the ordinances, and all other causes arising under the laws of said city, and shall be deemed always open for the trial of said cases. The said court shall have full power, authority and jurisdiction, in all cases arising under the ordinances of said corporation, and for any breaches and violations thereof, and of any and all persons thus offending, and to try and determine all suits, actions and complaints, charging a violation of any ordinance of said city, and may grant new trials, on motion in writing showing sufficient cause and duly sworn to. The recorder may require of any person arrested under the provisions of this declaration, a bond for his or her good behavior, and to keep the peace, with two good and sufficient sureties, which bond shall be payable to the city of Galveston. He shall have full power and authority to issue subpoenas for witnesses, and to compel their attendance by process of attachment. He may punish all contempts by fine and imprisonment, or either; may issue subpoenas (writs of) *capias*, warrants of arrest, search warrants, executions, and all other process known to the law which a justice of the peace of this State may lawfully issue, and all of said writs and process shall be issued, served and executed, under the same forms and in the same manner as the like process would be when issued by a justice of the peace, unless herein otherwise provided. He shall also have full power and authority to administer official oaths, and all other oaths or affirmations, and give certificates thereof. The recorder shall be *ex officio* justice of the peace, and he shall possess and execute, in the city, in criminal cases, all the powers and duties of such officer, and shall have the same authority and like powers with justices of the peace in the prevention and suppression of crime; provided, that in no case shall he entertain jurisdiction in civil suits. The said recorder shall hold his office for one year, and until his successor is qualified. The city council may determine what costs shall be charged in proceedings in and for all process issued in said court, and shall allow the judge thereof for his services a salary, payable at stated periods; and the recorder shall perform such other duties

as may be prescribed by any ordinance of said corporation that may properly and lawfully be required of said officer as the judge of said court, and not inconsistent with the laws and constitution of this State.

SEC. 20. The city marshal shall, either in person or by deputy, attend upon the recorder's court while said court is in session, and shall promptly and faithfully execute all writs and process issued from said court. He shall also attend all general and special meetings of the city council. He shall be the chief police officer of the city under the mayor. He shall have like power with the sheriff of the county to execute the writ of search warrant. He shall be active in quelling riots, disorders and disturbances of the peace within the limits of said city, and shall take into custody all persons so offending against the peace of the community, and he shall have authority to take suitable and sufficient bail for the appearance before the recorder's court of any person charged with an offence against the ordinances or laws of the city. It shall be his duty to arrest all violators of the public peace, and all persons who shall obstruct or interfere with him in the execution of the duties of his office, or who shall be guilty of any disorderly conduct or disturbances whatsoever. To prevent a breach of the peace, or to preserve quiet and good order, he shall have authority to close any theatre, bar room, ball room, drinking house, or any other place or building of public resort; and in the prevention and suppression of crime, and arrest of offenders, he shall have, possess and execute like power, authority and jurisdiction as the sheriff of a county, under the laws of the State. He may appoint one or more deputies, who shall have the same powers and perform the same duties as the marshal. He shall receive a salary, to be fixed by the city council, and shall receive the same fees as the sheriff of the county does by law for like services. The city marshal shall give such bond for the faithful performance of his duties as the city council may require, and he shall perform such other duties and possess such other powers, rights and authority as the city council may by ordinance require and confer, not inconsistent with the Constitution and laws of this State.

SEC. 21. The powers and duties of the street commissioner, and the salary for his services, shall be prescribed by resolution or ordinance of the city council.

SEC. 22. That it shall be the duty of the city clerk to attend every meeting of the city council, and keep accurate minutes of the proceedings thereof in a book to be provided for the purpose, engross and enroll all laws, resolutions and ordinances of the said city council; to keep the corporate seal; to take charge of, preserve and keep

in order all the books, records, papers, documents and files of said city council; to countersign all commissions issued to the city officers and licenses issued by the mayor, and to keep a record or register thereof, and to make out all notices required under any regulation or ordinance of the city. He shall draw all warrants on the treasurer and countersign the same, and keep an accurate account thereof in a book to be provided for the purpose. He shall also be clerk of the recorder's court, and shall have custody of all books and papers belonging to said court. He shall make out all process and writs, and enter upon a docket all complaints for violations or infractions of city ordinances before the recorder, and his judgment or sentence therein. He shall have power and authority to administer all oaths and affirmations, and as clerk (of) said court shall be entitled to such fees as are allowed the clerk of the district court for like services. The city clerk shall be the general accountant of the corporation, and shall keep in books regular accounts of all receipts and disbursements for the city, and separately, under proper heads, each cause of receipt and disbursement, and also accounts with each person, including officers who have money transactions with the city, crediting amounts allowed by proper authority, and charging each with all warrants drawn in his favor, and specifying the particular transaction to which such entries apply. He shall also keep a register of bonds and bills issued by the city, and of all evidence of debt due and payable to it, noting the particulars thereof, and of all facts connected therewith as they occur. He shall carefully keep all contracts made by the city, and he shall do and perform all such other duties as may be required of him by any law, ordinance, resolution or order of the city council. He shall receive for his services an annual salary, payable at stated periods, and such additional fees as may be allowed by the city council.

SEC. 23. The treasurer for said city shall give bond in favor of the city of Galveston in such amount as may be required by the city council, and with sufficient securities, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon the order of the mayor, attested by the clerk; and the seal of said corporation. He shall keep regular and correct accounts of their real, personal and mixed property, and shall render a full and correct statement of his receipts and payments to the city council at their first regular meeting in every quarter, and whensoever at other times he may be required by them so to do; and at the end of every half year shall cause to be published, at the expense of the city, a statement showing the amount of receipts and expenditures for the six months next preceding, and the general condition of the treasury,

and shall do and perform such other acts and duties as the city council may require, and for his services shall receive such compensation as shall be fixed by the city council.

SEC. 24. That the assessor and collector of the city shall make up the assessments of all the property taxed by the city, and collect the taxes of every kind, except the license tax, as the same shall become due and payable; and in the event of non-payment of any taxes, shall proceed to sell property to raise the amount of taxes so due; and shall, in the performance of his duties, observe the provisions of this act and the ordinances of the city relating thereto, and the assessment and collection of taxes. He shall give bond in such amount as the city council may provide, with good and sufficient sureties, and the city council may require a new bond whenever, in their opinion, the existing bond is insufficient; and whenever such new bond is required, he shall perform no official act until said bond shall be given and approved. He shall, at the expiration of every month, pay to the treasurer all moneys by him collected, and shall report to the city council, at the first meeting of that body in every quarter, all moneys so collected and paid; and he shall perform all such other duties, and in such manner, and according to such rules and regulations as the city council may prescribe. He shall receive such fees and commissions for his services as may be allowed by this declaration and the ordinances of the city council.

SEC. 25 The city council shall have power, from time to time, to require further and other duties of all officers whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this act whose duties are not herein specifically mentioned, and fix their compensation. They may also require bonds to be given to the said corporation by all officers for the faithful performance of their duties. The city council shall provide for filling vacancies in all offices not herein provided for, and in all cases of vacancy the same shall be filled only for the unexpired term.

TITLE IV.

OF THE CITY COUNCIL—ITS GENERAL POWERS AND DUTIES.

SEC. 26. The mayor and aldermen shall constitute the city council of said city. The city council shall meet at such times and places as they shall by resolution direct. The mayor, when present, shall preside at all meetings of the city council, and shall have, in

all cases, a casting vote, except in elections. In his absence, any one of the aldermen may be appointed to preside.

SEC. 27. The city council shall hold stated meetings, and the mayor, of his own motion, or on the application of three aldermen, may call special meetings by notice to each of the members of said council, served personally or left at their usual place of abode. Petitions and remonstrances may be presented to the council in writing only, and the council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members, and have power to compel the attendance of absent members, and punish them for disorderly conduct, and with the concurrence of two-thirds of the members elected may expel a member.

SEC. 28. The city council shall have the management and control of the finances and all other property, real, personal and mixed, belonging to the corporation, and shall likewise have power within the jurisdiction of the city by ordinance.

1. To remove and prevent all obstructions in the bay and channel thereof within said city and the limits heretofore mentioned, and to improve and preserve the navigation thereof, and to erect, repair and regulate wharves, and to regulate the rates of wharfage: provided, the provisions of this clause relating to wharves shall apply only to property owned or controlled by the city.

2. To borrow money on the credit of the city, and issue the bonds of the city therefor; but no sum of money shall be borrowed at a higher rate of interest than the rate allowed by law. All bonds shall specify for what purpose they were issued, and shall not be invalid if sold for less than their par value.

3. To appropriate money, and to provide for the payment of the debts and expenses of the city.

4. To make regulations to prevent the introduction of contagious diseases into the city; to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

5. To collect harbor dues from all steamships, ships, vessels and other craft arriving within the harbor of Galveston from any port or place without the limits of this State, regulating the amount of said dues by the tonnage of said vessel, or otherwise, as they may determine.

6. To provide the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs in the streets or elsewhere within said city, or beyond the limits thereof, for the extinguishment of fires and the convenience of the inhabitants, and to prevent the unnecessary waste of water.

7. To have the exclusive control and power over the streets,

alleys and public grounds and highways of the city, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, extend, establish, regulate, grade, re-grade, clean or otherwise improve the same, to put drains and sewers therein, and to prevent the encumbering thereof in any manner, and to protect the same from any encroachment or injury; provided, that when the owners of all the lots in a block shall so desire and agree to the same in writing, they shall have the right and power to close the alley belonging to such block against public use, but shall gain only the exclusive right of user, and no right of property to such alley; and the same may be opened to public use whenever any lot owner in a block not bound by any previous unexpired agreement, shall so desire; and when the entire block is owned by a single individual or corporation, such individual or corporation may close the alley and keep the same closed so long as he or they may be the owner of the entire block.

8. To establish, erect, construct, regulate, and keep in repair bridges, culverts and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate and punish any obstructions or encroachments thereon.

9. To provide for lighting the streets and erecting lamp-posts and lamps therein, and regulate the lighting thereof, and from time to time create, alter or extend lamp districts; to exclusively regulate, direct and control the laying and repairing the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

10. To establish and erect markets and market houses, designate, control and regulate market places and privileges, prohibit and punish the opening or establishment of private markets, and inspect and determine the mode of inspection of meat, fish, vegetables and all produce, and every article and thing therein brought for sale, and to require the hides and skins of all animals slaughtered for sale thereat, to be brought to said market or market place, or such other place as to be directed by the mayor or city council, that the marks and brands thereof may be examined by the city marshal or other officer appointed for that purpose.

11. To provide for the inclosing, regulating and improving all public grounds and cemeteries belonging to the city, and to direct and regulate the planting and preserving of ornamental and shade trees in the streets, sidewalks or public grounds.

12. To erect and establish one or more hospitals, and control and regulate the same, regulate or prohibit and punish the establishment of private hospitals.

13. To regulate the carrying of weapons, and prevent the carrying of the same concealed.

14. To prevent the encumbering of the streets, alleys, sidewalks and public grounds with carriages, wagons, carts, hacks, buggies or any vehicle whatever, boxes, lumber, timber, fire wood, posts, awnings, signs or any other substance or material whatever, or in any other manner whatever; to compel all persons to keep all weeds, filth, and any kind of rubbish from the sidewalks and streets, gutters in front of the premises occupied by them, to require and compel the owners of property to fill up, grade, shell and otherwise improve the sidewalks in front of and adjoining their property.

15. To license, tax and regulate merchants, commission merchants, hotel and inn keepers, drinking houses or saloons, bar rooms, beer saloons, and all places or establishments where intoxicating or fermented liquors are sold, brokers, money brokers, real estate agents, insurance brokers, insurance agents and auctioneers. To license, tax and regulate, suppress and prohibit hawkers, peddlers, pawnbrokers and keepers of theatrical or other exhibitions, shows and amusements.

16. To license, tax, regulate or prohibit theatres, circuses, the exhibitions of common showmen, and of shows of every kind, and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions and performances.

17. To license, tax and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters and all others pursuing like occupations with or without vehicles, and prescribe their compensation, and provide for their protection, and make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for steamboats, railroads, stages and public houses.

18. To license, tax and regulate billiard tables, pin alleys, ball alleys, to suppress and restrain disorderly houses, tippling shops and groceries, bawdy houses, houses of prostitution or assignation, gambling and gambling houses, lotteries and all fraudulent devices and practices.

19. To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees and charges to be paid therefor. No license shall be issued for a longer period than one year, and shall not be assignable except by permission of the city council, and no more than one hundred dollars shall be charged for any license under this act, except circuses, menageries and public showmen, in which cases the amount of license shall be established by the city council.

20. To restrain, regulate and prohibit the selling or giving away of any intoxicating or malt liquors by any person within the city except by persons duly licensed; to forbid and punish the selling or

giving away of any intoxicating or malt liquors to any minor, apprentice, servant or habitual drunkard.

21. To prevent, restrain and punish engrossing, forestalling, and regrating. To regulate the inspection and vending of fresh meats, poultry, fish, vegetables, butter, lard and other provisions; and the place and manner of selling fish and inspecting the same.

22. To make such rules and regulations in relation to butchers as they may deem necessary and proper.

23. To establish standard weights and measures to be used within the city in all cases not otherwise provided for by law. To require all traders and dealers in merchandise or property of any description, which is sold by weight or measure, to cause their measures and weights to be tested and sealed by the city sealer, and be subject to his inspection. The standard of such weights and measures shall be conformable to those established by law.

24. To regulate and provide for the inspection and measuring of lumber, shingles, timber, posts, and all kinds of building materials; and for measuring all kinds of mechanical work, and to appoint one or more inspectors or measurers thereof. Exclusively to provide for the inspection and weighing of hay, lime, stone coal, and the manner and places of selling the same. To regulate the measurement of firewood, charcoal, and other fuel to be used or sold within the city, and the place and manner of selling the same.

25. To regulate the inspection of beef, pork, flour, meal, salt, and other provisions; whiskey and other liquors to be sold in barrels, hogsheads and other vessels or packages; to appoint weighers, gaugers and inspectors, and prescribe their duties and regulate their fees.

26. To regulate the weight and quality of bread to be sold or used within the city.

27. To create, establish and regulate the police of the city; to appoint watchmen and policemen, and prescribe their duties and powers, giving to the Mayor the right of nomination of said watchmen and policemen.

28. To prevent and suppress any riot, rout, affray, noise, disturbance or disorderly assembly, in any public or private place within the city.

29. To prevent, prohibit and suppress horse racing, immoderate riding or driving in the streets; to prohibit and punish the abuse of animals; to compel persons to fasten their horses or other animals, attached to vehicles or otherwise, while standing or remaining in the streets.

30. To restrain and punish vagrants, mendicants, street beggars and prostitutes.

31. To establish and regulate public pounds, and to regulate the running at large of horses, mules, cattle and sheep; to regulate, restrain and prohibit the running at large of swine, goats and geese, and to authorize the distraining, impounding and sale of the same for costs of the proceeding and the penalty incurred, and to impose penalties on the owners thereof for a violation of any ordinance in relation thereto.

32. To tax, regulate, restrain and prohibit the running at large of dogs, and to authorize their destruction when at large, contrary to ordinance, and to impose penalties on the owners or keepers thereof.

33. To prohibit and restrain the rolling of hoops, flying of kites, firing of fire-crackers, or use of any pyrotechnic, or any other amusement or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns or bugles, crying of goods, and all other noises, practices and performances tending to the collecting of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.

34. To abate all nuisances which may injure or affect the public health or comfort, in any manner they may deem expedient.

35. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

36. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment, or blacksmith shop, tannery, stable, slaughter house, distillery, brewery, sewer, privy, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

37. To direct the location and regulate the management and construction of breweries, tanneries, blacksmith shops, foundries, livery stables, and any manufacturing establishment; to direct the location and regulate the management and construction of, and restrain, abate and prohibit, within the city, slaughtering establishments and hide houses, or establishments for keeping or curing hides, establishments for making soap, for steaming or rendering lard, tallow, offal, and such other substances as may be rendered, and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

38. To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of

births and deaths; to direct the returning and keeping of bills of mortality, and impose penalties on physicians, sextons and others for any default in the premises.

39. To regulate and determine the times and places of bathing and swimming in the waters within said city, and to prevent any obscene or indecent exhibition, exposure or conduct.

40. To abate and remove nuisances, and punish the authors thereof by penalties, fine and imprisonment, and to define and declare what shall be nuisances, and authorize and direct the summary abatement thereof.

41. To erect and establish one or more work-houses or houses of correction, make all necessary rules and regulations therefor, and appoint all necessary keepers or assistants. In such work-house or house of correction, may be confined all vagrants, stragglers, idle, suspicious and disorderly persons, who may be committed thereto by the mayor or recorder; and any person who shall fail or neglect to pay the fine, penalty or costs imposed for any misdemeanor or breach of any ordinance of the city, may, instead of being committed to jail, be kept therein, subject to labor and confinement.

42. To compel and force all offenders against any ordinance of the city, found guilty by the recorder, and sentenced to fine and imprisonment, to labor on the streets and alleys of said city, or on any public work, under such regulations as may by ordinance be established.

43. To prevent all boxing matches, sparring exhibitions, cock and dog fighting, and punish all persons thus offending.

44. To prevent all trespasses, breaches of the peace and good order, assaults, assaults and batteries, fighting, quarrelling, using abusive and insulting language, misdemeanors, and all disorderly conduct, and punish all persons thus offending.

45. To prevent and punish the keeping of houses of prostitution within the city, or within such limits therein as may by ordinance be defined, and to adopt summary measures for the removal or suppression of all such establishments.

46. To require the owner, agent, or occupant of any ground, lots, yards, private drains, sinks and privies, to fill up, cleanse, drain, alter, relay, repair, fix and improve the same, as may be ordered by the mayor, or any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, the party so failing shall be liable to fine and imprisonment. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvement made on account of the owner thereof, and all costs, charges and expenses shall be a lien on the property, on

the filing of a memorandum thereof by the mayor, under the seal of the corporation, and recording the same with the clerk of the county court, and the city may enforce said lien, and institute suit in the corporate name, and obtain judgment against said party for the amount so due as aforesaid, in any court having jurisdiction.

47. To direct and control the laying and construction of railroad tracks, turn-outs and switches, or prohibit the same in the streets, avenues and alleys, and the location of depot grounds within the city, to require that railroad tracks, turn-outs and switches shall be so constructed and laid as to interfere as little as possible with the ordinary travel and use of the streets, avenues and alleys, and that sufficient space shall be left on either side of said tracks for the safe and convenient passage of teams, carriages and other vehicles and persons. To require railroad companies to keep in repair the streets, avenues or alleys through which their track may run, and if ordered by the city council to light the same and to construct and keep in repair suitable crossings at the intersection of streets, avenues and alleys and ditches, sewers and culverts, when the city council shall deem necessary. To direct the use and regulate the speed of locomotive engines within said city, or prevent and prohibit the use or running of the same within the city.

48. Exclusively to prevent, control and regulate everything connected with city railroads, and to make such rules and regulations for the same as the city council may deem necessary.

49. To preserve the harbor, dredge out, widen and deepen the channel of said harbor, and prevent any use of the same, or any act in relation thereto inconsistent with the public health, or calculated to render the waters of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same, to prevent and punish the casting, throwing or depositing therein any earth, stone, shell or other substance, filth, logs or floating matter, to prevent and remove all obstructions therein, and to punish the authors thereof; to prevent, prohibit and punish the erection of wharves in the channel, or their extension therein, to regulate and prescribe the mode and speed of entering and leaving the harbor, and of coming to and departing from the wharves by steamboats and other crafts and vessels, and the disposition of the sails, yards, anchors and appurtenances thereof while entering leaving or abiding in the harbor, and to regulate and prescribe by such ordinances such a location of every steamboat, steamship, or other craft, ship, vessel, barge, boat or float, and such changes of station and use of the harbor as may be necessary to promote order therein, and the safety and equal convenience as near as may be, of all such steamboats, steamships, other craft, ship, vessel, barge, boat

or float, and may impose penalties and imprisonment for any offense against such ordinance, and may appoint one or more harbor masters to carry out the powers herein granted, and to report to the recorder any violations of such ordinances.

50. To license and regulate ferries.

51. To prevent any person from bringing, depositing or having within the limits of said city, any dead carcass or any other offensive or unwholesome substance or matter, and to require the removal or destruction by any person who shall have placed or caused to be placed upon or near his premises, or elsewhere, any such substances or matter, filth or any putrid or unsound beef, pork or fish, hides or skins of any kind, and on his default, to authorize the removal or destruction thereof by some officer of the city, and to require the owner of any dead animal to remove the same to such place as may be designated.

52. To prevent, regulate and control the driving of cattle, horses and all other animals into or through the city.

53. The city council shall have power to pass, publish, amend and repeal all ordinances, rules and police regulations not contrary to the Constitution of this State, for the good government, peace and order of the city and the trade and commerce thereof that may be necessary or proper to carry into effect the powers vested by this act in the corporation, the city government or any department or officer thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof by fines, penalties and imprisonment in the city prison, work-house or house of correction, or both, in the discretion of the court before whom conviction may be had; but no fine or penalty shall exceed two hundred dollars, nor the imprisonment more than three months for any offense unless a larger fine and longer period of imprisonment is herein allowed, and for any fine, penalty and costs imposed by the Recorder in the trial of any cause or complaint before him, execution may issue to collect such fine and costs, to be levied and executed in the same manner that executions are from the District Court. The same shall be issued by the city clerk under the corporate seal to the city marshal, who in levying on property and selling shall have like power and authority as the sheriff of the county in executions issued from the District Court. And the laws of the State so far as applicable shall apply to and be in full force and effect as to executions issued from the Recorder's court, and the city marshal in executing the same; any person upon whom any fine or penalty is imposed may be committed until the payment of the same with costs, and in default thereof may be imprisoned in the city prison or work-house, or house of correction, or be required

to labor on the streets or other public work of the city for such time and in such manner as may be provided by ordinance; provided, such imprisonment shall not exceed three months, unless a longer period is herein allowed.

TITLE V.

OF TAXATION.

SEC. 29. The city council shall have power within the city by ordinance to annually levy and collect taxes not exceeding two per cent. on the assessed value of all real and personal estate and property in the city, made taxable by the laws of the State; provided, that the city council shall have authority to levy a special tax for public improvements.

SEC. 30. To annually levy and collect a poll tax (not to exceed one dollar) of every male inhabitant of said city who has resided therein six months previous to the assessment of said tax.

SEC. 31. To annually assess, levy and collect an income tax of one per cent. except in such amount as may be by this act or some ordinance of the city exempt.

SEC. 32. That the city council shall have power to levy and collect taxes commonly known as licenses upon trades, professions, callings and other business carried on, and upon carriages, hacks, coaches, buggies, drays, carts, wagons and other vehicles used in said city, and whether the same are for public or private use. That each and every person and firm engaged in the following trades, professions, callings and business among others shall be liable to pay such license tax, but this enumeration shall not be construed to deprive the city council of the right and power to levy and collect other license taxes and from other persons and firms under the general authority herein granted.

Every merchant in said city and every person and firm engaged in selling goods, wares or merchandise; every person and firm selling liquors in quantities over a quart; every person or firm keeping a grog shop, tippling house, bar-room or drinking saloon; every person or firm keeping a place where spirituous liquors, wines, cordials or beer is sold in quantities less than one quart; every person or firm keeping a billiard table, ball alley or nine or ten pin alley or any similar game; every person or firm keeping a tavern, hotel or boarding house; every person or firm keeping a restaurant, eating-house, oyster shop, oyster saloon, or place of any description where eatables or refreshments are furnished; every person or firm keep-

ing a livery stable or stables; every person or firm selling goods, wares or merchandise at public auction; every person or firm pursuing the occupation of a real estate broker or agent, merchandise or cotton broker, commission merchant or any commission business; every person or firm pursuing the occupation of hawker or peddler of goods or any articles whatever; every person or firm keeping a brewery, beer shop or distillery; every person or firm keeping any storage warehouse, or engaged in compressing or repressing cotton, or keeping an intelligence office; each and every insurance company shall also be liable to pay said city such license tax, and each and every insurance agent, each insurance company, not chartered in this State, but doing business, and having an agent in said city, shall likewise be subject to said license tax, and such agent shall be held responsible therefor, and for each association, corporation or company for which he is an agent. That each and every person or firm selling goods, wares or merchandise within said city by the sample card, or other specimen, or by a written, printed or trade list or catalogue shall also be subject to and pay said license tax; provided, this last provision shall not apply to merchants doing business within said city, and duly licensed; that each and every person or firm keeping a lumber, wood or coal yard, or any place for the sale of the articles aforesaid, or building materials, shall be subject to said license tax, and all other persons from whom the city council may require said tax under the authority in this act granted; provided, nothing herein contained, shall in any wise prevent or restrain the city council from collecting the license, and any license tax hereinbefore provided for by this act. Each establishment shall be liable to said license tax; and any person or firm pursuing different occupations, business, avocations, or callings subject to said tax shall pay on each, and no license shall extend to more than one establishment, or include more than one occupation, avocation, business or calling.

SEC. 33. The city council shall have power to provide by ordinance, for the assessing and collecting of the taxes aforesaid and determine when taxes shall be paid by corporations, and when by the individual corporators; provided, no tax shall be levied unless by consent of two-thirds of the aldermen elected.

SEC. 34. The license tax shall be collected by the city marshal, and shall be paid to that officer by each and every person or firm owing such license, and before engaging in any trade, profession, business, calling, avocation or occupation subject to said tax; that if any person shall engage in any business, calling, avocation or occupation which by an ordinance of said city is subject to a license tax, without first having obtained said license he, she, or they shall be liable to a fine and imprisonment, and for each day such violation of

said ordinance may continue, and this section shall apply to all persons owing any license, and failing to pay the same; said taxes commonly known as licenses laid as herein provided, shall not be construed to be a tax on property within the meaning of section twenty-eight or any other section of this declaration.

SEC. 35. That the term real estate or property as used in this act shall be construed to include lots, lands and all public buildings or machinery and structures of every kind erected upon or affixed to the same.

SEC. 36. That the term personal estate or property as used in this act, shall be construed to include all household furniture, moneys, goods, capital, chattels, all ships, steamboats and vessels, whether at home or abroad, debts due from solvent debtors, whether on account, contract, note, bond, mortgage, certificate or any other obligation, public stocks, and stocks in corporations moneyed or otherwise, and generally all property which is not real.

SEC. 37. That the term income as used in this act shall be construed to include and be confined to all moneys, salaries, wages, pay, commission, brokerage and fees received in compensation for services or labor rendered, and all revenues and dividends received upon stocks in moneyed corporations not taxable under this act.

SEC. 38. That all property exempt from taxation under the laws of the State shall be exempt from taxes imposed or authorized by this act, and income to the amount of one thousand dollars shall likewise be exempt from taxation, and the city council may by ordinance provide for the exemption from taxation of such other property as they may deem just and proper; provided, nothing contained under this title of taxation shall be construed to prevent the city council from imposing, levying and collecting special taxes, and assessments for the improvement of avenues, streets and alleys as hereinafter provided.

TITLE VI.

COLLECTION OF TAXES.

SEC. 39. That the city council may and shall have full power to provide by ordinance for the prompt collection of all taxes assessed, levied and imposed by this act, or hereby authorized and due, or becoming due to the said city, and to that end may and shall have full power and authority to sell real as well as personal property, and may and shall make all such rules and regulations, and ordain and pass all such ordinances as they may deem necessary in

the levying, laying, imposing, assessing and collecting of any of the taxes herein provided for.

SEC. 40. The city council shall have power by ordinance to regulate the mode and manner of making out tax lists or inventories and the appraisement of property therein, and to prescribe the form of oath that shall be administered to each person on such rendition of property, and to prescribe how and when property shall thus be rendered, and to prescribe the number and form of assessment rolls, and fix the duties and define the powers of the assessor and collector, and adopt such measures as they may deem advisable to secure the assessment of all property within the limits of said city, and collect the tax thereupon, and may by ordinance provide that any person, firm or corporation having property subject to taxation, or being liable for any tax under the provisions of this act, and neglecting to render a list, inventory and appraisement thereof, as required by any ordinance of said city, shall be liable to fine and imprisonment.

SEC. 41. All merchants and other persons selling goods, wares and merchandise shall, at the expiration of every three months, or oftener if required by the city council, make out and deliver to the assessor and collector, under oath, a full and complete list, statement or invoice of all goods, wares and merchandise bought, purchased or received for sale up to the time of making out such list, statement or invoice, and not theretofore given in; and all auctioneers, commission merchants, real estate, produce and other brokers and agents, shall likewise, every three months, or oftener if required by the city council, give in to the said officer a full and correct account of all purchases, consignments and sales of goods, wares and merchandise, and every description of property whatsoever: and any person failing or refusing to comply with the provisions of this section shall be liable to fine and imprisonment, and the city council shall by ordinance clearly define the duties of tax-payers herein, and make all necessary rules and regulations to secure the rendition of property, and the collection of the taxes due thereon.

SEC. 42. That it shall be the duty of the city council annually, at such time as they may determine, to appoint three commissioners, each being a qualified voter, and the owner of real estate in said city to the value of three thousand dollars, who shall be styled the Board of Appraisement; and whenever the party rendering property for assessment and the assessor and collector cannot agree on the valuation of such property, it shall be referred to the said board, and their action in appraising the same shall be final. Said board shall also appraise all property assessed as unknown or unrendered. The city council shall allow said board such compensation for their services as they

may consider just and reasonable. No person connected with the city government shall be appointed on said board, and any vacancy may be filled by the mayor.

SEC. 43. It shall be the duty of the assessor and collector to make out a list of all personal property which has not been given in for assessment according to the provisions of this act, and assess the same in the name of the owner if he be known, and if not, then it shall be assessed by description of the property, owner unknown; and the value of all such property shall be determined by the Board of Appraisement, and the same may be sold as in other cases, if the tax be not paid in the time prescribed by law.

SEC. 44. It shall be the duty of the assessor and collector, at the expiration of the time fixed by ordinance for the rendition of property, to ascertain what property in the city subject to taxation has not been given in, and a list of all such property as is subject to taxation, shall be by him presented to the Board of Appraisement for valuation by said officer and said board, and then shall by him be entered in a supplement to the assessment roll as unknown, specifying the year for which said tax is due, and the amount thereof; and if said tax is not paid within the time prescribed by law, said property shall be sold at the same time, and with like effect as other property; and on each piece of property so assessed as unknown, the assessor and collector shall be entitled to charge a fee of fifty cents.

SEC. 45. Whenever the assessor and collector shall ascertain that any taxable inhabitant's real or personal property has not been assessed for any past year, he shall assess the same in his next assessment roll (in a supplement thereto), at the same rate under which such inhabitant and property should have been assessed for such year, stating the year for which such inhabitant or property should have been assessed, and the taxes thereon shall be collected in the same manner as other assessments. In all cases where any party has omitted to render property for taxation for any former year or years, and such taxes have not been paid, such party shall give such property in for assessment for the years thus omitted, and pay said taxes, and the assessor and collector shall enter all such property in a supplement to his next assessment roll under head of payments for former years.

SEC. 46. The assessor and collector, after the completion of his assessment rolls, as required by ordinance, shall proceed to collect the taxes therein mentioned within the time, and give such notice as may be prescribed by the city council, and for that purpose shall call once upon every person taxed, or on the agent or attorney of such person at the usual place of his or her residence, office, place of business or elsewhere, and demand the payment of the taxes charged

upon his or her person or property, if the property is to be found; and if not, then a written demand specifying the amount of taxes due, left at the residence with some member of the family over fourteen years of age, shall be sufficient demand; provided, that if any person thus owing taxes has no residence, office or place of business, and no agent in the city, nor none known to the assessor and collector, then said demand shall not be necessary, and the ordinary published notice required by ordinance shall be sufficient.

SEC. 47. That if any person shall fail, neglect or refuse to pay the taxes imposed upon him and his property within the time prescribed by the ordinances of said city, the assessor and collector shall, by virtue of his tax lists and assessment roll, levy upon so much property liable to taxation belonging to such person as may be sufficient to pay his, her or their taxes; and the assessor and collector shall give notice of the time and place of sale by advertisement in writing, giving the name of the party (if not unknown property), the property and the amount of taxes, costs and fees due thereupon. Five of such notices shall be posted, one at the court-house door, one at the mayor's office, one at the office of the assessor and collector, and two at different public places within said city limits, and at the expiration of such notice and on the day therein specified the assessor and collector shall proceed to sell said property at public auction, in front of the court house door of the county of Galveston, or such building as may be used for that purpose; provided, that when real estate or property is offered for sale the smallest portion of grounds (to be taken from the east side of the premises), shall be sold, for which any person will take the same and pay the taxes, costs and fees.

SEC. 48. The assessor and collector shall, when any property has been sold for the payment of taxes, make, execute and deliver a deed for said property to the person or persons purchasing the same, and such deed shall be *prima facie* evidence in all controversies and suits in relation to the right of the purchaser, his, her or their heirs or assigns, to the premises thereby conveyed, of the following facts:

1. That the land or lot, or portion thereof conveyed, was subject to taxation or assessment at the time the same was advertised for sale, and had been listed or assessed in the time or manner required by law.

2. That the taxes or assessments were not paid at any time before the sale.

3. That the land, lot or portion thereof conveyed had not been redeemed from the sale at the date of the deed, and shall be conclusive evidence of the following facts:

1. That the land, lot or portion thereof sold was advertised for sale in the manner and for the length of time required by law.

2. That the property was sold for taxes or assessments as stated in the deed.

3. That the grantee in the deed was the purchaser.

4. That the sale was conducted in the manner required by law, and in all controversies and suits involving the title to land claimed and held under and by virtue of such deed, the person or persons claiming title adverse to the title conveyed by such deed, shall be required to prove, in order to defeat the said title, either that the land was not subject to taxation at the date of the sale; that the taxes or assessments had been paid; that the land had never been listed and assessed for taxation or assessment as required by this act or some ordinance of the city, or that the same had been redeemed according to the provisions of this act, and that such redemption was made for the use and benefit of the persons having the right of redemption under the law; but no person shall be permitted to question the title acquired by the said deed without first showing that he, she or they, or the person under whom he, she or they claim title, had title to the land at the time of the sale, or that the title was obtained after the sale, and that all taxes due upon the lands have been paid by such persons or the person under whom he claims title as aforesaid; provided, however, that the owner of such property shall have the right to redeem the same at any time within two years of the day and date of sale thereof, upon paying to the purchaser, or assessor and collector selling the same, or his successor in office, double the amount of taxes for which the same was sold, together with the costs of such sale and double the amount of all taxes paid by the purchaser since such sale. The assessor and collector shall be entitled to charge the following fees: For each levy, one dollar; advertising, one dollar; on each piece of property, for a deed two dollars; for certificate of redemption, one dollar.

The assessor and collector shall have full power to levy upon any personal property to satisfy any tax imposed by this act. All taxes shall be a lien upon the property upon which they are assessed. And in case any property levied upon is about to be removed out of the city, the assessor and collector shall proceed to take into his possession so much thereof as will pay the taxes assessed and costs of collection.

SEC. 49. If from any cause the sale of property levied upon or seized for taxes should not take place at the time first appointed, the assessor and collector shall appoint some other time, give the like notice and proceed to sell such property in the manner prescribed in

the first instance; and in case said property levied upon or seized for taxes cannot be sold on the day advertised, such sale may be postponed from day to day until completed, of which postponement the assessor and collector shall give verbal notice at the expiration of sale each day.

SEC. 50. If at any sale of real or personal property or estate for taxes no bid shall be made for any parcel of land or any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive in the corporate name a deed for said property, and shall be vested with the same rights as other purchasers at such sales, and shall have power to sell and convey the same.

SEC. 51. If the real estate of any infant *feme covert* or lunatic be sold under this act, the same may be redeemed at any time within one year after such disability be removed.

TITLE VII.

FIRE DEPARTMENT.

SEC. 52. The city council, for the purpose of guarding against the calamities of fire, shall prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits within said city as they may designate and prescribe; and shall also, within said limits, prohibit the moving or putting up of any wooden building from without said limits; and shall also prohibit the removal of any wooden building from one place to another within said limits, and shall direct, require and prescribe that all buildings within the limits so designated and prescribed as aforesaid, shall be made or constructed of fireproof materials; and to prohibit the rebuilding or repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage; to declare all dilapidated buildings to be nuisances, and to direct the same to be repaired, removed or abated, in such manner as they shall prescribe and direct; to declare all wooden buildings within the fire limits which they may deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and to require and cause the same to be removed or abated, in such manner as they shall prescribe.

SEC. 53. The city council shall have power,

1. To prevent and prohibit the dangerous construction and condition of chimneys, flues, fire-places, stove-pipes, ovens, or any other apparatus used in or about any building or manufactory, and

to cause the same to be removed or placed in a secure and safe condition when considered dangerous.

2. To prevent the deposit of ashes in unsafe places, and to appoint one or more officers to enter into all buildings and inclosures to examine and discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in safe condition.

3. To require the inhabitants to keep and provide as many fire-buckets, and in such manner and time as they shall prescribe, and to regulate the use thereof in times of fire, and to require all owners and occupants of buildings to construct and keep in repair wells or cisterns upon their premises.

4. To regulate and prevent the carrying on of manufactories and works dangerous in promoting or causing fires; to prohibit or regulate the building and erection of cotton presses or sheds.

5. To regulate, prevent and prohibit the use of fire-works and fire-arms.

6. To direct, control and prohibit the keeping and management of houses or any building for the storing of gunpowder and other combustible, explosive and dangerous materials, within the city; to regulate the keeping and conveying of the same, and the use of candles and other lights in stables and other like houses.

7. To regulate and prescribe the manner, and order the building of parapet and partition walls and partition fences.

8. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs, and stairs or ladders leading to the same.

9. To authorize the mayor, fire wardens, officers of fire companies, or any officers of said city, to keep away from the vicinity of any fire all idle, disorderly and suspicious persons, and arrest and imprison the same, and to compel all officers of the city, and all other persons, to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and in preventing goods from being stolen.

10. And generally to establish such regulations for the prevention and extinguishment of fires as the city council may deem expedient.

SEC. 54. The city council shall procure fire engines and other apparatus for the extinguishment of fires, and have control thereof, and provide engine houses and other places for keeping and preserving the same; and shall have power to organize fire hook and ladder, hose and axe companies, and a fire brigade; and the companies so organized, with such assistant engineers as may be provided for, and the chief engineer, shall constitute the fire department of said city. Each company shall have the right to elect its own members and officers. The engineers shall be chosen in such manner as said de-

partment may determine, subject to the approval of the city council, who shall define the duties of said officers, and pass such ordinance as they may deem proper for the interest and welfare of said department, and may contribute to the efficiency thereof. All officers so elected and approved shall be commissioned by the mayor; and the said companies, officers and members shall observe and be governed by the ordinances of said city relating to said fire department. Said companies shall have power to adopt their own constitution and by-laws, not inconsistent with the provisions of this act and the ordinances of said city; and said department shall take the care and management of the engines and other apparatus and implements provided and used for the extinguishment of fires; and their powers and duties shall be prescribed and defined by the city council.

SEC. 55. When any building in the city is on fire, it shall be lawful for the chief or acting chief engineer, with the concurrence of the Mayor, to direct such building, or any other buildings which they may deem hazardous and likely to take fire and communicate to other buildings, to be torn down, or blown up, or destroyed, and no action shall be maintained against any person or against the city therefor; but any person interested in any such building so destroyed or injured may, within three months, and not thereafter, apply in writing to the city council to assess and pay the damages he has sustained; and if the city council and the claimant cannot agree on the terms of adjustment, then the application of such claimant shall be referred to three commissioners, one to be appointed by the claimant, one by the city council, and the third by both. They shall be sworn faithfully to execute their duty according to the best of their ability; shall have power to subpoena and swear witnesses, and shall give all parties a fair and impartial hearing, and give notice of time and place of meeting. Said commissioners shall be qualified voters and owners of real estate in the city; shall take into account the probability whether the said building would have been destroyed or injured by fire if it had not been so pulled down or destroyed, and may report that no damages should equitably be allowed to such claimant. Whenever a report shall be made, and finally confirmed, for the appraising said damages, a compliance with the terms thereof by the city council shall be deemed a full satisfaction of said damages.

SEC. 56. Every person actively serving as a fireman, or who shall have so served as a fireman in the city for a continuous term of seven years, shall be exempted from serving as a juror in any court, and from all militia duty, except in cases of insurrection or invasion. A certificate of the mayor, under the city seal, shall be evidence of such exemption. The engineer and assistant engineers, and members of the hook and ladder, hose and axe companies, fire brigade and fire

wardens, shall be deemed firemen of this city, within the meaning of this section.

SEC. 57. All fines or penalties imposed and collected for a violation of the laws and ordinances of the city for preventing and extinguishing fires, shall be paid to the treasurer of the Firemen's Relief Association, for the use and benefit of said association.

TITLE VIII.

OF SANITARY REGULATIONS.

SEC. 58. The city council shall annually appoint, by ballot, three health commissioners, who, together with the mayor as president thereof, shall constitute the board of health of the city. The mayor shall also appoint a health physician, who shall exercise the functions and perform the duties of quarantine physician, and as many health inspectors as he may deem necessary, and the council shall provide, by ordinance, the powers and duties of the board and its members, and of the physician and inspectors.

SEC. 59. The city clerk shall be the clerk of the board of health, and shall keep a record of its proceedings.

SEC. 60. The board shall designate a place to be called the "office of the board of health," at which office the president, or, in case of his inability to attend, one other member shall attend daily, from the first day of July to the first day of December in each year, if deemed necessary by the board.

SEC. 61. The city council shall have power to take such measures as they shall deem effectual to prevent the entrance of any pestilential, contagious or infectious disease into the city; to stop, detain and examine, for that purpose, any person coming from any place infected or believed to be infected with such disease; to establish, maintain and regulate pest houses or hospitals at some place within the city, or not exceeding five miles beyond its bounds; to cause any person who shall be suspected of being infected with any such disease, and who is not a resident of the city, to be sent to such pest house or hospital; to remove from the city or destroy any furniture, wearing apparel or property of any kind which shall be suspected of being tainted or infected with pestilence, or which shall be likely to pass into such a state as to generate or propagate disease; to abate all nuisances of every description which are or may become injurious to the public health in any manner that they may deem expedient, and, from time to time, do all acts, make all regulations, and pass

all ordinances which they shall deem necessary or expedient for the preservation of health and the suppression of disease in the city.

SEC. 62. The captain, master or person in charge of any boat, steamboat, steamship, or other craft or vessel, which shall enter the city, having on board thereof any person sick of any malignant fever or other pestilential, contagious or infectious disease, shall be guilty of a misdemeanor, punishable by fine or imprisonment, or both, unless the person so diseased became so on the way, and could not be left. It shall be the duty of such captain, master or person in charge, within three hours after his arrival, to report in writing to the president or clerk of the board of health the fact of such sick person being on board, and the name, description and location of his craft; and he shall not permit such sick person to land or to be landed, or to communicate with the shore in any way until the board of health shall give permission for that purpose; and any neglect or violation of these provisions, or any or either of them, shall be a misdemeanor, punishable with fine and imprisonment, or either.

SEC. 63. The owner, driver, conductor, or person in charge of any stage, railroad car, or other public conveyance, which shall enter the city having on board any person sick of a malignant fever, or pestilential, contagious or infectious disease, unless such person became so sick on the way, and could not be left, shall be deemed guilty of a misdemeanor, punishable with fine and imprisonment, or either. Such owner, driver, conductor, or person in charge, shall, within three hours after the arrival of such sick person, report in writing the fact, with the name of such person and the house or place where he was put down in this city, to the president or clerk of the board of health; and every neglect to comply with these provisions shall be a misdemeanor, punishable by fine and imprisonment, or either.

SEC. 64. Any person who shall bring, procure, or cause to be brought into the city any person, or any property of any kind, tainted or infected with any malignant fever, or pestilential or infectious disease, shall be guilty of a misdemeanor, punishable by fine and imprisonment, or either.

SEC. 65. The board of health shall have power, by an order in writing for that purpose, to be served on the master, captain, or person in charge of any boat, steamboat, steamship, or other ship, vessel or craft, or on any owner or consignee thereof, if such boat, steamboat, steamship, or other ship, vessel or craft, be by them suspected to have on board any infected or diseased property or person, to require such boat, steamboat, steamship, ship, vessel or other craft, not to enter within the city limits or harbor, or to remove to some certain distance, not exceeding five miles from the city; and every such master, captain, person in charge, consignee or owner,

who shall be served with such an order, shall be guilty of a misdemeanor, punishable with fine and imprisonment, if such boat, steamboat, steamship, ship, vessel or other craft, shall enter the harbor or city in violation of such order, or shall not be removed, according to the tenor of such order, within a reasonable time after the service of such notice.

SEC. 66. Every keeper of an inn, hotel, tavern, boarding or lodging house in the city, who shall have in his house, at any time between the first day of July and the first day of December, any sick guest, traveler, sailor, or other person, shall report the fact and the name of the person in writing, within six hours after he came to the house or was taken sick therein, to the president or clerk of the board of health. Every physician in the city shall report, under his hand, to one of the officers above named, the name, residence and disease of every patient whom he shall have sick of any malignant fever, or infectious or pestilential disease, within six hours after he shall have visited such patient. A violation of either of the provisions of this section, or of any part of either of them, shall be a misdemeanor, punishable by fine and imprisonment, or either.

SEC. 67. The city council shall have power, from time to time, to require and direct the filling up, draining and regulating any lot or lots, grounds or yards, or any other places in the city which shall be unwholesome, or have stagnant waters therein, or from any other cause, be in such condition as to be liable to produce disease, and to pass such ordinances as they shall deem necessary for the purpose aforesaid, and for the making, filling up, altering or repairing of all sinks and privies, and directing the mode and material of constructing them in future; and for cleansing of any house, building, establishment, lot, yard or ground, from filth, carrion, or impure or unwholesome matter of any kind, and to punish any owner or occupant violating the provisions of any ordinance so passed as aforesaid; and the city council shall also, and in addition to the foregoing remedy, have the power to cause any of the improvements above mentioned to be done at the expense of the city, on account of the owners, and cause the expense to be assessed on the real estate or lot or lots benefitted thereby; and on filing with the county clerk of Galveston county a statement by the mayor of such expense, shall have a first and privileged lien on said property to secure said expenditure and twelve per cent. interest thereon. For any such expenditure and interest as aforesaid, suit may be instituted, and recovery had, in the name of the corporation, in any court having jurisdiction; and the statement so made as aforesaid, or a certified copy thereof, shall be full proof and satisfactory evidence of the amount expended in any such improvement.

SEC. 68. The health physician may be authorized by the city council, when the public interest requires, to exercise for the time being, such of the powers, and perform such of the duties of marshal and police officer as the city council may in their discretion direct, and shall be authorized to enter all houses and other places, private or public, any boats or other water craft, at all times, in the discharge of his duty under this declaration. The city council shall have power to punish by fine and imprisonment, or either, any neglect or refusal to observe the orders and regulations of the board of health, or of the health physician, who shall be authorized to appoint a deputy.

TITLE IX.

TAXES OR ASSESSMENTS FOR IMPROVING STREETS AND AVENUES.

SEC. 69. That whenever the owners of one-half of the lots, or parts of lots, fronting on any street or avenue, shall present a petition to the city council praying that such street, avenue, or part thereof, may be improved and shelled, paved or macadamized, and setting forth that they are willing to pay one-third of the cost of such improvement, the city council shall have power and authority to make said improvement, and shall assess one-third of the cost thereof upon the lots or parts of lots on either side of the street or avenue in front of which said improvement is done, and may recover the same from the owner or owners thereof, either by suit or in the same manner and with like mode of procedure as taxes are collected, and the city council shall by ordinance prescribe the mode and regulate the manner of estimating the expense of said improvement, and of making and collecting said assessment, and shall have full power to sell any property in default of payment of any assessment so made as aforesaid, in the same manner as property may be sold for taxes, and such assessments may be required to be paid on said property before the commencement of such improvement; and in any case where the owner or owners of any lot, or part of a lot, shall be a non-resident, it shall and may be lawful to serve all necessary process, notices or citations required by this act, or any ordinance, upon his or her agent, if he or she shall have any known agent, and if there shall be no known agent resident in said city, then by publication of such notice or citation in one of the newspapers published in said city, for the space of two calendar months; and such service upon the agent, or by publication, shall in all cases be equivalent to personal service, and all ex-

penditures made by said city council, or under their authority in any such improvement under this declaration, and assessed on lots and parts of lots, shall be and constitute a charge and lien upon said lots or parts of lots, until the amount thereof, with interest thereon, at twelve per cent. per annum, be fully paid and discharged; provided, that the statement of the claim of the city upon such lots or parts of lots, signed by the mayor, be filed and recorded in the clerk's office of the county court of Galveston county, and the corporation shall have the right to institute suit to recover said amount and interest, and to enforce said lien. But the city council shall also have the right and power to collect said assessments the same as taxes are collected, and in case of non-payment, to sell any property on which said assessment has been made, with like effect as sales may be made for taxes; the other one-third of any such expense for improving any streets as herein provided for, shall be paid by the city. The city council shall have the right, by ordinance, to determine the character and nature of such improvement, to designate what officer shall act in making such assessment and collecting the same, and selling in case of any default of payment, and the deed of sale of such officer shall be as valid and binding, and have the same force and effect as deeds made by the assessor and collector for sales of property for other taxes, as hereinbefore provided. The city council shall also by ordinance prescribe such rules and regulations as they may deem necessary to the full exercise of the powers herein granted.

SEC. 70. The city council shall be invested with full power and authority to grade, shell, pave or otherwise improve any avenue, street or alley, or portion thereof, within the limits of said city, and without any petition as provided in the foregoing section whenever, by a vote of two-thirds of the aldermen elected, they may deem such improvement for the public interest; provided, the city council shall pay one-third and the owners of the property two-thirds thereof.

SEC. 71. That whenever the city council shall determine to make any such improvement, they shall cause an estimate to be made of the probable cost thereof, by the street commissioner or some other officer of the city, or by a committee of aldermen; and such officer or committee shall also report a full list of all lots or fractional lots, giving number and size of the same, and the number of the block in which situated, and the names of the owners thereof, if known, and such other information as may be required by the city council, lying and being on each side of the street, avenue or alley so to be improved as aforesaid; and if there be any lot or fractional lot the owner

whereof is not known, the same shall be entered on said list as unknown. It shall be the duty of the officer or committee aforesaid to enter on said list opposite each lot or fractional lot therein, one-third of the estimated expense for such work or improvement on such avenue, street or alley, fronting, adjoining or opposite such lot or fractional lot, and on the acceptance and approval of said report and list by the city council, said amounts shall be imposed, levied and assessed as taxes, and shall be a lien on the property until the payment of the same.

SEC. 72. That after such action on the part of the city council as above provided for, such officer or committee shall give such notice as may be required by ordinance, of said tax being due and within what time payable, and shall commence forthwith to collect the same. That after the expiration of the period for payment of said tax, said officer or committee shall levy on so much of any property on said list on which said tax has not been paid, as will be sufficient to pay the same, and the same notice of sale as is required in sales for other taxes, shall be given, and if said tax is not paid before the day of sale, said officer or committee shall sell said property in the manner, and under the circumstances, and to the extent, and subject to the same conditions, which are or may be provided by ordinance for the sale of real estate in the city of Galveston, charged with the payment of taxes imposed by said corporation, and said officer or committee shall execute a deed to the purchaser at any such sale, and all the provisions of this declaration in reference to a deed drawn by the assessor and collector for taxes, shall apply to the deed provided for in this section.

SEC. 73. That in addition to the power and authority granted to the city council to collect said assessment as taxes as aforesaid, they shall have the further and additional remedy of instituting suit in the corporate name, in any court having jurisdiction, for the recovery against any owner of said property for the amount due for any such work, so made as aforesaid; and the city council shall provide by resolution or ordinance, under the provisions of this declaration, for carrying out and executing the powers in this title conferred, and may adopt such resolutions and enact such ordinances, and make such rules and regulations as they may deem necessary.

TITLE X.

PASSENGERS COMING TO THE CITY OF GALVESTON.

SEC. 74. Within two hours after the landing of any passengers

from any steamship, steamboat, ship or vessel arriving in the harbor or port of said city from any of the United States, other than this State, or from any country out of the United States, the master, captain, commander, owner or consignee of such steamship, steamboat, ship or vessel from which such passenger or passengers shall have been landed, shall make a full report in writing on oath or affirmation, to the mayor, and the city council shall, by ordinance, prescribe the mode and manner of making out said report and the contents thereof, and to make such other rules and regulations in relation thereto as they may deem necessary, and to provide that any person violating any of the provisions of such ordinance shall be punished by fine and imprisonment.

SEC. 75. The city council may require the master, captain, commander, owner or consignee of any ship or vessel so arriving as aforesaid, to give a several bond, with good and sufficient securities, in the sum of three hundred dollars, payable to the city of Galveston, for each and every passenger included in said report, conditioned to indemnify and save harmless such city from any cost or expense for the relief or support of the person named in the bond, for five years from the date thereof, and the city council shall make all such rules and regulations in relation to said bond and the security and solvency of the same, as they may deem necessary, and in the event of the forfeiture or breach of any such bond, suit may be instituted and recovery had thereupon in any court having jurisdiction; provided, that the city council may allow any captain, commander, master, owner or consignee of any such ship or vessel at any time within three days after the landing of such person or passenger, to commute for the bond or bonds so required, by paying to the mayor or officer authorized to receive the same, the sum of one dollar for every passenger so reported; the receipt of which sum shall be deemed a full and sufficient release and discharge from the requirement of giving bonds as above provided, and all sums so received shall be paid into the city treasury, and be used and appropriated solely for the support and benefit of the hospital or hospitals established by the said corporation.

TITLE XI.

MISCELLANEOUS PROVISIONS.

SEC. 76. Whenever in the opinion of the city council any building, fence, shed, awning or other erection of any kind, or any part thereof, is liable to fall down and endanger persons or property, they

may order any owner or agent of the same, or any owner or occupant of the premises in which such building, shed, awning or other erection stands, or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct, and punish by fine or imprisonment, or either, any neglect, failure or refusal to comply therewith. The city council shall, in addition, have the power to remove the same at the expense of the city, on account of the owner of the property or premises, and assess the expense on the land on which it stood, or to which it was attached, and shall, by ordinance, provide for such assessment, the mode and manner of giving notice and the means of recovering any such expense.

SEC. 77. Whenever any person has been required by the recorder to give a peace bond or bonds for good behavior, or any similar bond under this declaration, and has complied with such order, and been guilty of a violation or infraction of any such bond, and the same is proved or established to the satisfaction of that officer in any trial or complaint, such party so offending may be fined in the sum of five hundred dollars and imprisoned for six months, and the city in its corporate name may sue in any court having jurisdiction for the recovery of the penalty of such bond.

SEC. 78. That the city council shall not have power and authority under this charter to contract for and create debts exceeding in the aggregate the sum of five hundred thousand dollars, unless the question of the creation thereof be first submitted to a direct vote of the owners of real estate within the city (and otherwise qualified voters under this act), and approved of and sanctioned by a majority of such voters.

SEC. 79. The territory contained within the boundary of the city of Galveston shall be divided into four wards, the boundaries to be as now established by ordinance; provided, that the city council of said city shall have power, from time to time, to cause a division of said city to be made into as many wards as they may deem necessary and for the good of the inhabitants of said city; but no such division shall be made unless it be done at least three months preceding the city election next ensuing, and said wards so established shall contain, as far as practicable, an equal number of voters.

SEC. 80. In case of the temporary absence, sickness or inability of the recorder to act, or in case of vacancy in that office, the mayor shall have full power and authority to act as recorder and as judge of the recorder's court, until said officer can resume his duties, or the vacancy be filled by election of the city council. The mayor, while so acting, shall perform all the duties, and have, possess and

execute all the powers and authority vested in the recorder by this declaration, or any ordinance passed in pursuance thereof.

SEC. 81. In all cases where, by any provisions of this declaration, or by any ordinance passed in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or avocation, and has, on complaint before the recorder, been adjudged guilty of violating any rule, regulation or ordinance of the city council in relation thereto, the recorder, in addition to fine or imprisonment, or either, may suspend or revoke the license so granted.

SEC. 82. The city council shall, as soon as may be after the commencement of each municipal year, contract as they may by ordinance or resolution determine, with a public newspaper of the city as the official paper thereof, and to continue as such until another is selected, and shall cause to be published therein all ordinances, notices and other matters required by this declaration, or by the ordinances of the city, to be published.

SEC. 83. The city council shall, at least ten days before the annual election in each year, cause to be published in the city newspaper a correct and full statement of the receipts and expenditures from the date of the last annual report, together with the sources from whence the funds are derived, and showing for what purposes disbursed, the condition of the treasury, together with such information as may be necessary to a full understanding of the financial concerns of the city.

SEC. 84. Every ordinance imposing any penalty, fine, imprisonment or forfeiture for a violation of its provisions shall, after the passage thereof, be published in every issue of the city paper for ten days, and proof of such publication by the affidavit of the printer or publisher of such newspaper, taken before any officer authorized to administer oaths, and filed with the clerk, or any other competent proof of such publication, shall be conclusive evidence of the legal publication and promulgation of such ordinances in all courts and places. Ordinances passed by the city council and requiring publication, shall be in force from and after the due publication thereof, unless it be therein otherwise expressly provided. Ordinances not requiring publication shall take effect and be in force from and after their passage, unless it shall be therein otherwise expressly provided.

SEC. 85. There shall be a digest of the ordinances of the city which are of a general nature, published within six months, or as soon as practicable thereafter, from the first Monday in March, 1867, and a like digest within every period of five years thereafter: provided, it shall be the duty of each city council to cause to be printed, in pamphlet form, at the end of each municipal year, all the ordinances passed for the year past and then in force.

SEC. 86. All ordinances of the city, when printed and published by authority of the city council, shall be admitted and received in all courts and places without further proof.

SEC. 87. The style of all ordinances shall be "Be it ordained by the city council of the city of Galveston," but may be omitted when published in the form of a book or pamphlet.

SEC. 88. All ordinances, regulations and resolutions now in force in the city of Galveston, and not inconsistent with this declaration, shall remain in force under this declaration until altered, modified or repealed by the city council after this declaration shall take effect.

SEC. 89. All fines, forfeitures and penalties, for the breach or violation of any provisions of this declaration, or of any regulation, order, or ordinance of the city council, shall, when collected, be paid into the city treasury, for the use and benefit of said city, except such fines as are herein appropriated to the Treasurer's Relief Association.

SEC. 90. No person, other than an elector, tax payer and resident of the city, shall be appointed to any office by the city council.

SEC. 91. Resignation by any officer authorized to be elected or appointed by this act, shall be made to the city council, in writing, subject to their approval and acceptance; provided, that nothing in this section contained shall apply to appointments by the Mayor; any such appointee, wishing to resign, shall present his resignation to that officer, in writing, for his action.

SEC. 92. The city council shall have power to remove any officer, except the Mayor, Recorder and Health Physician, for incompetency, corruption, malconduct or malfeasance in office, after due notice and an opportunity to be heard in his defense; and in addition to the foregoing power of removal, the city council shall have power at any time to remove any officer of the corporation, elected by them, by resolution declaratory of its want of confidence in said officer; provided, that two-thirds of the Aldermen elected shall vote in favor of said resolution.

SEC. 93. Any vacancy which may occur in any office required to be filled by the city council, may be temporarily filled by resolution of that body; and the person so appointed, shall hold the office until such vacancy shall be filled by ballot, and his successor enter upon the duties of the office. Such temporary appointments may at any time be rescinded in same manner as made.

SEC. 94. Whenever any person shall be removed from any office, or the term for which he was appointed or elected, has expired, or he has resigned, or ceased to act in such official capacity, he shall deliver over to his successor all books, papers and effects, in any way appertaining to his office. Every person violating this provision, shall be guilty of a misdemeanor, and shall be deemed an offender,

within the meaning of any law of the State, punishing such offence; and in addition thereto, shall, on conviction before the Recorder, be fined in any sum not exceeding five hundred dollars, and imprisoned for any time not exceeding six months, or either.

SEC. 95. That no member of the city council shall hold any other employment, or office, under the city government, while he is a member of said council, unless herein otherwise provided; and no member of the city council, or any officer of the corporation, shall be directly or indirectly interested in any work, business or contract, the expense, price, or consideration of which is paid from the city treasury, or by an assessment levied by an ordinance or resolution of the city council, nor be the surety of any person having a contract, work, or business with said city, for the performance of which security may be required.

SEC. 96. The members of the city council shall be exempt from jury service during their term of office. Each Alderman shall receive three dollars for every meeting attended, and be fined in a like sum for every meeting which he fails to attend, without sufficient excuse for each absence.

SEC. 97. The city council shall have power to prescribe the duties of all the officers and persons appointed by them, or elected to any office or place whatever, subject to the provisions of this act; to revoke any license given under this act; to remit in whole, or in part, and on such conditions as shall be deemed proper, by a vote of two-thirds of all the members present, any fine or penalty belonging to the city, which may be imposed or incurred under this act, or under any ordinance or regulation passed in pursuance thereof.

SEC. 98. Where, by the provisions of this act, the city council have power to pass ordinances on any subject, they may prescribe any penalty not exceeding two hundred dollars, for the violation thereof, and imprisonment, not to exceed three months, (unless a larger penalty be prescribed therefor by this act), and in the case of the imposition of a fine and non-payment, may provide that the party convicted be committed to jail, or house of correction, or required to work on the alleys, avenues or streets of said city, or on any public work under the control of the city council.

SEC. 99. The city council shall, on or before the first day of January, in every third year, fix the annual salary of the Mayor to be elected at the next regular election, and shall, at the same time, establish the compensation or salary to be paid to the officers appointed by him, and the compensation or salary, so established, shall not be changed during the term for which said officers shall be appointed.

SEC. 100. It shall not be necessary in any action, suit or proceeding in which the city of Galveston shall be a party, for any bond, undertaking, or security, to be executed in behalf of the city; but all such actions, suits and proceedings, shall be conducted the same as if such bond, undertaking or security, had been given, and for all the purposes of such actions, suits or proceedings, the city shall be liable in the same manner, and to the same extent, as if the bond, undertaking or security, required in ordinary cases, had been duly given and executed.

SEC. 101. The cemetery lots, which have or may be hereafter laid out and sold by said city for private places of burial, shall, with the appurtenances, forever be exempt from taxes, execution, attachment, or forced sale.

SEC. 102. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant or freeholder in the city of Galveston, in any action or proceeding in which said city may be a party in interest.

SEC. 103. All rights, actions, fines, penalties and forfeitures in suit or otherwise, which have accrued under the law heretofore in force, shall be vested in and prosecuted by the corporation hereby created; and no suit pending shall be affected by the passage of this declaration, but the same shall be prosecuted or defended as the case may be, by the corporation hereby created.

SEC. 104. All property, real and personal, or mixed, belonging to the city of Galveston, is hereby vested in the corporation created by this declaration, and the officers of said corporation, now in office, shall respectively continue in the same until superseded, but shall be governed by this declaration from and after it takes effect.

SEC. 105. Whenever a majority of the inhabitants, qualified to vote for members of the State Legislature, on any territory adjoining the present limits of the city of Galveston, to the extent of half a mile in width, shall vote in favor of becoming a part of said city, any three of them may make affidavit before the mayor, who shall certify the same to the city council of said city, and said city council may, by ordinance, receive them as a part of said city; from thenceforth the territory so received shall be a part of the said city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bound by all the acts and ordinances made in conformity thereto, and passed in pursuance of this declaration.

SEC. 106. This declaration shall not invalidate any legal act done by the city council of the city of Galveston, or by its officers, nor divest their successors, under this declaration, of any rights of property, or otherwise, or liability, which may have accrued to, or been

created by said corporation, prior to the passage of this declaration.

SEC. 107. That from and after the passage of this declaration, an act entitled "An act to repeal an act entitled an act to consolidate, in one act, and to amend the several acts incorporating the city of Galveston, approved August 27, 1856, and to grant a new charter of incorporation to said city, approved December 9, 1863," be and the same is hereby repealed.

SEC. 108. This declaration shall be deemed a public declaration and may be read in evidence, without proof, and judicial notice shall be taken thereof in all courts and places, and no municipal ordinance or regulation shall be valid contravening the declarations and ordinances of this Convention, and this declaration shall be in force and take effect from and after the first day of April, 1869.

It was so ordered.

Mr. Patten introduced a declaration for the relief of the Waco Bridge Company, and asked its reference to the Committee on Internal Improvements without reading.

It was so ordered.

Mr. Newcomb offered the following

RESOLUTION.

WHEREAS, The south-western frontier of this State has suffered greatly, and still suffers, from the depredations of Indians of the Kickapoo, Pottawatomie, Muscogee and Seminole tribes having their rendezvous in Mexico; and

WHEREAS, Said Indians were once under the jurisdiction of the United States Government, and now signify their wish, through Mr. C. W. Thomas, a reliable resident of Santa Rosa, Mexico, to again be placed under the jurisdiction of the United States, to be removed to a reservation and cease their depredations; therefore, be it

Resolved, That the attention of the Federal authorities be drawn to this matter and the Secretary of the Interior Department, or the proper authority, be requested to send an authorized agent, or the authority to some proper person in Mexico, to enter into negotiations with the above-named Indians.

Second. That this preamble and resolution be transmitted to the Secretary of the Interior Department, President of the United States Senate, and Speaker of the House of Representatives and the Military Commander of this District, by the President of this Convention.

Mr. Newcomb moved the rules be suspended to take up the resolution.

The Convention suspended the rules.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Slaughter moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

Resolution read a third time and passed.

Mr. Smith of Galveston introduced the following

RESOLUTION.

WHEREAS, One Geo. Miller, deceased, executed his last will and testament on the —— day of ——, A. D. 186—, demising his estate to Rebecca Miller (colored) and her son, which boy he the said decedent, claimed to be his child by the said Rebecca Miller; and

WHEREAS, There existed a law in this State prohibiting the said Rebecca and son from inheriting; therefore,

Be it declared by the people of Texas in Convention assembled:

That the said Rebecca is hereby enabled to succeed to the said estate, the same as if no inhibition existed.

Mr. Smith moved a suspension of the rules to take up the resolution.

Rules not suspended.

Mr. Smith moved its reference to the Committee on Judiciary.

It was so referred.

Mr. Thomas offered the following

RESOLUTION.

WHEREAS, There has been no rule for determining the mileage to which members of this Convention are entitled; and

WHEREAS, The Assessor and Collector of the various counties of the State are entitled to mileage from the county seats of their respective counties to the Capital, upon the annual settlement of their accounts; and

WHEREAS, The distances allowed assessors and collectors in computing their mileage has the sanction of the State Government since

the establishment of the Capital at Austin and is believed to be just ; therefore,

Be it declared as the sense of this Convention, That mileage should be computed over the nearest traveled route between two given points, and that the distances established at the Treasury, in its settlement with the revenue officers of the State Government, be, and the same are hereby declared to be, the standard and rule by which the mileage of the members of this Convention shall be determined, as well for the past as the present and future portions of the session ; and it is hereby made the duty of the Comptroller of Public Accounts to adjust the mileage of members of the Convention accordingly, and to deduct the amount of mileage overdrawn from the per diem pay of any member who may have drawn mileage in excess of this standard.

Mr. Thomas moved a suspension of the rules to take up the resolution.

Rules not suspended.

Mr. Buffington moved that Mr. Harn be indefinitely excused on account of sickness.

Excused.

Mr. Smith of Galveston moved that the resolution offered by Mr. Thomas be rejected.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Bellinger, Board, Brown, Bryant of Harris, Burnett, Caldwell, Fayle, Flanagan, W. Flanagan, Hamilton of Travis, Harris, Johnson of Harrison, Kendal, Kuechler, Kirk, Long, Morse, Mullins, Munroe, Rogers, Ruby, Scott, Smith, Varnell—25.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Bryant of Grayson, Butler, Carter, Cole, Degener, Downing, Evans of McLennan, Fleming, Gaston, Goddin, Gray, Hamilton of Bastrop, Jordan, Kealy, Keigwin, Leib, Lindsay, Lippard, Mackey, McWashington, Newcomb, Patten, Phillips of San Augustine, Posey, Schuetze, Slaughter, Sorrell, Stockbridge, Sumner, Thomas, Vaughan, Williams, Wilson of Milam, Wright—39.

So the Convention refused to reject.

On motion the resolution was referred to the Committee on Finance.

The President announced the hour had arrived, agreed upon by the Convention, to go into a Committee of the Whole upon the report of the Committee on the Condition of the State.*

Mr. Patten moved the business of the Convention be postponed, to allow Mr. Armstrong of Lamar to introduce a declaration incorporating the Austin Bridge Company.

It was so ordered.

Mr. Armstrong introduced the declaration, and asked its reference to the Committee on Internal Improvements without reading.

It was so ordered.

[The Convention in Committee of the Whole.—Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported progress, and asked leave to sit again to-morrow morning at eleven o'clock.

Leave granted.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

*For report see page 106

CAPITOL, AUSTIN, TEXAS,
JANUARY 6, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Adams presented a petition from citizens of Henderson and Smith counties, and asked its reference to the Committee on Internal Improvements.

It was so ordered.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM,
January 6, 1869.

HON. E. J. DAVIS,
President of the Convention :

SIR : Your Committee on Internal Improvements have had before them a declaration for the relief of the Southern Pacific Railroad Company, and after careful examination of the same, having proof, and abundantly learned that the road has lately been put in running order, and is carrying off daily from five to seven hundred bales of cotton, with a fine, new locomotive, and ample cars for all business purposes, which is well known to the Hon. N. V. Board, a resident of Marshall, as likewise the Hon. L. D. Evans, from the same city, and the other honorable delegates, Wily Johnson and Mitchell Kendall, and from the well known facts as presented, the committee arrive at the conclusion that the debt due to the school fund could not be made any more secure by any possible investment, and at the same time aiding the said company to progress with their road toward Tyler and the Pacific.

The premises all considered, I am instructed to report back the declaration, and to recommend the passage of the same.

Respectfully submitted.

J. W. FLANAGAN,
Chairman Committee.

Mr. Flanagan moved a suspension of the rules to put declaration on its passage.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Board, Bufington, Caldwell, Carter, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Gray, Harris, Johnson of Harrison, Jordan, Kendal, Kuechler, Kirk, Long, McCormick, McWashington, Morse, Munroe, Patten, Pedigo, Ruby, Smith, Sorrell, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wilson of Milan, Wright—38.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Hamilton of Bastrop, Hamilton of Travis, Horne, Kealy, Lindsay, Lippard, Mackey, Mullins, Posey, Rogers, Schuetze, Scott, Slaughter, Sumner, Thomas, Vaughan, Whitmore, Williams—30.

So the Convention refused to suspend.

Mr. Smith of Galveston, moved a suspension of the rules to take up a declaration incorporating the Galveston Canal Company, reported from the Committee on Internal Improvements.

Rules suspended.

Pending action upon the report of the committee, the president announced the hour had arrived agreed upon by the Convention to go into Committee of the Whole to consider the report of the Special Committee on the condition of the State.

Mr. Flanagan moved to postpone the business of the hour to consider the declaration incorporating the Galveston Canal Company.

The Convention refused to postpone.

Mr. Newcomb moved the Convention resolve itself into Committee of the Whole upon the report of the Committee on the Condition of the State.

Carried.

[Mr. Armstrong of Lamar in the chair.]

Committee rose, reported progress, and asked leave to sit again to-morrow morning at eleven o'clock.

Leave granted.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
January, 7, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

Mr. Fayle, from the Committee on Enrolled Provisions, reported as follows:

COMMITTEE ROOM,
January 5, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Enrolling Committee have had the following declarations and resolutions under consideration (Nos. 48 to 60 inclusive), and find them to be correctly enrolled :

No. 48, resolution requesting Brevet Major General Reynolds to create a new Judicial District out of the Ninth and Fifteenth Judicial Districts of Texas.

No. 49, declaration requesting an appropriation of \$25,000.

No. 50, declaration asking for the relinquishment of the ad valorem tax of the county of Jefferson for 1868.

No. 51, resolution to appropriate a sufficient sum of money for the purchase of books, etc., for the use of the Blind Asylum.

No. 52, declaration incorporating the Jefferson, Marshall and Big Cypress Bayou Bridge Company.

No. 53, declaration declaring certain acts of the so-called tenth and eleventh Legislatures repealed.

No. 54, declaration for the relief of the heirs of Gen. Sam. Houston, deceased.

No. 55, declaration requesting the commanding general to relinquish the State tax of Montgomery county for the years 1867 and 1868.

No. 56, declaration authorizing the governor to lease the State penitentiary.

No. 57, resolution for the appointment of a special committee to inquire into the propriety of admitting indigent persons into the Asylums of the State.

No. 58, resolution respecting the murder of Captain Martin D. Hart, First Texas cavalry, by Confederate State officers.

No. 59, declaration granting bounty to soldiers in the United States service in the late war.

No. 60, declaration respecting the Houston Tap and Brazoria Railroad.

Respectfully submitted.

WM. R. FAYLE,
Chairman Committee.

Report adopted.

Mr. Whitmore, from the Committee on Finance, made the following majority and minority reports:

COMMITTEE ROOM,
January 7, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: I am directed by a majority of the Committee on Finance to report the resolution requesting them to fix the rate of mileage to be allowed members of this Convention back to the House, it being entirely a matter of legislation, and ask to be discharged from further consideration of the same.

Respectfully submitted,

G. W. WHITMORE,
Chairman Committee.

Hon. E. J. DAVIS,
President of the Convention :

SIR: I most respectfully dissent from the majority report in this. I believe the mileage of the Assessors and Collectors, and the mileage of members of this Convention, should be computed by the nearest stage route from the county site to the capital, if there be one; if not, then by the nearest practicable traveled route to said capital.

Respectfully submitted,

G. W. WHITMORE,
Chairman of the Committee.

Mr. Whitmore moved the suspension of the rules to take up the majority report.

Rules suspended.

Mr. Phillips, of San Augustine, offered the following substitute to the majority report :

Resolved, That the Secretary, in issuing certificates of mileage, compute the distance by the nearest traveled stage route, and when there is no stage route by the nearest traveled route.

Mr. Flanagan moved to lay the whole matter on the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Board, Bryant of Harris, Burnett, Caldwell, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Kirk, Leib, Long, McCormick, McWashington, Morse, Mullins, Munroe, Pedigo, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Watrous, Wilson of Brazoria—43.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Grayson, Buffington, Butler, Carter, Degener, Evans of McLennan, Goddin, Hamilton of Bastrop, Kealey, Lindsay, Lippard, Mackey, Newcomb, Patten, Phillips of San Augustine, Posey, Schuetze, Sumner, Thomas, Vaughan, Whitmore, Williams, Wilson of Milam--27.

So the Convention laid the matter on the table.

Mr. Munroe, from the Committee on Engrossed Provisions, reported as follows :

COMMITTEE ROOM,
Austin, Texas, January 4, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The Committee on Engrossed Provisions, after examination, instruct me to report the following declarations and resolutions as being correctly engrossed, viz :

No. 61, resolution respecting a committee to remain in session during the recess, and for other purposes, passed August 21, 1868.

No. 63, declaration authorizing the Governor to invest the school fund of the treasury in United States gold bearing bonds, passed August 24, 1868.

No. 64, declaration incorporating the Navasota, Washington and Brazos Bridge Company, passed August 25, 1868.

No. 65, declaration granting the Mexican Gulf Railroad Company an extension of time for the completion of the second twenty-five miles of road, passed August 5, 1868.

No. 68, declaration extending the grants and privileges of the Columbus, San Antonio and Rio Grande Railroad, passed August 28, 1868.

No. 74, declaration authorizing the levying and collecting of special tax in Falls and McLennan counties, passed December 11, 1868.

No. 75, declaration to incorporate the East Texas Agricultural and Mechanical Association, passed December 11, 1868.

No. 76, declaration increasing the per diem pay of the President of the Convention, passed December 16, 1868.

No. 77, resolution in relation to newspapers, passed December 17, 1868.

No. 78, resolution tendering thanks of the Convention to Major General J. J. Reynolds, passed December 18, 1868.

No. 79, resolution appropriating \$15,000 to pay contingent expenses of the Convention, passed December 21, 1868.

No. 80, declaration continuing the charter of the Union Marine and Fire Insurance Company.

No. 83, resolution requesting the Congress of the United States to call into service a regiment of Texas cavalry to repel Indian invasion, passed December 28, 1868.

No. 84, resolution paying the Houston Union for publication of the Constitution as far as engrossed, passed December 29, 1868.

No. 85, declaration for the relief of the Houston and Texas Central Railway Company, passed December 23, 1868.

Respectfully submitted.

A. T. MUNROE,
Chairman Committee.

Report adopted.

Mr. Schuetze, Chairman of the Committee on Education, reported as follows :

COMMITTEE ROOM,
Austin, January 7, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Education, to whom the original report, introduced on the 31st day of July, 1868, had been recommitted, have had the same under careful consideration, and are unanimous in declining to change any of the provisions proposed in the original report.

I am instructed to submit the same to the consideration of the Convention.

Respectfully submitted,

J. SCHUETZE,
Chairman Committee.

Mr. Lippard, from the Committee on Public Lands, reported as follows :

COMMITTEE ROOM,
Austin, January 6, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Public Lands, to whom was referred the resolution offered by Mr. Varnell in relation to a lost land certificate; the resolution of Mr. Newcomb in relation to the forfeiture of valid land certificates, and also the resolution of Mr. Johnson, of Harrison, in relation to setting apart public lands for the support of indigent widows and orphans, have duly considered the same, and being of the opinion that they are matters of a purely legislative character, and therefore beyond the jurisdiction of this body, respectfully return the same, and recommend that they do not pass.

Respectfully submitted,

J. H. LIPPARD,
Chairman Committee.

Mr. Varnell moved a suspension of the rules to take up report.
Rules suspended.

Mr. Varnell moved the adoption of the resolution respecting a land certificate of Henry Koontz.

Resolution read and adopted.

Mr. Varnell moved a further suspension of the rules to take up resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Carter, Cole, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Kirk, Leib, Long, Mackey, McCormick, Morse, Mullins, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—57.

Nays—Messrs. Armstrong of Jasper, Bledsoe, Burnett, Fleming, Hamilton of Bastrop, Kealy, Lindsay, Lippard, Sumner, Thomas, Wilson of Milam—11.

So the rules were suspended.

The question recurred upon the final passage of the resolution. It was read a third time and passed.

Mr. Burnett, from Special Committee on Back Pay of Members, reported as follows :

COMMITTEE ROOM,
January 6, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The special committee of three, to whom was recommitted their report heretofore made on the back pay due members of this Convention, for services at the last session, and to whom was referred the resolution of Mr. Newcomb in relation thereto, have duly reconsidered the same, and a majority of the committee instruct me to report,

That from an examination of the journals of the Convention we find that by the rule adopted August 6 last, (a copy of which rule is annexed hereto, and made a part of this report,) there is no back pay due any member for per diem or mileage for the last session; and believing the said rule to be just and proper, we respectfully recommend that it be adhered to, and that no further action be taken in the premises.

Respectfully submitted,

BURNETT,
Chairman Committee.

Mr. Burnett moved a suspension of the rules to consider the resolution report by the committee.

Rules suspended.

Mr. Munroe offered the following substitute :

Resolved, That all the members of this Convention, who have been in attendance on the same, or who may have been granted leave of absence, are entitled to their per diem pay, and that the Secretary now draw, and the President approve a certificate on the treasury for any pay due members in accordance with the foregoing; and that Hon. L. D. Evans, of Titus, be and is hereby authorized to draw the per diem due Hon. W. H. Mullens, deceased, and forward the same to the widow of deceased.

The President announced the hour had arrived to go into Com-

m'itee of the Whole upon the report of the Special Committee on the Condition of the State.

Mr. Bath moved the Convention resolve itself into Committee of the Whole upon the report.

Carried.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported progress, and asked leave to sit again to-morrow evening at seven o'clock.

Carried.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

For report see page 106.

CAPITOL, AUSTIN, TEXAS,
January 8, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Buffington moved to suspend the rules to take up the report of the Committee on Counties and County Boundaries, creating the county of Peebles.

Rules suspended.

Mr. Buffington moved to recommit the report to the Committee on Counties and County Boundaries.

Carried.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows:

COMMITTEE ROOM,
Austin, January 8, 1869.

Hon. E. J. DAVIS,

President of the Convention:

SIR: Your Committee on Internal Improvements have carefully considered the ordinance for the New Orleans, Mobile and Chattanooga Railroad Company section by section, and they are unanimous in recommending its passage.

They particularly recommend that it shall be passed, because it will be a concession to gentlemen of large experience in the construction of railroads, who are well known to be capitalists, and who ask no monopoly, but merely require that no other railroad enterprise shall have a preference over them, and the franchises granted to them be clearly defined and properly guarded. This your committee conceive to be but just and right, especially as we are satisfied that it is the intention of the company to proceed with promptitude to the completion of a first-class road.

Respectfully submitted,

J. W. FLANAGAN,

Chairman Committee.

Mr. Flanagan moved a suspension of the rules, to take up the declaration.

Rules suspended.

Mr. Patten moved the adoption of the declaration.

Mr. McCormick moved that the declaration be printed and made the special order of the day for next Monday week at eleven o'clock.

Mr. Degener moved to amend the motion by making next Thursday the day for considering the declaration.

Mr. Patten moved the previous question.

Previous question seconded.

Mr. Buffington moved a call of the House.

Call sustained.

Absentees—Messrs. Coleman, Evans of Titus, Foster, Horne, Hunt, Johnson of Calhoun, Kealy, Mills, Phillips of Wharton.—19.

Mr. Hamilton, of Travis, moved that the call of the House be suspended.

Call suspended.

Mr. Hamilton, of Travis, asked leave of absence indefinitely for Messrs. Caldwell and Lindsay.

Leave granted.

Mr. Pedigo asked leave of absence for Mr. Goddin, for two weeks.

Leave granted.

Mr. Smith moved that Mr. Evans, of Titus, be excused on account of sickness.

Excused.

Mr. Flanagan moved that the declaration reported from the Committee on Internal Improvements be made the special order of the day for next Wednesday, at eleven o'clock, and printed.

The question before the Convention being: "Shall the main question be now put?" the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Bell, Board, Bryant of Harris, Cole, Curtis, Downing, Evans of McLennan, Flanagan, W. Flanagan, Goddin, Gray, Hamilton of Travis, Horne, Johnson of Harrison, Kendal, Kuechler, Kirk, Lippard, Long, McWashington, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Sorrell, Varnell, Watrous, Whitmore, Wilson of Milam, Wright—34.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Brown, Bryant of Grayson,

Buffington, Butler, Burnett, Carter, Degener, Fayle, Fleming, Gaston, Hamilton of Bastrop, Harris, Harn, Jordan, Keigwin, Leib, Lindsay, Mackey, McCormick, Morse, Mundine, Pedigo, Rogers, Schuetze, Scott, Stockbridge, Sumner, Thomas, Vaughan, Williams, Wilson of Brazoria—37.

So the Convention refused to order the main question.

The question recurred upon the postponement of the consideration of the declaration until next Wednesday.

It was so ordered.

Mr. Pedigo offered a declaration for the relief of the Eastern Texas Railroad Company, and asked it to be read by caption, and referred to the Committee on Internal Improvements.

It was so referred.

Mr. Patten offered a declaration to incorporate the Port Sullivan and Northwestern Railroad Company, and asked it to be read by caption, and referred to the Committee on Internal Improvements.

It was so referred.

Mr. Fayle offered a declaration to incorporate the Texas Wooden Railroad Company, and asked it be read by caption, and referred to the Committee on Internal Improvements.

It was so referred.

Mr. Sumner introduced the following resolution :

WHEREAS, This Convention has been in session for thirty days since it took a recess last summer, and

WHEREAS, The reconstruction acts of Congress only provided this body with power to frame a Constitution for the State of Texas; and

WHEREAS, This body has consumed the last thirty days in legislation, to the exclusion of making a constitution; therefore, be it

Resolved, That we, the people of the State of Texas in Convention assembled, now proceed to frame a constitution and civil government, according to the provisions of the reconstruction acts of Congress, and be it further

Resolved, That no resolution or declaration offered after this date, of a legislative character, shall be entertained until after the constitution shall have been completed.

Mr. Slaughter moved to reject the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, W. Flanagan, Gray, Jordan, Kendal, Kuechler, Long, McWashington, Mullins, Mundine, Newcomb, Ruby, Slaughter, Smith, Varnell, Whitmore, Williams, Wright—31.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Bryant of Grayson, Caldwell, Cole, Evans of McLennan, Fleming, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Kealy, Keigwin, Kirk, Leib, Lindsay, Lippard, Mackey, McCormick, Morse, Munroe, Patten, Phillips of San Augustine, Rogers, Schmetze, Scott, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—36.

So the Convention refused to reject.

Mr. Sumner moved to suspend the rules to take up the resolution.

The Convention refused to suspend the rules

Mr. Newcomb moved to refer the resolution to the Committee on State Affairs.

Ruled out of order.

Mr. Munroe moved a suspension of the rules to take up the resolution granting mileage to Enrolling Clerk and Sergeant-at-Arms.

Rules suspended.

Mr. Patten offered the following amendment :

“ Amend by adding First Assistant Secretary.”

Mr. Scott offered the following amendment to amendment :

“ Amend by adding Engrossing Clerk.”

The question recurred upon the adoption of the amendment to the amendment.

The Convention refused to adopt.

The question recurred upon the adoption of the amendment of Mr. Patten.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Bellinger, Brown, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Curtis, Degener, Evans of McLennan,

Flanagan, Gray, Johnson of Harrison, Jordan, Kendal, Keuchler, Lippard, Long, McWashington, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Varnell, Watrous, Wilson of Brazoria—29.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Bryant of Grayson, Downing, W. Flanagan, Fleming, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, Morse, Posey, Rogers, Schuetze, Scott, Stockbridge, Sumner, Thomas, Whitmore, Williams, Wilson of Milam, Wright—29.

So the Convention refused to adopt the amendment.

Mr. Flanagan offered the following amendment :

“ Amend by adding the names of P. P. Adams and all others who have been heretofore excused, and have since returned and taken their seats, and that the rule of the Convention in charging for mileage shall be by the regular stage and railroad route from the capital to the residence of the delegate.

The President directed the following communication from the acting Comptroller of the State to be read :

COMPTROLLER'S OFFICE,
Austin, Texas, January 8, 1869.

Honorable E. J. DAVIS,

President of the Convention :

SIR: I beg leave most respectfully to disclaim any intention to reflect in the slightest degree upon any member or officer of the Convention. I simply wish to do my duty. I understand the certificate of the Secretary, approved by the President, is not intended to fix and determine the number of miles to be allowed in each case. The President, as the acting Comptroller has been informed, stated on the floor of the Convention that he does not mean or intend to fix and determine the actual distance to which members may be entitled.

The acting Comptroller believes that to do otherwise than to supervise and scrutinize all accounts presented at the treasury for payment would be to abdicate his office and to disregard entirely his responsibility. He therefore feels it to be his duty to inform the Convention that he will hereafter pass no certificate for mileage in excess of the distances as established at the treasury, unless ordered

to do so by Brevet Major General E. R. S. Canby, commanding Fifth Military District, before whom this matter is now pending.

On motion, the Convention adjourned till seven o'clock this evening.

EVENING SESSION—SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. Burnett moved the Convention resolve itself into Committee of the Whole upon the report of the Special Committee on the Condition of the State.*

Carried.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported progress, and asked leave to sit again to-morrow at 11 o'clock A. M.

The question being upon giving consent to Committee of the Whole to sit again—

The yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Brown, Bryant of Grayson, Bryant of Harris, Butler, Burnett, Curtis, Degener, Downing, Evans of McLennan, Flanagan, Goddin, Hamilton of Bastrop, Keigwin, Kuechler, Kirk, Lippard, Long, McCormick, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Sorrell, Varnell, Vaughan, Whitmore, Wilson of Milam—34.

Nays—Messrs. Adams, Bell, Bellinger, Board, Caldwell, Carter, Cole, W. Flanagan, Fleming, Hamilton of Travis, Harn, Harris, Johnson of Harrison, Kealy, Kendal, Leib, Lindsay, Mackey, Morse, Posey, Rogers, Schuetze, Smith, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wright—29.

So the Convention gave consent to sit again.

On motion, the Convention adjourned till ten o'clock to-morrow morning.

* For report see page 106.

CAPITOL, AUSTIN, TEXAS,
JANUARY 9, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Newcomb introduced a petition from citizens of Guadalupe county, and asked its reference to the Committee on Counties and County Boundaries, without reading.

It was so referred.

Mr. Flanagan introduced a resolution, and asked its reference to the Committee on Finance, without reading.

It was so referred.

Mr. Hamilton, of Travis, introduced the following declaration, incorporating the Young Men's Real Estate and Building Association of the City of Austin, and asked its reference to the Committee on Internal Improvements, without reading:

A DECLARATION

To incorporate the Young Men's Real Estate and Building Association of the City of Austin.

SECTION 1. *Be it declared by the Delegates of the people of Texas in Convention assembled,* That A. H. Longley, L. W. Collins and C. R. Johns and their associates and successors are hereby created and established a body corporate and politic, under the name and style of the "Young Men's Real Estate and Building Association of the City of Austin," with capacity in said corporate name to make contracts; to hold, buy and sell property; to contract and execute leases; to take grants and gifts; to execute deeds, mortgages and deeds of trust; to have succession and a common seal; to make constitution and by-laws for the government and regulation of its affairs; to sue and be sued, plead and be impleaded; to declare dividends and make divisions of property, and to do and perform all such things as may be necessary and proper for and incident to the fulfillment of its obligations and maintenance of its rights under this declaration and consistent with the laws of the State.

SEC. 2. The capital stock of this association shall be thirty thou-

sand dollars (\$30,000), with power and privilege of increasing the same to one hundred thousand dollars (\$100,000).

SEC. 3. Whenever stock to the amount of fifteen thousand dollars (\$15,000) has been subscribed, and two per cent. on the same paid in, the association shall be deemed organized, and competent to transact business, and be entitled to all the grants and privileges conferred by this declaration.

SEC. 4. Service of any and all legal process, in any suit or proceedings against the association, shall be sufficient if made upon the president or secretary of the board of directors.

SEC. 5. This declaration shall take effect and be in force from and after its passage.

It was so referred.

Mr. Munroe, from the Committee on Engrossed Provisions, reported as follows:

COMMITTEE ROOM,
Austin, January 8, 1869.

Hon. E. J. DAVIS,

President of the Convention:

SIR: The Committee on Engrossed Provisions, after examination, instruct me to report the following resolution and declaration as correctly engrossed, viz:

No. 81, resolution granting per diem pay to Messrs. Vaughan and Posey from the commencement of the session, passed December 21, 1868.

No. 82, a declaration reviving the act incorporating the Galveston Dry Dock Company, etc., passed December 22, 1868.

Respectfully submitted,

A. T. MUNROE,
Chairman Committee.

Adopted.

Mr. Patten introduced a declaration compelling the Houston and Texas Central Railroad Company to define the line of their road; and also a declaration to suppress and prevent the extortions of the Houston and Texas Central Railroad Company.

Mr. Patten moved a suspension of the rules to take up declarations.

Convention refused to suspend the rules.

Mr. Patten moved to refer the declarations to a special committee of five to be appointed by the President.

Carried.

Mr. Varnell offered the following resolution :

WHEREAS, It was believed by many members of this Convention when the resolution was voted upon to supply the Convention with the Austin Republican, that the paper was to publish the debates whenever copies thereof were furnished the proprietor ; and

WHEREAS, The publisher has refused to do so ; therefore, be it
Resolved, That this Convention require such publication of the discussions without charge, or direct that paper to be discontinued.

Mr. McCormick moved the rejection of the resolution, upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bellingier, Bryant of Grayson, Burnett, Carter, Cole, Fayle, Fleming, Gray, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Kirk, Leib, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Rogers, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria—32.

Nays—Messrs. President, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of McLennan, Flanagan, Gaston, Goddin, Hamilton of Bastrop, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam, Wright—33.

So the Convention refused to reject.

Mr. McCormick asked that Messrs. Vaughan and Mackey be excused from attendance on the Convention for to-day.

Excused.

Mr. Slaughter introduced a declaration incorporating the Jefferson Navigation Company, and asked its reference to the Committee on Internal Improvements without reading.

It was so referred.

Mr. Goddin introduced the following declaration and asked its reference to the Committee on State Affairs :

WHEREAS, No suitable monument marks the resting place of the
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hero, statesman and father of Texas, Gen. Sam. Houston; therefore, be it

Resolved, By the people of Texas in convention assembled, that a committee of thirty-six be appointed by the President of the Convention to receive subscriptions by themselves, or through agents appointed, both in their respective travels and sojournings, for the purpose of erecting a suitable monument over the grave of our departed and lamented hero, whose mortal remains now rest unmarked in the cemetery at Huntsville; and that each member of said committee be required to deposit the collections made by him or his agent in the Treasury of the State, subject to the order of the chairman of said committee, whose warrant shall be sufficient authority to draw upon the Treasury for the amount donated and deposited therein, required to erect said monument; and that said committee be also appointed as the Committee on Style and Inscription in the erection of said monument.

It was so ordered.

On motion, the Convention resolved itself into Committee of the Whole upon the report of the Committee on the Condition of the State.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported progress, and asked leave to sit again on Monday evening at 7 o'clock.

Leave granted.

On motion the Convention adjourned till Monday morning at 10 o'clock.

CAPITOL, AUSTIN, TEXAS,
January 11, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

The President announced Messrs. Evans of McLennan, Brown, Maudine, Carter and Ruby as the special committee called for by the motion of Mr. Patten upon declaration introduced on Saturday respecting the Central Railroad Company.

The President directed the following communication to be read:

HEADQUARTERS FIFTH MILITARY DISTRICT,
State of Texas,
Austin, Texas, January 8, 1869.

Hon. E. J. DAVIS,

President of the Constitutional Convention, Austin, Texas:

SIR: I have the honor to acknowledge the receipt of your communication of the 4th inst. transmitting a copy of the preamble and resolution passed by the Convention on the 2d, and to request that you will communicate to that body my warmest thanks for the expression of approval and confidence with which it honored me.

Very respectfully, your obedient servant,

E. R. S. CANBY,

Brevet Major General.

Mr. Flanagan moved a suspension of the rules to take up declaration respecting the Southern Pacific Railroad Company.

Rules suspended.

Mr. Armstrong of Lamar moved the declaration be printed and made the special order of the day for next Monday.

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?" upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Adams, Bell, Board, Brown, Burnett, Carter, Cole, Curtis, Evans of Titus, W. Flanagan, Flanagan, Gaston, Harris, Harn, Johnson of Harrison, Jordan, Kealy, Keig-

win, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Ruby, Smith, Sorrell, Varnell, Watrous, Wilson of Milam, Wright—38.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Degener, Downing, Evans of McLennan, Fleming, Gray, Hamilton of Bastrop, Horne, Lippard, Mullins, Mundine, Rogers, Scott, Slaughter, Stockbridge, Thomas, Vaughan, Whitmore, Williams—27.

So the main question was ordered.

The question recurring upon the adoption of the declaration, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Bell, Board, Brown, Burnett, Carter, Cole, Evans of Titus, Flanagan, W. Flanagan, Gaston, Gray, Harris, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, McCormick, McWashington, Morse, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Ruby, Smith, Sorrell, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—36.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of McLennan, Fleming, Hamilton of Bastrop, Hunt, Lippard, Mullins, Mundine, Rogers, Scott, Slaughter, Thomas, Vaughan, Whitmore, Williams—25.

So the Convention adopted the declaration.

Mr. Flanagan moved a further suspension of the rules to put the declaration on its final passage.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Board, Brown, Burnett, Carter, Cole, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Harris, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, McCormick, McWashington, Morse, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Ruby, Smith, Sorrell, Varnell, Wilson of Brazoria, Wilson of Milam, Wright—35.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Downing, Evans of McLennan, Fleming, Gray,

Hamilton of Bastrop, Hunt, Lippard, Mullins, Mundine, Rogers, Scott, Stockbridge, Thomas, Vaughan, Whitmore, Williams—25.

House refused to suspend the rules.

Mr. Whitmore, from the Committee on Finance, reported as follows :

Hon. E. J. DAVIS,

President of the Convention :

SIR : A majority of the Committee on Finance to whom was referred a resolution on the subject of mileage and per diem have had the same under consideration, and a majority of the committee request me to report the same back to the House, and ask that the mileage allowed the members of the June and July session of the Convention, in the year 1868, be the standard of members during this session, and that no mileage is due the officers of this Convention for their services.

Yours respectfully,
G. W. WHITMORE,
Chairman Committee.

Mr. Armstrong, of Lamar, moved to suspend the rules to take up the report.

Rules suspended.

Mr. Armstrong, of Lamar, offered the following amendment :

Resolved, That the Comptroller pay to each member of this convention for the number of miles paid the members of the Convention of 1866.

Mr. Smith, of Galveston, offered the following amendment to the amendment :

Provided, That the mileage allowed to members shall be fixed at the same rate for all sessions of the Convention as was established at the first session.

Mr. Flanagan moved that the whole matter be referred to a special committee of three.

Carried.

Messrs. Flanagan, Bryant of Grayson, and Armstrong of Lamar, were appointed the special committee by the President.

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM,
January 8, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your committee have had before them a declaration presented by delegate Fayle, from Harris county, asking for the incorporation of the Phoenix Transportation Company.

After a careful examination of the same, the committee arrive at the conclusion that it is a laudable enterprise, and I am instructed to report the same back and to recommend the passage of the same.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

AN ACT TO INCORPORATE THE PHOENIX EXPRESS AND TRANSPORTATION COMPANY.

SECTION 1. *Be it enacted by the Convention of the State of Texas :*

That a body corporate and politic be and the same is hereby created and established, to consist of stockholders, board of directors, and such officers as may be necessary for a company or association of individuals, under the corporate name of the "Phoenix Express and Transportation Company." Its domicile is hereby established in the city of Houston. The president shall be the proper officer upon whom may be served citations, notices and other legal processes against the corporation. It shall make and use a corporate seal, having for its device a "phoenix" rising from its ashes, and for an inscription the name of the corporation.

SEC. 2. The purposes for which the "Phoenix Express and Transportation Company" is created and incorporated, and the nature of the business to be carried on and conducted in all its various branches and features, the express and transportation business, to establish express and transportation routes, to own steam and other vessels, also its locomotives, cars, wagons and other vehicles used for transportation purposes, to run its own locomotives and cars over all railroads, subject to existing laws; to make exclusive contracts to forward by railroads, steamboats, steamships and other rapid modes of conveyance, by sea or land, bank notes, coin, jewelry, valuables of every description, all kinds of merchandise, stock, animals and all kinds of personal or movable property; to draw bills of exchange, to make collections of money, drafts, notes and all

other species of debts, claims and demands; and to insure articles of all kinds sent by express and otherwise, and generally to transact all business, direct and incidental, connected in any manner with the express and transportation business. Shippers and owners of goods shipped by this company are not to hold it liable or responsible for any one package shipped by it for an amount exceeding fifty dollars, unless the value is stated at the time of shipment, so that proper charge may be made for the extra risk assumed.

SEC. 3. All the corporate powers of this corporation shall be vested in and exercised by a board of directors and such officers as they may create. The board of directors shall consist of five members of said company, to be elected by ballot on the first Monday in May in each year, at such place in the city of Houston as the acting board may designate, of which election they shall give at least fifteen days' previous notice by advertisement in one newspaper published in the city of Houston, and they shall appoint three stockholders to preside as inspectors at such election. The board thus elected shall take their seats the following Monday, and hold the same until their successors are elected; those persons receiving a plurality of votes shall be considered and declared elected. The board of directors at their first meeting shall elect a president from among the directors, who shall hold his office until his successor is elected; he shall preside at all the meetings of the company and of the board of directors, and shall conduct the business of the company generally, under the supervision of the board of directors, and in case of his absence or inability to act, a president *pro tem.* may be appointed by the board of directors. The president shall sign all contracts and other papers, but, when necessary, may act through agents appointed by him. The board shall have the power to fill all vacancies that may occur in their number. The board of directors shall have power to appoint a secretary and treasurer, and all superintendents, agents, clerks, messengers and other employes, and remove them at pleasure, and they may delegate this power to the president, subject to their supervision. They shall fix salaries of all officers and employes of the corporation, and may authorize the president to do so, and may also delegate such powers for the transaction of the ordinary business of the company as they may deem expedient, and shall have full power to do all other acts which may be necessary for carrying into effect the purposes of this corporation.

SEC. 4. The company shall commence business as soon as ten thousand dollars (\$10,000) shall have been subscribed to its capital

stock, and shall exist for and during the full term of fifty years from the date hereof, unless sooner dissolved in a manner hereinafter provided, during all of which time in its corporate name aforesaid, it shall have and enjoy succession, shall sue and be sued, shall hold, receive and purchase, sell and otherwise convey, under its corporate name, property real and personal, moveable and immoveable; it shall make and establish such by-laws, rules and regulations for the proper management of its business and affairs as may be necessary and proper, and shall possess generally all such powers and privileges as are given by law to corporations.

SEC. 5. The following named persons shall constitute the board of directors: T. W. House, J. J. McKeever, R. Van Slyke, William Christian, J. C. Baldwin. They shall open books and receive subscriptions to the capital stock, and are hereby invested with all the rights and powers specified in the preceding articles. They shall hold their office until the first Monday in May, 1869, or until others are elected in their place. A failure from any cause to elect directors or other officers on the day named herein, shall not dissolve this association, but the directors and other officers then in office shall hold over until the election of their successors.

SEC. 6. The capital stock of this company is hereby fixed at the sum of seventy-five (\$75,000) thousand dollars, represented by fifteen hundred shares of fifty (\$50) dollars each, five per cent. of which shall be payable at the time of subscribing, and other installments, not exceeding ten per cent. in any one month, as may be ordered by the Board of Directors. The corporation shall have power to increase its capital stock to any sum not exceeding three millions (\$3,000,000) of dollars. If any stockholder refuse or neglect to pay his installments within thirty days after the specified time of payment, the Board of Directors reserve to themselves the right of causing any share upon which any installments may be due to be sold at public auction after ten days' previous notice thereof through any newspaper published in the city of Houston.

SEC. 7. Books for the registry and transfer of shares of the capital stock shall be opened and subject to such restrictions as may be imposed by the Board of Directors, but not, in any manner, to conflict with any provisions of this act of incorporation. All transfer of shares shall be made in said books and signed by the shareholder or his agent or attorney. The directors may close said books when necessary, but no period longer than fifteen days. Minutes of the proceedings of the Board of Directors shall be kept by the Secre-

tary and verified by the President, and the President and Secretary shall sign all bonds, drafts, notes and checks, and may, with the consent of the Board of Directors, delegate the power to agents to be specially named. It shall be lawful for any stockholder that may desire to transfer his stock previous to full payment, to do so by a substitution of the party purchasing, subject, however, to the approval of the Board of Directors. No stockholder shall be liable or responsible for the contracts or faults of the company in any amount exceeding the unpaid balance due on his stock. No mere informality in organization shall have the effect of rendering this charter null, or of exposing a stockholder to any liability beyond the extent of his stock.

SEC. 8. The stockholders of the company, at a general meeting to be convened for that purpose after thirty days' previous notice in one newspaper published in the city of Houston, shall have the power to dissolve this association with the assent of four-fifths of the stock represented at such meeting. The liquidation of the affairs of the corporation shall be made by three commissioners appointed by the stockholders, at a meeting convened for that purpose, after thirty days' previous notice in two newspapers, one published in San Antonio and the other in Houston, and the commissioners shall have all the power necessary to wind up and close the business of the company.

Mr. Smith moved a suspension of the rules to take up the declaration.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Patten moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

The question recurred upon the final passage of the declaration.

It was read by caption and passed.

Mr. Hamilton of Travis introduced the following resolution :

WHEREAS, The Reverend Bishop Simpson is expected to visit this city the coming week ;

Resolved, That he be and is hereby tendered the use of this hall, on Sunday, the twenty-fourth instant.

Mr. Hamilton of Travis moved a suspension of the rules to consider the resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Armstrong of Lamar introduced the following resolution :

Resolved, That on and after Wednesday, the thirteenth instant, the Convention will, immediately after reading the journal, proceed to complete the constitution and form a civil government for the State of Texas, and that the evening session of the Convention shall be devoted to the reception of petitions, reports of committees, resolutions and declarations, and such other business as, in the wisdom of the Convention, shall seem proper and right.

Mr. Mundine introduced a declaration and asked it be read by caption and referred to the Committee on Counties and County Boundaries.

It was so referred.

Mr. W. Flanagan introduced a declaration to incorporate the Texas Mutual Life Insurance Company, and asked that it be read and referred to the Committee on Commerce and Manufactures.

It was so ordered.

Mr. Slaughter introduced the following declaration, and asked its reference to the Committee on Contingent Expenses.

WHEREAS, The Assessor and Collector of Smith county did not receive the order for the collection of the Convention tax until after he had finished the collection of all other taxes, and was at an expense not remunerated by the collection of said Convention tax ;

Resolved, That he be paid the sum of one hundred dollars out of the sum so collected, and the Comptroller is authorized to issue his warrant upon this resolution.

It was so referred.

Mr. Stockbridge introduced a declaration incorporating the Brenham and Waco Railroad Company, and asked it be read by caption and referred to Committee on Internal Improvements.

It was so ordered.

Mr. Bryant of Grayson asked that Mr. Kirk be indefinitely excused from attendance on the Convention, on account of sickness.

Leave granted.

Mr. Smith introduced a declaration incorporating the Galveston and Velasco Railroad Company, and asked it be read by caption and referred to Committee on Internal Improvements.

It was so ordered.

Mr. Stockbridge introduced the following

RESOLUTION.

WHEREAS, There are more officers in this Convention than is necessary for the carrying on the business of this body: and

WHEREAS, It is thought to be unnecessary for this body to retain the Postmaster; and

WHEREAS, The Sergeant-at-Arms can attend to the postoffice; therefore,

Resolved, That the said Postmaster of this Convention be and he is hereby removed from further service, and that the Sergeant-at-Arms be required to carry on the postoffice for this body.

Mr. Sumner moved a suspension of the rules to consider the resolution.

Rules not suspended.

Mr. Harn introduced the following declaration:

Be it ordained by the people of the State of Texas in Convention assembled:

That when any note, bill, bond, or other written evidence of debt was placed in the hands of any bailie, agent or attorney at law for collection during the rebellion, and that during said rebellion the same was collected in Confederate money, or bartered, exchanged or otherwise disposed of on a Confederate basis, that said bailie, agent or attorney may discharge the same by paying the current value of said Confederate money on the first day of January, 1865, and that when suit has been instituted for the recovery of the same that such bailie, agent or attorney shall not be liable beyond the amount above specified.

Mr. Patten moved the rejection of the declaration.

The Convention rejected the declaration.

Mr. Evans, of McLennan, introduced a declaration authorizing the building a bridge across the Brazos river, and asked it be read by caption and referred to the Committee on Internal Improvements.

It was so ordered.

Mr. Smith, of Galveston, moved a suspension of the rules to take up a declaration incorporating the Galveston Canal Company.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Smith, of Galveston, moved a further suspension of the rules to put declaration on its third reading.

Rules suspended.

Declaration read third time and passed.

Mr. Newcomb moved a suspension of the rules to take up a report of the Committee on Public Lands respecting valid land certificates.

Rules suspended.

Mr. Hamilton moved the rejection of the resolution.

The Convention refused to reject.

Mr. Flanagan offered the following amendment :

Provided, This resolution shall not validate any land certificate issued for or to any railroad company that has been declared valueless.

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurred upon the adoption of the declaration as amended.

It was adopted.

Mr. Newcomb moved a further suspension of the rules to put declaration on its final passage.

Rules suspended.

Declaration read third time and passed.

Mr. Sumner moved to call up the report of the Committee on General Provisions.

Mr. Slaughter moved the Convention adjourn until this evening at seven o'clock.

Carried.

EVENING SESSION—SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. Armstrong, of Lamar, moved a call of the House.

Call sustained.

Absentees—Bell, Bledsoe, Brown, Cole, Coleman, Constant, Downing, Evans of Titus, Fayle, Fleming, Foster, Gray, Hamilton of Bastrop, Horne, Johnson of Harrison, Johnson of Calhoun, Lippard, McWashington, Mills, Mullins, Mundine, Newcomb, Pedigo, Phillips of Wharton, Ruby, Scott, Stockbridge, Vaughan—28.

Mr. Carter moved a suspension of the call of the House.

Call suspended.

The President announced that the hour had arrived appointed by the Convention to go into committee of the whole upon the report of the Special Committee on the Condition of the State.

Mr. Buffington moved the Convention resolve itself into committee of the whole upon the report.

Carried.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported progress, and asked leave to sit again to-morrow at 11 o'clock A. M.

Leave granted.

On motion the Convention adjourned till to-morrow morning at 10 o'clock.

CAPITOL, AUSTIN, TEXAS,
January 12, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Flanagan moved a suspension of the rules to take up Declaration respecting the Southern Pacific Railroad Company.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Bell, Board, Brown, Bryant of Harris, Burnett, Carter, Cole, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Harris, Harn, Horne, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Rogers, Ruby, Schuetze, Smith, Sorrell, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—47.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Buffington, Butler, Fleming, Hamilton of Bastrop, Hunt, Kealy, Lippard, Mundine, Posey, Scott, Stockbridge, Thomas—17.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Buffington moved a call of the House.

Call sustained.

Absentees—Messrs. Coleman, Constant, Foster, Johnson of Calhoun, Mills, Newcomb, Phillips of Wharton, Slaughter, Sumner—9.

Mr. Flanagan moved a suspension of the call.

Call suspended.

Mr. Buffington moved a call of the House.

Call sustained.

By permission of the Convention the previous question was withdrawn to allow Mr. Board to speak to the merits of the Declaration.

The President announced that the hour of 11 o'clock had arrived,

fixed by the Convention to go into Committee of the Whole upon the report of the Special Committee on the Condition of the State.

Mr. Flanagan moved the rules be suspended to allow the further consideration of the Declaration before the Convention.

The Convention refused to suspend.

On motion the Convention resolved itself into Committee of the Whole upon the report* of the Special Committee on the Condition of the State.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose. Reported progress and asked leave to sit again at 7 o'clock to-night.

Leave granted.

Mr. Gray introduced the following resolution :

Resolved, 1st. That a committee of eleven be appointed, and that the Constitution, so far as engrossed, be referred to said committee for correction and revision and the supplying of parts omitted. That said committee is instructed to act on and report said Constitution as a whole, and with the least possible delay ; and to enable said committee to act promptly the members thereof during their deliberations are authorized to absent themselves from this House, unless when a call of the House is made.

2nd. That said committee is further instructed to prepare and report an ordinance providing for an election to be held on the question of the adoption of the Constitution, to be submitted by this Convention ; such election to be held at the earliest convenient time.

Mr. Sumner moved the rejection of the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Board, Sumner—2.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Horne, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lip-

pard, Long, Mackey, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—66.

So the Convention refused to reject.

Mr. Patten moved a suspension of the rules to put the resolution on its passage.

Mr. Bryant, of Grayson, offered the following amendment :

Amend by inserting eighty-five instead of eleven.

Mr. Patten moved the previous question.

Previous question seconded.

The question recurred, " Shall the main question be now put ? "

Main question ordered.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Armstrong, of Lamar, gave notice that he would move a reconsideration of the vote adopting the declaration of Mr. Newcomb, in regard to the forfeiture of valid land certificates.

On motion, the Convention adjourned till 7 o'clock this evening.

EVENING SESSION—SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. Burnett moved the Convention resolve itself into Committee of the Whole upon the report of the Committee on the Condition of the State.

Carried.

[Mr. Armstrong, of Lamar, in the chair.]

The committee rose, reported progress, and asked leave to sit again to-morrow evening at seven o'clock.

Leave granted.

Mr. Buffington moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Biedsoe, Bryant of Grayson, Buffington, Burnett, Fayle, Fleming, Gaston, Gray, Kealy, Keigwin, Munroe, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams—21.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bell, Board, Bryant of Harris, Butler, Carter, Curtis, Degener, Evans of McLennan, Flanagan, W. Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Horne, Hunt, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Schnetze, Scott, Slaughter, Smith, Sorrell, Varnell, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—41.

So the Convention refused to adjourn.

The president announced that the business in order was upon the motion of Mr. Armstrong to reconsider the vote adopting the declaration respecting valid land certificates.

Mr. Armstrong moved to postpone the consideration of the motion until next Saturday week.

Mr. Flanagan moved to lay the motion to reconsider upon the table.

Carried.

Mr. Smith of Galveston moved to suspend the rules to take up the resolution introduced by Mr. Varnell respecting the Austin Republican.

By consent, the motion to suspend the rules was withdrawn.

Mr. McCormick moved the rules be suspended to take up the report of the Committee on Education.

Lost.

Mr. Newcomb, by permission, introduced a petition from citizens of Kendal and Karnes counties, Texas, praying the passage of the declaration favoring a division of the State, on certain lines, and asking its reference to the Committee on the Division of the State.

It was so referred.

Mr. Slaughter introduced the following resolution :

WHEREAS, the reporter employed by this Convention cannot do the duties necessary to render his services valuable to this body or the State :

And, whereas, it is an unnecessary expense, not justifiable,

Be it resolved, That his services are henceforth discontinued.

Mr. Patten moved a suspension of the rules to consider resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bell, Bellinger, Bledsoe, Butler, Carter, Curtis, Fayle, Hamilton of Bastrop, Hunt, Johnson of Harrison, Kuechler, Lippard, McWashington, Morse, Newcomb, Patten, Phillips of San Augustine, Schuetze, Scott, Slaughter, Sumner, Whitmore, Williams, Wilson of Milan—26.

Nays—Messrs. Adams, Armstrong of Lamar, Board, Bryant of Grayson, Bryant of Harris, Buffington, Evans of McLennan, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Kendal, Leib, McCormick, Mullins, Munroe, Pedigo, Posey, Smith, Sorrell, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wright—34.

So the Convention refused to adopt.

Mr. Leib introduced the following resolution :

Resolved, That a special committee of five be appointed to inquire into the particulars pertaining to a certain amount of special school fund, now held by the Bank of Manchester, in England.

Mr. Sumner moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Butler moved to refer the resolution to the Committee on Education.

It was so ordered.

Mr. Butler moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Bryant of Harris, Buffington, Butler, Curtis, Fleming, Foster, Gray, Hamilton of Travis, Horne, Hunt, Kealy, Keigwin, Kendal, Kuechler, Long, Mullins, Munroe, Phillips of San Augustine, Posey, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Vaughan, Williams, Wilson of Brazoria—32.

Nays—Messrs. President, Adams, Board, Bryant of Grayson, Carter, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Hamilton of Bastrop, Harris, Harn, Johnson of Harrison, Jordan, Leib, Lippard, McCormick, McWashington, Morse, Newcomb, Patten, Pedigo, Scott, Slaughter, Smith, Varnell, Watrous, Whitmore, Wilson of Milam, Wright—30.

So the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
JANUARY 13, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Patten moved that Mr. M. C. Hamilton be added to the special committee on mileage of members.

Carried.

Mr. Bryant, of Grayson, moved that Mr. Thomas be added to the special committee on mileage of members.

Carried.

Mr. Slaughter moved that Mr. Gray be added to the special committee on mileage of members.

Carried.

Mr. Flanagan, by consent, was excused from serving on said committee.

Mr. Gray declined to serve on said committee, and was excused by consent of the House.

The President announced the special committee on revision of the constitution to be :

Messrs. Gray, Whitmore, Carter, Buffington, Pedigo, Newcomb, Bryant of Grayson, Bryant of Harris, Kealy, Butler, Munroe.

Mr. Newcomb presented a petition from precincts of Bexar and Comal counties, respecting division of the State, and asked its reference to the Committee on Division of the State.

It was so referred.

Mr. Pedigo, from the Committee on Counties and County Boundaries, reported as follows :

COMMITTEE ROOM,
Austin, Texas, January 12, 1869.

To Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Counties and County Boundaries, to whom was referred a memorial from certain citizens of Guadalupe

county, asking that a portion of that county be attached to and made part of the county of Milam, and that the name of Wilson county be changed to Cibolo county, have had the same under consideration, and your committee, from the facts presented to them, and from an examination of the map, showing that the territory proposed to be severed from the one county and attached to the other, is a narrow neck or point running almost to the centre of Wilson county and evidently proper to belong to it, have come to the conclusion that the measure prayed for should be granted, and a majority of the committee have therefore instructed me to report to the Convention the accompanying declaration, and to recommend its adoption.

Respectfully submitted,

H. C. PEDIGO,
Chairman Committee.

A DECLARATION.

SECTION 1. Be it declared by the people of Texas in Convention assembled, That all that part of the county of Guadalupe, lying and being south of a direct line running from the mouth of Martinez creek in the Cibolo river, to the extreme western corner of Gonzales county, be and the same is hereby attached to, and shall hereafter constitute part and parcel of Wilson county.

SEC. 2. Be it further declared, That the name of Wilson county be and the same is hereby changed to Cibolo county.

Also, the following report:

COMMITTEE ROOM,
January 12, 1869.

To Hon. E. J. DAVIS,
President of the Convention:

SIR: Your Committee on Counties and County Boundaries, to whom was referred a memorial from certain citizens of Bexar county, praying that a small portion of the territory of that county be attached to and made part and parcel of the county of Medina, have had the same under consideration, and a majority of the committee believing from the facts presented to their consideration, that the convenience of the people, occupying the territory proposed to be attached to Medina county, would be greatly promoted by the measure proposed, have instructed me to report to the Convention

the accompanying declaration, and to recommend to the Convention that it be adopted.

Respectfully submitted,

H. C. PEDIGO,
Chairman Committee.

A DECLARATION.

Be it declared by the people of Texas in Convention assembled, That all that part of the county of Bexar, lying and being west of a line beginning at a point where the eastern boundary line of Medina county intersects the Medina river, thence down the river with its meanderings to the southeast corner of survey No. 14, made for Juana Martinez, situate on the left bank of the river; thence due north to the southeast line of Bandura county, be and the same is hereby attached to and made part and parcel of the county of Medina.

Mr. Hamilton, of Travis, introduced the following declaration:

AN ORDINANCE.

WHEREAS, On the sixth day of November, 1868, the court-house of Hays county was destroyed by fire, and said county is without a suitable building in which to hold its courts, and said county is unable to build a court-house without being permitted to levy and collect a special tax for that purpose; therefore

Be it ordained by the people of Texas in Convention assembled, That the police court of Hays county in said State be and the same is hereby authorized to levy a sufficient *ad valorem* tax on all property situate in said county, to build a court-house suitable for said county, to be erected in the town of San Marcos, the county seat thereof; said tax to be collected in same manner as other taxes due counties are now authorized and required by law to be collected, and that this ordinance take effect and be in force from and after its passage.

Mr. Hamilton, of Travis, moved the rules be suspended to take up resolution.

Rules suspended.

Mr. Jordan moved to amend by adding the county of Goliad.

Carried.

Mr. Evans, of McLennan, moved to add the county of Erath.

Withdrawn.

The question recurred upon the adoption of the declaration as amended.

It was adopted.

Mr. Patten moved a further suspension of the rules to put the declaration as amended upon its final passage.

Rules suspended.

The question recurred upon the final passage of the declaration as amended.

It was read third time and passed.

Mr. Schuetze, by permission, presented the following report from a majority and minority of the Committee on Immigration :

COMMITTEE ROOM,

January 12, 1869.

To the Hon. E. J. DAVIS,

President of the Constitutional Convention :

SIR: A majority of the Committee on Immigration, to which was referred the declaration of Mr. Patten, of McLennan, for the incorporation of the Liverpool and Texas Steamship Company, have considered said declaration and its objects, and approve the same. The undersigned have thought that the declaration ought to provide for some adequate guarantee for the continuance of the line of steam and other vessels contemplated by the declaration and the same has been amended so as to require the company which it is proposed to incorporate to furnish such guarantee. It has also been thought proper to insert in the act of incorporation a guarantee against the introduction of paupers and criminals into the State. These are the only particulars in which the original declaration has been changed, and these changes are made with the concurrence and approbation of the gentleman who introduced the declaration. The undersigned, and indeed the whole committee, are deeply impressed by a sense of the necessity which exists that our State should give some adequate encouragement to immigration, and we are of opinion that no encouragement can be deemed adequate which does not actually assist in paying the expense of bringing the emigrant to our shores. The sum proposed by the bill to be given to this company may seem to some to be large; but the undersigned think that the aid proposed will be a very light burthen compared with the benefits which may be expected to result. The bonds of the State which it is proposed to grant to this company will have thirty years to run. The annual interest will amount to but thirty thousand dollars. With each year the capacity of the State to pay such a sum will increase, and it may reasonably be concluded that long

before the maturity of the bonds the sum will appear to be small compared with our resources. The undersigned do not deem it necessary to enlarge on the merits of the bill. They earnestly recommend its passage.

SCHUETZE,
HORNE,
CURTIS,
MORSE,
BROWN,
WILSON,
For the majority.

The minority, consisting of the undersigned alone, considers the proposed declaration as highly objectionable, and recommends that the same be rejected.

E. DEGENER.

Mr. Schuetze moved a suspension of the rules to take up the report.

Rules suspended.

Mr. Burnett moved that the report be printed and made the special order of the day for next Saturday at eleven o'clock.

Carried.

Mr. Fayle presented two declarations, which were read by caption and referred to the Committee on Internal Improvements.

Mr. Munroe moved a suspension of the rules to take up declaration respecting Wilson and Guadalupe counties.

Rules suspended.

Mr. Evans, of McLennan, offered the following amendment :

Strike out "Cibolo" and insert "Stanton," as the name of the county.

Mr. W. Flanagan moved to lay the amendment on the table.

Mr. Munroe moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bledsoe, Board, Burnett, Carter, Curtis, Fayle, Flanagan, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Long, Mackey, Mullins, Munroe, Ruby, Smith, Stockbridge, Wright—21.

Nays—Messrs. President, Bell, Bellinger, Brown, Bryant of Grayson, Butler, Cole, Degener, Downing, Evans of McLennan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Horne, Hunt, Kealy, Kuechler, Leib, McCormick, McWashington, Morse, Newcomb, Patten, Pedigo, Phillips of San Augustine, Posey, Rogers, Slaughter, Sumner, Thomas, Vaughan, Whitmore, Wilson of Brazoria, Wilson of Milam—36.

So the Convention refused to order the main question.

The President announced that the hour had arrived to take up the New Orleans, Mobile and Chattanooga railroad declaration.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. McCormick moved a call of the House.

Call not sustained.

Mr. Sumner moved the Convention adjourn till seven o'clock this evening.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bellinger, Bledsoe, Brown, Bryant of Grayson, Buffington, Butler, Fleming, Gray, Harn, McCormick, Munroe, Phillips of San Augustine, Rogers, Stockbridge, Sumner, Thomas, Vaughan, Whitmore, Wilson of Brazoria—20.

Nays—Messrs. President, Adams, Armstrong of Jasper, Board, Bell, Bryant of Harris, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McWashington, Morse, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Sorrell, Varnell, Watrous, Williams, Wilson of Milam, Wright—46.

So the Convention refused to adjourn.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Board, Brown, Bryant of Harris, Cole, Curtis, Degener, Downing, Evans of McLennan, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Harris,

Horne, Hunt, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Ruby, Smith, Sorrell, Varnell, Watrous, Williams, Wilson of Milam, Wright—40.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Buffington, Butler, Burnett, Carter, Fayle, Fleming, Gray, Hamilton of Travis, Harn, Mackey, McCormick, Phillips of San Augustine, Posey, Rogers, Scott, Slaughter, Stockbridge, Sumner, Thomas, Vaughan, Whitmore, Wilson of Brazoria—27.

So the main question was ordered.

The question recurred, "Shall the declaration be adopted?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Bell, Board, Brown, Bryant of Harris, Butler, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gaston, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Sumner, Varnell, Watrous, Williams, Wilson of Milam, Wright—42.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Buffington, Burnett, Carter, Fleming, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Kealy, Mackey, McCormick, Phillips of San Augustine, Posey, Rogers, Scott, Stockbridge, Thomas, Vaughan, Whitmore, Wilson of Brazoria—26.

So the Convention adopted the declaration.

Mr. Degener moved a suspension of the rules to put the declaration on its passage.

Mr. Sumner moved to adjourn until seven o'clock this evening.

Lost.

The question recurred on the motion to suspend the rules.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Board, Bryant of Harris, Butler, Burnett, Cole, Curtis, Degener, Downing, Evans of McLennan, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McWashington,

Morse, Mullins, Munroe, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Sumner, Varnell, Watrous, Williams, Wilson of Milam, Wright—43.

Nays—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Brown, Bryant of Grayson, Buffington, Carter, Fayle, Fleming, Gray, Hamilton of Travis, Ham, Kealy, Keigwin, Mackey, McCormick, Phillips of San Augustine, Posey, Rogers, Scott, Stockbridge, Thomas, Vaughan, Whitmore, Wilson of Brazoria—25.

So the Convention refused to suspend the rules.

Mr. McCormick moved that the Convention adjourn until seven o'clock this evening.

Carried.

EVENING SESSION—SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

The President announced that the hour had arrived fixed by the Convention to go into committee of the whole on the report of the Special Committee on the Condition of the State.*

Mr. Munroe moved that the Convention resolve itself into committee of the whole upon the report of the Special Committee on the Condition of the State.

Carried.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported the following resolutions to the Convention, and asked to be discharged from the further consideration of the subject.

Agreed to.

WHEREAS, The extent of territory of the State of Texas, the conflicting interests of the widely separated sections of the State,

* For report see page 106.

and the disorganization so largely prevalent, render a division of the State essential to the proper well being of the people thereof and the re-establishment of law and order, therefore, be it

1. *Resolved*, That in the opinion of this Convention the State of Texas ought to be subdivided into States of more convenient size.

2. *Resolved*, That the President of this Convention is hereby directed to forward a copy of this preamble and resolutions to the Speaker of the House of Representatives and President of the Senate of the United States.

3. *Resolved*, That for the purpose of giving the Congress of the United States a correct report of the condition of this State, and to bring to the attention of that body all such matters relating to the condition of the State and the wants of her loyal people as may require the consideration and action of Congress, the Convention shall proceed to elect by ballot four (4) commissioners, members of this Convention, one of whom shall be a resident of that portion of Texas lying north of the thirty-second parallel of latitude; one a resident of that portion of the State lying east of the Trinity river and south of said thirty-second parallel; one a resident of that portion of the State lying between the Trinity and Colorado rivers and south of said thirty-second parallel, and one a resident of that portion of the State lying west of the Colorado river, and two delegates from the State at large, who, being immediately acquainted with the condition and wants of their respective sections of the State, shall proceed to Washington City to bring to the attention of the United States all such matters relating to the condition of this State and the wants of her loyal people as in the judgment of this Convention or of said commissioners require the consideration and action of Congress.

The question being upon the adoption of the resolutions as reported from the Committee of the Whole.

Mr. Thomas offered a substitute, which was ruled out of order.

Mr. Bryant, of Grayson, offered an amendment, which was cut off by the operation of the previous question.

Mr. Whitmore moved the previous question.

Previous question seconded.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Cole, Coleman, Foster, Jordan, Mills, Sorrell, Varnell—7.

Mr. Schuetze was excused on account of sickness.

Mr. Carter moved a suspension of the call of the House.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Kendal, Kuechler, Lippard, Long, McWashington, Mullins, Mundine, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Vaughan, Whitmore, Williams, Wilson of Milan. Wright—41.

Nays—Messrs. Armstrong of Lamar, Bell, Bellinger, Bledsoe, Bryant of Grayson, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, Morse, Phillips of San Augustine, Posey, Rogers, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria—25.

So the Convention suspended the call.

Mr. Slaughter introduced the following resolution :

Resolved, That the seats of the members of this Convention who have not appeared and participated in the proceedings of this body since its reassembling on the 7th inst., or who have not been excused, are hereby declared vacant, and their names shall not be called when any call of the House is ordered: provided, that when any of said absentees return and render an acceptable excuse to the House, they shall be entitled to their seats, and not further affected by this resolution.

Ruled out of order.

Mr. Hamilton, of Travis, moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Bellinger, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—31.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan,

Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Whitmore, Wilson of Milam—35.

So the Convention refused to adjourn.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Cole, Coleman, Foster, Jordan, Mills, Sorrell, Varnell—7.

Mr. Smith moved a suspension of the call.

Mr. Evans, of McLennan, raised the point of order that fifteen delegates were competent to maintain the "call of the House," and that a majority of the House could not suspend the "call" while the number of fifteen delegates persisted in maintaining the "call."

The President decided the point of order in the negative.

Mr. Evans, of McLennan, appealed from the decision of the chair.

The question recurred "Shall the decision of the chair stand as the decision of the House?"

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Adams, Bell, Bledsoe, Bryant of Grayson, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, Munroe, Pedigo, Posey, Rogers, Stockbridge, Sumner, Watrous, Wilson of Brazoria, Williams—24.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Kendal, Kuechler, Lippard, Long, McWashington, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Thomas, Vaughan, Whitmore, Wilson of Milam, Wright—41.

The decision of the chair was not sustained.

Mr. Hamilton, of Travis, moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Bledsoe,

Bryant of Grayson, Fleming, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Munroe, Pedigo, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—27.

Nays—Messrs. President, Adams, Armstrong of Lamar, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Bastrop, Horne, Hunt, Johnson of Harrison, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Mundine, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Whitmore, Wilson of Milam—39.

So the Convention refused to adjourn.

Mr. Patten moved a suspension of the call of the Convention.

Call sustained by the following delegates :

Messrs. Phillips of San Augustine, Wilson of Brazoria, Harn, Mundine, Sumner, Bryant of Grayson, Harris, Bellinger, Horne, Thomas, Hamilton of Travis, Fleming, Pedigo, Morse.

Mr. Hamilton, of Travis, moved to adjourn till to-morrow morning at ten o'clock.

Lost.

Mr. Patten moved a suspension of the call of the House.

Call sustained by the following delegates :

Messrs. Bryant of Grayson, Hamilton of Travis, Sumner, Posey, Rogers, Wilson of Milam, Stockbridge, Fleming, Horne, Mackey, Harris, Armstrong of Jasper, Wilson of Brazoria, Phillips of San Augustine, Keigwin.

Messrs. Sorrell, Cole, and Johnson of Harrison, fined their *per diem* pay under the rules of the Convention, by direction of the President.

Mr. Hamilton of Travis moved to adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Fleming, Gaston, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Munroe, Pedigo, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria—24.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris,

Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, W. Flanagan, Flanagan, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Johnson of Harrison, Këndal, Kuechler, Lippard, Long, Moirse, Mullins, Mundine, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam, Wright—43.

So the Convention refused to adjourn.

Mr. Smith of Galveston introduced the following resolution.

WHEREAS, There are a number of delegates elected to the Convention who have not appeared to participate in the work of this Convention since it reassembled; and

WHEREAS, A call of the House is kept up on account of such absence to retard the action of the Convention and prohibit this body from consummating its work; therefore,

Resolved, That the following delegates be indefinitely excused until they may report to this Convention in person, viz:

Johnson of Calhoun, Coleman of Harrison, Mills of El Paso, Phillips of Wharton, Yarborough of Wood, Foster of Colorado.

The President ruled the resolution out of order.

Mr. Smith appealed from the decision of the chair to the Convention.

The President directed the following communication, presented by Mr. Varnell, to be read:

LAVACA, TEXAS,
December 22, 1868.

HON. E. J. DAVIS,
President of the Convention:

SIR: I herewith send you my resignation as a member of your honorable body.

I had hoped, until to-day, that I could manage to get to Austin this winter, but I find it impossible.

I am therefore left only the painful alternative of resigning.

Very respectfully, your obedient servant,

SAM. W. JOHNSON.

Mr. Thomas moved to adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Gaston, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, McWashington, Mundine, Pedigo, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam—22.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, McCormick, Morse, Mullins, Munroe, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Williams, Wright—47.

So the Convention refused to adjourn.

Mr. Sorrell's fine was remitted on account of sickness.

Mr. Butler moved a suspension of the call.

Call sustained by the following delegates, to-wit :

Messrs. Sumner, Posey, Watrous, Bryant of Grayson, Stockbridge, Leib, Harn, Mackey, Harris, Mundine, Thomas, Rogers, Phillips of San Augustine.

The question recurred upon the appeal to the Convention taken by Mr. Smith of Galveston, declaring a resolution respecting absent members out of order, and upon the question, "Shall the decision of the chair stand as the decision of the House?" the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Beilinger, Brown, Bryant of Grayson, Buffington, Evans of McLennan, Fayle, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Lippard, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria—39.

Nays—Messrs. Bledsoe, Board, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam, Wright—27.

The decision of the chair was sustained.

Mr. Newcomb moved the suspension of the call.

Sustained by fifteen delegates.

Mr. Horae moved the Convention adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Brown, Butler, Gaston, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, Mundine, Pedigo, Phillips of San Augustine, Posey, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—21.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Varnell, Vaughan, Whitmore, Williams, Wright—46.

So the Convention refused to adjourn.

Mr. Hamilton moved to adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Butler, W. Flanagan, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, Mundine, Pedigo, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—25.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Barnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, Fleming, Gray, Hamilton of Batrop, Hunt, Johnson of Harrison, Jordan, Kendal, Keuchler, Lippard, Long, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore—40.

So the Convention refused to adjourn.

Mr. Newcomb moved a suspension of the call.

Call sustained by fifteen members.

Mr. Burnett moved the Convention adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Butler, Burnett, Fleming, Gaston, Hamilton of Travis, Harris, Jordan, Kealy, Keigwin, Leib, Mackey, Mundine, Pedigo, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—25.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Buffington, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, Flanagan W., Gray, Hamilton of Bastrop, Harris, Hunt, Johnson of Harrison, Kendal, Kuechler, Lippard, McCormick, McWashington, Morse, Mullins, Newcomb, Rogers, Ruby, Scott, Slaughter, Smith, Varnell, Vaughn, Whitmore, Williams—40.

So the Convention refused to adjourn.

Mr. Smith moved the Convention stand adjourned to meet in Galveston, on Monday at 10 o'clock.

Mr. Pedigo was excused on account of sickness.

The question recurred upon the motion of Mr. Smith.

Convention refused to agree.

Mr. Newcomb moved the call of the House be suspended.

Call sustained by fifteen delegates.

On motion of Mr. Hamilton, of Travis, Mr. Bellinger was excused.

On motion Mr. Wright was excused from attendance.

Mr. Hamilton moved the Convention adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Butler, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Leib, Mackey, McWashington, Mundine, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—24.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Bastrop, Harris, Kendal, Kuechler, Lippard, McCormick, Morse, Mullins, Munroe, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith of Galveston, Varnell, Whitmore—38.

So the Convention refused to adjourn.

Mr. Newcomb moved that the call of the House be suspended.

Call sustained by fifteen delegates.

Mr. Butler was excused on account of sickness.

Mr. Patten moved that the call of the House be suspended.

Call sustained by fifteen delegates.

Mr. Thomas moved the Convention adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bryant of Grayson, Butler, Gaston, Hamilton of Travis, Jordan, Kealy, Keigwin, Leib, Mackey, Mundine, Phillips of San Augustine, Posey, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—21.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Bastrop, Harris, Hunt, Kendal, Kuechler, Lippard, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore—41.

So the Convention refused to adjourn.

Mr. Board was excused on account of sickness.

Mr. Bryant of Grayson offered the following resolution:

Resolved, That this Convention adjourn *sine die* after twelve o'clock to-night, January 13, 1869.

The question recurred upon the adoption of the resolution.

The yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Cole, Harn, Keigwin, Morse, Posey, Scott, Whitmore—11.

Nays—Messrs. President, Adams, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Kealy, Kendal, Kuechler, Leib, Lippard, Mackey, McCormick, McWashington, Mullins, Mundine, Munroe, Newcomb, Patten, Phillips of San Augus-

tine, Rogers, Ruby, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—52.

So the Convention refused to adopt the resolution.

Mr. Bryant of Harris offered the following resolution :

Resolved, That this Convention adjourn to meet again on the first Monday in June.

Mr. Patten moved to lay the resolution on the table.

Carried.

Mr. Slaughter offered the following resolution :

Resolved, That this Convention adjourn after twelve o'clock to-night, January 13, to meet at Tyler, Texas, on Monday, the twenty-fifth day of January, 1869, in the Supreme Court room.

Mr. Williams moved to lay the resolution on the table.

Mr. Slaughter made the point of order that a motion to lay a resolution to adjourn on the table cannot be entertained.

The chair sustained the point of order.

The question recurred upon the adoption of the resolution.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Harris, Morse, Slaughter, Whitmore—5.

Nays—Messrs. President, Adams, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Colè, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mullins, Mundine, Munroe, Newcomb, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Smith, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria—54.

So the Convention refused to adopt.

Mr. Armstrong of Jasper moved the Convention adjourn till tomorrow morning at ten o'clock.

Lost.

Mr. Jordan, on motion, was excused.

Mr. Sumner moved to take a recess till twelve o'clock to-day, it now being one o'clock of the morning of January 14.

Lost.

Mr. Armstrong of Jasper moved to take a recess till ten o'clock to-day.

Carried.

CAPITOL, AUSTIN, TEXAS,
January 14, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

The president directed the chaplain to offer the usual prayer, and the minutes, so far as recorded, to be read.

Mr. Thomas offered a substitute, which was ruled out of order.

Mr. Butler moved the previous question.

Previous question seconded.

Mr. Phillips of San Augustine moved a call of the House.

Call sustained by the following members :

Messrs. Sumner, Bryant of Grayson, Hamilton of Travis, Mackey, Stockbridge, Leib, Horne, Keigwin, Watrous, Posey, Mundine, Rogers, Thomas, Cole, Armstrong of Jasper, Kealy, Harn, Phillips of San Augustine, Bell—19.

Absentees—Messrs. Coleman, Foster, Jordan, Mills, Evans of Titus—5.

Mr. Sumner moved that Mr. Schuetze be excused on account of sickness.

Excused.

Mr. Newcomb moved that the call of the House be suspended.

Call sustained by the following delegates, to-wit :

Messrs. Sumner, Bryant of Grayson, Posey, Mackey, Leib, Watrous, Thomas, Mundine, Fleming, Cole, Kealy, Harn, Phillips of San Augustine, Rogers, Bellinger—15.

Mr. Flanagan moved the call of the House be suspended.

Call sustained by the following delegates, to-wit :

Messrs. Sumner, Bryant of Grayson, Hamilton of Travis, Mackey, Stockbridge, Horne, Leib, Keigwin, Watrous, Fleming, Mundine, Phillips of San Augustine, Thomas, Rogers, Cole, Kealy, Harn, Bell, Armstrong of Jasper, Posey, Bellinger—21.

Mr. Sumner moved a call of the House.

Call sustained.

Absentees—Messrs. Coleman, Curtis, Evans of Titus, Foster, Jordan, Mills—6.

Mr. Hamilton of Bastrop moved the Convention adjourn till tomorrow morning at ten o'clock.

Carried.

CAPITOL, AUSTIN, TEXAS,
JANUARY 15, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of the thirteenth and fourteenth instant read and adopted.

Mr. Flanagan, chairman of the Committee of Internal Improvements, reported as follows :

COMMITTEE ROOM,
January 14, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration introduced by Hon. G. W. Slaughter, for the improvement of the navigation of the bayou to the city of Jefferson, in Marion county, and to incorporate a company for that purpose.

Having examined the same, the committee instruct me to report the same back and recommend its passage.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Also the following report :

COMMITTEE ROOM,
January 13, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration for the relief of the East Texas Railroad Company, and after a careful examination find that said company is not indebted to the State, nor does it ask for any aid, simply an extension of the time to build their road without any forfeiture.

I am instructed unanimously by the committee to report the same back and to recommend its passage.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Also the following report :

COMMITTEE ROOM.
January 13, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR : Your Committee on Internal Improvements have had before them a declaration for the incorporation of the Texas Wooden Railroad Company.

After examining the same, the committee instruct me to report the same back to the Convention and to recommend its passage.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Mr. Munroe, chairman of the Committee on Division of the State, reported as follows :

COMMITTEE ROOM.
Austin, January 14, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The majority of the Committee on the Division of the State, to whom was referred the petition of citizens of Webb, Starr and Goliad counties in favor of the erection of a new State, west of the Colorado, instruct me to report the same back to the Convention with a recommendation that the prayers of the petitioners be granted, so far as the action of this body is concerned.

Respectfully submitted,

A. T. MUNROE,
Chairman Committee.

Report adopted.

Mr. Varnell offered the following resolution :

WHEREAS, Many counties in the State of Texas, and particularly in that portion of the State which I have the honor to represent, have been made bankrupt by the county court system now in force; and

Whereas, The county scrip of many counties is not worth and will not sell for more than twenty cents on the dollar; and

Whereas, County officers and creditors are put to great inconvenience and delay in obtaining their just and adequate dues from said county for their services; and

Whereas, The county tax, authorized to be levied by the law now existing is wholly inadequate for such purposes; therefore be it

Resolved, That the county court of each and every county that may desire to avail themselves of the benefit of this resolution, be authorized to levy a county tax sufficient to meet the demands of said indebtedness and embarrassment.

Mr. Varnell moved a suspension of the rules to consider resolution.

Rules suspended.

Mr. Evans, of McLennan, moved to strike out the words, "And particularly in that portion of the State which I have the honor to represent."

Carried.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Varnell moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

Mr. Munroe offered the following amendment :

"Provided, The tax so assessed shall not exceed the present tax for each county."

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurred upon the final passage of the resolution as amended.

It was read third time and passed.

Mr. Ruby introduced the following resolution, and asked its reference to Committee on Judiciary :

WHEREAS, On the — day of —, 1858, R. P. Boyce, of Galveston county, entered into contract with the State of Texas, to roof the capitol building thereof; and

Whereas, During the war said Boyce was unable to comply with his contract in keeping said roof in sound condition, because of the then disturbed condition of affairs, and therefore said roof became leaky; and

Whereas, Suit for damages to the amount of \$12,000 has been instituted in the name of the State of Texas, in the District Court of Galveston county, against said R. P. Boyce for non-compliance with his contract in keeping said roof (capitol) in good condition; and

Whereas, The reasons of said R. P. Boyce for not complying with his contract are herein set forth and sufficiently obvious; therefore be it

Declared by this Convention, That the said R. P. Boyce be relieved from any responsibility in the matter for which suit is now instituted, and that the Attorney General of the State be requested to dismiss said cause.

It was so ordered.

Mr. Gray introduced the following resolution :

Resolved, That the special committee of eleven on the constitution be authorized to employ a clerk, who shall receive the same *per diem* as other officers of the Convention, to be paid on the certificate of the Secretary and approval of the President.

Mr. Gray moved a suspension of the rules to take up the resolution.

Rules suspended.

*The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Gray moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

The question recurred upon the final passage of the resolution.

It was read a third time and passed.

Mr. Phillips, of San Augustine, introduced the following resolu-

tion, and asked its reference to the Committee on Division of the State :

Resolved, That the question of a division of the State of Texas into two or more States, together with the metes and bounds of such new States proposed to be formed, shall be submitted to the qualified voters of the present State of Texas for their approval or disapproval at the same time the Constitution is submitted for ratification or rejection.

It was so referred.

Mr. Flanagan, by permission, reported as follows :

COMMITTEE ROOM,
January 15, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration for the incorporation of the Young Men's Real Estate Company in the city of Austin. The Committee have examined the same, and unanimously come to the conclusion that it is a praiseworthy enterprize, and I am instructed to report it back and to recommend the passage of the same.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Mr. Hamilton, of Travis, moved a suspension of the rules to consider declaration as reported by the committee.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Hamilton, of Travis, moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

Declaration read a third time and passed.

Mr. Pedigo moved a suspension of the rules to take up a declaration for the relief of the Eastern Texas Railroad Company.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. W. Flanagan moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

Declaration read third time and passed.

Mr. Evans, of McLennan, moved a suspension of the rules to take up a declaration attaching a portion of Guadalupe county to Wilson county.

Rules suspended.

The question recurred upon the adoption of the declaration.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Board, Bryant of Harris, Buffington, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Flanagan, Gray, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Leib, Lippard, Long, Mackey, Mullins, Mundine, Munroe, Patten, Pedigo, Ruby, Schuetze, Scott, Smith, Sorrell, Stockbridge, Watrous, Whitmore, Williams, Wilson of Milan, Wright—39.

Nays—Messrs. President, Bell, Bellinger, Brown, Bryant of Grayson, Butler, Cole, Fayle, Gaston, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, McCormick, McWashington, Morse, Newcomb, Phillips of San Augustine, Posey, Rogers, Sumner, Thomas, Vaughan, Wilson of Brazoria—26.

So the declaration was ordered to be engrossed.

Mr. Hamilton, of Travis, by permission, introduced a declaration concerning the sale of the unappropriated public domain of the State of Texas to the United States, and asked its reference to the Committee on State Affairs.

It was so ordered.

Mr. Thomas introduced the following substitute :

WHEREAS, The question of a division of the State has agitated this Convention to the almost entire exclusion of its legitimate business for the past five weeks, and

WHEREAS, The Constitution of the United States expressly declares that no new State shall be erected within the jurisdiction of any other State without the consent of the Legislature of the State concerned as well as of the Congress, and

WHEREAS, It is but just and right that the people should be heard on so grave a subject as the division of the State, therefore,

Be it resolved by the Delegates of the people of Texas in Convention assembled, That the question of a division of the State be and it is hereby referred to the people and to the Legislature, and that resolutions or declarations relating thereto shall not hereafter be entertained by this body, but if presented shall be immediately declared out of order by the President.

Mr. Newcomb moved the previous question upon the adoption of the resolution as reported by the Committee of the Whole.

Previous question seconded.

Mr. Sumner moved a call of the House.

Call sustained by the following delegates :

Messrs. Sumner, Bryant of Grayson, Hamilton of Travis, Mackey, Leib, Keigwin, Watrous, Posey, Stockbridge, Rogers, Thomas, Fleming, Wilson of Brazoria, Mandine, Cole, Kealy, Harn, Phillips of San Augustine, Bell, Armstrong of Jasper, Schuetze—21.

Absentees—Messrs. Coleman, Foster, Horne, Mills—4.

The President directed the following communication, addressed by him to the Commanding General, to be read :

HALL OF THE CONVENTION,
Austin, Texas, January 14, 1869.

GENERAL: I have to call your attention to an obstacle which has prevented the progress of business in this Reconstruction Convention.

Under the rules of the Convention fifteen or more members can sustain a "call of the Convention," as it is termed. When this is done the business under consideration is suspended and absent members are sent for. All members who are on the roll of the Convention are considered as belonging to the body, though they may not have been here since the meeting on the seventh of December, and unless they have been excused on account of sickness or other good cause they must be brought in.

Four members (Messrs. W. W. Mills, of El Paso, Presidio county, H. H. Foster, of Colorado county, C. E. Coleman, of Harrison and Panola counties, and G. Yarborough, of Upshur and Wood counties,) have not been in attendance since the Convention met, on the seventh December.

With regard to the absence of Messrs. Coleman and Foster no explanation has been given, and they are believed to have left the

State. I am informed that Mr. Yarborough (who is of advanced age) is at home in a distant county, and is quite infirm, and does not probably ever intend to return to the Convention.

Mr. Mills was said to have intended being present at this session, and I believe he has written here to that effect; but we are now in the sixth week of this session, and he is still absent. His residence (El Paso) is too distant for the possibility of getting him here within any reasonable time.

Two or three weeks of this session have been wasted and business blocked, under "call of the Convention," to send for these and other members, and we are at this moment under a suspension of business for the same reason.

All other members absent have either resigned or been excused for cause. Therefore members cannot, in my opinion, be brought here, and the necessity of the case requires some prompt remedy.

There is some doubt whether the Convention would be authorized to declare these offices vacant and, accordingly, I think it my duty to submit to the General Commanding the consideration of some remedy that he may deem himself authorized to apply to the case, and thus enable us to bring our duties to a close.

Respectfully,

EDMUND J. DAVIS,

President of the Convention.

To Major-General E. R. S. Canby, U. S. A.,
Commanding Fifth Military District,
Austin, Texas.

Mr. Hamilton of Bastrop moved a suspension of the "call."

Call sustained by the following delegates:

Messrs. Sumner, Bryant of Grayson, Hamilton of Travis, Mackey, Leib, Keigwin, Watrous, Posey, Stockbridge, Rogers, Thomas, Fleming, Wilson of Brazoria, Mundine, Cole, Kealy, Harn, Phillips of San Augustine, Bell, Armstrong of Jasper, Schuetze--21.

Absentees--Messrs. Coleman, Foster, Horne, Mills--4.

Mr. Slaughter moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus:

Yeas--Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Keigwin, Kuechler, Leib, Mackey, McCormick,

McWashington, Morse, Mundine, Pedigo, Posey, Rogers, Schuetze, Slaughter, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Williams, Wright—29.

Nays—Messrs. President, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Harris, Johnson of Harrison, Jordan, Kealy, Kendal, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Smith, Sumner, Varnell, Whitmore, Wilson of Brazoria, Wilson of Milam—41.

So the Convention refused to adjourn.

Mr. Patten moved the Convention take a recess till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Evans of McLennan, Hamilton of Travis, Harris, Harn, Hunt, Keigwin, Long, Mackey, McCormick, McWashington, Morse, Mundine, Posey, Rogers, Schuetze, Slaughter, Sorrell, Vaughan, Watrous, Williams, Wright—20.

Nays—Messrs. President, Adams, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Johnson of Harrison, Jordan, Kealy, Kendal, Kuechler, Kirk, Lippard, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Smith, Stockbridge, Sumner, Thomas, Varnell, Whitmore, Wilson of Brazoria, Wilson of Milam—43.

So the Convention refused to take a recess.

Mr. Patten moved that the call of the House be suspended.

Call sustained by the following delegates :

Messrs. Sumner, Bryant of Grayson, Hamilton of Travis, Mackey, Leib, Keigwin, Watrous, Posey, Stockbridge, Rogers, Thomas, Fleming, Wilson of Brazoria, Mundine, Cole, Kealy, Harn, Phillips of San Augustine, Bell, Armstrong of Jasper, Schuetze—21.

Absentees—Messrs. Coleman, Foster, Horne, Mills—4.

Mr. Carter introduced the following

RESOLUTION.

Resolved, That a special committee of three (3) be appointed to enquire into the absence, from this body, of Messrs. C. E. Coleman, H. H. Foster and W. W. Mills, members of the Convention who, have failed to appear at the present session of the Convention, or to render any excuse for their absence; said committee to report, by resolution or otherwise, at the earliest day practicable.

Mr. Monroe moved to amend by adding the name of Z. Yarborough.

Amendment adopted.

The question recurred upon the adoption of the resolution as amended.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Varnell, Vaughan, Whitmore, Wilson of Milan, Wright—55.

Nays—Messrs. Fleming, Hamilton of Travis, Harn, Kealy, Mackey, Posey, Rogers, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—13.

So the resolution was adopted.

The President appointed Messrs. Carter, McCormick and Patten the committee called for by the resolution.

Mr. Burnett moved to take a recess till this evening at seven o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bell, Bellinger, Bledsoe, Butler, Burnett, Curtis, Downing, W. Flanagan, Hamilton of Travis, Harris, Lippard, Morse, Patten, Rogers, Schuetze, Slaughter, Sorrell, Wright—21.

Nays—Messrs. Armstrong of Lamar, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Carter, Cole, Degener,

Evans of McLennan, Evans of Titus, Fayle, Flanagan, Fleming, Gaston, Hamilton of Bastrop, Harn, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Long, Mackey, McCormick, MeWashington, Mullins, Mundine, Munroe, Newcomb, Phillips of San Augustine, Posey, Ruby, Scott, Smith of Galveston, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam—48.

So the Convention refused to take a recess.

Mr. Flanagan moved a suspension of the call of the House.

Call sustained by the following delegates :

Messrs. Sumner, Bryant of Grayson, Hamilton of Travis, Mackey, Lieb, Keigwin, Watrous, Posey, Stockbridge, Rogers, Thomas, Fleming, Wilson of Brazoria, Mundine, Cole, Kealy, Harn, Phillips of San Augustine, Bell, Armstrong of Jasper, Schuetze—21.

Absentees—Messrs. Coleman, Foster, Horne, Mills—4.

Mr. Burnett moved the call of the House be suspended.

Call sustained by the following delegates :

Messrs. Sumner, Bryant of Grayson, Hamilton of Travis, Mackey, Leib, Keigwin, Watrous, Posey, Stockbridge, Rogers, Thomas, Fleming, Wilson of Brazoria, Mundine, Cole, Kealy, Harn, Phillips of San Augustine, Bell, Armstrong of Jasper, Schuetze—21.

Absentees—Messrs. Coleman, Foster, Horne, Mills—4.

Mr. Flanagan moved the Convention take a recess till 7 o'clock this evening.

Carried.

EVENING SESSION—SEVEN O'CLOCK.

Mr. Carter, from special committee, appointed at the morning session, to inquire into the cause of absence of certain delegates, reported as follows :

REPRESENTATIVE HALL,

January 15, 1869.

Hon. E. J. DAVIS,

President of the Convention :

SIR: Your Special Committee appointed to inquire into the circumstances of the absence of Messrs. Mills, Yarborough, Coleman

and Foster, have had that matter under examination, and have made such inquiry and received such evidence as satisfies the committee that Mr. Yarborough's health and age have hitherto prevented, and will continue to prevent his attendance upon this Convention at its present session; that Messrs. Coleman and Foster are either not in the State, or if in it their place of habitation is not known to those residing in the Districts represented by said delegates, and other evidence, not proper to embody in this report, has satisfied the committee that said Coleman and Foster will not attend the present session of the Convention, and cannot be brought in by the Sergeant-at-Arms or a special messenger. The committee believe that Mr. Mills has purposed attending this session of the Convention, but has hitherto probably been kept away by urgent private business, by the difficulty and danger of travel from El Paso to the Capital at this time, and probably by stress of weather. That letters have been received from him by his friends here, indicating that he would arrive in Austin about this time.

Under all the circumstances of the case, your committee venture to suggest a modification of Rule 55 of the Convention, and have instructed me to report the accompanying resolution, which is respectfully submitted, with the recommendation that it be adopted by the Convention.

Respectfully,

CARTER,
Chairman Committee.

Resolved, That Rule 55 of the Convention shall hereafter be and read as follows:

55. Fifteen members shall be necessary to sustain a call of the Convention; and upon a call of the Convention, the names of the members shall be called alphabetically by the Secretary, and the absentees noted; after which the names of the absentees shall be called again; if they do not answer, the sergeant-at-arms or a special messenger may be sent for them, and the question pending shall be without a motion laid on the table until such of the absentees as have been in attendance upon the Convention within five days next preceding the day on which such call is made, shall appear, or the call be suspended.

Mr. Patten moved a suspension of the rules to put resolution on its passage.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Bledsoe, Board, Bryant of

Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—41.

Nays—Messrs. Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Brown, Cole, Fleming, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, Moise, Mundine, Phillips of San Augustine, Posey, Rogers, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—26.

So the Convention refused to suspend the rules.

Mr. Buffington moved the Convention adjourn till to-morrow morning at 10 o'clock.

Carried.

CAPITOL, AUSTIN, TEXAS,
January 16, 1868.

Convention met pursuant to adjournment.
Roll called.
Quorum present.
Prayer by the Chaplain.
Journal of yesterday read and adopted.

Mr. Buffington moved to suspend the rules to take up the following declaration respecting the Southern Pacific Railroad Company.

A DECLARATION

For the relief of the Southern Pacific Railroad Company.

WHEREAS, The Southern Pacific Railroad Company is indebted to the special school fund in a sum amounting, on the first day of March, A. D. 1868, principal and interest, to \$202,625; and

WHEREAS, The declaration passed by this Convention on the twenty-fourth day of August, A. D. 1868, providing for the sale of said railroad, has not yet been carried into effect; and

WHEREAS, The present owners of said railroad have recently placed the same in good running order for the use of the public, and are manifesting both the ability and disposition to make said road answer all the purposes of its construction; and

WHEREAS, The rapidly increasing business of said road warrants the belief that it will be able hereafter to pay regularly the interest due on the indebtedness of the company to the school fund, and also the sinking fund provided by the act of August 13, 1856; and

WHEREAS, The said railroad, under its present efficient management, must continue to be an adequate security for the debt due to said school fund; therefore

Be it declared by the people of Texas in Convention assembled,
That the said Southern Pacific Railroad Company shall be and is hereby authorized to issue bonds for the whole amount of principal

and interest due the special school fund on the first day of January, A. D. 1869, payable to the Governor of the State of Texas and his successors in office, to become due twenty years after the said first day of January, A. D. 1869, which said bonds shall bear interest at the rate of seven per centum per annum, which said interest shall be payable in gold or silver coin of the United States, on the first day of January and July of every year, at the treasury, in the city of Austin; and the principal of said bonds shall be paid when the same shall become due, at the treasury, in the city of Austin, in gold or silver coin of the United States; and the said bonds, when duly executed, shall be received by the Governor in lieu of the six per cent. bonds now held by the State for the indebtedness of said railroad company to the State; and upon their delivery to the Governor, the said six per cent. bonds shall be cancelled and returned to said railroad company.

2. The bonds provided for in the foregoing section shall be a lien on the twenty-one miles of the said Southern Pacific Railroad which have been heretofore constructed within the limits of the State of Texas; provided, further, that the State shall have a lien upon all the additional road built by said company.

3. Upon the twenty-one miles of road now constructed in the State of Texas, and upon which the State has a lien by virtue of the six per cent. bonds of said company now held by the State, the said company shall never make or issue any bonds other than those provided in the foregoing section to be issued to the Governor for the indebtedness of the company to the school fund for a larger sum than eight thousand dollars per mile, nor shall said company make or issue any bond other than those provided for in the preceding section, which shall be a lien upon said twenty-one miles of railroad, unless the same, before it is put in circulation or delivered to any person, shall be countersigned by the Governor of the State of Texas, and also by the Comptroller of public accounts. Nor shall any lien held by any person upon said twenty-one miles of said road by virtue of any bond which may be issued by said company, be foreclosed except in a court of competent jurisdiction, and after at least ninety days' notice in writing to the Governor of the State of the suit for foreclosure.

4. The said railroad company shall have the right, if it shall think proper to do so, to change the gauge of said road.

5. The Legislature shall have the power at any time to make

such regulations respecting said road as may be necessary to the security of the bonds held by the State.

Rules suspended.

Mr. Buffington offered the following amendment :

At the end of third section insert, "Provided, further, that the State shall have a lien upon all the additional road built by said company."

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurring upon the final passage of the declaration as amended, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Board, Bryant of Harris, Buffington, Burnett, Carter, Evans of Titus, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Pedigo, Ruby, Schuetze, Smith, Stockbridge, Sumner, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—43.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Butler, Curtis, Evans of McLennan, Hamilton of Bastrop, Hunt, Mackey, Patten, Phillips of San Augustine, Rogers, Scott, Thomas, Vaughan, Whitmore, Williams—18.

So the declaration was adopted.

Mr. Smith, of Galveston, presented a petition from the police court of Galveston, praying that the criminal court of said county be abolished, and asked its reference to the Committee on Judiciary.

It was so ordered.

Mr. Davis, of Nueces, presented a petition from citizens of Refugio county, asking a removal of the county seat, and asked its reference to the Committee on Counties and County Boundaries.

It was so referred.

Also, a declaration in relation to the Corpus Christi Ship Canal, and asked its reference to the Committee on Internal Improvements.

It was so ordered.

Mr. Munroe introduced the following

DECLARATION.

WHEREAS, On the second day of February, 1865, the court-house of Houston county was destroyed by fire, and said county is without a suitable building in which to hold its courts, and said county is unable to build a court-house without being permitted to levy a special tax for that purpose; therefore,

Be it ordained by the people of Texas in Convention assembled. That the police court of Houston county, in said State, be and is hereby authorized to levy a sufficient ad valorem tax on all property situated in said county to build a court-house suitable for said county, to be erected in the town of Crockett, the county seat thereof; said tax to be collected in the same manner as other taxes due counties are now authorized and required by law to be collected, and that the tax may be levied for one, two or three years, at the discretion of said police court of said county; and that this ordinance take effect and be in force from and after its passage.

Mr. Munroe moved that the rules be suspended to take up the declaration.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Munroe moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

Resolution read a third time and passed.

Mr. Flanagan introduced the following resolution:

Resolved, That hereafter thirty-five members shall form a quorum for business.

Mr. Stockbridge introduced a declaration, which was read by caption and referred to the Committee on Internal Improvements.

Mr. Thomas introduced the following

DECLARATION.

WHEREAS, The question of a division of the State has consumed much of the time of this Convention; and,

Whereas, It is claimed by the friends of division that a majority of the people of Texas favor the measure; therefore

Be it resolved by the delegates of the people in Convention assembled, That the Major General commanding this district be and he is hereby requested to cause polls to be opened at the different county sites throughout the State, on the first Monday in March next, for the purpose of testing the sense of the people on the question of a division of the State, and that the result of the election so held be certified to Congress, in lieu of any action of this Convention or any expression of opinion on its part as to whether the people do or do not desire such division.

Mr. Patten moved to reject the declaration.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wright—37.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Cole, Evans of McLennan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—32.

So the Convention rejected the declaration.

The President announced that the business next in order was the report of the special committee on alteration of rule 55,* governing the Convention.

Mr. Thomas raised the point of order that the business in order was upon the report of the Committee on Immigration, made the special order for eleven o'clock to-day.

The Chair decided that the hour of eleven o'clock not having arrived, the point of order was not well taken.

Mr. Thomas appealed from the decision of the Chair.

And upon the question, "Shall the decision of the Chair stand as the decision of the House?" the yeas and nays were demanded, and resulted thus :

* See yesterday's proceedings.

Yeas—Messrs. Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Herne, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—40.

Nays—Messrs. Adams, Armstrong of Jasper, Bell, Bellingier, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—29.

So the decision of the Chair was sustained.

The President announced that the hour had arrived to take up the special order of the day, fixed for eleven o'clock A. M. to-day; which was the report of the Committee on Immigration, incorporating the Liverpool and Texas Steamship Company, Limited.

On motion, the reading was dispensed with.

The question recurred upon the adoption of the declaration.

Mr. Degener presented the following protest, and asked permission to have it spread on the journal of the Convention :

COMMITTEE ROOM,
January 16, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The undersigned, chairman of the Committee on Immigration, most respectfully represents that in his minority report on the "Liverpool and Texas Steamship Company," the reasons why he considers the scheme highly objectionable were not enumerated, because he believed that the document as reported was ample evidence against itself to render further comment unnecessary.

For the purpose, however, of preventing his name being mixed up at any future period with this scheme, in case it should succeed, he herewith solemnly protests against the same, and prays that this, his protest, be spread upon the minutes.

Most respectfully,

E. DEGENER.

The question recurred upon the adoption of the declaration.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Bell, Bryant of Harris, Buffington, Butler, Cole, Curtis, Evans of McLennan, Flanagan, W. Flanagan, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Long, McCormick, McWashington, Morse, Mullins, Mundine, Posey, Ruby, Schuetze, Smith, Stockbridge, Williams, Wilson of Brazoria, Wilson of Milam—29.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Bryant of Grayson, Burnett, Carter, Degener, Downing, Evans of Titus, Fleming, Gaston, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Mackey, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Rogers, Slaughter, Sorrell, Thomas, Whitmore, Wright—31.

So the Convention refused to adopt the declaration.

Mr. Sumner, on motion, was excused from voting.

The President announced the business in order was the consideration of the report amending rule fifty-five of the Convention.

Mr. Hamilton of Travis moved the Convention adjourn till Monday morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Cole, W. Flanagan, Fleming, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—30.

Nays—Messrs. President, Adams, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Flanagan, Foster, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam, Wright—37.

The question recurred upon the adoption of the amendment to rule fifty-five.

Mr. Sumner moved a call of the House.

Call sustained by the following delegates:

Messrs. Bryant of Grayson, Hamilton of Travis, Mackey, Stock-

bridge, Leib, Keigwin, Posey, Watrous, Mundine, Fleming, Kealy, Wilson of Brazoria, Williams, Bell, Phillips of San Augustine, Cole, Bellinger, Schuetze, Harn, Armstrong of Jasper.

The House reported full.

The question recurred upon the adoption of the amendment to rule number fifty-five.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Biedsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing; Evans of McLennan, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—42.

Nays—Messrs. Armstrong of Jasper, Bellinger, Brown, Cole, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze; Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—28.

So the amendment was adopted.

Pending the above vote, a motion to excuse Mr. Bellinger from voting was lost.

Also, a motion to excuse Mr. Bryant of Grayson was lost.

Mr. Bryant of Grayson refused to vote and retired to the lobby.

The President directed the Sergeant-at-Arms to conduct Mr. Bryant to his seat.

Mr. Bryant of Grayson resumed his seat and tendered his resignation.

On motion of Mr. Flanagan, Mr. Bryant's resignation was accepted.

Pending the above call of the yeas and nays, Mr. Cole refused to vote.

Mr. Munroe moved that Mr. Cole be expelled the Convention for contempt of the house, but, by consent, withdrew his motion to expel.

The President then, by order of the Convention, directed the Sergeant-at-Arms to arrest Mr. Cole.

Pending this call of the yeas and nays Mr. Hamilton of Travis also refused to vote.

A motion to excuse Mr. Hamilton from voting was lost.

Mr. Hamilton still refusing to vote, the President, by direction of the House, ordered the Sergeant-at-Arms to take Mr. Hamilton in custody.

Mr. Hamilton, then stating that his arrest would defeat the object that he and his friends had in view, asked to be allowed to vote, and on motion he was released from custody and leave was given him to record his vote.

Pending the announcement of the result, Mr. Cole asked to be released from custody and allowed to vote.

On motion, the request of Mr. Cole was granted.

The President announced that the business before the House was the engrossment of the resolutions reported by the Committee of the Whole on the Condition of the State.

Mr. Hamilton of Bastrop moved the adoption of the resolutions.

Mr. Thomas rose to a point of order, insisting that the vote should be first taken upon the substitute offered by him on yesterday.

The point of order not sustained by the President.

Mr. Sumner moved a call of the House.

Call sustained by the following delegates :

Messrs. Sumner, Hamilton of Travis, Mackey, Stockbridge, Leib, Keigwin, Posey, Watrous, Mundine, Fleming, Wilson of Brazoria, Kealy, Williams, Bell, Phillips of San Augustine, Cole, Bellinger, Schuetze, Harn, Armstrong of Jasper—20.

Mr. McCormick moved that the hall of the Convention be cleared of visitors while the House was under a call.

Carried.

And the hall cleared by the Sergeant-at-Arms.

Mr. Hamilton, of Travis, moved that the Convention adjourn till Monday morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Cole, Evans of McLennan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—28.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W.

Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—43.

So the Convention refused to adjourn.

The question recurred upon the adoption of the resolutions reported by the Committee of the Whole on the condition of the State. The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wright—38.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Brown, Cole, Evans of McLennan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—33.

So the substitute was adopted.

Mr. Patten moved a suspension of the rules to put resolution on its third reading and final passage.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wright—41.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Cole, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—30.

So the Convention refused to suspend the rules.

Mr. Harris gave notice that he moved a reconsideration of the vote by which the Convention refused to adopt the declaration reported by the Committee on Immigration.

Mr. Sumner was arraigned before the Convention for threatened violence to the Assistant Sergeant-at-Arms, and for using disrespectful language to Mr. Evans of Titus.

On motion, Mr. Sumner was excused, he having explained and apologized to the House.

Mr. Varnell moved that the vote accepting the resignation of Mr. Bryant, of Grayson, be rescinded.

Carried.

Mr. Varnell moved that Mr. Bryant, of Grayson, be permitted to withdraw his resignation.

Pending a motion that Mr. Bryant, of Grayson, be required to apologize to the House,

Mr. Carter moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong, of Lamar, Bell, Bellinger, Bledsoe, Brown, Buffington, Burnett, Carter, Cole, Downing, Evans of McLennan, Evans of Titus, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kuechler, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Smith, Sorrell, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—53.

Nays—Messrs. Board, Bryant of Harris, Butler, Curtis, De-gener, Flanagan, Jordan, Lippard, Newcomb, Scott, Slaughter, Whitmore—12.

Main question was ordered.

The question recurred upon the agreement to the motion.

It was agreed to

On motion the Convention adjourned till ten o'clock on Monday morning.

CAPITOL, AUSTIN, TEXAS,
January 18, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the chaplain.

Journal of Saturday read and adopted.

Mr. Keigwin rose to a personal question respecting a speech of the Hon. R. K. Smith, published in the San Antonio Express, stating he was elected to a seat in the Convention in violation of the order of Major General Reynolds.

Mr. Varnell rose to a personal question respecting an assertion in to-day's Austin Republican, stating that on the question of division he had paired off with Mr. Caldwell. He denied the assertion in the Republican.

Mr. Varnell offered the following resolution :

Resolved, That the Austin Republican be, and it is hereby discontinued from and after this date, for gross defamation and insult to members of this Convention.

Mr. Thomas raised the point of order that the resolution could not be considered without a suspension of the rules. .

The President decided the point of order in the negative.

Mr. McCormick moved that the consideration of the resolution be postponed till next Wednesday at 11 o'clock.

Mr. Hamilton, of Travis, moved to reject the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Carter, Cole, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—36.

Nays—Messrs. President, Bledsoe, Brown, Board, Bryant of Harris, Butler, Burnett, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan,

Gray, Hamilton of Bastrop. Hunt, Johnson of Harrison, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—33.

So the Convention rejected the resolution.

Mr. Bledsoe introduced a declaration incorporating the Dallas Bridge Company, and asked its reference to the Committee on Internal Improvements.

It was so ordered.

Mr. Pedigo, from Committee on Counties and County Boundaries, reported as follows:

COMMITTEE ROOM,
Austin, January 18, 1869.

Hon. E. J. DAVIS,
President of the Convention:

SIR: Your Committee on Counties and County Boundaries, to whom was referred a petition from sundry citizens of Refugio county, praying for the removal of the site of said county from the town of Refugio to the town of St. Mary's, have had the same under consideration, and a majority of the committee believing that the change asked for will inure to the benefit and promote the convenience of a large number of the inhabitants of that county, and do injury to none, have instructed me to report to the Convention the accompanying declaration, and ask its adoption.

Respectfully submitted,

H. L. PEDIGO,
Chairman Committee.

DECLARATION

Establishing the county seat of Refugio county.

Be it declared by the people of the State of Texas in Convention assembled:

That the county seat of Refugio county shall hereafter be at the town of St. Mary's, in said county, and remain there until removed by law.

Mr. Varnell moved a suspension of the rules to take up declaration.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Pedigo moved a further suspension of the rules to put declaration on its passage.

Rules suspended.

Declaration read a third time and passed.

Mr. Flanagan moved that Mr. Wm. Preece, Jr., be substituted instead of Mr. Wm. Preece, Sr., as door keeper of the Convention.

Carried.

Mr. Munroe, from Committee on Engrossed Provisions, reported as follows :

COMMITTEE ROOM,
Austin, January 18, 1869.

Honorable E. J. DAVIS,
President of the Convention :

SIR : The Committee on Engrossed Provisions, after examination, instruct me to report the following resolutions and declarations, as being correctly engrossed, viz :

No. 60. A declaration respecting the Texas and New Orleans Railroad and the Pacific Railroad.

No. 85. Declaration for the relief of Houston and Texas Central Railway Company.

No. 86. Resolution respecting the Houston Union.

No. 87. Resolution requesting the Congress of the United States to call into service a regiment of Texas cavalry to repel Indian invasion.

No. 88. Declaration supplemental to a declaration in relation to the International Pacific Railroad Company, passed Aug. 10, 1868.

No. 89. A declaration to incorporate the Belton Bridge Company.

No. 90. A declaration incorporating the Bolivar Point, East Texas and Red River Railroad Company.

No. 91. Resolution congratulatory of the appointment of Major General Canby to the command of the Fifth Military District.

Respectfully submitted,

A. T. MUNROE,
Chairman Committee.

Mr. Slaughter moved a suspension of the rules to take up a bill incorporating the Jefferson Navigation Company.

Rules suspended.

Mr. Bryant of Grayson offered the following amendment :

Be it declared, That a board of survey and supervision be appointed by the mayor of the city of Jefferson to regulate the toll; and

Be it further declared, That no toll shall be collected except at low tide water.

Mr. Fleming moved the amendment be rejected.

Carried.

Mr. Slaughter moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bell, Brown, Buffington, Butler, Cole, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Harris, Harn, Horne, Johnson of Harrison, Kendal, Kuechler, Lippard, Long, McCormick, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—46.

Nays—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Hamilton of Travis, Kealy, Keigwin, Leib, Posey, Rogers, Sumner, Thomas, Varnell—15.

Main question ordered.

The question recurred upon the adoption of the declaration.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Bell, Bledsoe, Brown, Bryant of Harris, Buffington, Butler, Cole, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Harris, Harn, Horne, Hunt, Johnson of Harrison, Kendal, Lippard, Long, McCormick, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—46.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Board, Bryant of Grayson, Hamilton of Bastrop, Hamilton of Travis, Kealy, Keigwin, Leib, Phillips of San Augustine, Posey, Rogers, Sumner, Thomas—15.

So the declaration was adopted.

Mr. Gray moved a further suspension of the rules to put declaration on its final passage.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Bell, Bledsoe, Brown, Butler, Burnett, Cole, Degener, Downing, Evans of McLennan, Fayle, Fleming, Gaston, Gray, Hamilton of Bastrop, Harris, Harn, Horne, Hunt, Johnson of Harrison, Kendal, Kuechler, Lippard, McCormick, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Board, Bryant of Grayson, Buffington, Evans of Titus, W. Flanagan, Hamilton of Travis, Kealy, Keigwin, Leib, Long, Munroe, Rogers, Sumner, Thomas—18.

Rules not suspended.

The President announced the business in order was the consideration of the declaration incorporating the New Orleans, Mobile and Chattanooga Railroad Company.

Mr. Patten moved that the declaration be made the special order of the day for to-morrow at eleven o'clock A. M.

Carried.

Mr. Buffington moved to adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Bell, Bellinger, Bledsoe, Brown, Bryant of Grayson, Buffington, Cole, Curtis, Degener, Downing, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Harris, Harn, Horne, Hunt, Johnson of Harrison, Kealy, Kendal, Kuechler, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Rogers, Schuetze, Stockbridge, Sumner, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria—39.

Nays—Messrs. President, Adams, Armstrong of Jasper, Board, Butler, Burnett, Carter, Evans of McLennan, Fayle, Flanagan, Hamilton of Travis, Keigwin, Leib, Lippard, Long, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Sorrell, Thomas, Varnell, Wilson of Milam, Wright—25.

So the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
January 19, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Carter, from the Committee on Commerce and Manufactures, reported as follows :

COMMITTEE ROOM,
January 18, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your committee, to whom was referred the declaration of Mr. Flanagan in relation to incorporating the Texas Mutual Life Insurance Company, have examined the same, and finding that nothing more is asked by the incorporators than what is usual for the State to grant to such companies, instruct me to report a majority of said committee in favor of its adoption.

CARTER,
Chairman Committee.

A DECLARATION

To incorporate the Texas Mutual Life Insurance Company.

Be it declared by the people of Texas in Convention assembled:

SECTION 1. That T. W. House, W. R. Baker, Ed. Sharp, C. W. Hite, E. S. Graham, T. H. McMahan, W. H. Hawkins, A. R. Crow and A. J. Evans, or such of them, or as many of them, as shall act, their associates, successors and assigns, be and are hereby created a body corporate and politic by the name and style of "The Texas Mutual Life Insurance Company," with perpetual succession and full powers to contract and be contracted with, sue and be sued, and to acquire by purchase, deeds of conveyance, lease, or other lawful manner, and the same to have, hold, use and enjoy, any real or personal property, bonds, notes or other securities, for money,

which the board of directors of said company may deem advisable, in pursuance of the business of the company; and the same or any part thereof to sell, convey, lease, assign, transfer or otherwise dispose of; and to do and perform for the well-being of said company whatever shall lawfully pertain to such corporate bodies, and may have and use a corporate seal.

SEC. 2. That the capital stock of said company shall not exceed \$500,000 at the organization of the same, but may, at any time thereafter, be increased by the board of directors to not more than \$1,000,000.

SEC. 3. That the capital stock of said company shall be divided into shares of \$50 each, and which may be disposed of by the corporators or board of directors, in such manner and on such terms as they may from time to time determine.

SEC. 4. That the above named corporators, or as many of them as may act, and their associates or assigns, shall have power to organize said company in the city of Houston, county of Harris, and State of Texas, and shall constitute the first board of directors, and shall hold their offices until their successors are duly elected and qualified; may appoint a president of the board, secretary and treasurer, and such other officers and agents as may be necessary, and they shall have power to fill all vacancies; a majority of said board shall constitute a quorum to do and transact business. That after the organization of the company as above provided, the board of directors shall have power, before opening books for general subscription to the capital stock, and before any subscription shall be binding on the company, to require the payment to them of not more than twenty per cent. on each share subscribed, as may be required of them, and may have the residue subscribed, secured to their satisfaction, and which obligations shall be payable on call installments, and may be required to be renewed at any time for the whole or such part as the board of directors may determine; and it shall be the duty of the board of directors to give at least thirty days' notice, by mail or otherwise, to all shareholders whose residence is known to the company, of any call they may make for any payment of installment required which is unpaid; and if any stockholder shall fail to meet such call, or to secure the remainder, as aforesaid, it shall be lawful for the board of directors to sell such delinquent shares and transfer the same to the purchaser, or to declare them forfeited to the company, together with all previous payments thereon.

SEC. 5. The stock of this company shall be assignable and transferable under such rules and regulations as the company may establish or the directors adopt; but no transfer of stock shall be deemed valid and binding against the company, so long as the person transferring the same shall be indebted to the company, until the amount of such indebtedness is paid or secured, and the stock of every stockholder shall be considered and held as collateral security for the payment of any sum or sums which he or she may be indebted to the company by notes for stock or otherwise.

SEC. 6. The number of directors and the time of electing them shall be determined by the by-laws, rules and regulations which the company may adopt, and may be changed at the pleasure of the same. In all elections held by stockholders, each share to the number of twenty shall have one vote, and for each ten additional shares the owner shall be entitled to one vote in addition, but no person shall be entitled to vote who is not at the time a *bona fide* stockholder, or whose stock has not been regularly transferred upon the books of the company, and shares may be voted upon by the executor or administrator of a deceased owner, or by proxy.

SEC. 7. That the president and directors for the time being shall have power to appoint such officers and agents under them, and at such places as they shall deem necessary and proper for transacting the business of the company, and to allow such compensation as may be agreed upon, and to require and to take bond and security for the faithful discharge of their respective duties and trusts; and the said board of directors shall have power to make such by-laws and adopt such regulations for the government of the corporation, its agents and business affairs, as they may deem necessary, and may repeal, alter or amend the same at pleasure.

SEC. 8. The president and directors, for the time being, shall have power and authority in the name and for the benefit of the company, to take risks and effect insurance on lives, single or joint, of males or females, by sea or water, or on land, for any time, or for the whole period of natural life, and to contract for, grant, and sell annuities, and to make all kinds of contracts in which casualties to life are involved; likewise to insure against accidents from any external causes producing death, or any personal injury whatever; issue evidences of insurance against bodily accidents and injury; pay compensation therefor as may be contracted for and specified in the terms of the policy; and every such contract, bargain, evidence, agreement, or policy, made by said corporation, shall be in writing

or in print, and shall be signed by the president and secretary, but no such contract shall be binding upon the company until countersigned by the agent taking the risk.

SEC. 9. That it shall be lawful for any married woman, with the consent of her husband, by herself and in her name, or in the name of any third person, with her assent and that of her husband as her trustee, to cause to be insured for her sole use and benefit the life of her husband for any definite period, or for the term of his natural life, or against accidents, resulting in personal injury, causing him to be permanently or partially disabled or injured; and in case of such wife surviving her husband, and the policy becoming due and payable, according to the terms of the insurance, shall be payable to the wife, for her sole use and benefit, free from the clauses of the representatives of the husband or of any of his creditors. In case of the death of the wife before the decease of the husband, then and in that case the amount of the insurance shall be payable after death to her children, or if under age, to their guardian for their use.

SEC. 10. That the President and Board of Directors shall have power to borrow money to an amount not exceeding the capital stock actually taken, and at a rate of interest not exceeding ten per cent. per annum, and to issue stock or bonds for the payment of the same; and any part of the assets of said corporation may be mortgaged or pledged for the payment of such indebtedness, principal and interest; and the Board of Directors shall have power to loan or invest any portion of the unemployed capital of said corporation in such manner, on such terms of discount and interest, and on such security as they may determine and authorize, not inconsistent with the laws of the State.

SEC. 11. That whenever said corporation shall be notified of any loss by injury or death occurring on any of the policies or evidences of insurance granted or issued by the authority of the same, and on which they are legally liable, it shall be the duty of said corporation to pay the amount so insured in accordance with the terms, agreements and conditions of such policies or evidences of insurance within ninety days after such notification; and the Board of Directors may require such evidence and proof of death or injury as they may deem proper and conclusive before paying such loss; *Provided, always,* That in all cases where there has been no violation on the part of the assessed of any of the conditions of the policy or evidence of insurance; and the Board of Directors may attach such

conditions to their policies or evidences of insurance as they may deem right and proper for the good of the company and the assured.

SEC. 12. That it shall be lawful for the Board of Directors to issue participating policies, in which the assured will receive an equitable proportion of profits, payable annually after five years from the date of the policy, and which profits shall be predicated upon the annual premiums received from the assured, and shall not amount to more than fifty per cent. of the annual rates as shown by the Carlyle tables of mortality; and if, in the opinion of the said Board of Directors, or their successors or assigns, the assent of a majority of the stockholders having first been obtained, it shall be deemed expedient to issue policies only and exclusively on the mutual plan, where all the net profits will be divided among the policy holders or members, then the original capital shall be refunded with interest, as the Board may order, to the original stockholders, their assigns, administrators, heirs or legal representatives; and such returned amounts, with interest, shall be in lieu for such stock originally issued to said stockholders, and they shall, in that case, surrender their stock certificates, and the same shall be canceled and destroyed, and the business of the company shall then be carried on on the plan of mutual life insurance, in which all the assured shall equally participate in the profits, losses, management and supervision of said corporation.

SEC. 13. That it shall be lawful for any person or persons, male or female, to insure the life of himself or themselves, or of any other person or persons, male or female, with his or their assent, for his and their own use and benefit, or that of their representatives, heirs or assigns for any period.

SEC. 14. Nothing in this ordinance shall be construed to authorize said corporation to engage in the business of circulating bank notes or other paper as a circulating medium.

SEC. 15. None but citizens of this State shall be entitled to the position of director in this company, and all such persons (directors) must be stockholders therein.

SEC. 16. That this ordinance shall take effect and be in force from and after its passage.

Mr. Patten moved a suspension of the rules to take up the resolution.

Rules suspended.

The question recurring upon the adoption of the resolution.

It was adopted.

Mr. Patten moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

Declaration read third time and passed.

Mr. Newcomb moved that Messrs. Thomas and M. C. Hamilton be added to the Committee on Constitution.

Carried.

Mr. Buffington moved that Mr. McCormick be added to the Committee on Constitution.

Mr. McCormick desired to be excused from service.

Mr. Williams, on motion, was added to the Committee on Constitution.

Mr. Munroe rose to a question of personal privilege, and denied the allegations made by Mr. Gaston, in his speech.

Mr. Thomas, from the Special Committee on the Mileage of Delegates and Officers, by permission, reported as follows :

COMMITTEE ROOM,
Austin, January 18, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Special Committee appointed to consider and report upon the several resolutions relating to the subject of mileage of members, the per diem of members who had been absent, or have during the late or present session, and the proposed mileage of certain officers of this body, have had the same under consideration, and beg leave to report the declaration introduced by the gentleman from Collin touching the first matter, and recommend its adoption.

In regard to absent members, whether with or without leave, your committee advise strict adherence to the rule adopted on this subject during the summer session; and as to granting mileage to any officer, unless ordered upon duty at a distance during the session of the Convention, your committee hopes that no such precedent will be established by this body.

Respectfully submitted.

A. M. BRYANT,
JAS. W. THOMAS,
M. C. HAMILTON.

DECLARATION.

WHEREAS, There has been no rule for determining the mileage to which members of this Convention may be entitled; and

Whereas, the assessors and collectors of the various counties of the State are entitled to mileage from the county seats of their respective counties to the capital upon the annual settlement of their accounts; and

Whereas, the distances allowed assessors and collectors in computing their mileage have the sanction of the State government since the establishment of the capital at Austin, and are believed to be just;

Be it therefore declared as the sense of this Convention, That mileage should be computed over the nearest traveled route between two given points, and that the schedule of distances established at the treasury in its settlement with the revenue officers of the State government, be and the same is hereby declared to be the standard and rule by which the mileage of the members of this Convention shall be determined, as well for the past as the present and future portions of the session; and it is hereby made the duty of the Controller of Public Accounts to adjust the mileage of this Convention accordingly.

Mr. Patten moved a suspension of the rules to take up the declaration reported by the committee.

The Convention refused to suspend the rules.

Mr. Gray introduced the following resolution, and asked its reference to the Committee on General Provisions:

Resolved, That no declaration or resolution, except for the purposes set forth in the acts of Congress, has any force as a law until approved by the commanding general or ratified by the people.

It was so ordered.

Mr. Smith introduced two declarations, and to incorporate the Firemen's Insurance Company and the Beaumont and Galveston Railroad Company, and asked that they be read by caption and referred to the Committee on Internal Improvements.

It was so ordered.

Mr. Hamilton of Travis introduced a declaration to incorporate the Austin Home Insurance Company, and asked that it be read by caption and referred to the Committee on Judiciary.

It was so ordered.

Mr. Horne introduced a declaration to incorporate the Galveston Fire and Marine Insurance Company, and asked it be read by caption and referred to the Committee on Internal Improvements.

It was so ordered.

Mr. McWashington introduced the following declaration, and asked its reference to the Committee on Judiciary:

DECLARATION

Repealing an act to incorporate the Central Transit Railroad Company.

SECTION 1. *Be it declared by the people of the State of Texas in Convention assembled,* That chapter 162 of the special so-called laws of the so-called Legislature of 1866, entitled "An act to incorporate the Central Transit Railroad Company," of which the notorious and unmitigated rebels, Duff Green, G. W. Carter and Pryor Lea are incorporators, be and the same is hereby repealed.

SEC. 2. This declaration shall be in force from and after its passage.

It was so ordered.

Mr. Gray introduced the following resolution, and asked its reference to the Committee on Judiciary:

Resolved, That all declarations creating charters and appropriating either money or land, shall be separately submitted to the people for their ratification or rejection, when the constitution is submitted to the registered voters.

It was so referred.

Mr. Stockbridge introduced a declaration, and asked it be read by caption, and be referred to the Committee on Internal Improvements.

It was so ordered.

The president announced the business in order was a declaration attaching portions of Gaudalupe county to Wilson county, and changing the name of Wilson county to Cibolo county, the question being upon its final passage.

The question recurred upon the final passage of the declaration.

It was read a third time and passed.

The president announced that the next business in order was the

resolution* reported from the Committee of the Whole respecting a division of the State, the question being on its third reading.

Mr. Hamilton of Bastrop moved the previous question.

Previous question seconded.

Mr. Thomas moved to lay the resolution on the table.

Mr. Degener moved a call of the House.

Call sustained by the following members:

Messrs. Degener, Board, Harris, Adams, Long, Lippard, Bledsoe, Bryant of Harris, Curtis, Kendal, Mullins, Gray, Downing, Hunt, Patten, Butler, Hamilton of Bastrop—17.

On motion Mr. Armstrong of Lamar was excused for to-day.

Absentees—Fleming and Evans of Titus.

Mr. Patten moved the call of the House be suspended.

Carried.

The President announced that the hour had arrived to take up the declaration respecting the New Orleans, Mobile and Chattahoochee Railroad Company, made the special order for to-day at eleven o'clock A. M., the question being on its third reading.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Thomas moved to lay the declaration on the table.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Grayson, Carter, Evans of Titus, Fleming, Gray, Hamilton of Travis, Jordan, Leib, McCormick, Morse, Pedigo, Posey, Rogers, Scott, Thomas, Wilson of Brazoria—19.

Nays—Messrs. President, Adams, Bell, Board, Bryant of Harris, Butler, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Harris, Harn, Hunt, Johnson of Harrison, Kealy, Keigwin, Kuechler, Lippard, Long, Mackey, McWashington, Mullins, Munroe, Newcomb, Patten, Phillips of San Augustine, Ruby, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Varnell, Vaughan, Whitmore, Williams, Wilson of Milam, Wright—45.

So the Convention refused to lay on the table.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus:

* For resolution see page 106.

Yeas—Messrs. President, Adams, Bell, Board, Brown, Butler, Cole, Curtis, Degener, Downing, Evans of McLennan, Flanagan, W. Flanagan, Hamilton of Bastrop, Horne, Hunt, Johnson of Harrison, Keigwin, Kendal, Kuechler, Lippard, Long, Mackey, McWashington, Mullins, Munroe, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Sumner, Varnell, Vaughan, Williams, Wilson of Milam, Wright—38.

Nays—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Grayson, Burnett, Carter, Evans of Titus, Fayle, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Jordan, Kealy, Leib, McCormick, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Wilson of Brazoria—28.

So the main question was ordered.

The question recurred upon the final passage of the declaration.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bell, Board, Bryant of Harris, Buffington, Butler, Burnett, Cole, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Hamilton of Bastrop, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Lippard, Long, Mackey, McWashington, Mullins, Munroe, Newcomb, Patten, Ruby, Schuetze, Slaughter, Smith, Sorrell, Sumner, Varnell, Vaughan, Whitmore, Williams, Wilson of Milam, Wright—46.

Nays—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Brown, Bryant of Grayson, Carter, Fleming, Gray, Hamilton of Travis, Kealy, Leib, McCormick, Morse, Pedigo, Phillips of San Augustine, Posey, Rogers, Scott, Thomas, Wilson of Brazoria—20.

So the declaration was adopted.

Mr. Evans of Titus moved a reconsideration of the vote adopting the declaration.

Mr. Flanagan moved to lay the motion to reconsider on the table.

Mr. Thomas moved a call of the House.

Call sustained by the following delegates :

Messrs. Bryant of Grayson, Posey, Hamilton of Travis, Evans of Titus, Bellinger, Scott, Armstrong of Jasper, McCormick, Morse, Bryant of Harris, Gray, Board, Thomas, Kealy—15.

Mr. McCormick moved the Convention adjourn till ten o'clock to-morrow morning.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Bledsoe, Brown, Bryant of Grayson, Evans of Titus, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Kealy, Keigwin, Leib, McCormick, Morse, Munroe, Pedigo, Phillips of San Augustine, Posey, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—32.

Nays—Messrs. President, Adams, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Flanagan, W. Flanagan, Hamilton of Bastrop, Horne, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Rogers, Ruby, Slaughter, Smith, Sumner, Whitmore, Wilson of Milam—35.

So the Convention refused to adjourn.

Absentees—Messrs. Horne, Mackey, Mundine.

Mr. Johnson of Harrison moved a suspension of the call.

Motion sustained.

The question recurred, "Shall the motion to reconsider the vote adopting the declaration be laid on the table?"

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Bell, Board, Bryant of Harris, Buffington, Butler, Cole, Curtis, Degener, Downing, Evans of McLennan, Flanagan, W. Flanagan, Hamilton of Bastrop, Horne, Hunt, Johnson of Harrison, Keigwin, Kendal, Kuechler, Lippard, Long, McWashington, Mullins, Munroe, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Sumner, Varnell, Vaughan, Whitmore, Williams, Wilson of Milam, Wright—38.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Brown, Bryant of Grayson, Burnett, Carter, Evans of Titus, Fayle, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Jordan, Kealy, Leib, Mackey, McCormick, Morse, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Wilson of Brazoria—30.

So the motion to reconsider was laid on the table.

Mr. Hamilton of Travis moved that Mr. Evans of Titus be added to the Committee on Judiciary.

Carried.

On motion the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
January 20, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Patten asked leave of absence for Mr. Armstrong of Lamar and Mr. Fleming.

Leave granted.

Mr. Schuetze presented a petition from citizens of the county of Fayette, and asked its reference to the Committee on Legislature.

It was so referred.

Mr. Keigwin presented a petition from citizens of Burleson, Milam, Williamson, Travis and Bastrop counties, respecting a new county, and asked its reference to the Committee on Counties and County Boundaries.

It was so referred.

Mr. Stockbridge offered the following declaration, and asked its reference to the Committee on the Judiciary :

RESOLUTION

To repeal an act entitled an act to incorporate the city of Brenham.

WHEREAS, The act of the Legislature of 1866, incorporating the city of Brenham, is obnoxious to a large majority of the legal voters residing within the limits of said corporation, by reason of the following section of said act, to-wit :

SEC. 3. That every male person qualified by the existing laws of this State to vote for members of the House of Representatives, and who shall have real estate within the limits of said city of the value of two hundred and fifty dollars, and who shall have paid all taxes due from him to the State, county and city, at the time of voting, and none others shall be entitled to vote for municipal officers of said city; and

WHEREAS, The qualified voters under said act have never derived the advantages extended to them by the same, but have suffered the government of said city of Brenham to be carried on

independently of the provisions of said act, made and provided as per cap. 141, special laws, 11th Legislature; therefore,

Be it resolved, by the people of Texas in Convention assembled, That the act passed by the Legislature of the State of Texas on the 29th day of October A. E. 1866, and approved on the 3d day of November A. D. 1866, entitled an act to incorporate the city of Brenham be, and the same is hereby declared to be repealed, and that Brevet Major General Edward R. S. Canby, commanding the Fifth Military District, is hereby requested to give due notice of the passage of this declaration, and respectfully invite his concurrence in the above and foregoing resolution.

It was so referred.

Mr. Schuetze offered a declaration to amend an act to incorporate Herman University, and asked it be read by caption and referred to the Committee on Education.

It was so referred.

Mr. Gaston introduced a declaration to incorporate the Neches Navigation Company, and asked that it be referred to the Committee on Internal Improvements.

It was so referred.

Mr. Evans, of McLennan, introduced a declaration for the relief of the widow and heirs of W. A. Smith, deceased, and asked its reference to a special committee of three.

It was so ordered.

The President appointed Messrs. Evans of McLennan, McCormick and Thomas as the committee.

Mr. Patten introduced a declaration in relation to the Buffalo Bayou, Brazos and Colorado Railroad Company, and asked it be read by caption and referred to the Committee on Internal Improvements.

It was so ordered.

The President announced that the business in order was the consideration, on third reading, of the resolutions reported by the Committee of the Whole* respecting division of the State, and upon the motion of Mr. Thomas, of Collin, to lay the resolution on the table.

The question recurred, "Shall the resolutions reported from the Committee of the Whole be laid upon the table?"

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Bell, Bryant of Grayson,

* For report see page 106.

Cole, Curtis, Evans of McLennan, Fleming, Gaston, Hamilton of Travis, Harn, Johnson of Harrison, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogens, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—31.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Smith, Varnell, Vaughan, Whitmore, Wright—36.

So the Convention refused to lay the resolution on the table.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Hamilton, of Travis, moved a "call of the House."

Call sustained by the following members :

Messrs. Bryant of Grayson, Stockbridge, Hamilton of Travis, Mackey, Schuetze, Leib, Keigwin, Posey, Watrous, Johnson of Harrison, Lippard, Bledsoe, Curtis, Bryant of Harris.

Absentees—Messrs. Slaughter and Sumner.

Mr. Newcomb moved a suspension of the call.

Call sustained by the following delegates :

Messrs. Bryant of Grayson, Bellinger, Bell, Hamilton of Travis, Mackey, Stockbridge, Leib, Keigwin, Posey, Thomas, Watrous, Kealy, Phillips of San Augustine, Armstrong of Jasper, Johnson of Harrison, Cole.

Mr. Thomas moved to adjourn till to-morrow morning at 10 o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Cole, Fleming, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria—23.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener,

Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, McWashington, Morse, Mullins, Newcomb, Patten, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—46.

So the Convention refused to adjourn.

Mr. Degener moved the expulsion of Mr. Sumner for absenting himself from the Convention pending a call of the House, in defiance of the rules.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Hamilton, of Travis, rose to a point of order that the House being under call can not proceed to transact business until the call is suspended.

The President ruled that it is in order to consider the question of the expulsion of Mr. Sumner.

The question recurred, "Shall the main question be now put?" which main question was the expulsion of Mr. Sumner.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam, Wright—33.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Cole, Curtis, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria—32.

So the main question was ordered.

The question recurring upon the adoption of the motion of Mr. Degener to expel Mr. Sumner,

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Degener, Downing,

Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam, Wright—38.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Cole, Curtis, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria—32.

So the motion was adopted.

Mr. Thomas rose to a point of order that a two-thirds vote was necessary to expel.

The President announced that a majority vote was sufficient to expel, and announced Mr. Sumner's expulsion from the Convention for contumacious conduct.

The question recurred, "Shall the main question be now put?" which main question was the adoption on final passage of the resolution reported by the Committee of the Whole.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Jordan, Kendal, Keuchler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wright—39.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Cole, Curtis, Evans of McLennan, Gaston, Hamilton of Travis, Harn, Johnson, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—30.

So the main question was ordered.

The question then recurred upon the adoption of the resolutions as reported by the Committee of the Whole upon the question of the division of the State.

The resolutions were adopted.

Mr. Evans, of Titus, moved that the President be instructed by the Convention to prepare a communication to the commanding gen-

eral, stating the facts and grounds upon which Mr. Sumner was expelled.

Mr. Hamilton, of Bastrop, moved to reconsider the vote by which the resolutions reported by the Committee of the Whole upon the subject of division of the State were adopted, and to lay the motion to reconsider on the table.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wright—38.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Cole, Curtis, Evans of McLennan, Gaston, Hamilton of Travis, Harn, Johnson, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—30.

So the motion to lay the motion to reconsider on the table prevailed.

The question recurred upon the motion of Mr. Evans, of Titus.

By leave, the motion was withdrawn.

Mr. Newcomb introduced the following

RESOLUTION.

Resolved, That the sum of four thousand dollars be and the same is hereby appropriated out of any money in the treasury not otherwise appropriated to defray the expenses of said commissioners, which shall be divided into equal parts, and one part paid to each of said commissioners, and a draft or certificate of the secretary of the Convention, approved by the President thereof, shall be a sufficient voucher to authorize the Comptroller to draw his warrant upon the treasurer for each and every part of this appropriation.

Resolution ruled out of order.

Mr. Schuetze moved a suspension of the rules to take up the report of the Committee on Immigration.

Motion withdrawn.

Mr. Degener moved that the hour of 12 M. to-morrow be fixed as

the hour to go into an election of delegates to proceed to Washington, under the resolution just adopted.

Carried.

On motion, the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
JANUARY 21, 1869.

Convention met pursuant to adjournment.

Roll called.

No quorum present.

Mr. Hamilton, of Bastrop, moved that the Convention adjourn till to-morrow morning at 10 o'clock.

Carried.

CAPITOL, AUSTIN, TEXAS,
JANUARY 22, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Pending the adoption of the minutes the President drew the attention of the Convention to the incorrectness of the minutes as published by the Austin Republican, the newspaper officially designated to publish the proceeding of the Convention.

Mr. Munroe gave notice he would introduce a resolution repealing the motion expelling Mr. Sumner.

The President directed the following communication to be read :

HALL OF THE CONVENTION,
Austin, Texas, January 21, 1869.

GENERAL: I have to inform you of the receipt by me of the resignation of Mr. S. M. Johnson, member of this Convention from the counties of DeWitt, Victoria, Jackson and Calhoun.

I have further to inform you that this Convention found it necessary on yesterday to expel for misconduct Mr. F. W. Sumner, member from the counties of Grayson, Cook, Montague, Jack, etc., thus creating another vacancy.

Respectfully submitted,

EDWARD J. DAVIS,
President of Convention.

To Major-General E. R. S. Canby, U. S. A.,
Commanding Fifth Military District,
Austin, Texas.

Mr. Hamilton, of Travis, read a protest against the expulsion of Mr. Sumner, and moved it be spread upon the minutes.

The question recurred upon the motion of Mr. Hamilton, of Travis, to spread the protest on the minutes.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Cole, Curtis, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Rogers, Scott, Sorrell, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wright—34.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Butler, Carter, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam—35.

So the Convention refused to spread protest upon the minutes.

Mr. Patten offered the following resolution :

Resolved, That a special committee of five be appointed to take into consideration the protest presented by Mr. Hamilton, of Travis, in relation to the expulsion of Mr. Sumner. That said committee have power to send for persons and papers, swear witnesses, etc.; also, to invoke military aid, if necessary.

Mr. McCormick raised the point of order that the Convention, having refused to spread the protest on the minutes, it was not before the House.

The President sustained the point of order.

Mr. Burnett moved to amend the resolution of Mr. Patten by making it read "that a special committee of five be appointed to take into consideration the circumstances related in," etc.

Amendment accepted.

The question recurred upon the adoption of the resolution as amended.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Degener, Downing, Evans of McLennan, Evans of Titus, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—42.

Nays—Messrs. Bell, Bellinger, Bryant of Grayson, Cole, Curtis,

Fayle, Fleming, Gaston, Hamilton of Travis, Harn, Johnson, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Thomas, Watrous, Williams, Wilson of Brazoria—28.

So the resolution was adopted.

Mr. Downing presented a petition from citizens of the counties of Bosque, Coryelle and McLennan for the creation of a new county, and asked its reference to the Committee on Counties and County Boundaries without reading.

It was so ordered.

Mr. Munroe, from the Committee on Engrossed Provisions, reported as follows:

COMMITTEE ROOM,
January 22, 1869.

Hon. E. J. DAVIS,
President of the Convention:

SIR: The Committee on Engrossed Provisions, after examination, instruct me to report the following declarations and resolutions as correctly engrossed, viz:

No. 92, declaration creating the county of San Jacinto.

No. 93, resolution respecting the Indians of the frontier of Texas.

No. 94, resolution respecting land certificate of Henry Koontz.

No. 95, declaration to incorporate the Galveston Canal Company.

No. 96, declaration incorporating the Phoenix Transportation Company.

No. 97, ordinance in regard to valid land certificates corrected so as to read "declared" instead of "ordained."

No. 98, declaration authorizing the police courts of Hays and Goliad counties to levy a special tax to build a courthouse at San Marcos and Goliad, the county seat of said counties.

Respectfully submitted,

A. T. MUNROE,
Chairman Committee.

Adopted.

Mr. Flanagan, from Committee on Internal Improvements, reported the following

DECLARATION.

Be it declared by the people of Texas in Convention assembled, That Benjamin Brandon, a citizen of Henderson county, in the State of Texas, be and he is hereby authorized to keep, maintain and run a ferry boat at a crossing on the Neches river, on the direct line of travel from Tyler to Athens, and from Henderson county to Spring's ferry, on the Trinity river, and to have the right to said ferry for a distance of five miles upon said river Neches above and below said ferry, taking the said ferry crossing at the points designated at the centre of the distance of five miles; and the said Benjamin Brandon shall be authorized to collect such sums of money for ferriage or tolls as may be established by the county court of Henderson county; provided, that the citizens of Smith and Henderson county shall have the privilege of crossing said river at any place during low water.

Mr. Flanagan moved a suspension of the rules to take up the declaration.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Buffington moved a further suspension of the rules to put declaration on its final passage.

Rules suspended.

Declaration read third time and passed.

Mr. Pedigo, from the Committee on Counties and County Boundaries, reported as follows:

COMMITTEE ROOM,
Austin, January 22, 1869.

To Hon. E. J. DAVIS,
President of the Convention:

SIR: Your Committee on Counties and County Boundaries, to whom was recommitted a declaration creating the new county of Peebles, have had the same under consideration, and a majority of the committee, after due deliberation, have instructed me to report

back to the Convention the accompanying substitute and to recommend its adoption.

Respectfully submitted,

H. C. PEDIGO,
Chairman Committee.

Mr. Buffington moved a suspension of the rules to take up declaration.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Harn, Horne, Hunt, Jordan, Kendal, Kuechler, Long, McWashington, Mullins, Newcomb, Pedigo, Ruby, Schuetze, Scott, Smith, Varnell, Whitmore—32.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Brown, Bryant of Grayson, Burnett, Carter, Cole, Curtis, Evans of McLennan, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Johnson, Kealy, Keigwin, Leib, Lippard, Morse, Phillips of San Augustine, Posey, Slaughter, Sorrell, Thomas, Watrous, Williams—27.

So the Convention refused to suspend the rules.

The same committee made the following additional report:

COMMITTEE ROOM,
Austin, Texas, January 20, 1869.

To Hon. E. J. DAVIS,
President of the Convention:

SIR: Your Committee on Counties and County Boundaries, to whom was referred a declaration creating the county of Union, and locating the county seat thereof, have had the same under consideration, and a majority of the committee have instructed me to report the same back to the Convention and recommend its adoption.

Respectfully submitted,

H. C. PEDIGO,
Chairman Committee.

Mr. Flanagan, from the Committee of Internal Improvements, reported as follows:

COMMITTEE ROOM,
January 14, 1869.

To the Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration for a charter to build a bridge over the Colorado river, and after a careful examination arrive at the conclusion that the enterprise is a very important one, and I am instructed to report back the same, and to recommend its passage.

Respectfully submitted,
J. W. FLANAGAN,
Chairman Committee.

Mr. Patten moved a suspension of the rules to take up resolution.

Rules suspended.

The question recurred upon the adoption of the declaration.

Mr. Hamilton of Travis moved to amend by adding the names of R. N. Lane and J. M. Swisher.

The amendment was adopted.

Mr. Hamilton of Travis moved to amend by adding the name of W. L. Chalmers.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Bellinger, Board, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Flanagan, W. Flanagan, Gray, Hamilton of Travis, Harris, Harn, Horne, Jordan, Keigwin, Kendal, Long, Mackey, McCormick, McWashington, Mullins, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Wilson of Milam, Wright—42.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Bryant of Harris, Butler, Degener, Downing, Evans of McLennan, Fayle, Fleming, Hamilton of Bastrop, Hunt, Kuechler, Morse, Newcomb, Patten, Slaughter, Thomas, Whitmore, Williams—20.

Pending the vote Mr. Thomas asked to be excused from voting.

The Convention refused to excuse.

The Convention agreed to add the name of W. L. Chalmers.

Mr. Scott moved to add the name of L. E. Edwards.

Mr. Evans of McLennan moved to add the name of Scipio McKee.

Mr. Hamilton of Travis moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Hamilton of Travis moved a further suspension of the rules to put the declaration on its final passage.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Long, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Williams, Wright—49.

Nays—Messrs. Bell, Bledsoe, Bryant of Harris, Butler, Degener, Downing, Gaston, Hamilton of Bastrop, Hunt, Lippard, Newcomb, Patten, Scott, Slaughter, Thomas, Whitmore, Wilson of Milam—17.

So the Convention refused to suspend the rules.

Mr. Flanagan made the following additional report:

COMMITTEE ROOM,
January 22, 1869.

Hon. E. J. DAVIS,
President of the Convention:

SIR: Your committee have had before them a declaration to incorporate the Fireman's Insurance Company of Galveston, and, after due consideration, I am instructed to report back the same and to recommend its passage.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Mr. Smith moved the rules be suspended to take up the declaration.

Convention refused to suspend the rules.

Also, the following report from same committee :

COMMITTEE ROOM,
January 22, 1869.

HON. E. J. DAVIS,
President of the Convention :

SIR : Your committee have had before them a declaration for the incorporation of the Dallas County Bridge Company, and, after a careful examination of the same, I am instructed to report the same back and to recommend that it pass.

Respectfully submitted,
J. W. FLANAGAN,
Chairman Committee.

Mr. Bledsoe moved a suspension of the rules to take up the declaration.

Convention refused to suspend the rules.

Also, the following report from same committee :

COMMITTEE ROOM,
January 22, 1869.

HON. E. J. DAVIS,
President of the Convention :

SIR : Your Committee on Internal Improvements have had before them a declaration incorporating the Galveston and Velasco Railroad Company, and, after examining the same, I am instructed by the committee to report the same back and to recommend its passage.

Respectfully submitted,
J. W. FLANAGAN,
Chairman Committee.

Mr. Evans, of McLennan, moved a suspension of the rules to take up the declaration.

Convention refused to suspend the rules.

Mr. W. Flanagan introduced a declaration to incorporate the Mutual Life Insurance Company, and asked its reference to the Committee on Commerce and Manufactures without reading.

It was so ordered.

Mr. W. Flanagan introduced a declaration to incorporate the Rock Creek Bridge and Turnpike Company, and asked its reference to the Committee on Internal Improvements without reading.

It was so referred.

Mr. Newcomb introduced the following

RESOLUTION.

Resolved, That the delegates of this Convention who obtained indefinite leave of absence prior to the adjournment of the last session of this Convention and all who were detained from being in their seats at the opening of the present session, are entitled to their per diem as if in regular attendance, and that the Secretary of this Convention shall sign certificates therefor, which shall be approved by the President, as a voucher or vouchers to authorize the Comptroller to draw his warrant on the treasury for the amount or amounts due to said delegates.

Laid over under the rules.

Mr. Smith introduced the following declaration and asked its reference to the Committee on Judiciary.

DECLARATION.

Be it declared by the people of Texas in Convention assembled, That all lots of land or lands sold for the non-payment of city or municipal taxes, such sales shall be as binding and conclusive as lands sold for the non-payment of taxes by authority of the State laws, and the said State laws shall govern all tax sales under municipal or corporation laws.

It was so referred.

Mr. Scott introduced the following

RESOLUTION.

Be it resolved, That the President of the Convention be authorized to appoint a special committee, to consist of one delegate from each judicial district of the State of Texas, for the purpose of preparing an ordinance defining boundary lines dividing the State of Texas into three or more States, as may be agreed upon.

Be it further resolved, In addition to said ordinance, an additional ordinance setting forth a fair and impartial division of the effects (of whatever character they may be) now belonging to the State of Texas as a whole, to be distributed equally to each subdivision of the State aforesaid.

Be it further resolved, That said committee shall prepare an ordinance to be submitted to the registered voters of the State of Texas, upon the subject of a division, after Congress shall have approved the action of the Convention upon the matter of division.

Be it further resolved, That it shall be the duty of the president of the Convention to transmit a copy or copies of said ordinance to the president of the Senate and speaker of the House of Representatives in Congress assembled.

Laid over under the rules.

Mr. Bledsoe introduced a declaration to incorporate the town of Lancaster, and asked its reference to the Committee on State Affairs.

It was so ordered.

The president announced the business next in order was the consideration of the following declaration incorporating the Jefferson Navigation Company.

A DECLARATION,

To Incorporate the "Jefferson Navigation Company."

Be it declared by the people of Texas, by their delegates in Convention assembled, That C. D. Morris, W. P. Williams, and Geo. B. Slaughter, their associates and assigns, be and they are hereby created and established a body corporate and politic, under the name of the "Jefferson Navigation Company," with authority, in said corporate name, to contract, to make by-laws for its government, not inconsistent with the laws of the State, to sue and be sued, to purchase and hold real and personal estate, to have a corporate seal, and generally to do and perform all such acts and things as may be necessary to carry out the objects of this declaration.

SEC. 2. The said corporation, from their own body, shall elect a President, Secretary and Treasurer, and may also have such other officers and agents as may be necessary and are common to private corporations; the duties of each officer shall be defined in the by-

laws of the Company. All contracts or acts of said Company shall be signed by the President and countersigned by the Secretary, under the seal of the Company.

SEC. 3. The said corporators and their associates shall constitute a Board of Directors, and within sixty days after the passage of this declaration shall organize and form their by-laws.

SEC. 4. *Be it further declared*, That it shall be the duty of said body corporate within two years from the passage of this declaration, to remove the stumps, logs and other impediments to the navigation of Big Cypress Bayou, and the lakes into which the said stream empties, within the limits of Texas, beginning at Jefferson, Texas, or such other point as may be most practicable, by the use of one or more dredging boats, and such other machinery as may be necessary, so as to afford the free and safe navigation of said stream and lakes so far as practicable. The said body corporate shall keep their principal office at Jefferson, Texas.

SEC. 5. *Be it further declared*, That it shall be the duty of the Governor of Texas, upon the application of said body corporate, to appoint a competent engineer, as commissioner, to examine said bayou and lakes, and if the work of dredging and clearing said stream of obstructions to navigation, are found to have been done in accordance with the provisions of this declaration, the said commissioner shall certify the fact to the Governor, and thereupon the said body corporate shall have the right to receive the following rates of charges for all freight passing over said stream and lakes, to-wit: ten per cent. on each freight bill; provided, that upon proof being made before the Mayor and Aldermen, who shall constitute a tribunal to hear and determine the same, of the city of Jefferson, that impediments are in said stream and lakes hindering the navigation thereof, upon such proof the said Mayor shall declare the same, and from and after such declaration, the said body corporate shall not have the right to receive any charges on freight passing over said stream; provided, that said body corporate, after the removal of obstructions, and upon proof thereof, before said Mayor and Aldermen, that impediments have been removed, and the Mayor shall have declared said stream free from impediments to navigation, the said body corporate shall have the right thereafter to demand and receive the charges aforesaid.

SEC. 6. It shall be the duty of said body corporate to keep a dredging boat, for the purpose of speedily removing all obstructions

to the navigation of the said bayou and lakes, and to keep said stream, so far as practicable, open for the free and safe navigation thereof; also, to designate, by buoys and other marks, the channel in said lake.

SEC. 7. *Be it further declared*, that for the willful neglect of said body corporate to keep said stream and lakes in a safe condition for navigation, they shall be liable for all damages sustained in consequence thereof.

SEC. 8. *Be it further declared*, that this charter and the privileges and rights herein granted, shall continue and be in force for the period of twenty years, from and after the report of the commissioner aforesaid; and the same shall be enjoyed by the said body corporate, their heirs and assigns, for the same time, unless the same is forfeited by proper action in the district court, for non-compliance with the requirements of this declaration.

SEC. 9. *Be it further declared*, that the said body corporate and politic, in order to effect the speedy improvement of said lakes and bayou, shall have the right to issue their bonds, for not more than one hundred thousand dollars, and place them on the market; provided, the same shall be made redeemable, not more than five years from the date of issuance; and provided, further, that a lien shall exist upon the real estate of the said body corporate, and the realty of each individual member thereof, to secure the payment of said bonds; and provided, further, that said body corporate, before issuing bonds in any amount, shall cause this declaration to be recorded in the office of the county clerk of Marion county, Texas, which shall be notice of the lien contemplated by this section.

SEC. 10. *Be it further declared*, that this declaration and ordinance take effect from and after its passage.

The question being upon its final passage,

Mr. Thomas moved to refer the declaration to the Committee on the Judiciary.

Motion not seconded.

The question recurring upon the adoption of the declaration, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Brown, Bryant of Harris, Buffington, Butler, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan,

Fleming, Gray, Harris, Harn, Horne, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Stockbridge, Varnell, Vaughan, Wilson of Brazoria, Wilson of Milam, Wright—47.

Nays—Messrs. Bellinger, Bledsoe, Board, Bryant of Grayson, Burnett, Carter, Gaston, Hamilton of Bastrop, Hamilton of Travis, Leib, Mackey, Phillips of San Augustine, Rogers, Schuetze, Thomas, Watrous, Williams—17.

So the declaration was adopted.

Mr. Munroe moved the Convention go into an election of delegates to be sent to Washington, and that the delegates for the four districts, as provided for in the resolution, be first elected.

Mr. Harn moved a call of the House.

Call sustained by the following delegates :

Messrs. Hamilton of Travis, Bryant of Grayson, Mackey, Schuetze, McCormick, Leib, Kealy, Harn, Slaughter, Williams, Stockbridge, Johnson, Cole, Rogers, Curtis, Watrous.

Mr. Butler moved that the hall of the Convention be cleared of visitors.

Carried.

Absentees—None.

Mr. Evans of McLennan moved that the Convention adjourn till four o'clock this evening.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Evans of McLennan, Harris, Patten, Pedigo, Phillips of San Augustine, Vaughan, Wilson of Milam—10.

Nays—Messrs. President, Adams, Armstrong of Lamar, Board, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Horne, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Posey, Rogers, Ruby, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—58.

So the Convention refused to adjourn.

Mr. Patten moved the Convention first ballot for the two delegates at large.

Carried.

Mr. Newcomb raised the point of order that a plurality of votes was sufficient to elect.

The president decided the point of order raised by Mr. Newcomb in the negative, and decided that a majority of the votes cast was necessary to elect.

The question recurred upon the election of delegates at large.

Nominations were declared in order, and the following gentlemen were nominated :

Mr. Gray nominated Hon. J. W. Flanagan.

Mr. Patten nominated Hon. E. J. Davis.

Mr. Hamilton of Travis nominated Hon. M. L. Armstrong.

Mr. Hamilton of Travis nominated Hon. A. Buffington.

The president appointed Messrs. Vaughan, McCormick and Ruby as tellers.

Upon the first ballot

Mr. Flanagan received.....	36 votes.
Mr. Davis received.....	36 votes.
Mr. Armstrong received.....	33 votes.
Mr. Buffington received.....	30 votes.
Scattering..	2 votes.
Blank.....	1 vote.

Messrs. E. J. Davis and J. W. Flanagan having received a majority of the votes cast, were declared duly elected as delegates at large to proceed to Washington, under the resolution passed by the Convention.

The president announced the election of delegates from the four districts of the State now in order.

Mr. Degener moved that the delegates from the districts be elected separately.

Carried.

Mr. Harris moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Evans of Titus, Hamilton of Travis,

Harris, Johnson, Keigwin, McCormick, Mundine, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Thomas, Vaughan, Wilson of Brazoria, Wilson of Milan—21.

Nays—Messrs. President, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Harn, Horne, Hunt, Jordan, Kealy, Kendal, Kuechler, Leib, Lippard, Mackey, McWashington, Morse, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wright—45.

So the Convention refused to adjourn.

The President announced the nominations were now in order for the delegates to represent the district north of thirty-second degree.

Mr. M. C. Hamilton nominated Mr. Bledsoe.

Mr. Brown nominated Mr. Carter.

Mr. A. J. Hamilton nominated Mr. Wright.

Mr. Slaughter nominated Mr. Whitmore.

Mr. Harris nominated Mr. Gray.

Mr. Scott nominated Mr. M. L. Armstrong.

Messrs. Gray and Armstrong, by permission, withdrew their nominations.

Upon the first ballot—

Mr. Bledsoe received	6 votes.
Mr. Carter received	9 votes.
Mr. Wright received	29 votes.
Mr. Whitmore received	23 votes.
Scattering	3 votes.
Blank	1 vote.

No candidate having received a majority of the votes cast, the Convention proceeded to a second ballot.

Upon the second ballot—

Mr. Carter received	1 vote.
Mr. Wright received	33 votes.
Mr. Whitmore received	37 votes.
Scattering	4 votes.

Mr. Whitmore having received a majority of the votes cast, was declared duly elected a delegate to represent the district north of thirty-second degree.

Nominations being in order for delegates from the eastern district of the State,

Mr. Patten nominated Mr. Burnett.

No other delegate being put in nomination, Mr. Munroe moved that Mr. Burnett be declared duly elected as the delegate from the eastern district of the State by acclamation.

Carried.

Nominations being in order for delegate from the middle district of the State,

Mr. Patten nominated Mr. M. C. Hamilton.

No other nomination being made, Mr. Buffington moved that Mr. M. C. Hamilton, of Bastrop, being the only candidate nominated, be duly declared elected as the delegate from the middle district of the State by acclamation.

Carried.

Nominations being in order for the delegate from the western district of the State,

Mr. M. C. Hamilton nominated Mr. Newcomb.

Mr. Harn nominated Mr. Vaughan.

Mr. Buffington nominated Mr. Varnell.

Mr. Vaughan being a candidate, Mr. Butler was substituted in his place as teller.

Upon the first ballot—

Mr. Newcomb received.....	24 votes.
Mr. Vaughan received.....	8 votes.
Mr. Varnell received.....	34 votes.
Blank.....	5 votes.

Mr. Smith raised the point of order that blank votes cast should not be considered.

The President decided the point of order in the affirmative, and declared Mr. Varnell duly elected as delegate from the western district of the State.

On motion, the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
JANUARY 23, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. McCormick moved that Messrs. W. Flanagan and A. Bledsoe be excused from attendance on the Convention.

Mr. Fayle moved to excuse Mr. Horne, of Fort Bend.

Mr. Evans, of McLennan, asked to be excused indefinitely.

Mr. Butler asked that Mr. Goddin be indefinitely excused.

Upon the motion to excuse, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Bellinger, Board, Burnett, Cole, Fayle, Harris, Harn, Hunt, McCormick, McWashington, Munroe, Newcomb, Patten, Slaughter, Sorrell, Varnell, Vaughan—20.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Carter, Curtis, Degener, Downing, Flanagan, W. Flanagan, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Johnson, Jordan, Kealy, Keigwin, Kendal, Kueehler, Leib, Lippard, Long, Mackey, Morse, Mullins, Mundine, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Smith, Stockbridge, Thomas, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

So the Convention refused to grant leave.

The President announced the special committee to inquire into the circumstances relating to the expulsion of Mr. Sumner, to be Messrs. Evans of Titus, Bryant of Grayson, Posey, Wilson of Milam and Downing.

Mr. Newcomb moved a suspension of the rules, to take up a resolution respecting the *per diem* of absent members.

Rules suspended.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Thomas moved to lay the resolution on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bledsoe, Bryant of Grayson, Buffington, Degener, Hamilton of Bastrop, Keigwin, Lippard, Morse, Patten, Phillips of San Augustine, Rogers, Thomas, Williams, Wilson of Milan—15.

Nays—Messrs. President, Armstrong of Lamar, Bellinger, Board, Butler, Cole, Downing, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Herne, Johnson, Jordan, Kealy, Kendal, Kuechler, Leib, Long, Mackey, McCormick, McWashington, Mullins, Mundine, Munroe, Newcomb, Posey, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wright—41.

So the Convention refused to lay on the table.

Mr. Whitmore was excused from voting.

The question recurred, "Shall the main question be now put?"

Which main question was the engrossment of the resolution.

Main question ordered.

The question recurred upon the engrossment of the resolution.

It was passed to engrossment.

Mr. Flanagan moved a further suspension of the rules to put resolution on its final passage.

By leave of the Convention the motion was withdrawn.

Mr. Bryant, of Grayson, moved a suspension of the rules, to take up the report of the special committee on mileage of delegates.

• Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Hunt, Jordan, Kuechler, Leib, Lippard, Mackey, Morse, Mundine, Newcomb, Patten, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milan, Wright—42.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Fayle, Flanagan, W. Flanagan, Fleming, Harris, Harn, Horne, Johnson, Keigwin, Kendal, Long, McCormick, McWashington, Mullins, Munroe, Ruby, Scott, Smith, Varnell, Whitmore, Williams—24.

So the Convention refused to suspend the rules.

Mr. Evans, of McLennan, presented the following petition, and asked its reference to the Committee on Counties and County Boundaries :

TO THE HONORABLE CONSTITUTIONAL CONVENTION OF TEXAS :

Your memorialist respectfully asks your honorable body that they do not cut off any of the territory of either the counties of Falls, Bell or McLennan, alledging as a truth that said counties are now of convenient size, and that the county sites are in the centres thereof, and that the people of said counties do not desire that any dismemberment take place.

Very respectfully,

A. J. EVANS.

It was so referred.

Mr. Flanagan, from the Committee on Internal Improvements, made the following report :

COMMITTEE ROOM,
January 23, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your committee have had before them a declaration introduced by Delegate Fayle, incorporating the Ship Channel and Bolivar Point Company, and after examining the same I am instructed to report the same back and to recommend that it pass.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Mr. Patten moved a suspension of the rules to take up declaration.

Rules suspended.

The question recurred upon the engrossment of the declaration.

It was engrossed.

Mr. Fayle moved a further suspension of the rules to put declaration on its final passage.

Rules suspended.

Declaration read a third time and passed.

Mr. Flanagan made the following report from the same committee :

COMMITTEE ROOM,
January 23, 1869.

Hon. E. J. DAVIS,
President of the Convention .

SIR: Your committee have had before them a declaration incorporating the Rock Bridge and Turnpike Company. After examining the same I am instructed to report the same back, and to recommend that it pass.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Also the following :

COMMITTEE ROOM,
January 23, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Internal Improvements have had before them a declaration presented by Delegate Fayle, incorporating the Houston and Lynchburg Railroad Company, and after examining the same I am instructed to report back the same and to recommend its passage.

Respectfully submitted,

J. W. FLANAGAN,
Chairman Committee.

Mr. W. Flanagan moved the rules be suspended to take up the following declaration incorporating the Rock Creek Bridge and Turnpike Company.

A DECLARATION

Incorporating Rock Creek Bridge and Turnpike Company.

SECTION 1. *Be it declared by the people of Texas in Convention assembled,* That Mrs. W. E. Weaver, her associates and assigns, are hereby created a body corporate and politic, with the rights and privileges hereinafter set forth. The said Mrs. W. E. Weaver, her associates and assigns, shall have the privilege of con-

structing a bridge across Rock creek, in Hopkins county, at the crossing three miles east of Sulphur Springs, and on the road leading towards Jefferson, Texas; also, the privilege of constructing bridges over the sloughs across said road; also, the privileges of levying the bottom of said stream so as to make the road safe and easy to pass over at all stages of the water.

SEC. 2. *Be it further declared*, That said Mrs. Weaver, her associates or assigns, shall have six months from the passage of this declaration to build and complete the work contemplated by this declaration, and when the work is completed it shall be the duty of the county judge and two or more of the county commissioners to examine the work and road, and if found in good condition, and extending from hill to hill over the whole of the bottom of said Rock creek, a distance of about four hundred yards, and done in accordance with this declaration, then they shall certify the fact under their hands and the seal of the county court, and deliver the same to the said Mrs. W. E. Weaver.

SEC. 3. *Be it further declared*, That said Mrs. Weaver, or assigns, with sureties, shall enter into bond in the sum of two thousand dollars, payable to the county judge of Hopkins county, conditioned to pay all damages any person or persons may sustain in crossing over said road and bridge by reason of said bridges and road being out of repair, and the said bond may be put in suit by any person who has been damaged as aforesaid, said bond to be approved by the county judge and recorded in the office of the county clerk of Hopkins county.

SEC. 4. *Be it further declared*, When all the conditions hereinbefore set forth have been complied with, the said Mrs. Weaver and her associates or assigns shall have the privilege of erecting a toll-gate, and to collect the following tolls: for four horse or ox wagon, fifty cents; for two horse or ox wagon, twenty-five cents; for carriage or buggy, twenty-five cents; for man and horse, ten cents; for loose horses per head, three cents; for cattle per head, three cents; for hogs, sheep or goats, two cents; for footman, five cents; provided, that said Mrs. Weaver and her associates shall not have the right to charge citizens of Hopkins county any toll for passing over said bridge.

SEC. 5. *Be it further declared*, That the exclusive privilege of said road shall extend three miles on either side of said turnpike,

and no crossing shall be made on said creek within said limits without the consent of Mrs. Weaver, her associates or assigns.

SEC. 6. *Be it further declared*, That the privileges herein granted shall continue for ten (10) years from the completion of the work herein contemplated.

SEC. 7. *Be it further declared*, That this declaration be in force from and after its passage.

Rules suspended.

The question recurred upon the engrossment of the declaration.

It was engrossed.

Mr. W. Flanagan moved a further suspension of the rules to put declaration on its final passage.

Rules suspended.

Declaration read a third time and passed.

Mr. Newcomb moved the Convention adjourn till Monday morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Cole, Curtis, Gaston, Harris, Hunt, Newcomb, Varneil, Williams—11.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bell, Bledsoe, Board, Bryant of Harris, Buffington, Carter, Evans of McLennan, Flanagan, W. Flanagan, Fleming, Hamilton of Travis, Harn, Horne, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Long, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—45.

So the Convention refused to adjourn.

Mr. Schuetze moved to suspend the rules to allow the consideration of the motion of Mr. Harris to reconsider the vote refusing to engross the report of the Committee on Immigration.*

Upon which the yeas and nays were demanded and resulted thus:

* For report see page 162.

Yeas—Messrs. Adams, Bell, Board, Bryant of Harris, Buffington, Butler, Burnett, Cole, Curtis, Degener, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Hamilton of Travis, Harn, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Posey, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam—42.

Nays—Messrs. Presiecnt, Armstrong of Jasper, Bellinger, Bledsoe, Carter, Gaston, Harris, Kealy, Keigwin, Mackey, Newcomb, Thomas—12.

So the rules were suspended.

The question recurred upon the motion of Mr. Harris to reconsider the vote.

Mr. Newcomb moved a call of the House.

Call not sustained.

The question recurred upon the motion to reconsider.

The Convention adopted motion to reconsider.

Mr. Burnett moved to recommit the matter to the Committee on Internal Improvements.

Motion to recommit, by leave, withdrawn.

The question recurred upon the engrossment of the declaration to incorporate the Liverpool and Texas Steamship Company, limited, as reported from the committee.

Mr. Flanagan offered the following amendment :

Amend the eighth section of the bill so that the same shall read as follows :

That for the purpose of further assisting the said corporation in promoting this enterprise and inducing immigration to the State, there shall be and is hereby granted to the said company five hundred thousand acres of land out of the unappropriated public domain of the State as follows :

Whenever five hundred emigrants shall be introduced into the State, under the direction of said company, and the said company shall lay before the Governor of the State the certificate of the American consul at the port from which the vessel bringing said emigrants sailed showing the number of emigrants said vessel sailed with, and also the certificate of the officer of customs of the port in the State of Texas where said vessel arrives, stating that said vessel has landed the number of emigrants named in the certificate of the American consul as above provided, then the Governor shall make his requisition upon the Commissioner of the Land Office for certificates to be issued to the said company for twenty thousand acres of

the public land, each certificate to be for six hundred and forty acres; and upon such requisition by the Governor, the Commissioner of the Land Office shall issue certificates to the said company for said twenty thousand acres of land. And so upon every subsequent introduction of five hundred emigrants into the State by the said company, and evidence of the fact being laid before the Governor, he shall make his requisition upon the Commissioner of the Land Office in favor of said company for twenty thousand acres of the public land; and upon such requisition the Commissioner of the Land Office shall issue certificates to said company for twenty thousand acres of land, until in this manner the said five hundred thousand acres of land shall have been granted to the said company.

Amend ninth section by adding to it after the word "estates," the following words:

And provided further, that the said bond shall be conditioned that the said company shall introduce into the State at least twelve thousand five hundred emigrants from Europe within five years from the date of the execution and delivery of said bond.

And provided further, that said bond shall be conditioned that at least one-fifth of the whole number of emigrants introduced shall be adult males.

Mr. Degener moved to recommit the declaration to the Committee on Immigration.

Mr. W. Flanagan moved to lay the motion to recommit on the table.

Withdrawn.

Mr. Degener moved that the Convention adjourn till ten o'clock on Monday morning.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Burnett, Degener, Evans of McLennan, Fleming, Harris, Hunt, Jordan, Kealy, Keigwin, Newcomb, Patten, Thomas, Whitnore, Williams—19.

Nays—Messrs. President, Adams, Bell, Board, Bryant of Harris, Buffington, Butler, Carter, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Hamilton of Travis, Harn, Horne, Johnson, Kendal, Kuechler, Leib, Long, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—43.

So the Convention refused to adjourn.

The President decided a motion to lay the motion to recommit on the table could not be entertained.

The question recurred upon the motion to recommit.

The Convention refused to recommit.

The question recurred upon the adoption of the amendment offered by Mr. Flanagan.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—51.

Nays—Messrs. Carter, Degener, Evans of McLennan, Hunt, Kealy, Mackey, Newcomb, Patten, Rogers, Thomas, Williams—11.

So the amendment was adopted.

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Newcomb moved the Convention adjourn till Monday morning at ten o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas —Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Grayson, Burnett, Carter, Degener, Evans of McLennan, Fleming, Harris, Hunt, Kealy, Keigwin, Mackey, Newcomb, Thomas—16.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bell, Board, Bryant of Harris, Buffington, Butler, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Travis, Harn, Horne, Johnson, Jordan, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Patten, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—45.

So the Convention refused to adjourn.

The question then recurred, "Shall the main question be now put?" which main question was the engrossment of the declaration as amended.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Bell, Bryant of Harris, Buffington, Butler, Burnett, Cole, Curtis, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Travis, Harn, Horne, Johnson, Jordan, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Patten, Ruby, Schuetze, Scott, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Carter, Degener, Fleming, Harris, Hunt, Kealy, Keigwin, Mackey, Newcomb, Rogers, Thomas, Williams—17.

So the main question was ordered.

The question recurred upon the engrossment of the declaration.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Bell, Bryant of Harris, Buffington, Butler, Cole, Curtis, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Hamilton of Travis, Harn, Horne, Johnson, Jordan, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Ruby, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—39.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Burnett, Carter, Degener, Fleming, Harris, Hunt, Kealy, Keigwin, Mackey, Newcomb, Patten, Rogers, Thomas, Whitmore, Williams—19.

So the Convention engrossed the declaration.

On motion, Messrs. Pedigo, Mackey, Degener, Munroe and Evans of McLennan were excused from attendance on the Convention.

On motion the Convention adjourned till Monday morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
January 25, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

Mr. Patten, on motion of Mr. W. Flanagan, was excused on account of sickness.

Mr. Flanagan offered two petitions, and asked their reference to the Committee on Internal Improvements without reading.

It was so ordered.

Mr. McCormick, from the special committee appointed to investigate the claim of the heirs of W. A. Smith, deceased, against the State, reported as follows :

COMMITTEE ROOM,
January 25, 1869.

Hon. E. J. DAVIS,
President of the Convention :

Your Special Committee to whom was referred a declaration in favor of the heirs of W. A. Smith, deceased, ask leave to report :

1st. That we have no doubt that the deceased W. A. Smith, his wife and daughter, were respectively the superintendent, matron and music teacher, from, on or about the 15th day of March, 1862, to the 1st day of July, 1865, and that they faithfully discharged their duties, and have not received compensation for such services.

2nd. That said indebtedness, so unpaid, was by the Convention of 1866 declared an invalid indebtedness against the State of Texas, and that this Convention has engrossed as a part of the new Constitution a provision to the same effect ; but your committee are of the opinion that the action of the Convention of 1866, and of this Convention, as far as it has progressed, was of a general nature, and by reason of such generality the claim now before us is embraced.

3rd. This being an indebtedness incurred by the State of Texas during the late rebellion, we do not seek the payment thereof upon the ground that in law said debt is valid or binding. But we do favor and ask that this indebtedness be exempted from the operation of the general and sweeping provision, that all claims against

the State accruing during the rebellion are void. This is not one of a class of claims, being the only one of this nature that can exist.

Superintendence, care and teaching of the poor unfortunate blind, who were found in the Blind Asylum of Texas at the time of the commencement of and during the late rebellion, had no political bearing whatever.

It would have shocked our sense of humanity to have seen the State of Texas, although in the hands of men in open war against the government of the United States, turn these unfortunate blind out in the streets, unprovided for; and we certainly think that those who fed, nursed and taught them during that period ought to be paid.

We, therefore, report back the following substitute for the original, and ask its passage :

Resolved, That the Legislature of the State of Texas shall make an appropriation for the payment of the claim of the heirs of W. A. Smith, deceased, for services in the Blind Asylum of Texas during the rebellion, and that such claim is excepted out of the operation of section 35 of the general provisions of the Constitution passed by this Convention.

Mr. McCormick moved to suspend the rules to consider the resolution reported :

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Board, Buffington, Carter, Cole, Flanagan, W. Flanagan, Gaston, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Horne, Johnson, Jordan, Keigwin, Kendal, Kuechler, Leib, Lippard, McCormick, McWashington, Morse, Mullins, Mundine, Posey, Ruby, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—42.

Nays—Messrs. President, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Burnett, Degener, Downing, Fayle, Fleming, Gray, Kealy, Newcomb, Phillips of San Augustine, Rogers, Whitmore, Wright—18.

So the rules were suspended.

The question recurring upon the adoption of the resolution,

Mr. Davis moved to insert the word "may" instead of "shall."

Agreed to.

Upon the adoption of the resolution as amended, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Horne, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lippard, McCormick, McWashington, Morse, Mullins, Mundine, Newcomb, Ruby, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—53.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Degener, Phillips of San Augustine, Rogers—6.

So the resolution was adopted.

Mr. Flanagan moved a further suspension of the rules to put resolution on its final passage.

Rules suspended.

Resolution read third time and passed.

Mr. Fayle, from Committee on Enrolled Provisions, reported as follows:

COMMITTEE ROOM,
Austin, January 25, 1869.

Gen. E. J. DAVIS,

President of the Convention :

SIR: The Enrolling Committee have had the following declarations and resolutions under consideration, Nos. 62 to 72, inclusive, and find them to be correctly enrolled.

No. 62. Resolution respecting a committee to remain in session during the recess, and for other purposes.

No. 63. Declaration levying a special tax for the payment of the per diem pay and mileage of members; the per diem pay of the officers, and the contingent expenses of the Reconstruction Convention.

No. 64. Declaration authorizing the Governor to invest the school fund of the treasury in United States gold-bearing bonds.

No. 65. Declaration incorporating the Navasota, Washington and Brazos Eridge Company.

No. 66. Declaration granting the Mexican Gulf Railroad Company an extension of time for the completion of the second twenty-five miles of road.

No. 67. Resolution authorizing the Secretary to pay copying clerk.

No. 68. Declaration authorizing the publication of the constitution, as far as adopted, in newspapers specified.

No. 69. Declaration extending the grants and privileges of the Columbus, San Antonio and Rio Grande Railroad.

No. 70. Declaration granting lands to actual settlers, to purchasers of land, and to location of genuine land certificates within the limits of the Memphis and El Paso Railroad Reserve.

No. 71. Declaration respecting the Central Railroad Company.

No. 72. Report of Committee on Counties and County Boundaries.

All of which is respectfully submitted,

WM. R. FAYLE,
Chairman Enrolling Committee.

Adopted.

Mr. Adams offered the following

RESOLUTION.

WHEREAS, Matters of general legislation have already accumulated to a very considerable extent upon this Convention; and

WHEREAS, It is evident that more business of the same nature will be presented; therefore,

Resolved, That this Convention will not entertain the consideration of any new business of a legislative character until all the business now before the Convention, including the framing of a constitution, be disposed of.

Resolved, further, That to expedite business and perfect our labors

as soon as possible, this Convention shall have a morning and evening session, the former to begin at half-past nine o'clock, the latter at half-past seven o'clock, to take effect the twenty-seventh instant.

Mr. Adams moved a suspension of the rules to take up resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Flanagan moved a reconsideration of the vote adopting the resolution.

Mr. Phillips of San Augustine moved to lay the motion to reconsider on the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Degener, Fleming, Gaston, Gray, Hamilton of Bastrop, Kealy, Keigwin, Lippard, McWashington, Morse, Phillips of San Augustine, Sorrell, Thomas, Varnell, Williams, Wright—27.

Nays—Messrs. President, Board, Bryant of Harris, Butler, Curtis, Downing, Flanagan, W. Flanagan, Hamilton of Travis, Harris, Harn, Horne, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Long, McCormick, Mullins, Mundine, Newcomb, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milan—35.

So the Convention refused to lay on the table.

The question recurred upon the motion to reconsider the vote adopting the resolution offered by Mr. Adams.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Board, Bryant of Harris, Butler, Curtis, Flanagan, W. Flanagan, Harris, Horne, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Long, McCormick, Mullins, Mundine, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Vaughan, Wilson of Brazoria, Wilson of Milan—28.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Degener, Downing, Fleming, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Kealy,

Keigwin, Lippard, McWashington, Morse, Newcomb, Phillips of San Augustine, Rogers, Sorrell, Thomas, Varnell, Watrous, Whitmore, Williams, Wright—35.

So the Convention refused to reconsider.

Mr. Vaughan introduced the following resolution :

Resolved, That a committee of three be appointed by the Chair, to take into consideration and report upon the most practicable mode of publishing the journals of this Convention. Said committee is hereby instructed to report immediately.

The action reported by them shall be immediately acted upon by the Convention, and until disposed of.

Mr. Vaughan moved a suspension of the rules to take up the resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Gray offered the following resolution :

Be it resolved by delegates of the people in Convention assembled,

That George H. Slaughter, a delegate of this Convention, shall be allowed mileage to this Convention, according to the distance actually travelled in reaching this Convention from his residence in Smith county; that the Secretary issue a certificate therefor, and when approved by the President of this Convention, the same shall be a sufficient voucher to the Comptroller to draw his draft on the Treasurer.

Mr. Gray moved a suspension of the rules to take up the resolution :

Rules suspended.

The question recurred upon the adoption of the resolution ;

Mr. Ruby moved to amend by adding Messrs. Johnson and Kendall.

Mr. Butler moved the previous question.

Previous question seconded.

The question recurred, " Shall the main question be now put ? "

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell,

Bellinger, Board, Brown, Butler, Burnett, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Horne, Hunt, Jordan, Kuechler, Leib, Newcomb, Ruby, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Whitmore, Williams, Wilson of Brazoria—34.

Nays—Messrs. Armstrong of Jasper, Bryant of Grayson, Bryant of Harris, Buffington, Carter, Cole, Curtis, Gaston, Johnson, Kealy, Keigwin, Kendal, Long, McWashington, Morse, Mullins, Phillips of San Augustine, Posey, Rogers, Scott, Thomas, Watrous, Wilson of Milam, Wright—24.

So the main question was ordered.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Gray moved a suspension of the rules to take up the following declaration, reported July 18, last, to create the county of Paschal.

DECLARATION.

SECTION 1. *Be it ordained by the people of Texas in Convention assembled,* That a new county be created, and to include the territory within the following boundaries, to wit: Beginning at a point, at the junction of Hart's Creek and Cypress Bayou, in Titus county; thence with the meanderings of said creek to the Hart's Creek bridge and turnpike; thence due north to the Sulphur fork of Red river; thence with the meanderings of said stream to a point five miles east of the northwest corner of Davis county; thence due south to the line of Marion county; thence along the line of what is now Marion and Davis counties to Cypress Bayou, and thence with the meanderings of said bayou to the place of beginning.

SEC 2. *Be it further ordained,* That said new county shall be named Paschal, and the county seat shall be at the town of Dangerfield.

SEC. 3. *Be it further ordained,* That the county of Paschal shall constitute a part of the counties from which it is taken for all purposes, until a general election, or appointment of county officers, and shall for all judicial purposes remain a part of the counties of Titus and Davis, until the Legislature shall provide for holding courts in said county of Paschal.

SEC. 4. As soon as the officers of said county of Paschal are

elected or appointed, it shall be the duties of the officers of said county, exercising the powers of a police or county courts, to provide public buildings and records, and for this purpose the said court is authorized to levy a special tax, of not more than one-fourth of one per cent., upon all property taxable in the county. The said court may also issue its bonds for that purpose, in the sum of six thousand dollars, with interest not to exceed twelve per cent., payable semi-annually, provided the principal of said bonds shall be paid within five years from the date of issuance.

• Rules suspended.

The question recurred upon the adoption of the declaration.

Mr. Armstrong, of Lamar, offered the following amendment :

“ Amend by striking out the name of Paschal and insert Lati-mer.”

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurred upon the adoption of the declaration as amended.

It was adopted.

Mr. Gray moved a further suspension of the rules to put the declaration on its passage.

Rules suspended.

Declaration read third time and passed.

The President announced that the business in order was a resolution respecting the payment of absent members of last session their per diem and mileage.

Mr. Buffington moved a division of the question.

Carried.

The question then recurred upon the payment of the per diem and mileage of delegates who were indefinitely excused from attendance upon the first session of the Convention.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bell, Bellingier, Board, Buffington, Downing, Flanagan, W. Flanagan, Fleming, Gray, Hamilton of Travis, Harris, Harn, Horne, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Long, McWashington, Mundine, Munroe, Newcomb, Ruby, Slaughter, Smith, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria—34.

Nays—Messrs. Armstrong of Jasper, Bledsoe, Brown, Bryant of

Grayson, Burnett, Carter, Cole, Degener, Hamilton of Bastrop, Kealy, Keigwin, Lippard, Morse, Phillips of San Augustine, Posey, Rogers, Stockbridge, Thomas, Wilson of Milam—19.

So the first portion of the resolution was adopted.

The question recurred upon the adoption of that portion of the resolution giving per diem and mileage to all those members who were not in their seats at the commencement of the second session of the Convention.

The Convention agreed to adopt.

The President announced the business next in order was the following declaration incorporating the Austin Bridge Company:

A DECLARATION

To Incorporate the "Austin City Bridge Company."

SECTION 1. *Be it declared by this Convention, That John R. Billingley, M. A. Taylor, O. H. Millican, DeWitt C. Brown, R. N. Lane, J. M. Swisher and W. L. Chalmers, and such other persons as they may associate with them, are hereby declared to be a body corporate and politic, to be named and styled the "Austin City Bridge Company," and under such name may sue and be sued, plead and be impleaded in all the courts of this State, shall have, own and use a corporate seal, and shall have succession for a term of fifty years, and shall have the right to own, hold and use property, real and personal, for the purposes hereinafter set out, to the extent of two hundred thousand dollars.*

SEC. 2. That said "Austin City Bridge Company" shall have the right, and are hereby empowered and authorized, to erect and construct a permanent, safe, first class, iron, pier, wood or wire suspension bridge across the Colorado river, opposite the city limits of the city of Austin, State of Texas.

SEC. 3. That said company shall commence the construction of said bridge on or before the first day of January, A. D. 1870, and shall complete the same within two years from the commencement thereof; and from and after the completion of said bridge the said company shall cross and pass over all manner of property and passengers offered, and shall keep said bridge in good order and in safe condition for crossing, and keep said bridge open for crossing both night and day, and shall be responsible for all losses, injuries or damages to property or persons, as common carriers at common law.

SEC. 4. That said company, after the completion of their bridge, shall have the right to charge, demand and receive from all persons passing over said bridge, either person or property, the following rates of toll as pay, to wit :

For each four-wheeled wagon, drawn by two horses, mules or oxen, fifty cents ; and five cents additional for each additional horse, mule or ox attached to such wagon or vehicle.

For each buggy, cart, gig or other vehicle drawn by a single horse, mule or ox, twenty-five cents.

For each man and horse, ten cents ; for each led or loose horse or ox, five cents ; for stock horses or stock cattle, per head, three cents ; for sheep, goats and hogs, two cents per head ; and all other kinds and species of property not herein provided for, shall be charged rates in due proportion to the above.

SEC. 5. That said company shall have the right, and they are hereby authorized, to acquire by purchase or otherwise, any and all ferry franchises and privileges now held by persons over or across the said Colorado River opposite the said city limits of Austin City ; and no person or company, from and after the passage hereof, shall have the right to build any bridge or erect any ferry across said Colorado River opposite the city limits of the city of Austin, or within one mile up and down said Colorado River below and above the said city limits of Austin City ; provided, that nothing herein contained shall prohibit any railroad company from erecting a bridge for a railroad track.

SEC. 6. That the aforesaid corporators shall proceed, upon the passage hereof, to open books in the city of Austin for subscriptions to the capital stock, which capital stock shall be at least \$50,000, divided into shares of \$100 each ; and as soon as said \$50,000 shall have been subscribed, the corporators shall call a meeting of the said stockholders ; and at such meeting shall proceed to elect a President, Secretary and three Directors, whose duty it shall be to control and direct the affairs of said corporation ; and they shall have the power to make all necessary rules and regulations for the conduct of said corporation ; and said President, Secretary and Directors shall hold office for one year, and until their successors are duly chosen by the stockholders.

This declaration to take effect from and after its passage.

Declaration was read third time and passed.

Mr. Burnett moved a suspension of the rules to take up the following resolution :

Resolved, That the Honorable L. D. Evans is hereby authorized to draw the back pay due the late Honorable W. H. Mullins and forward the same to the widow of the deceased.

Rules suspended.

The question recurred upon the engrossment of the resolution.

It was engrossed.

Mr. Flanagan moved a further suspension of the rules to put resolution on its final passage.

Rules suspended.

Resolution read a third time and passed.

The President announced the business next in order was the following declaration reported from the Committee on Emigration, granting State aid for emigration purposes :

A DECLARATION

To incorporate the Liverpool and Texas Steamship Company,
Limited.

Be it declared by the people of Texas in Convention assembled :

That T. H. McMahan, John Patton the younger, P. N. Spofford, J. J. Vickers, Allen Lewis, L. H. de Rosset, George Taylor, M. V. McMahan and Isaac Moses, or such of them, or such other persons as may hereafter be associated with them, are hereby declared and ordained a body corporate by the name of "The Liverpool and Texas Steamship Company, Limited" ; with power and authority, in said corporate name, to have continuous succession, to make contracts, to have and use a seal, to acquire by purchase, donation or otherwise, and to own, manage and alienate property, real, personal and mixed, to sue and be sued, to plead and be impleaded in law and equity, in like manner and as fully as natural persons, to carry on, conduct and manage any kind of mechanical, agricultural and commercial business incident to this declaration ; to issue shares and negotiate them ; and to possess, generally, all the powers, rights, immunities and privileges necessary to carry into effect the provisions and objects of said association.

SEC. 2. That the said company shall have the right to run a line

or lines of steamers or other vessels from and to any port or ports in Great Britain to and from the State of Texas, and to and from the continent of Europe, with power to touch at any intermediate port or ports on said voyages, and with such auxiliary or connecting line or lines as may be desired to promote the interests of this corporation.

SEC. 3. That the capital stock of said corporation shall be two million dollars (\$2,000,000), to be divided into twenty thousand (20,000) shares of one hundred dollars (\$100) each, to which extent the liability of each shareholder is limited, according to the number and value of shares held by him. And this corporation shall have authority to increase said capital stock to the amount of three million dollars (\$3,000,000) twelve months after the organization of said company.

SEC. 4. That the affairs of said corporation shall be managed by a board of eight (8) directors, who shall be elected by the shareholders, and in such manner and under such conditions as may be prescribed by the rules of said company. The directors shall have power to choose a president from their own number, and to elect and appoint such other officers and agents as they may deem necessary to manage the affairs of said company. In all vacancies, whether arising from death, resignation, or otherwise, the directors shall have the power to make new appointments.

SEC. 5. In addition to the eight directors authorized by section four of this declaration, shall be ex-officio directors the Governor and Treasurer of the State of Texas, and they shall have the right to vote on all questions relating to the affairs of the company. The president and directors of said company shall have full power to make and adopt all such rules, regulations and by-laws as they may consider necessary to effect the objects of this incorporation, not inconsistent with this charter or the constitution and laws of this State or of the United States.

SEC. 6. The president of the company, and a majority of the directors provided for in this declaration, shall be residents of the State of Texas, and the principal office of the company shall be in the city of Galveston, State of Texas.

SEC. 7. That in consideration of the many advantages to be derived by the people of the whole State of Texas from a successful and well-established communication with Europe and other maritime

countries, and that such enterprises as tend to the development of the State should be placed on the same liberal basis, and be considered as pertaining to the system of internal improvements of the State, the Governor of the State of Texas is hereby authorized and required to issue and shall issue to the said company the bonds of the State of Texas to the amount of five hundred thousand dollars (\$500,000), bearing interest at and after the rate of six (6) per cent. per annum from the date thereof; and the said bonds shall be of the denomination of one thousand dollars (\$1000) each, with coupons attached for the payment of the semi-annual interest due thereon; and the principal of said bonds shall be made payable thirty (30) years after the date of issue. The said bonds shall be made payable to the said company by its corporate name or bearer, and shall state on the face that they are issued in aid of said company; and the said bonds shall be signed by the Governor of the State, and countersigned by the Comptroller of Public Accounts, and they shall be delivered by the Governor to the agent of the company duly authorized to receive them, thirty days after the Governor of the State shall have received notice from the president of said company that the company has been organized under the provisions of this declaration, and the said notification shall be accompanied by a list of the directors of said company, and a certificate from the officer of the customs of the port of Galveston that three or more steamers have arrived under the control and management of this company or the corporators hereinbefore recited. The bonds hereby issued to the said company shall be prepared at their expense, under the directions of the Governor of the State.

SEC. 8. That for the purpose of further assisting the said corporation in promoting this enterprise, and inducing immigration to the State, there shall be and is hereby granted to the said company, five hundred thousand acres of land out of the unappropriated public domain of the State, as follows :

Whenever five hundred emigrants shall be introduced into the State under the direction of said company, and the said company shall lay before the Governor of the State the certificate of the American Consul at the port from which the vessel bringing said emigrants sailed, showing the number of emigrants said vessel sailed with, and also the certificate of the officer of customs of the port in the State of Texas where said vessel arrives, stating that said vessel has landed the number of emigrants named in the certificate of the American consul as above provided, then the Governor shall make his requisition upon the Commissioner of the Land Office for certificates to be issued to the said company for twenty thousand acres of the public land, each certificate to be for six hundred and forty

acres; and upon such requisition by the Governor the Commissioner of the Land Office shall issue certificates to the said company for said twenty thousand acres of land. And so upon every subsequent introduction of five hundred emigrants into the State by the said company, and evidence of the fact being laid before the Governor, he shall make his requisition upon the Commissioner of the Land Office in favor of said company for twenty thousand acres of the public land; and upon such requisition the Commissioner of the Land Office shall issue certificates to said company for twenty thousand acres of land, until in this manner the said five hundred thousand acres of land shall have been granted to the said company.

SEC. 9. That the said company shall execute to the Governor of the State, thirty days after the organization of this incorporation, a bond in the sum of two hundred thousand dollars, with two or more good and sufficient sureties, to be approved by the Governor, conditioned that the line of steam vessels contemplated by this declaration shall be maintained to ply between the port or ports of Texas and the port or ports of Europe for a period of five years from the date of the execution and delivery of said bonds; and provided further, that the obligors in the said bond of two hundred thousand dollars shall be responsible for the payment of the same out of their individual estates; and provided further, that the said bond shall be conditioned that the said company shall introduce into the State at least twelve thousand five hundred emigrants from Europe within five years from the date of the execution and delivery of said bond; and provided further, that said bond shall be conditioned that at least one-fifth of the whole number of emigrants introduced shall be adult males.

SEC. 10. That should said company, under the provisions of this charter, at any time introduce paupers or convicts, knowing them to be such, they shall be answerable to the State for the same, and upon an information duly and legally filed by the district attorney in a court of competent jurisdiction, they shall, upon a conviction, be fined in a sum not less than one thousand dollars nor more than five thousand dollars for each and every such violation.

SEC. 11. That the president of the company shall furnish to the Governor of the State, on the first day of July in every year, or so soon thereafter as possible, full and authentic accounts of the number of vessels employed by the company, their tonnage, the values and kinds of goods and produce im-

ported and exported, the number of immigrants, with their names, ages, professions and nationalities, and all and every other information that may be of service to the State.

SEC. 12. That this declaration shall have force and effect from and after its passage.

Mr. Schuetze moved the previous question.

Previous question seconded.

Mr. Degener moved the Convention adjourn till to-morrow morning at ten o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Burnett, Degener, Downing, Fleming, Gaston, Gray, Hamilton of Bastrop, Harris, Harn, Jordan, Kealy, Keigwin, Newcomb, Thomas, Williams, Wilson of Milam—20.

Nays—Messrs. President, Adams, Bell, Board, Brown, Bryant of Harris, Buffington, Butler, Carter, Cole, Curtis, Fayle, Flanagan, W. Flanagan, Hamilton of Travis, Harn, Horne, Johnson, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Phillips of Wharton, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wright—42.

So the Convention refused to adjourn.

The question recurred, " Shall the main question be now put ?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Bell, Board, Brown, Bryant of Harris, Buffington, Butler, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Hamilton of Travis, Harn, Horne, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, Morse, Mullins, Mundine, Munroe, Phillips of Wharton, Ruby, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—41.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Burnett, Carter, Degener, Fleming, Gray, Hamilton of Bastrop, Harris, Hunt, Kealy, Keigwin, Newcomb, Posey, Rogers, Thomas, Wright—20.

So the main question was ordered.

The question then recurred upon the final passage of the declaration, as reported from the committee.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Adams, Bell, Brown, Bryant of Harris, Buffington, Butler, Cole, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Gaston, Hamilton of Travis, Harn, Horne, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Phillips of Wharton, Ruby, Schuetze, Smith, Sorrell, Stockbridge, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—41.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Board, Bryant of Grayson, Burnett, Carter, Degener, Fleming, Gray, Hamilton of Bastrop, Harris, Hunt, Kealy, Keigwin, Newcomb, Posey, Rogers, Slaughter, Thomas, Wright—22.

So the declaration was passed.

Mr. Flanagan moved to reconsider the vote adopting the declaration, and to lay the motion to reconsider upon the table.

Carried.

The President announced the committee, called for under the resolution of Mr. Vaughan, to be Messrs. Vaughan, Newcomb and Ruby.

Mr. Slaughter moved to adjourn till half-past seven o'clock this evening.

Lost.

Mr. Buffington moved to adjourn till ten o'clock to-morrow morning.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Bellinger, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Degener, Downing, Fayle, Fleming, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Hunt, Johnson, Jordan, Kealy, Keigwin, Kuechler, Leib, McWashington, Mundine, Newcomb, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Watrous, Williams, Wilson of Milam—35.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Board, Carter, Cole, Flanagan, Gaston, Harn, Kendal, McCormick, Morse, Mullins, Ruby, Slaughter, Smith, Sorrell, Varnell, Vaughan, Whitmore, Wilson of Brazoria, Wright—23.

So the Convention adjourned till to-morrow morning at ten o'clock.

CAPITOL, AUSTIN, TEXAS,
January 26, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. McCormick asked leave of absence for Messrs. W. Flanagan and Horne.

Mr. Gray, on motion, was excused for the day.

Mr. Thomas rose to a point of order, stating that the name of Mr. Sumner had not been called at the commencement of the morning session.

The President decided the point of order in the negative.

Mr. Varnell offered the following

RESOLUTION.

WHEREAS. A prejudice exists in some of the Northern and Western States against the introduction into said States of Texas cattle, in consequence of a disease having appeared amongst the native cattle in some of the Northwestern States, supposed to have been communicated by Texas cattle introduced into said States in the summer months; and,

Whereas, It has been demonstrated beyond question, by years of experience, that Texas cattle can be introduced into the Northern and Northwestern States in the season of frosts without any danger whatever of communicating disease to the native or any other cattle in said States; and,

Whereas, Some of said Northern and Northwestern States are proposing to pass laws absolutely prohibiting the introduction of Texas cattle into said States; therefore,

Be it resolved by the people of Texas in Convention assembled, That the passage of laws by any of the said States prohibiting the introduction therein of Texas cattle during the season when it is well known no disease will be communicated by them, is an unjust discrimination against a very large and growing interest of this

State, and a direct interference with commerce between the States, as guaranteed by the Constitution of the United States; and,

Be it further resolved, That the President of this Convention be requested and instructed to forward certified copies of these resolutions to the Governors of the several Northern and Northwestern States, to be by them laid before the Legislatures of their respective States, and also a copy to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States.

The President decided that under the rules the resolution could not be acted upon.

Mr. Flanagan, from the Committee of Internal Improvements, reported as follows:

COMMITTEE ROOM,
January 26, 1869.

Hon. E. J. DAVIS,
President of the Convention:

SIR: Your committee have had before them a declaration in relation to the Corpus Christi Ship Channel, and after an examination of the same I am instructed to report it back, and to recommend its passage.

Respectfully submitted,
J. W. FLANAGAN,
Chairman Committee.

DECLARATION

For the relief of John M. Moore, assignee of J. W. Vineyard.

SECTION 1. *Be it declared by the people of Texas in Convention assembled*, That an act entitled an act supplementary to an act to incorporate the city of Corpus Christi, approved February 16, 1852, approved February 13, 1854, and that an act to donate public lands to certain parties therein named for the improvement of the channel between Corpus Christi and Aransas Pass, approved August 22, 1856, be, and the same are hereby re-enacted, ordained and declared to be valid and in full force and effect.

SEC. 2. That a certain ordinance passed by the Mayor and Board of Aldermen of the city of Corpus Christi on the 15th day of

April A. D. 1858, entering into a contract with Dean S. Howard & Co., to dig and construct a ship channel from Corpus Christi to Aransas Bay across the mud flats, be, and the same is hereby declared to be legal, valid and of binding force on said city and said Dean S. Howard & Co., and their assigns, and that said John M. Moore, assignee of J. W. Vineyard, and agent and contractor of the city of Corpus Christi for the completion of said channel be, and he is hereby confirmed in all the rights, privileges, immunities and franchises heretofore conferred on said Dean S. Howard & Co. and said J. W. Vineyard and his assigns by the Legislature of the State of Texas in the different acts relating to said ship channel and the proceedings of the Mayor and Board of Aldermen of the city of Corpus Christi at any time passed relating thereto; and that said John M. Moore, his heirs, assigns or legal representatives shall have a reasonable time for the completion of said channel in accordance with the provisions of the charter and supplementary acts herein referred to; that is to say, at least two years from the date and passage of this declaration.

SEC. 3. That the city bonds of the said city of Corpus Christi issued by Ruben Holbien, acting mayor of said city in the year 1858 to said D. S. Howard & Co., for the payment of which the revenues arising from said ship channel are pledged, and which said bonds were transferred to J. W. Vineyard, and by said J. W. Vineyard to said John M. Moore, be, and the same is a good, valid and subsisting lien on the revenues arising from said channel; but the said city of Corpus Christi shall in no event be considered as responsible for these bonds, and that the transfers and assignments of said bonds are valid and vest all the rights and of the said Dean S. Howard & Co. and said J. W. Vineyard in said John M. Moore and his assigns.

SEC. 4. That for the payment of said bonds and the further costs of constructing said ship channel, if any there be, that the said John M. Moore and his assigns are hereby authorized, empowered and required to proceed to the collection of tolls on all steamships, steamboats, sail vessels and water crafts of every description passing through or using any part of said channel at rates not to exceed five cents per barrel of freight carried by said steamships, steamboats, sail vessels and water crafts as provided for and expressed in the charter and supplementary acts hereto referred to; and any steamship, steamboat, sail vessel or water craft using said channel and refusing to pay for the same as herein provided and expressed, shall pay double the amount of the toll herein mentioned, to be recovered

before any court of competent jurisdiction, and the owner or owners of said channel shall have a lien on every such steamship, steamboat, sail vessel or other water craft using said channel until said toll is paid, and may enforce his claim thereto as aforesaid in any court of competent jurisdiction; and it shall only be necessary before taking judgment against said vessel or water craft and the owners thereof, to serve the captain, master or person in charge of said vessel or water craft with the ordinary process issued in civil causes by the court having jurisdiction of claims of a similar amount; *Provided*, however, That no tolls shall be collected unless said channel is kept in good condition and at least five feet deep at ordinary tides; *Provided*, further, That after two years from the passage of this declaration no tolls shall be collected unless said channel is at least eight feet deep at ordinary tides.

SEC. 5. That from and after the completion of said channel to a depth of eight feet and a width of one hundred feet and the conditions and provisions of an act entitled an act to donate lands to certain persons therein mentioned for the improvement of the channel between Corpus Christi and Aransas Pass approved August 22, 1856, have been complied with, that the said John M. Moore and his assigns be, and are hereby authorized to demand and receive the lands from the State of Texas which were authorized to be given by said act last referred to as soon as said channel should be completed to the depth of eight feet and one hundred feet wide.

SEC. 6. That this declaration shall take effect and be in force from and after its passage.

Mr. Patten moved a suspension of the rules to take up the declaration.

Rules suspended.

The question recurred upon the adoption of the resolution.

Resolution adopted.

Mr. Flanagan moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

Declaration read a third time and passed.

Mr. Flanagan, from the same committee, reported as follows:

COMMITTEE ROOM,
January 26, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your committee have had before them the following declaration to incorporate the Port Sullivan, Belton and Northwestern Railroad Company, and after examining the same, I am instructed to report it back, and to recommend that it pass.

Respectfully submitted.

J. W. FLANAGAN,
Chairman Committee.

A DECLARATION

To incorporate the Port Sullivan, Belton and Northwestern Railroad Company.

SECTION 1. That Thomas J. H. Anderson, F. M. Hall, Blanton Streetman, Hugh Davis, H. C. Gbast, C. G. Forshey and William White, of Milam county, and Elisha Embree, Chamberlin F. Miller, E. S. C. Robertson and J. H. Haldeman, of Bell county, and their successors and assigns, be and they are hereby declared a body corporate and politic, with capacity to sue and be sued; to receive, hold and convey property; to contract debts, and to issue bonds, notes and other evidences of debt, and in general to have all the powers, functions, immunities and privileges of a person or body corporate, under the name and style of "The Port Sullivan, Belton and Northwestern Railroad Company;" to have a president, secretary, directors and other officers, and a seal, which shall represent and bind the company in their transactions.

SEC. 2. The object of the company shall be to build, own, maintain and operate a railroad from the Texas Central road, at or near Hearne Station, in Robertson county, by way of Port Sullivan, in Milam county, to Belton, in Bell county; and thence in a north-westward direction to the boundary of the State of Texas.

SEC. 3. The capital stock of said company shall be one million dollars, with the privilege to increase the same, at the option of the directory, to five millions; to be divided into shares of one hundred dollars each; but the company may organize on the subscription of ten thousand dollars, and the payment of five per cent. upon the same.

SEC. 4. The company shall commence operations, and have surveyed to Belton their route, and put into running order, as hereinafter provided in section five, at least six miles of their road, prior to the first day of January, A. D. 1870.

SEC. 5. The company shall have the power and authority to construct such temporary wooden railroad, with narrow gauge and light cars, as may answer the present demands of trade and travel, and to use the same instead of an iron track, until the demands of commerce shall indicate the need of iron rails, and to use such horse or steam power for transportation as the directory may choose: provided, that they shall incur all the obligations and responsibilities of common carriers.

SEC. 6. They shall have the authority to bridge the Brazos river and other streams on their line without draws, and to establish ferries across streams for their own railroad uses.

SEC. 7. And shall be authorized to charge tolls upon their bridges and ferries, when used for public purposes, subject, however, to such limitation as to rates as the county courts in which they lie shall deem necessary and proper to fix.

SEC. 8. They shall be authorized, when in the judgment of the county courts of the counties through which the main line may pass, or lie adjacent to, it may be for public interest and necessity to build branch lines of their roads through or to such points in said counties as said courts may indicate, with same provision as to temporary wooden tracks as above described and provided; and the said counties shall be authorized to make such appropriations to aid in the construction of said branch roads as are provided by law for the main lines; and may proceed, at the discretion of the county court, to make and pay such appropriation under the general law.

SEC. 9. Whenever the said company shall construct the iron track according to the requirements of the general law, they shall be placed on the footing of the most favored companies as to grants of lands, the wooden track described being but temporary in its character, and to be replaced by the iron rails as early as the demands of trade and travel shall require it.

SEC. 10. This declaration shall have effect from the date of its passage.

Mr. Patten moved a suspension of the rules to take up the resolution

Rules suspended.

The question recurred upon the engrossment of the declaration.

It was engrossed.

Mr. Patten moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

Declaration read a third time and passed.

Mr. Flanagan moved a suspension of the rules to take up the declaration incorporating the Texas Wooden Railroad Company.

On the motion to suspend the rules the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bell, Board, Burnett, Carter, Cole, Degener, Downing, Flanagan, W. Flanagan, Gaston, Hamilton of Travis, Harris, Johnson, Jordan, Keigwin, Kendal, Kuechler, Leio, Lippard, McWashington, Morse, Mullins, Mundine, Patten, Phillips of Wharton, Smith, Sorrell, Stockbridge, Varnell, Wilson of Milam, Wright—34.

Nays—Messrs. Armstrong of Lamar, Brown, Bryant of Grayson, Buffington, Curtis, Fleming, Hamilton of Bastrop, Hunt, Kealy, McCormick, Newcomb, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Slaughter, Thomas, Vaughan, Whitmore, Wilson of Brazoria—21.

So the Convention refused to suspend the rules.

Mr. Patten introduced the following

RESOLUTION.

Resolved, That this Convention do adjourn on Monday, February 1, 1869, at twelve M., subject to be re-assembled, at any time, by the Commanding General or by a majority of the committee who were elected to proceed to Washington.

Mr. Thomas offered the following

SUBSTITUTE.

Resolved, That no adjournment of this body take place until a constitution shall have been perfected and an ordinance framed submitting the constitution to the people, for ratification or rejection.

Resolved, further, That no business shall be in order other than the formation of a constitution, until the same shall have been completed.

Mr. Degener moved to lay the substitute on the table.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Board, Brown, Butler, Burnett, Carter, Degener, Downing, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam—29.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Cole, Curtis, Fleming, Gaston, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—30.

So the Convention refused to lay on the table.

The question recurred upon the adoption of the substitute.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Cole, Curtis, Fleming, Gaston, Hamilton of Travis, Harn, Johnson, Jordan, Kealy, Keigwin, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—34.

Nays—Messrs. President, Adams, Board, Brown, Butler, Carter, Degener, Downing, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Kendal, Kuechler, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter, Varnell, Vaughan, Whitmore, Wilson of Milam—25.

So the substitute was adopted.

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Butler, Burnett, Cole, Curtis, Downing, Fleming, Gaston, Hamilton of Travis, Harn, Johnson, Jordan, Kealy, Keigwin, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—42:

Nays—Messrs. Board, Brown, Carter, Degener, Flanagan, Hamilton of Bastrop, Harris, Hunt, Kendal, Kuechler, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter, Varnell, Vaughan, Whitmore, Wilson of Milam—20.

So the resolution was adopted.

Mr. Butler moved that a majority of the Committee on the Constitution be instructed to report this evening, at half-past seven o'clock.

It was so ordered.

Mr. Davis of Nueces offered the following resolution as amendatory of the rules :

Resolved, That all speeches shall be limited, hereafter, to five minutes on any subject.

Mr. Davis moved a suspension of the rules to take up the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Grayson, Butler, Burnett, Downing, Fayle, Flanagan, Hamilton of Bastrop, Kendal, Kuechler, Lippard, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Varnell, Whitmore, Wilson of Milam—29.

Nays—Messrs. Bryant of Harris, Buffington, Carter, Cole, Curtis, Fleming, Gaston, Hamilton of Travis, Harn, Harris, Johnson, Jordan, Kealy, Keigwin, Leib, McCormick, McWashington, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—30.

So the Convention refused to suspend.

Mr. Buffington offered the following resolution :

RESOLUTION

Providing for the election of an additional delegate to Washington, and for providing a fund to pay the expenses of the delegation to Washington.

1. *Resolved*, That this Convention shall elect an additional delegate to Washington, who shall reside in that portion of the territory of this State north of the thirty-second parallel north latitude, west of the Trinity river.

2. *Resolved*, That the sum of six thousand dollars (\$6000) be and the same is hereby appropriated out of any moneys in the treasury at the disposal of this Convention, and not otherwise appropriated, to defray the expenses of the commissioners of this Convention to Washington, and which shall be paid over to said delegation, and used by them in paying their expenses; and that the certificate of the Secretary of the Convention shall be a sufficient voucher to authorize the Comptroller to draw his warrant in favor of the President upon the Treasurer for said appropriation.

Mr. Butler rose to a point of order that under the rules no business could now be entertained but the consideration of the Constitution.

Mr. McCormick moved that Mr. Wilson, of Brazoria, be permitted to print remarks upon the immigration bill, passed yesterday.
Leave granted.

Mr. Buffington moved to adjourn till half-past nine o'clock tomorrow morning.

Mr. Flanagan rose to a point of order that the Convention can not adjourn under the rule adopted this morning.

The point of order was sustained.

On motion, the Convention took a recess until this evening at half-past seven o'clock.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met at half-past seven o'clock.

No quorum.

Mr. Patten moved a call of the House.

Call sustained.

Mr. Harris moved to adjourn till half-past nine o'clock to-morrow morning.

Lost.

Absentees—Messrs. Phillips of Wharton, Bryant of Harris, Curtis, Evans of Titus, Fyale, Jordan, McWashington, Posey, Slaughter, Vaughan, Watrous, Williams, Wright—13.

Messrs. Phillips, of Wharton, and Evans, of Titus, were excused on account of sickness.

Mr. Hamilton, of Travis, moved to adjourn till half-past nine o'clock to-morrow morning.

Lost.

Mr. Thomas moved a suspension of the call.

Call suspended.

Mr. Hamilton, of Travis, moved to adjourn till to-morrow morning at half-past nine o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Kealy, Keigwin, Kuechler, Mundine, Phillips of San Augustine, Rogers, Ruby, Schuetze, Scott, Stockbridge, Thomas, Watrous—26.

Nays—Messrs. President, Armstrong of Jasper, Board, Butler, Downing, Degener, Flanagan, Hamilton of Bastrop, Harn, Horne, Hunt, Johnson, Leib, Lippard, Long, Mullins, Morse, Newcomb, Patten, Ruby, Smith, Sorrell, Varnell, Whitmore, Wilson of Brazoria, Wilson of Milam—26.

So the Convention refused to adjourn.

Mr. Gray offered a report from the Committee on Constitution.

Mr. Mundine moved the reading of the report be dispensed with, and that the report be printed.

Mr. Patten moved to lay the motion of Mr. Mundine on the table.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained.

Absentees—Messrs. Bryant of Harris, Curtis, Fayle, Jordan, Kendal, Posey, Slaughter, Vaughan, Williams, Wright—10.

Mr. Mundine moved to adjourn till half-past nine o'clock to-morrow morning.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Buffington, Cole, Fleming, Gray, Gaston, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kuechler, Kirk, McWashington, Mundine, Phillips of San Augustine, Posey, Rogers, Scott, Schuetze, Stockbridge, Thomas, Watrous—28.

Nays—Messrs. President, Brown, Board, Burnett, Carter, DeGENER, Downing, Flanagan, Hamilton of Bastrop, Horne, Hunt, Johnson, Lippard, Long, Morse, Mullins, Newcomb, Patten, Ruby, Smith, Sorrell, Varnell, Whitmore, Wilson of Brazoria, Wilson of Milam—25.

So the Convention adjourned till half-past nine o'clock to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
January 21, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Smith presented a petition from the police court of Galveston county, and asked its reference to the Committee on State Affairs.

Mr. Gray presented the following report from the minority of the committee appointed to revise the engrossed constitution.

Austin, Texas, January 26, 1869.

Hon. E. J. DAVIS,

President of the Reconstruction Convention :

SIR: The special committee of eleven, to whom was referred the labor of revising and correcting the constitution as far as engrossed, and to present other articles and sections not engrossed, have devoted much time to the labor assigned them. Considering the amount and importance of labor to be performed, and the short time which has elapsed since the special committee was raised, your committee, it may well be presumed, are not prepared to present to the Convention a constitution as perfect in all its parts as they desired.

It is well known to the country that more than four months have been consumed in the attempt to frame a constitution for the State. Early in June of last year various committees were raised, charged with the duty of framing a constitution suited to the different departments of State government. The undersigned, a minority of committee, who presents this minority report, knows well that the standing committees of this body required, on an average, about six weeks, to consider and report the several parts of a constitution.

This question, above all others, has engrossed the attention of the best talent in the country, and yet it has not been solved to the satisfaction of the country.

The committee have carefully examined the engrossed constitution, and have made some slight verbal changes, not affecting the substance. The majority report, it is believed, will show the changes in language suggested and recommended. The undersigned would recommend the adoption of the suggestions made by the majority of the committee as to the verbal alterations aforesaid.

The undersigned would also recommend that special authority be conferred on district judges to grant writs of *habeas corpus*, as recommended in the majority report.

The minority of the committee agree also with the majority in recommending that the district attorneys shall be appointed by the Supreme Court and commissioned by the Governor.

Two plans have been presented for establishing a system of common schools. The system best adapted to attain ends so desirable would be to provide a fund, and for details, leave its execution to the Legislature. The minority of the committee herewith present what they believe to be a sufficient basis for the establishment of common schools in every county and precinct in the State.

The development of the future will open up the way to guide the legislator in the faithful execution of the general plan here presented.

There was a time in the history of this State when we could boast of having provided a munificent fund to enlighten and enlarge the mind of the youth of our once growing and prosperous State. But now we can only look on with regret at the ruin which has been wrought by the untoward results of war and hasty and ill advised legislation. The school fund has been squandered, and the youth of twelve years amidst the past eight years of distress have reached the years of discretion with but little cultivation of mind.

When we contemplate our present condition, with an empty treasury and impoverished people unable to bear the burthens of heavy taxation, we almost despair of being able to provide for the education of the rising generation. All we can do is to lay the foundation as broad as our limited means will permit. It is true that if we would perpetuate the principles of a free constitution, the people must be educated, so that they may learn virtue, administer justice and practice morality.

A people thus educated will each be a sentinel to guard the temple of liberty. They will watch with jealous care every approach to undermine the principles of our free constitution.

The results of war have forced on us political questions the most difficult to solve. He who says that he finds no impediments in his pathway will not be instructed by this minority report. He is presumptuous, and has reached the climax of folly. At the close of actual hostilities between the North and South we found ourselves in the position of alien enemies, our substance gone, and our government overturned.

There was not a man in our midst to wield the sword of justice, guided by law, until the conqueror extended to us a helping hand. The late rulers who controlled when dark clouds overshadowed our

country, at the approach of a victorious army, fled and took refuge in foreign lands.

Soon afterwards executive clemency came, and a proclamation of amnesty and pardon greeted us as a messenger of peace. The thirteenth amendment to the Constitution of the United States was the great seal of the nation consecrating the late slave to freedom. But the sagacious statesmen saw the necessity of another amendment, which defines who are citizens of the republic. This includes every person born within our national limits.

It is apparent, from these recitations from the history of the times, the object of the Government was to win back, and not to oppress, a people who had disputed every inch of ground on a hundred battle-fields with the mighty armies of the Republic.

It was for the conqueror to propose terms of peace and restoration to the full enjoyment of liberty, and it was for us to accept.

By a careful examination of the fourteenth amendment, it will be found that the question of suffrage is left with the States, at least so far as voting for State officers is concerned.

By the very terms of this amendment a certain class of persons who are declared to be citizens, are denied the right to hold office, State or Federal. This was not intended as a punishment upon this class of our citizens, but as a security to good order and peace in the country. The wisdom of the framers of the constitution of 1789 foresaw the necessity of requiring of judges and State legislators an oath to support the Constitution of the United States. This is an oath of allegiance and its obligations are to reach beyond the term of office. Whatever may have been the construction we placed on this oath, it is now understood that its obligation is perpetual. It was not regarded as safe to entrust the powers of State in the hands of those who had broken their faith. But it was not intended that the bar should be perpetual, but the promise of complete restoration was held out in the hope that the errors of the past would all be blotted out in the performance of good works. Thousands have been relieved of all political disability, and none have the crime of rebellion resting upon them.

Whatever else may be said of Andrew Johnson, in his proclamations of amnesty he was the true representative of magnanimous policy. We know there is a few who would willingly humiliate and degrade those of their own kindred and blood who dared to differ with them in their notions and contracted theories of government. But the mass of the people partake largely of the spirit of the nation. No threatenings are breathed to terrify a people already distressed by the devastating hand of war. Adopting a liberal and gracious policy, men of enlarged views offer the olive branch of

peace. He is a poor political philosopher who has not seen that our government can not afford to change its Republican theory and adopt one founded on proscription, entailing humiliation upon the great bulk of the white inhabitants of the State.

No stable Republican government can long maintain its self respect if it should pursue a policy at war with the very theory upon which free government rests. The most superficial observer, upon a candid and fair examination of the policy of Congress to rehabilitate our State governments, has failed to discover the enlightened policy inaugurated.

The object of the nation is to the more firmly establish its representative theory. Those who are taxed and bear the burdens of government ought to be heard and represented in every department of State. The policy referred to, the action of the government, the letters and speeches of the wisest statesmen, are at war with the doctrine of proscription. It is not founded in justice or mercy. Instead of being the harbinger of peace, it comes freighted with poison more deadly than the Upas tree. It sows the seeds of discord, producing the fruits of bloodshed and all the ills to which humanity is heir.

The history of all the rebellions, of all the most noted revolutions, beginning with that of Oliver Cromwell down to the last one, and the greatest one in our country, shows that no such proscription as many propose was ever adopted.

A liberal policy toward the people will fill the Republican ranks with as good and pure men as any of which it can now boast. But a policy especially designed to perpetuate power in the hands of the few at the expense of the many, ought to meet an early grave, and so deep that the hand of resurrection will never reach it.

The minority are opposed to depriving the freedmen of any right, civil or political, to which he is entitled, and are equally opposed to depriving the white population of their equality before the law. Equal political rights to the adult citizen, of whatever nation, race or color, is the spirit of the government, and will lay a sure foundation for peace, and as a consequence for general prosperity. The minority herewith present an ordinance upon the subject of the elective franchise, which they believe ought to commend itself to every patriot in the land. Also the oath of office, which affords every safeguard contemplated by the Fourteenth Amendment to the Constitution of the United States; also an ordinance upon the subject of the declarations passed by this Convention, and other declarations as substitutes; and, in conclusion, say they do not endorse the majority report further than herein stated, or as set forth in the majority report.

Having but a few hours within which to consider this report, the minority can only present their views in this broken form.

Respectfully submitted,

B. W. GRAY,
A. M. BRYANT, of Grayson,
A. BUFFINGTON,
THOMAS KEALY, Denton.

Mr. Evans of Titus introduced the following resolution :

Resolved, That a special committee of five members be appointed to inquire into the allegations and statements contained in a certain paper, purporting to be an official resolution of the grand jury of the District Court of the United States for the Western Eistrict of Texas, presented at the present term of said court, and published in the official journal of the Convention on Saturday, the twenty-third instant; with authority to send for persons and papers and examine on oath witnesses.

Mr. Thomas moved to lay the resolution on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellingier, Bryant of Grayson, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harn, Kealy, Keigwin, McCormick, McWashington, Mundine, Posey, Rogers, Stockbridge, Thomas, Watrous, Wilson of Brazoria—21.

Nays—Messrs. President, Adams, Bell, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Varnell, Vaughan, Whitmore, Williams, Wilson of Milam, Wright—43.

So the Convention refused to lay the resolution on the table.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. McWashington introduced the following resolution :

WHEREAS, A large class of the citizens of Texas have volun-

teered in the rebellion to defend their so-called rights and property; and

WHEREAS, The government of the United States has declared them a conquered people; and

WHEREAS, The government of the United States has restricted them to law and order, by the laws of war and the policy of the same; and

WHEREAS, It is the intent of the Congress of the United States to have peace and harmony among the citizens thereof; and

WHEREAS, It is necessary for the people of Texas, in Convention assembled, to look to the best policy of peace and order; and

WHEREAS, A large portion of the citizens of Texas have rendered their allegiance to the government of the United States, and who rebelled against the same; therefore,

Be it resolved, by the people of Texas in Convention assembled, That no further disfranchisement shall exist in Texas without the consent of or by the authority of the Congress of the United States.

It was referred to the Committee on State Affairs.

Mr. Buffington introduced the following resolution:

Resolved, That the further sum of fifty thousand dollars, or so much thereof as may be necessary, to pay the per diem of members and the contingent expenses of this Convention, be appropriated out of the funds of the Convention not otherwise appropriated.

Referred to the Committee on Contingent Expenses.

The President announced the business in order was upon the motion to lay on the table the motion of Mr. Mundine, to dispense with the reading and print the report of the committee appointed to revise the engrossed constitution.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Bryant of Harris, Buffington, Butler, Burnett, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Horne, Hunt, Kendal,

Kuechler, Long, Mullins, Newcomb, Patten, Slaughter, Smith, Varnell, Whitmore, Williams, Wilson of Milam, Wright—29.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Bryant of Grayson, Carter, Cole, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Leib, McCormick, McWashington, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Wilson of Brazoria—32.

The Convention refused to lay on the table.

Mr. Newcomb offered the following amendment to the motion :

“ That the printing be done in separate articles, so that the Convention can have it to act upon at the earliest date.”

Amendment accepted.

Mr. Davis offered the following substitute :

“ That all that part of the engrossed constitution which has not been changed by the committee, be immediately taken up and passed upon ; that the sections amended or added be printed without delay and laid upon the tables of members.”

The question recurred upon the adoption of the substitute to the motion of Mr. Mundine.

It was adopted.

Mr. Hamilton of Bastrop, moved that during the consideration of the provisions of the constitution, the floor be cleared of visitors.

Carried.

The consideration of the constitution being in order, Mr. Armstrong, of Jasper, moved to strike out article one of the constitution,* as reported, and insert “ article one of the constitution of 1845.”

Mr. Hamilton, of Bastrop, moved the previous question.

Previous question seconded.

The question recurred, “ Shall the main question be now put?”

Main question ordered.

The question recurred upon the adoption of the preamble to article one, of the reported constitution.

It was adopted.

Mr. McCormick raised the following point of order :

*See page 235, first session.

The sections of the constitution engrossed at the summer session, and referred to the special committee of eleven for revision, now come up under third reading, and amendments proposed to engrossed provisions or sections can only be engrafted by a two-thirds vote.

That new sections proposed by the committee on new subjects, on which no provisions were engrossed, appear now on the second reading.

The President decided that as the engrossed constitution was re-committed to a committee, the constitution passed to engrossment at the last session having been altered and amended, reported by the committee, was on its second reading, as to those sections which had been altered, amended or supplied.

Mr. McCormick appealed from the decision of the chair.

The question then recurred, "Shall the decision of the chair stand as the decision of the House?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Carter, Curtis, Degener, Downing, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Varnell, Whitmore, Williams—27.

Nays—Messrs. Brown, Bryant of Grayson, Buffington, Burnett, Cole, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Hamilton of Travis, Harn, Keigwin, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Wilson of Brazoria, Wright—32.

The Convention refused to sustain the chair.

The question recurred upon the adoption of section two of the "Bill of Rights."

It was adopted.

Section three being next in order, Mr. Armstrong, of Jasper, offered the following amendment :

Substitute for section three :

No religious or political test shall be required as a qualification to any office of public trust in this State, except such as may be in conflict with the Constitution of the United States.

Mr. Patten moved the rejection of the amendment.

Mr. Hamilton, of Bastrop, moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of section three.

It was adopted.

The question recurred upon the adoption of section five.

It was adopted.

Section six on motion was adopted.

Section eight on motion was adopted.

Section ten on motion was adopted.

On motion the Convention adjourned until half-past seven o'clock this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Messrs. Phillips of Wharton and Varnell were excused on account of sickness.

Mr. Buffington moved a call of the House.

Call not sustained.

Mr. Vaughan was excused after to-night, on motion of Mr. McCormick.

Mr. Smith, of Galveston, moved that the sections of the constitution so far as engrossed, which were not amended by the committee, be considered as a whole.

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon agreeing to the motion.

It was agreed to.

Mr. Degener offered the following amendment to the twenty-third section of the "Bill of Rights:"

And we declare that the powers herein granted to the different departments of this State are based upon the equality, in civil and political rights, of all human beings within the jurisdiction of this State; and should any department (either executive, legislative or

judicial) attempt, in any manner, to deprive any person or persons of their herein guaranteed civil and political rights, such attempts shall be considered as a violation of the compact under which this State entered the Union.

Mr. Burnett moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Brown, Bryant of Grayson, Burnett, Flanagan, Fleming, Glenn, Gray, Hamilton of Travis, Harn, Kealy, Keigwin, Rogers, Slaughter, Smith, Sorrell, Stockbridge, Wright—20.

Nays—Messrs. President, Armstrong of Lamar, Bellinger, Bufington, Butler, Carter, Cole, Curtis, Degener, Downing, Fayle, Gaston, Harris, Hunt, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Thomas, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam—35.

So the Convention refused to order the main question.

Pending the announcement of the vote, Mr. Hamilton, of Bastrop, was excused from voting.

The House then proceeded to the reading of each section consecutively and adopting same, unless amendments were offered.

Mr. Hamilton, of Travis, moved to strike out "or limb," in section 12.

Carried.

Mr. Thomas moved to strike out the word "ever" in third and fourth lines.

Lost.

Mr. Degener offered the following amendment to section 23 of bill of rights:

And we declare that the powers herein granted to the different departments of the government of this State are based upon the equality, in civil and political rights, of all human beings within the jurisdiction of this State; and should any department (either executive, legislative or judicial) attempt, in any manner, to deprive any person or persons of their herein guaranteed civil and political rights, such attempts shall be considered as a violation of the compact under which this State entered the Union.

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

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Grayson, Butler, Cole, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Morse, Phillips of San Augustine, Rogers, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Watrous, Whitmore, Wilson of Milam, Wright—34.

Nays—Messrs. President, Buffington, Burnett, Carter, Curtis, Degener, Downing, Faye, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, McCormick, McWashing-ton, Mullins, Newcomb, Patten, Vaughan, Wilson of Brazoria—23.

So the amendment was laid on the table.

Mr. Hamilton, of Travis, moved to strike out section one of the legislative department.

Carried.

Mr. Slaughter moved to strike out two and insert four in section four.

Lost.

Mr. McCormick moved to strike out the words, "except for justices of the peace," in sixth section of the legislative department.

Carried.

Mr. Patten moved to strike out "four" in sixth section.

Withdrawn.

Mr. Davis moved to strike out the sixth section.

Lost.

Mr. Flanagan moved to strike out four and insert three in section sixth.

Lost.

Mr. McCormick moved to strike out the word "three" and insert "ten" in section seventeen.

Lost.

Mr. Hamilton moved to strike out section twenty-six.

Carried.

Mr. Hamilton, of Travis, moved to strike out all after the words "the United States," in the seventh line of section thirty-seven of the legislative department.

Withdrawn.

Mr. Smith, of Galveston, moved to amend by adding "consider the question of the ratification," in section thirty seven.

Lost.

Mr. Hamilton, of Travis, moved a reconsideration of the vote adopting section fourteen of the legislative department.

Lost.

Mr. Patten moved to insert "\$2,500 per annum" instead of "twice the per diem pay of a Senator," in section sixteen.

Lost.

Mr. Hamilton, of Bastrop, moved to strike out of section twenty, all after the word "elected," in fifteenth line.

Lost.

Mr. Butler moved the word "comptroller," etc., in first part of section twenty-four, be stricken out, and in section twenty-four, and at the end of section insert "and Comptroller of Public Accounts, \$4,500."

Lost.

On motion the Convention adjourned until half-past nine o'clock to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
JANUARY 28, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Smith rose to a question of privilege, and desired to change his vote upon the amendment offered by Mr. Degener to section twenty-nine of the bill of rights, and to have his vote recorded in the affirmative on that amendment.

Leave granted.

Also, leave given to same effect to Mr. Watrous.

The President announced the special committee called for by the resolution of Mr. Evans, of Titus, to be Messrs. Hamilton of Bastrop, Evans of Titus, Armstrong of Jasper, Smith of Galveston and Gray.

Mr. Scott, from the Committee on Engrossed Provisions, reported as follows :

COMMITTEE ROOM,
Austin, Texas, January 26, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Engrossed Provisions, after examination, instruct me to report the following declarations and resolutions as correctly engrossed, viz :

No. 99. Declaration to incorporate the Young Men's Real Estate Company.

No. 100. Resolution authorizing the special committee for the revision of the Constitution to employ a clerk.

No. 101. Declaration attaching parts of Guadalupe county to Wilson county, and changing the name of Wilson county to that of "Cibola."

No. 102. Declaration for the relief of the Eastern Texas Railroad Company.

No. 103. Declaration authorizing County Courts to levy a special tax.

No. 104. Declaration authorizing the Police Court of Houston county to levy a special Tax.

No. 105. Declaration for the relief of the Southern Pacific Railroad.

No. 106. Declaration changing the county seat of Refugio county.

No. 107. Declaration to incorporate the Texas Mutual Life Insurance Company.

No. 108. A declaration in relation to the New Orleans, Mobile and Chattanooga Railroad Company, a corporation of the State of Alabama, and authorizing and empowering said Company to exercise and enjoy its corporate powers and franchises in the State of Texas.

Very respectfully submitted,

J. R. SCOTT,
Chairman Committee.

Adopted.

Mr. Wilson, from the Committee on Counties and County Boundaries, reported as follows :

COMMITTEE ROOM,
January 27, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Counties and County Boundaries, to whom was referred the petition introduced by Mr. Downing, praying for the creation of the new county of Keystone, out of the counties of Bosque, McLennan and Coryelle, have had the same under consideration, and a majority of the Committee instruct me

to report the same back to the Convention with recommendation that it be granted.

WILSON, of Brazoria,
Chairman.

A DECLARATION,

Creating the County of Keystone.

SECTION 1. *Be it declared by the people of Texas in Convention assembled,* That a new county be created and established, to be called the county of Keystone, and to include the territory within the following boundaries, to-wit:

“Beginning at the northeast corner of Hamilton county; thence north 60 degrees, east to the centre of the bed of Brazos river; thence in a southeast direction, with the meanders of Brazos river, to a point opposite the mouth of Childer’s Creek; thence in a southwest direction to a point in the McLennan and Coryell county line, nearest the Comanche Springs, about twelve miles south, 30 degrees east, from the present northwest corner of McLennan county; thence in a northwest direction to the northeast corner of Hamilton county, the place of beginning.”

SEC. 2. *Be it further declared,* That the court house of said county of Keystone is hereby established at the town of “Valley Mills,” and the county or police court of said county, when the officers are elected and appointed, as provided by law, shall proceed to cause to be erected the necessary public buildings, and for this purpose they may levy and collect a special tax for three years, of one-fourth of one per cent., and may receive donations in land and money to aid in said work.

SEC. 3. The said county, for all purposes, shall remain a part of the counties from which it is taken till organized, and that upon the acceptance of the Constitution of the State of Texas by the Congress of the United States, this declaration shall be in force from and after its passage.

Mr. Wright introduced the following resolutions:

WHEREAS; Mr. Bryant of Harris, a member of this Convention, is charged with an offense of a very serious character; and

Whereas, he has been taken out of jail on a writ of habeas corpus,

issued by the district judge, and been on trial for three several days, and only one witness been examined; and

Whereas, there are many witnesses yet to examine, and many lawyers to argue the case, so that if we judge the future by the past, we may reasonably suppose it will yet be many days before the investigation closes; therefore be it

Resolved, that it is due to the honor of this Convention that said Bryant be suspended from this body until his guilt or innocence is fairly made to appear; and that if found guilty, that he be expelled from this Convention.

Be it further resolved, that the slow progress made in this trial has been a matter of astonishment to *all* the members of this Convention.

Mr. Patten moved to reject the resolutions.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Buffington, Butler, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Whitmore—28.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong, of Lamar, Bryant of Grayson, Burnett, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Mackey, McCormick, Morse, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Sorrell, Thomas, Vaughan, Wilson of Brazoria, Wright—27.

So the resolutions were rejected.

The president announced that the consideration of the provisions of the constitution was in order.

Mr. Whitmore offered the following amendment to section four of the judiciary department:*

Add after "the capital of the State," the words "and at Tyler, Smith county."

The question recurring upon the adoption of the amendment, the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Jasper, Board, Burnett, Downing, Gaston, Harris, Hunt, Lippard, Mullins, Patten, Slaughter, Sorrell, Whitmore—14.

Nays—Messrs. Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Carter, Cole, Curtis, Degener, Fayle, Flanagan, Fleming, Hamilton of Bastrop, Hamilton of Travis, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Long, Mackey, McCormick, McWashington, Morse, Mundine, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Smith, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

So the Convention refused to adopt.

Mr. Bryant of Grayson offered the following amendment to section four of the judiciary department:

“And at such other points as the Legislature may select.”

The question recurring upon the adoption of the amendment, the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Butler, Cole, Curtis, Downing, Harris, Hunt, Johnson, Kealy, Kendal, Kuechler, Lippard, Mullins, Mundine, Patten, Ruby, Sorrell, Whitmore, Wilson of Milam, Wright—27.

Nays—Messrs. Armstrong of Lamar, Bell, Buffington, Burnett, Carter, Degener, Fayle, Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Jordan, Keigwin, Leib, Long, Mackey, McCormick, McWashington, Morse, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria—37.

So the Convention refused to adopt.

Mr. Thomas moved to strike out the word “their” and insert “his,” in the seventh line of section sixth of the judicial department.

Carried.

Mr. Patten offered the following amendment:

Strike out in line three “for each of which a judge shall be ap-

pointed by the governor, by and with the advice and consent of the Senate," and insert "to be elected by the people of said district."

Strike out all from "provided," in line twelve.

Mr. Carter moved the rejection of the amendment.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Fayle, Flanagan, Fleming, Gray, Hamilton of Travis, Harn, Johnson, Jordan, Kealy, Leib, Mackey, McCormick, McWashington, Phillips of San Augustine, Rogers, Schuetze, Scott, Smith, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—33.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bryant of Harris, Butler, Cole, Curtis, Degener, Downing, Gaston, Hamilton of Bastrop, Harris, Hunt, Keigwin, Kendal, Kuechler, Lippard, Morse, Mullins, Mundine, Newcomb, Patten, Posey, Ruby, Sorrell, Whitmore, Williams, Wilson of Milam—28.

So the Convention rejected the amendment.

Mr. Armstrong of Lamar offered the following amendment to section nine of the judiciary department :

Strike out "elected," and insert "shall be appointed by the district judge."

On motion, the amendment was rejected.

Mr. Phillips of San Augustine offered the following amendment :

Insert "three" in place of "four," in third line, and "two" in place of "three," in sixth line.

Rejected, on motion of Mr. Carter.

Mr. Burnett moved to amend section nineteen by inserting "not less than" in fourth line of judicial department.

Lost.

Mr. McCormick offered the following amendment :

Strike out the words "after different precincts or county," and insert "thereof."

The amendment was adopted.

Mr. Thomas moved to strike out the word "shall," and insert "may," in section twenty, line eighteen.

Lost.

Mr. McCormick moved to reconsider the vote adopting section twenty-four of the Executive Department.

The Convention agreed to reconsider.

Mr. McCormick offered the following substitute for section twenty-four of the Executive Department :

SUBSTITUTE.

The Secretary of State, Treasurer and Commissioner of the General Land Office shall each receive for his services an annual salary of not less than three thousand dollars ; and the Comptroller of Public Accounts and the Attorney-General shall each receive an annual salary of not less than four thousand five hundred dollars. And the salaries of these officers shall not be diminished during their continuance in office.

The Convention refused to adopt.

Mr. Carter moved to reconsider the vote adopting section twenty-one of the Legislative Department.

Mr. Carter offered the following amendment to section twenty-one of the Legislative Department.

Each House may punish, during the session, by imprisonment, any person not a member.

The amendment was agreed to.

On motion of Mr. Smith, section ten of the General Provisions was stricken out.

Mr. Hamilton of Travis moved a reconsideration of the vote striking out section ten of the General Provisions.

The Convention agreed to reconsider.

Mr. Thomas moved to strike out, in section twenty-seven of General Provisions, all after the word "inhabitants."

Lost.

Mr. Wright moved a reconsideration of the vote adopting section twenty-two of the General Provisions.

Lost.

Mr. Wilson of Brazoria moved to strike out the words "road duty," in section thirty-two, line eight of the General Provisions.

Lost.

Mr. Thomas moved to strike out the word "that," in section thirty-three, first line of General Provisions.

Carried.

Mr. McCormick offered the following amendment to section thirty-six of General Provisions.

And no law shall be passed requiring the personal services of any portion of the people on public roads.

The Convention agreed to the amendment.

Mr. Newcomb offered the following substitute to section thirty-seven of the General Provisions.

SUBSTITUTE.

The Legislature may pass protective laws securing mechanics, artizans and laborers in the enjoyment of the fruits of their labors.

The Convention refused to adopt.

Mr. Carter moved to reconsider the vote adopting section four of the Executive Department.

Lost.

On motion of Mr. Flanagan, the Convention adjourned till half-past seven o'clock this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

The sections of the Constitution amended by the Committee to Revise the Constitution being under consideration,

Mr. Thomas moved to amend section one of Bill of Rights by striking out "and to be made," in the second line.

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the original section.

It was adopted.

Mr. Buffington moved the previous question upon the fourth section.

Previous question ordered.

The question recurred, "Shall the main question be now ordered?"

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Cole, Curtis, Downing, Fayle, Flanagan, Gaston, Gray, Hamilton of Travis, Harris, Johnson, Jordan, Kealy, Keigwin, Kendal, Leib, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Smith, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Whitmore, Wright—43.

Nays—Messrs. President, Armstrong of Jasper, Bell, Butler, Degener, Fleming, Hamilton of Bastrop, Harris, Hunt, Kuechler, Newcomb, Patten, Ruby, Slaughter, Varnell, Wilson of Milam—16.

Main question ordered.

The question recurred upon the adoption of the original section.

It was adopted.

On motion section seven was adopted.

On motion the substitute of section nine of the Bill of Rights was adopted.

On motion the substitute for section fourteen of the Bill of Rights was adopted.

On motion the substitute for section nineteen of the Bill of Rights was adopted.

Mr. Thomas moved to reconsider the vote adopting the first section of the Bill of Rights.

On motion the motion was laid on the table.

Mr. Carter moved to strike out "body of" in section five of article eleven, in the Provisions of the Government.

On motion, the amendment was laid on the table.

On motion, section one of the Powers of the Government was adopted.

Mr. Burnett moved to suspend the rules to put the section on its final passage.

Rules suspended.

Section read third time and passed.

Mr. Armstrong, of Lamar, moved to make article three of the

Legislative Department the special order of the day for to-morrow at ten o'clock.

Mr. Patten moved the previous question.

Withdrawn.

Mr. Hamilton moved a call of the House.

Call sustained.

On motion of Mr. Ruby, the call was suspended.

On motion, the consideration of article three of the Legislative Department was postponed till to-morrow at eleven o'clock.

Mr. Smith moved the previous question upon the adoption of the original section five of Bill of Rights.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the original.

It was adopted.

Section fifteen, as substitute to the original, was adopted.

Mr. Smith moved the previous question upon the adoption of the original section twenty-two of the Legislative Department.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the original section.

It was adopted.

On motion, the substitute to section twenty-four of the Legislative Department was adopted.

Mr. Patten moved to strike out "by vote of the people."

Lost.

Mr. Varnell moved to lay section thirty-seven of Legislative Department, as proposed, on the table.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Adams, Armstrong of Jasper, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Haru, Kealy, Keigwin, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Smith, Sorrell, Stockbridge, Thomas, Varnell, Vaughan, Watrous—33.

Nays—Messrs. President, Armstrong of Lamar, Bell, Board, Bryant of Harris, Butler, Curtis, Degener, Downing, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuech-

ler, Newcomb, Patten, Slaughter, Whitmore, Wilson of Milam, Wright—23.

So the section was laid on the table.

Mr. Butler moved the previous question on the adoption of section thirty-eight, as reported from committee.

Mr. Hamilton moved a call of the House.

Call sustained by the following delegates :

Messrs. Glenn, Bellinger, Buffington, Stockbridge, Schuetze, Hamilton of Travis, Leib, Watrous, Posey, Keigwin, Phillips of Wharton, McCormick, Rogers, Cole, Kealy, Harn, Sorrell.

Absentees—Messrs. Mackey, McWashington, Mundine, Williams, Wilson of Brazoria—5.

Mr. Scott, on motion, was excused.

Mr. Mundine, on motion, was excused, Mr. Buffington objecting.

Mr. Harris moved that the Convention adjourn till half-past nine o'clock to-morrow morning.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Harris, Buffington, Burnett, Carter, Cole, Curtis, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Johnson, Keigwin, Kendal, Kuechler, Leib, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Watrous, Wright—32.

Nays—Messrs. President, Board, Butler, Degener, Downing, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jordan, Kealy, Lippard, Long, Morse, Mullins, Newcomb, Patten, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—23.

So the Convention adjourned till half-past nine o'clock to-morrow morning.

CAPITOL. AUSTIN. TEXAS,
January 29, 1869.

Convention met pursuant to adjournment.
Roll called.
Quorum present.
Prayer by the Chaplain.
Journal of yesterday read and adopted.

Mr. Fayle, from the Committee on Enrolled Bills, reported as follows :

COMMITTEE ROOM,
Austin, January 29, 1869.

General E. J. DAVIS,
President of the Convention :

SIR: The Enrolling Committee have had the following resolutions and declarations (Nos. 73 to 87, inclusive,) under consideration, and find them to be correctly enrolled :

No. 73. Resolution appointing a committee to remain in session during the recess.

No. 74. Declaration appropriating \$50,000 for the payment of members and employes of the Convention.

No. 75. Declaration authorizing the payment of the newspaper proprietors who published the Constitution, and appropriating \$3200 therefor.

No. 76. Declaration authorizing the levying and collecting a special tax in Falls and McLennan counties.

No. 77. Declaration to incorporate the East Texas Agricultural and Mechanical Association.

No. 78. Declaration increasing the per diem of the President of the Convention.

No. 79. Resolution in relation to newspapers.

No. 80. Resolution tendering thanks of Convention to General J. J. Reynolds.

No. 81. Declaration appropriating \$15,000 to pay contingent expenses of the Convention.

No. 82. Declaration continuing the charter of the Union.

No. 83. Resolution granting per diem pay to Messrs. Vaughan and Posey from the commencement of second session.

No. 84. Declaration reviving the act incorporating the Galveston Dry Dock Company.

No. 85. Declaration for the relief of the Houston and Texas Railroad Company.

No. 86. Resolution respecting the Houston Union.

No. 87. Resolution requesting the Congress of the United States to call into service a regiment of Texas cavalry to repel Indian invasion.

It is proper to say that No. 73 is identical with No. 62, previously reported, in language and substance.

Respectfully,

WM. R. FAYLE,
Chairman Committee.

Report adopted.

Mr. Patten offered the following resolution :

Resolved, That this Convention do adjourn on Tuesday next, February 2, at 12 o'clock M., to be re-assembled at any time by order of the commanding general or a majority of the committee elected to proceed to Washington.

Mr. Degener moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Board, Brown, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Lippard, Long, Mullins, Newcomb, Patten, Slaughter, Varnell, Vaughan, Whitmore—24.

Nays—Messrs. Adams, Armstrong of Jasper, Bell, Bryant of Grayson, Buffington, Cole, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kuechler, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—40.

The House refused to order the main question.

Upon the motion to adopt the resolution offered by Mr. Patten, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Board, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Varnell, Vaughan, Whitmore—23.

Nays—Messrs. Adams, Armstrong of Jasper, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendall, Kuechler, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

So the Convention refused to agree to the motion.

The President announced the business in order was the consideration of a resolution limiting speeches to five minutes.

Upon the motion to adopt the resolution the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bell, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Gaston, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Mackey, Morse, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Slaughter, Smith, Sorrell, Varnell, Vaughan, Whitmore, Williams, Wilson of Milam—41.

Nays—Messrs. Buffington, Cole, Evans of Titus, Fleming, Glenn,

Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Long, McCormick, McWashington, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—25.

So the resolution was adopted.

The President announced the business in order was the consideration of section 38 of the Legislative Department reported from the Committee on Revision.

Mr. Thomas offered the following substitute :

The city of Austin shall continue to be the seat of government while the State remains undivided, unless a majority of the qualified electors, prior to the year 1876, at an election authorized by law, shall cast their ballots in favor of some other place.

Mr. Patten moved to lay the substitute on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bell, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Glenn, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Moise, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—37.

Nays—Messrs. Bellinger, Bryant of Grayson, Cole, Fleming, Gaston, Hamilton of Travis, Harn, Johnson, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—28.

The substitute was laid on the table.

The question recurred upon agreeing to section thirty-eight of the Legislative Department, as reported from the Committee on Revision.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bell, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Glenn, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuech-

ler, Lippard, Long, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam—39.

Nays—Messrs. Bellinger, Bryant of Grayson, Carter, Cole, Fleming, Gaston, Hamilton of Travis, Harn, Johnson, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Mundine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—27.

So section thirty-eight was adopted.

Section thirty-nine being under consideration,

Mr. Patten offered the report of the Committee on Apportionment as a substitute to section thirty-nine, reported from the Committee on Revision.

On motion, the substitute was adopted.

Mr. Davis offered the following as a substitute to substitute adopted:

“That until otherwise provided by act of the Legislature, the General Commanding is requested to apportion the senators and representatives authorized by this constitution among the several counties of the State, in proportion to the population thereof, shown by the United States census of 1860, arranging the districts so that the counties comprising the same shall as nearly as practicable be contiguous.”

The Convention refused to adopt.

The question recurred upon the passage of the substitute offered by Mr. Patten.

It was adopted.

On motion, section one, article ten, was adopted.

Upon the adoption of section two of article ten the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Brown, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Fayle, Flanagan, Gaston, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of Wharton, Ruby, Schuetze, Smith, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria—42.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Board, Bryant of Grayson, Evans of Titus, Fleming, Glenn, Gray, Harris, Kealy, Keigwin, Phillips of San Augustine,

Rogers, Scott, Slaughter, Sorrell, Thomas, Whitmore, Wilson of Milam, Wright—21.

So section two was adopted.

The President announced the hour had arrived to take up the special order of the hour, which was section one of article three of the Legislative Department.*

Mr. Armstrong of Jasper offered the following substitute to section one, article three, of the Legislative Department :

Every male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city or town in which he offers to vote, Indians not taxed, Africans and descendants of Africans excepted, shall be deemed a qualified elector; and should such qualified elector happen to be in any other county situated in the district in which he resides at the time of an election, he shall be permitted to vote for any district officer; provided, that the qualified electors shall be permitted to vote anywhere in the State for State officers; and provided further, that no soldier, seaman or marine in the army or navy of the United States, shall be entitled to vote at any election created by this constitution.

Mr. Degener moved to lay the substitute on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kealy, Kendal, Kuechler, Leib, Lippard, Mackey, McCormick, Mc-Washington, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—59.

Nays—Messrs. Armstrong of Jasper, Cole, Gaston, Glenn, Keigwin, Sorrell—6.

* For report see page 162, first session.

So the substitute was laid on the table.

Mr. Mundine offered the following substitute :

Every person, without distinction of sex, race or previous condition, who shall have arrived at the age of twenty-one years, and who shall be a citizen of the United States, or is at the time of the adoption of this Constitution by the Congress of the United States a citizen of the State of Texas, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city or town in which he or she offers to vote (Indians not taxed excepted), shall be deemed a qualified elector; and should such qualified elector happen to be in another county, situated in the district in which he or she resides, at the time of an election, he or she shall be permitted to vote for any district officer; provided, that the qualified electors shall be permitted to vote anywhere in the State for State officers; and provided further, that no soldier, seaman or marine in the army or navy of the United States shall be entitled to vote at any election created by this Constitution.

Mr. Patten moved to lay the substitute on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Cole, Curtis, Flanagan, Gaston, Glenn, Gray, Hamilton of Bastrop, Lippard, Long, Mackey, Mullins, Patten, Phillips of San Augustine, Phillips of Wharton, Smith, Sorrell, Thomas, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—30.

Nays—Messrs. President, Armstrong of Lamar, Bell, Bryant of Harris, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Fayle, Fleming, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, McCormick, McWashington, Morse, Mundine, Newcomb, Rogers, Ruby, Schuetze, Scott, Slaughter, Stockbridge, Whitmore—35.

So the Convention refused to lay the substitute on the table.

Mr. Patten moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Board, Bryant of Harris, Butler, Cur-

tis, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Kendal, Lippard, Long, Mackey, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Varnell, Watrous, Williams, Wilson of Milan, Wright—27.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harn, Jordan, Kealy, Keigwin, Kuechler, Leib, McCormick, McWashington, Morse, Mundine, Phillips of Wharton, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Whitmore, Wilson of Brazoria—38.

So the Convention refused to order the main question.

The question recurred upon the passage of the substitute offered by Mr. Mundine to section one of article three of the legislative department.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bell, Fayle, Fleming, Harris, Harn, Kuechler, McCormick, Morse, Mundine, Rogers, Ruby, Stockbridge—13.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Flanagan, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Leib, Lippard, Long, Mackey, McWashington, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Schuetze, Scott, Slaughter, Smith, Sorrell, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milan, Wright—52.

So the Convention refused to adopt.

Mr. Thomas offered the following substitute to section one, article three :

SECTION 1. Every male person of sane mind, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, or who is at the time of the approval of this Constitution by the Congress of the United States a citizen of the State of Texas, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city or town in which he offers to vote (Indians not taxed

excepted), shall be deemed a qualified elector, and qualified electors shall be permitted to vote in any county in the district in which they reside for district officers, and in any part of the State for State officers: but no soldier, seaman or marine in the army or navy of the United States shall be entitled to vote at any election authorized by this Constitution.

Mr. Patten moved to lay the substitute on the table.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Bryant of Harris, Butler, Carter, Curtis, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Mackey, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Slaughter, Smith, Varnell, Watrous, Whitmore, Williams, Wilson of Milan—34.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Buffington, Burnett, Cole, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, McCormick, McWashington, Morse, Mundine, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—31.

So the substitute was laid on the table.

The question recurred upon the adoption of section one, article three, as reported from the Committee on Revision.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained by the following delegates:

Messrs. Glenn, Armstrong of Jasper, Bryant of Grayson, Buffington, Stockbridge, Hamilton of Travis, Keigwin, Rogers, Morse, Cole, Kealy, Sorrell.

Absentees—Messrs. Posey and Wilson of Milan.

Mr. Schuetze moved to adjourn till the usual hour this evening.
Lost.

On motion of Mr. Buffington, call suspended.

Mr. Patten moved a call of the House.

Call sustained by the following delegates:

Messrs. Patten, Hamilton of Bastrop, Slaughter, Butler, Hunt, Newcomb, Downing, Mullins, Kendal, Bryant of Harris, Varnell, Smith, Long, Ruby, Jordan, Degener, Lippard.

House reported full.

The question recurred upon the adoption of section one, article three, as reported by the Committee on Revision.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McWashington, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Scott, Slaughter, Smith, Varnell, Watrous, Whitmore, Williams, Wilson of Milam, Wright—40. *

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Buffington, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, McCormick, Morse, Mundine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Wilson of Brazoria—26.

So the section was adopted.

On motion, the Convention adjourned till the usual hour this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met.

Quorum present.

Mr. Buffington moved a call of the House.

Call sustained by the following delegates :

Messrs. Bryant of Grayson, Scott, Bellinger, Stockbridge, Schuetze, Buffington, Leib, Keigwin, Morse, Thomas, Gray, McCormick, Cole, Rogers, Gaston, Kealy, Wilson of Brazoria, Wilson of Milam—18.

Absentees—Messrs. Downing, Harn, McWashington, Evans of Titus.

Mr. Wright moved a suspension of the call.

Call suspended.

Mr. Varnell moved a call of the House.

Call sustained by the following delegates :

Messrs. Scott, Bellinger, Bryant of Grayson, Johnson, Stockbridge, Watrous, Varnell, McCormick, Mundine, Morse, Rogers, Thomas, Gray, Cole, Kealy, Wilson of Brazoria, Sorrell—18.

Mr. Glenn was excused on account of sickness.

Mr. Thomas moved to adjourn till to-morrow morning at half-past nine o'clock.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bryant of Grayson, Cole, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Johnson, Kcaly, Keigwin, Kuechler, Leib, McCormick, Mullins, Mundine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—28.

Nays—Messrs. President, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Harris, Buffington, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Keudal, Lippard, Long, Mackey, Morse, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Slaughter, Smith, Varnell, Whitmore, Williams, Wilson of Milam—34.

So the Convention refused to adjourn.

Mr. Evans of Titus was excused on account of sickness.

Mr. Buffington moved the call of the House be suspended.

Call suspended.

The President announced the consideration of the provisions of the constitution was in order.

Section one of article eleven, on motion, was adopted.

Section two of article eleven, on motion, was adopted.

Section three, article eleven, on motion, was adopted.

Section four, article eleven, on motion, was adopted.

Section five, article eleven, on motion, was adopted.

Section seven, article eleven, on motion, was adopted.

Section one, article twelve, on motion, was adopted.

Section two, article twelve, on motion, was adopted.

Mr. Smith of Galveston moved to amend section three of article twelve as follows :

In third line of section three, article twelve, strike out the word "may" and insert "shall at its first session after the adoption of this constitution;" and in line four, section three, article twelve, strike out the word "may" and insert "shall."

The question recurred upon the adoption of the amendment.

The Convention refused to adopt.

Section three, article twelve, on motion, was adopted.

Mr. Bryant of Grayson moved to amend by inserting the word "Legislature" instead of the word "superintendent," in line one, section four, article twelve.

Amendment agreed to.

Section four, article twelve, as amended, was, on motion, adopted.

Mr. Butler moved the previous question upon the adoption of section five of article twelve.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the section.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kealy, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Rogers, Ruby, Schuetze, Slaughter, Smith, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. Armstrong of Jasper, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Keigwin, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Scott, Sorrell, Thomas—18.

So the section was adopted.

Mr. McCormick offered the following amendment to section six, article twelve :

After the word "fund," in the seventh line, insert "for the benefit of public schools ; and the Legislature shall set apart one-fourth of the annual revenue derivable from general taxation, and shall also cause to be levied and collected an annual poll tax of one dollar on all male persons in this State between the ages of twenty-one and sixty years, for the benefit of public schools."

The question recurred upon the adoption of the amendment.

It was adopted.

Mr. Flanagan offered the following amendment :

Provided, that if any portion of the public domain shall be hereafter sold to the United States government, the proceeds from such sale shall not be included for scholastic purposes.

On motion, the amendment was laid on the table.

Mr. McCormick offered the following amendment to section six of article twelve, in eighth line :

After the word "therefrom," in eighth line, insert, "and the taxes herein provided for school purposes."

Amendment agreed to.

Mr. Patten moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Bell, Bellinger, Brown, Bryant of Harris, Butler, Carter, Curtis, Downing, Fayle, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Posey, Ruby, Schuetze, Slaughter, Smith, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria—36.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Board, Bryant of Grayson, Buffington, Burnett, Cole, Flanagan, Fleming, Gaston, Glenn, Gray, Harris, Harn, Kealy, Keigwin, Kendal, Mackey, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Scott, Sorrell, Thomas, Wilson of Milam, Wright—27.

So the main question was ordered.

The question recurred upon the adoption of section six, article twelve, as amended.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Brown, Bryant of Harris, Butler, Carter, Curtis, Downing, Fayle, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Posey, Ruby, Schuetze, Slaughter, Smith, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria—35.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Board, Bryant of Grayson, Buffington, Burnett, Cole, Flanagan, Fleming, Gaston, Glenn, Gray, Harris, Harn, Keigwin, Kendal, Mackey, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Scott, Sorrell, Thomas, Wilson of Milam, Wright—28.

So the section as amended was adopted.

Mr. McCormick moved to amend section seven of article twelve, in second line, as follows :

After "fund," in the second line, insert, "and from the taxes for school purposes provided for in foregoing section."

The Convention agreed to the amendment.

Mr. Cole offered the following amendment to section seven of article twelve :

"Which shall be equally distributed to the several counties in this State, semi-annually, according to the scholastic population of each county."

On motion of Mr. Patten the amendment was laid on the table.

The question recurred upon the adoption of section seven, article twelve, as amended.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Brown, Bryant of Harris, Butler, Carter, Curtis, Degener, Downing, Hamilton of Bastrop, Hunt, Jordan, Kuechler, Leib, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Posey, Ruby, Schuetze, Slaughter, Smith, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria—35.

Nays—Messrs. Armstrong of Jasper, Bellinger, Board, Bryant of Grayson, Buffington, Burnett, Cole, Flanagan, Fleming, Gaston, Glenn, Gray, Harris, Harn, Johnson, Keigwin, Kendal, Mundine, Phillips of San Augustine, Rogers, Scott, Sorrell, Thomas, Wilson of Milam, Wright—25.

So the section was adopted.

Section eight of article twelve was, on motion, adopted.

Mr. McCormick offered the following amendment to section nine of article twelve :

At the end of the section add :

"The Legislature shall annually appropriate for school purposes, and to be equally distributed among the scholastic population of the State, the interest accruing on the school fund, and the income derived from taxation for school purposes; and shall from time to time, as may be necessary, invest the principal of the school fund in

the bonds of the United States government, and in no other security."

The Convention agreed to the amendment.

The question recurred upon the adoption of the section as amended.

It was adopted.

On motion section one of article thirteen was adopted.

Mr. Flanagan moved to strike out section two of article thirteen.

Mr. Hamilton, of Bastrop, moved to lay the motion on the table. Carried.

Mr. Hamilton, of Bastrop, moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Bell, Brown, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Hamilton of Bastrop, Hunt, Johnson, Kendal, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Williams, Wilson of Brazoria, Wilson of Milam—26.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Board, Bryant of Grayson, Burnett, Carter, Cole, Fayle, Flanagan, Fleming, Gaston, Glenn, Gray, Harris, Harn, Jordan, Kealy, Keigwin, Kuechler, Leib, McCormick, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Whitmore, Wright—35.

So the Convention refused to order the main question.

Mr. Schuetze moved to adjourn till half-past nine o'clock tomorrow morning.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Carter, Cole, Curtis, Downing, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Bastrop, Harris, Jordan, Keigwin, Kendal, Kuechler, Leib, Long, Mackey, McWashington, Mullins, Mundine, Phillips of Wharton, Rogers, Schuetze, Scott, Slaughter, Stockbridge, Thomas, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—40.

Nays—Messrs. President, Adams, Bell, Board, Burnett, Degener, Flanagan, Harn, Hunt, Johnson, Kealy, Lippard, McCormick, Morse, Patten, Phillips of San Augustine, Ruby, Smith, Sorrell, Wilson of Milam—20.

So the Convention adjourned till half-past nine o'clock to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
January 30, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Fayle presented the following petition and resolution :

Houston, January 29, 1869.

Honorable W. R. FAYLE, M. C.:

Please present the following at the proper time :

To Hon. E. J. DAVIS,
President of the Convention :

Understanding that the Convention will probably adjourn to meet in some other place than Austin, I am instructed by the Board of Aldermen of this city to extend an invitation to the members to meet here, if they should see proper to meet in this city. The Convention will be provided with a hall and suitable committee rooms free of expense.

J. R. MORRIS,
Mayor.

RESOLUTION.

Resolved, That this Convention adjourn on Wednesday, the third day of February, 1869, at one o'clock P. M., to be reassembled at the city of Houston whenever it may be deemed advisable by the committee elected to represent this body at Washington, or by the Commanding General.

Mr. Patten moved the adoption of the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Board, Brown, Bryant of Harris, Butler, Curtis, Degener, Downing, Fayle, Hamilton of Bastrop, Hunt,

Kendal, Kuechler, Long, McWashington, Mullins, Newcomb, Pat-ten, Slaughter, Smith, Whitmore—22.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Carter, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Jordan, Kealy, Keigwin, Leib, Lippard, Mackey, McCormick, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—40.

So the Convention refused to adopt.

Mr. Degener rose to a question of personal privilege, and stated the persons named in an account of a meeting opposed to division, in Comal county, given in the Republican to-day, were men mostly disfranchised under the law.

Mr. Smith of Galveston rose to a question of personal privilege, stating that a speech in the Republican of to-day, reported to have been made by Mr. Bryant of Grayson, was incorrect.

Mr. McCormick, from the Committee on Contingent expenses, reported as follows:

REPRESENTATIVE HALL,
January 30, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Contingent Expenses, to whom was referred the resolution of Mr. Buffington in relation to appropriating fifty thousand dollars, etc., have had the same under consideration, and upon examination are satisfied that an additional appropriation of twenty thousand dollars for the mileage and per diem pay of the members of the Convention, and for the pay of the officers and employes thereof, and an additional appropriation of six thousand dollars for printing and contingent expenses, will be sufficient to meet all of the expenses of sending the Commissioners to Washington, and have instructed me so to report.

I accordingly submit herewith two declarations (providing for said appropriations), as a substitute for the original resolution.

Respectfully,

A. P. McCORMICK,
Chairman Committee.

A DECLARATION

Making an appropriation for the printing and contingent expenses of the Convention.

Be it declared by the people of Texas in Convention assembled :

That the sum of six thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, for the printing and contingent expenses of the Convention, and that the certificate of the Secretary of the Convention, approved by the President thereof, shall be a sufficient voucher for the Comptroller to draw his warrant on the Treasurer for the various amounts intended to be covered by this appropriation.

A DECLARATION

Making an appropriation for mileage and per diem pay of the members, and the pay of the employes, of the Convention.

Be it declared by the people of Texas in Convention assembled :

That the sum of twenty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, to pay the mileage and per diem pay of the members of the Convention, and the per diem pay of the officers and employes of the Convention.

Be it further declared. That the certificate of the Secretary of the Convention, approved by the President thereof, shall be a sufficient voucher for the Comptroller to draw his warrant upon the Treasurer for the amounts for the payment of which this appropriation is made.

Mr. McCormick moved a suspension of the rules to take up the resolution.

Rules suspended.

Mr. Patten offered the following amendment to the resolution appropriating twenty thousand dollars (\$20,000) for expenses :

“ Amend by adding six hundred dollars to defray the expenses of the committee to Washington.”

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

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, MeWashington, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—31.

Nays—Messrs. President, Adams, Brown, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Newcomb, Patten, Phillips of Wharton, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—32.

So the Convention refused to lay on the table.

The question recurred upon the adoption of the amendment.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Board, Brown, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Newcomb, Patten, Phillips of Wharton, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—32.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, MeWashington, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—31.

So the amendment was adopted.

Pending the announcement of the vote, Mr. Ruby requested permission to vote; objection being made he withdrew his request.

Mr. Patten offered the following amendment :

Amend by adding \$153, to meet deficit in the expenses of Mr.

M. C. Hamilton, one of the delegates sent to Washington in July last, and who remained over in the expectation of a September session of Congress until it was manifest that no such session would be holden, say to the 15th September, and where necessary expenses amounted to \$553, he having received at the Treasury, on leaving, the sum of \$400.

Mr. Hamilton, of Travis, moved to add \$100 for Mr. C. Caldwell. The amendment as amended was adopted.

Mr. Butler moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the resolution as amended.

It was adopted.

Mr. McCormick moved a further suspension of the rules to put resolution on its final passage.

Rules suspended.

The question recurring upon the final passage of the resolution, the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Adams, Armstrong of Lamar, Belinger, Board, Brown, Bryant, Buffington, Butler, Burnett, Carter, Degener, Downing, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Mackey, Morse, Mullins, Mundine, Newcomb, Patten, Phillips of Wharton, Ruby, Schuetze, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—39.

Nays—Messrs. Armstrong of Jasper, Bell, Bryant of Grayson, Cole, Evans of Titus, Fleming, Gaston, Glenn, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, McCormick, McWashington, Phillips of San Augustine, Posey, Ruby, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—26.

So the resolution was adopted.

Mr. McCormick moved the rules be suspended to take up the resolution appropriating \$6000 to pay contingent expenses and printing.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. McCormick moved a further suspension of the rules to put resolution on its final passage.

Rules suspended.

Resolution read a third time and passed.

Mr. Phillips, of Wharton, from Committee on Commerce and Manufactories, reported as follows :

COMMITTEE ROOM,
Austin, January 30, 1869.

To Hon. E. J. DAVIS,
President of the Convention:

SIR: Your Committee, having examined the application of the Houston Mutual Life Insurance Company for an act of incorporation, find nothing in the application of an exceptional character, but simply an act of incorporation, and understanding that the city of Houston is in need of such an institution, a majority of your Committee report in its favor.

Respectfully,
PHILLIPS, of Wharton,
Chairman Committee.

A DECLARATION

To incorporate the Houston Mutual Life Insurance Company.

Be it declared by the people of the State of Texas in Convention assembled :

SECTION 1. That J. R. Morris, H. G. Pannell, Wm. R. Fayle, H. H. Dooley, John Brashear, Robert Brewster, W. A. Daly, O. C. Drew, E. S. Graham, A. Wettermark, A. B. Hall and A. J. Burke, their associates and successors, be and they are hereby constituted a body corporate and politic under the name and style of "The Houston Mutual Life Insurance Company;" and, by that name and style shall have perpetual succession; and be capable, in law, of suing and being sued, plead and being impleaded, answering and being answered unto, defending and being defended against, in all manner of actions, suits, complaints, and causes; may make, have and use a common seal, and the same may change or alter at pleasure.

SEC. 2. The said corporation shall have power and authority to make and enter all manner of contracts and agreements for insurance of lives of persons, and may make, execute and issue policies of insurance of every kind and nature whatsoever for the insurance of

human life ; and may do and perform, generally, every act and thing to the business of life insurance belonging, or in any wise appertaining ; and may re-insure said corporation, or cause the same to be re-insured against loss on, or by any risk or risks which may be hereafter taken by said company ; and may, for the benefit of said corporation, purchase, from time to time, any policy or policies of insurance, or other obligation or obligations issued, or to be issued, by said corporation.

SEC. 3. The affairs of said corporation shall be managed by a board of twelve directors, all of whom shall be residents of this State and be qualified as is provided in section five of this ordinance, and elected in the manner hereinafter prescribed. Said directors shall, within a reasonable time after the annual election in each year, meet at the office of said company, in the city of Houston, and elect from among their number a President and Vice-President, whose term of office shall continue until the first Monday in the month of January then next following, and until their successors shall be duly elected ; and said Board of Directors shall have power to designate and appoint such other officers, agents and servants for said corporation, as may be by them deemed necessary or expedient for properly conducting, managing, transacting or carrying on the business of said corporation, and to regulate and fix the rate of compensation of all officers, agents and servants whatsoever of said corporation. Said directors shall also have power to determine and declare, by by-laws, what number of said board less than the whole number, not less than five, shall constitute a quorum for the transaction of business, and shall also have power to fill any and all vacancies which may occur by death, resignation or otherwise, in said board, or in the office of president or vice-president, by the appointment of some other person or persons to serve for the residue of the term.

SEC. 4. To the end that the term of service of one-third of the whole number of said Board of Directors shall expire at the end of each and every year, the said board shall, by lot, be divided into three classes having an equal number of directors in each class, and shall respectively expire as follows : That of the first class in one year ; that of the second class in two years ; and that of the third class in three years. And on the first Monday in the month of January of each and every year hereafter there shall be holden at the office of the company, in the city of Houston, between such hours of the day as shall be named or designated by the Board of Directors, an election for directors in the place and stead of those whose term of service shall then expire, of which said election previous notice of

not less than ten days shall be given by public advertisement in some one or more newspapers printed in the city of Houston ; and it shall be the duty of the Board of Directors, at some meeting of said board prior to any such election, to appoint three competent persons, not directors in said corporation, to act as inspectors of such election, to superintend and conduct the same, and to certify to said board the result thereof. If, from any cause, such election cannot be holden, or shall not take place on that day, said corporation shall not, for that cause, be dissolved, but the same may be holden on any other subsequent day which may be designated by said board, of which like previous notice shall be given, and the old directors shall continue to serve until their successors shall be duly elected. Nothing in this declaration contained shall be so taken or construed as to render any director ineligible to re-election to said office of directors.

SEC. 5. No person shall be eligible to the office of director in this company who is not either the bona fide holder and owner of at least ten shares of the capital stock of the corporation, or who is not the holder of a policy of insurance issued by this company, either on his own life or the life of some other person, for his use and benefit, for an amount not less than five thousand dollars. At all elections for directors of this company, each stockholder shall be entitled to cast one vote for each share of the capital stock owned and held by him or her, and holders of policies issued by this company shall be each entitled to one vote ; but no such policy holder who may happen to hold more than one policy on the same life shall be entitled to cast more than one vote. Persons entitled to vote at any such election may do so by proxy, but no proxy shall be allowed to cast more than one hundred votes unless the votes offered to be cast or voted by him shall all be the votes of one and the same stockholder or policy holder, as the case may be.

SEC. 6. For the better and more complete security of all persons concerned in the insurance of any life insured in this corporation, the board of directors thereof are authorized and empowered to create or establish a joint capital stock, which shall not exceed in the amount the sum of five hundred thousand dollars, and which shall be divided into five thousand shares of one hundred dollars each, and issued on the terms and conditions following, that is to say: Five dollars per share shall be paid by each subscriber at the time of subscribing for such shares, and the residue thereof shall be paid in installments of not more than ten dollars on each share, at such times as the board of directors may designate and appoint for the payment

thereof, sixty days' notice of any such call being given by advertisement in some newspaper printed in the city of Houston; provided, however, that should the intervening losses and liabilities of the company amount in the aggregate to a sum greater than the amount or sum of the then available means of the corporation, the board of directors may require a further and additional amount or sum of the unpaid installments to be paid on sixty days' notice that the same is required, said notice to be given in manner as aforesaid. The payment of all deferred or unpaid installments due from subscribers for stock shall be secured by bonds of the subscribers, with good and sufficient sureties, to be approved by the board of directors, and conditioned in effect for the payment of all and every installment, at such time as payment thereof may be required by the board of directors, or the same may be secured by deed of trust, or by the deposit of collaterals with said company, or in any other manner which may be approved by the board of directors. There shall be declared, from time to time, on said capital stock, dividends of twelve per cent. per annum, payable in semi-annual installments, in the months of January and July respectively in each and every year; provided, always, that no dividend shall at any time be paid which will in any manner impair the said capital stock; but in such case, for any such dividend or dividends, or for such part thereof as may be unpaid on the first day of January in each year respectively, scrip may be issued to the stockholders by said corporation, bearing interest at a rate not exceeding the rate of twelve per cent per annum; and such scrip when so issued shall have priority to and shall be paid before any dividend which may subsequently be declared shall be paid. Dividends may be withheld on any share or shares of stock on which any installment is due and unpaid.

SEC. 7. The said corporation shall not advance or loan any part of its funds on pledge or hypothecation of the capital stock of said corporation, but for any debt, claim or demand whatever, including unpaid installments on stock which may be at any time due and owing to said corporation, by or from any member or stockholder therein, either as principal or surety for another, the said corporation shall have the benefit of a lien, and the same is hereby declared a lien, on any and all shares of stock belonging to such debtor or stockholder, whether the said shares of stock be paid up in whole or in part; and any such stock, on which said corporation may have a lien as aforesaid, may, on thirty days' notice, be sold at public sale to the highest bidder, for cash, and the proceeds and avails of such sale shall be applied, first, to the payment of the proper costs and expenses of such sale; next, to the payment of the debt, claim or

demand so due and owing to said company ; and the residue, if any shall be paid over to said stockholder or his legal representatives. Should the proceeds of such sale, however, not be sufficient in amount to pay the expenses attending such sale and the demand due to the company, in any such case payment of the deficit may be enforced by suit. When the capital stock shall be fully paid in, certificates of stock shall be issued to those who may be entitled to receive the same.

SEC. 8. All transfers of shares of stock in this corporation shall be made on the books of the corporation, and in all such cases of such transfer the old certificate shall be surrendered to the company to be canceled, and a new certificate shall be issued, in lieu thereof, to the person to whom any such transfer shall or may be made ; but no transfer of any share or shares of said capital stock on which said company may have a lien, as provided in the next preceding section, shall be made without the assent of said corporation until such debt, claim or demand shall be fully paid and satisfied. In case transfer shall be made of any share or shares of stock, with the assent of said corporation, before the unpaid installments shall have been fully paid, the bond or other security, given by the party transferring the same, may be canceled or surrendered, and a new bond or other security may be taken from the party to whom such transfer is made, to be approved by the Board of Directors as provided for in section seven of this declaration.

SEC. 9. Should the Board of Directors at any time become satisfied that the bond or other security of any stockholder is insufficient to secure to the prompt payment of every installment due by such stockholder, they may require such stockholder to execute and deliver to the corporation such other further and additional security as they may deem proper, at or within such time as the board shall designate, to be approved as aforesaid, and so on, as often as the said security may be considered or deemed by said board insufficient ; and should any stockholder fail to give the required further and additional security within the time so designated by the board for that purpose, it shall be lawful for said company to sell, or cause to be sold, the stock held by such stockholder in the same manner and upon like notice as hereinbefore provided in relation to sales made in case of default being made in the payments of installments due upon stock, the payment of which may have been required by the board, and the avails and proceeds of any such sale shall be applied to the payment of the costs and charges of such sale ; and the amount due and owing from such delinquent stockholder or obligor

to the said company, and any surplus that may remain shall be paid over to such stockholder or obligor, and his bond shall thereupon be canceled; but in case the said proceeds and avails shall not be sufficient to pay the expenses attending said sale, and the sum due the company on said stock, then, and in every such case, payment of any such deficit may be enforced by suit.

SEC. 10. The President and Directors of said corporation shall have power to establish, from time to time, and enforce such by-laws, rules and regulations for the good government of said corporation as they may deem necessary, the same not being contrary to the Constitution of the United States or of the State of Texas; and generally to do and perform, or cause to be done and performed, any act, matter or thing which the interest of said corporation may from time to time require to be done and performed.

SEC. 11. The Board of Directors may from time to time invest the capital stock, accumulated premiums for insurance, and surplus avails, and profits of the business of said corporation, in any funded debt or public securities created, or which may hereafter be created, by any law of the United States, in the bonds or other securities of the State of Texas, in the bonds or other securities of any city or county in this State, in mortgages or real estate, deeds of trust and promissory notes, and may sell, transfer or exchange the same and re-invest the proceeds and avails thereof in such manner as they may deem conducive to the interest, benefit and advantage of said corporation.

SEC. 12. Any policy of insurance issued by this company for the use, benefit or advantage of the wife, widow, children, father or mother of any person whose life may be insured by said corporation, shall not be held or made liable for any debts, contracts or engagements of the person whose life is or may be so insured; and all such insurance, in the event of the decease of the person whose life is or may be so insured, shall be paid to the person or persons beneficially interested therein, to be held by him, her or them free, and discharged of and from all pre-existing debts, contracts and engagements whatever of the person deceased.

SEC. 13. The real estate which it shall and may be lawful for said corporation to purchase, have, hold, use and convey, shall be as follows: First—Such as shall or may be requisite or necessary for the use of said corporation in the transaction of its business. Second—Such as may from time to time be conveyed to it by way of mort-

gage or deed of trust for the purpose of securing to said corporation the payment of any debt or debts, loan or loans, sum or sums of money which may be due and owing thereto. Third—Such as may be conveyed to said corporation absolutely in payment or satisfaction of any debt or debts, loan or loans, sum or sums of money which may be due and owing to said company. Fourth—Such as may from time to time be bought by said corporation at any sale or sales made under any execution, judgment, decree or order of court, mortgage or deed of trust; and all such real estate to which said corporation shall or may become entitled, save and except such as may be necessary and requisite for its accommodation and use in transactions of its business, shall be sold and disposed of by said corporation within fifteen years from and after the date at which it shall or may acquire title thereto; and it shall not be lawful for said corporation to have and hold any piece or parcel of ground for a longer period than fifteen years from the time at which it shall or may become entitled to the same, except as above excepted.

SEC. 14. So soon as the same may be practicable after the first Monday in the month of January, in each and every year, it shall be the duty of the officers of said corporation to cause to be prepared a true and correct general balance statement of the affairs of the corporation for the preceding year, ending on the thirty-first day of December then last past, which shall contain and show: First—The amount of premiums received and the amount of interest received from loans and investments of every kind for and during the year. Second—The amount of the expenses and liabilities of the company for and during same period. Third—The amount of losses incurred during the same period. Fourth—The balance remaining with said company, the kind and nature of the security by which all loans are secured, and the amount of actual cash on hand; which said statement shall be recorded in a book to be prepared and kept for that purpose; which said book shall at all times (during the usual hours for the transaction of business), be open and subject to the inspection or examination of any stockholder or policy holder of said corporation who may desire to inspect or examine the same.

SEC. 15. The capital stock accumulations from payments of premiums, and all increase and accumulation of funds of the company from all sources whatever, shall be held liable to and for the payment of all losses, expenses and liabilities incurred by said company; and shall not be withdrawn for division or other distribution in any manner whatever among holders of policies of insurance issued by said company, who may by the terms and conditions of any such pol-

icy be entitled to participate or share in profits and earnings of said company, so long as there shall or may be outstanding liabilities of said corporation ascertained to be due and unsettled, except in the manner provided in sections number seventeen and number eighteen of this declaration. The directors may from time to time determine the rate of premium which shall be paid by any applicant for insurance, and regulate the manner, terms and time and times of payment thereof; and should default be made in the payment of any premium due or to become due and owing to said company, or any part thereof, at the time at which the same ought to be paid, then and in such case the policy on which said premiums may be so due and owing, shall by reason of such default become forfeited, and shall no longer be of any force or effect whatever, and said company shall be fully exonerated and discharged from any and all liability by reason or on account of such policy; and all premiums which shall or may have been paid thereon to said company, as well as all and every unredeemed dividend which shall or may be due thereon, at the time of such default, shall become and be deemed forfeited to said company; provided, always, that the Board of Directors may in their discretion set aside any such forfeiture, and reinstate any such forfeited policy and dividend on such terms and conditions as to the said directors may seem reasonable and proper.

SEC. 16. The officers of said corporation shall, on the first Monday in the month of January in each and every year, or so soon thereafter as may be practicable, make, or cause to be made, in writing, a statement or exhibit showing the condition of the affairs of said company on the thirty-first of December then last past, and if, as shown by such statement or exhibit, after the payment of all losses, liabilities and expenses of the company, and after creating a contingent fund, which, together with the capital stock, shall, in the judgment of the Board of Directors, be a sufficient provision for all outstanding risks for the year preceding the date of such statement, there shall remain a surplus, each insured member who may be entitled to share in the profits of the company, and whose policy may not have become forfeited, shall be entitled to be credited on the books of said company for such proportional part of any such surplus as the sum of the annual premiums paid by such member shall bear to the aggregate sum or amount of such surplus as may be so declared to be remaining, but no such dividend shall be actually redeemed or paid off until such time as the assets of the company, inclusive of capital stock, shall amount to the sum of four hundred thousand dollars. Whenever the sum or amount of said assets shall be over and above said sum of four hundred thousand dollars, such

excess may, from year to year thereafter, be applied towards the redemption of the dividends of each year, in whole or in part, as may be determined by the Board of Directors; provided, always, the said assets shall, in the judgment of said directors, exceed in amount the value of the policies then actually in force, in an amount or sum equal to the sum of the said dividends so to be redeemed or paid off; but no dividend or dividends of any subsequent year shall be redeemed or paid so long as the dividend or dividends of any preceding year shall be unprovided for. The Board of Directors may, in their discretion, declare any such dividend or dividends (the payment whereof may be postponed) entitled to bear interest at a rate not exceeding the rate of twelve per cent. per annum.

SEC. 17. In case the decease of any person whose life may be insured by said corporation, and whose policy shall not have been forfeited at the time of such decease, the amount of insurance to be paid by the company in such case, together with any unredeemed dividend or dividends then standing to the credit of such policy, after deducting such sum as may be due and owing to said corporation on account of premiums, notes, or other indebtedness of the beneficiary to said corporation, shall be paid to the person or persons who may be entitled to demand and receive the same under and by virtue of the terms and conditions of the policy in such case within ninety days from and after the time at which notice and satisfactory proof of death shall have been furnished to the Board of Directors, and by them duly approved according to the provisions of the by-laws of said corporation relating to such necessary proof.

SEC. 18. Suits at law may be instituted and prosecuted by said corporation against any stockholder or member thereof, and also by any stockholder or member thereof against said corporation, but no suit on any policy of insurance issued by this corporation shall be commenced or maintained until the end of ninety days next after delivery of due notice and proof of death to said corporation; and in all suits by and against said corporation, no stockholder or member of said corporation who may be otherwise a competent witness shall be declared incompetent or disqualified as a witness because of his being a stockholder or member of this corporation.

SEC. 19. The chief or principal office or place of business of this company shall be located in the city of Houston, in this State, but agencies may, from time to time, be established by said company at any other place or places in this State, or in any other State or territory of the United States.

Mr. Newcomb, from the special committee appointed to consider the most practicable mode of printing the journals, reported as follows :

AUSTIN, Texas,
January 30, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The special committee appointed to inquire into the most practicable mode of publishing the journals of the Convention, beg leave to submit the following report and resolutions agreed upon by the committee :

Your committee find that the journals of the Convention are the most voluminous ever made by any similar, or rather legislative body in the State.

The journals as published give but a portion of the real matter which properly belongs to the proceedings, and which should be published to make them complete. These journals will make a volume, or volumes, of over one thousand pages brevier type, and over two thousand pages of pica type, forty-four lines long and twenty-six ems wide. This is a low estimate.

The first assistant secretary, who is thoroughly acquainted with the matter, makes the estimate double this number of pages.

One establishment has offered to do the work on an estimate of one thousand pages pica type, at four-tenths of a cent a page, or four thousand dollars.

Your committee is confident this is an incorrect estimate, and that if the work is given out on this basis, it will cost at least twelve thousand dollars.

The sum usually paid by the State for collecting and publishing the journals of the Legislature is from ten thousand to twelve thousand dollars, and at least this amount would be necessary for printing of the journals of this Convention, if done in accordance with the laws of the State, and in the State.

If economy and good work are to be considered, your committee would advise that this matter be left to the care of the President of the Convention and the other delegates to Washington, giving them the authority to have the work done at the North, which would save at least one-half the money it would take to have the work done in the State, besides the advantage of having the work done under the supervision of the President of the body, who is thoroughly acquainted with the proceedings.

The collating of the journals is also a work that should be entrusted to capable hands, and should be considered by the Convention.

It might be well to wait the publication of the journals until the fact is known that the labors of the Convention are at an end, but as the Convention may desire to act upon the matter now, your committee beg leave to submit the following resolution, as suggesting the best and most economical plan for having the journals published.

JAMES P. NEWCOMB,
G. T. RUBY.

RESOLUTION.

Providing for the publication of the journals of the Convention.

Resolved, by the people of the State of Texas in Convention assembled:

That the delegates elected by the Convention to proceed to Washington be, and the same are hereby authorized to contract with some good publishing house, printing firm, or parties, and have published five hundred or one thousand copies of the journals of this Convention, in a neatly bound volume or volumes; and said contract shall be awarded to the lowest bidder of at least four competing publishing houses, printing firms, or parties; and the style and manner of such publication of said journals shall be discretionary with and under the immediate supervision of said delegates, who are authorized to do and perform all acts necessary to carry this resolution into effect.

Resolved, There is hereby appropriated and set apart out of any moneys now in the Treasury, belonging to the Convention, or which hereafter may be collected under the tax law of the Convention, accruing in the Treasury, to defray all necessary expenses to carry these resolutions into effect, the sum of (\$5000) five thousand dollars, or so much thereof as may be necessary; and the Comptroller is hereby required to draw his warrant upon the Treasurer for so much of this sum as may be necessary to defray the expense of such publication and incidental expenses thereto, upon a certificate signed by the chairman of the delegation, and approved by three members thereof.

Mr. McCormick offered the following

SUBSTITUTE.

Resolved, That there shall be printed at the office of the Austin

Republican, an official journal of the United States, one thousand copies of the journal of this Convention, the same to be printed in small pica type, to be forty-four lines long, exclusive of the fold, and twenty-seven ems wide, without side-notes, upon a good quality of book paper; the said journals to be neatly folded and stitched and trimmed.

2. *Resolved*, That it shall be the duty of the Secretary of the Convention to furnish the publishers of the Republican, immediately after the adjournment of this Convention, with the journals, and when printed the manuscript journals shall be returned to the Secretary of State, who shall deposit them in his office, to be filed with the archives of the State government. The Secretary of the Convention shall also furnish to said publishers a comprehensive index of the journals, which shall be printed at the end of the same, and charged for at the same rate herein provided for the printing of the journals.

3. *Resolved*, That the whole number of journals authorized to be printed shall be delivered to the Secretary of the Convention within sixty days after the adjournment of the Convention, two copies of which shall be sent to each member of the Convention, one copy to the office of the county clerk of each county, the residue to be deposited in the office of the Secretary of State, for the use of the State and to exchange with other States.

4. *Resolved*, That there shall also be printed at the said office one thousand copies of the constitution and declarations of this Convention, in the same style and manner provided for the journals, and at the same rates of pay, to be delivered to the Secretary and disposed of by him as provided for the journals of this Convention.

5. *Resolved*, That the rates of printing herein provided for shall be one-half ($\frac{1}{2}$) of a cent per page for the whole number of pages ordered to be printed, to be paid in United States currency.

6. *Resolved*, That the accounts of the publishers shall be approved by the Secretary of the Convention, whose certificate to the Comptroller of Public Accounts shall be sufficient voucher for that officer to draw his warrant on the Treasurer for the account thereof.

7. *Resolved*, That the per diem of the Secretary of the Convention shall continue, whilst superintending the printing herein pro-

vided for, after the adjournment of the Convention; provided, that the time charged for shall not exceed sixty days.

Mr. Smith of Galveston moved to lay the substitute upon the table.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Board, Brown, Bryant of Grayson, Bryant of Harris, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Flanagan, Gaston, Hamilton of Bastrop, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Whitmore, Wilson of Milam—27.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Buffington, Cole, Curtis, Fayle, Fleming, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leio, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—34.

So the Convention refused to lay the substitute upon the table.

Mr. Board moved to adjourn until this evening at the usual hour.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Armstrong of Jasper, Board, Brown, Bryant of Harris, Butler, Curtis, Downing, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Morse, Mundine, Newcomb, Patten, Ruby, Slaughter, Watrous, Whitmore, Wilson of Milam—25.

Nays—Messrs. Adams, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Degener, Evans of Titus, Fayle, Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Long, Mackey, McCormick, McWashington, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Williams, Wilson of Brazoria, Wright—36.

So the Convention refused to adjourn.

Mr. Patten moved a call of the House.

Call sustained by the following delegates:

Messrs. Degener, Varnell, Smith, Long, Johnson, Wilson of Milam, Patten, Newcomb, Bryant of Harris, Kendal, Mullins, Hamilton of Bastrop, Downing, Whitmore, Butler, Slaughter.

Mr. McWashington on motion of Mr. Hamilton of Travis, was excused from operation of the rule of the House, being absent during call of the House.

Mr. Hamilton of Travis moved that Mr. Adams be excused after to-day from attendance upon the Convention.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Butler, Burnett, Cole, Evans of Titus, Fayle, Fleming, Gaston, Gray, Hamilton of Bastrop, Harris, Harn, Hunt, Kealy, Keigwin, Kendal, Kuechler, Leib, Mackey, McCormick, McWashington, Mundine, Patten, Phillips of San Augustine, Rogers, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—41.

Nays—Messrs. President, Board, Brown, Bryant of Harris, Carter, Curtis, Downing, Flanagan, Johnson, Jordan, Lippard, Long, Morse, Mullins, Newcomb, Phillips of Wharton, Ruby, Varnell, Williams—20.

Carried.

Mr. Butler asked that Mr. Whitmore be excused after to-day.

Carried.

Mr. Schuetze moved the Convention adjourn till Monday morning at half-past nine o'clock.

Lost.

On motion the Convention adjourned until half-past seven o'clock this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. Fayle asked leave of absence for Mr. Bryant of Harris and Curtis.

Leave granted.

Mr. Bryant of Grayson offered the following

RESOLUTION.

WHEREAS, C. W. Bryant, delegate to this Convention from Harris county, is charged with the crime of an assault with the intent to commit a rape upon a girl of eleven years of age, on the —— day of January, 1869, in the county of Travis; and

WHEREAS, After an elaborate investigation of said charge on habeas corpus, Judge Thornton, a district judge of the State, has adjudged on this day that the said charge is sustained by the testimony; therefore,

Be it resolved by the delegates of the people in Convention assembled,

That the said Bryant be and he is hereby expelled from this Convention.

Mr. Degener moved to lay the resolution on the table.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Board, Brown, Butler, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Johnson, Jordan, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Newcomb, Patten, Ruby, Schuetze, Slaughter, Smith, Whitmore, Williams—28.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Buffington, Burnett, Cole, Evans of Titas, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Lippard, Mackey, Moise, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Varnell, Wilson of Milam, Wright—34.

So the Convention refused to lay on the table.

Mr. Bryant of Grayson moved the previous question.

Previous question seconded.

Mr. Butler moved a call of the House.

Call sustained by the following delegates, to wit:

Messrs. Degener, Jordan, Flanagan, Johnson, Board, Kuechler, Long, Smith, Fayle, Curtis, Kendal, Mullins, Downing, Newcomb, Hunt, Butler, Patten, Hamilton of Bastrop, Williams, Ruby.

Absentees—None.

Mr. Patten moved the Convention adjourn till Monday morning at nine o'clock.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Board, Brown, Butler, Curtis, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Rogers, Ruby, Schuetze, Slaughter, Smith, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam—32.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Degener, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wright—33.

So the Convention refused to adjourn.

Mr. Flanagan moved to adjourn till half-past eight o'clock on Monday morning.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Board, Brown, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Whitmore, Williams, Wilson of Brazoria, Wilson of Milan—31.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wright—34.

So the Convention refused to adjourn.

Mr. Degener moved to adjourn till the regular hour on Monday morning.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Bell, Bellinger, Board, Brown, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Schuetze, Slaughter, Smith, Whitmore, Williams, Wilson of Milam, Wright—33.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Buffington, Burnett, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria—32.

So the Convention adjourned.

CAPITOL, AUSTIN, TEXAS,
February 1, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

The President stated a point of order and announced that the Secretary, Mr. Tunstall, had presented an account for copying the journals, which the President had refused to approve, because he considered it fraudulent and extravagant. That on his stating to the Secretary on yesterday that he could not approve the same, the Secretary told him that if he did not approve the account he would not sign for the President his certificate for his per diem.

Mr. Patten moved the Secretary be discharged.

Withdrawn.

Mr. Patten moved to raise a committee of three to examine into the matter.

Mr. Evans of Titus moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the motion.

It was adopted.

The President appointed Messrs. Burnett, McCormick and Brown as the committee.

Mr. Degener offered the following resolution :

WHEREAS, Mr. R. E. Talbot, the member elect from Williamson and Burnett counties, is in attendance ; therefore be it

Resolved, That he be invited to a seat on the floor without a vote, till the Convention is officially advised of his election.

The resolution was agreed to.

Mr. McCormick moved that Mr. Kealy be permitted to print remarks upon the section in the constitution relating to poor houses.

Mr. Ruby rose to a question of personal privilege, stating that the assistant doorkeeper violently assaulted him upon the public street this morning while on his way to the capitol.

Mr. Degener asked that the question be referred to the special

committee raised this morning to investigate the conduct of the Secretary of the Convention.

Mr. Johnson moved the previous question.

Previous question seconded.

The question recurred "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Carter, Cole, Degener, Downing, Evans of Titus, Fayle, Fleming, Flanagan, Hamilton of Travis, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendall, Kuechler, Kirk, Leib, Long, Mackey, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—49.

Nays—Messrs. President, Gray, Hamilton of Bastrop, Harris, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter—10.

Main question ordered.

The question recurred upon the adoption of the motion.

It was adopted.

Mr. Degener rose to the point of order, and moved that officers against whom charges had been made, and which charges had been referred to a committee, should be suspended until the said committee had reported.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Board, Butler, Burnett, Degener, Downing, Evans of Titus, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—24.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Carter, Cole, Curtis, Fayle, Fleming, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Leib, Mackey, McCormick, Morse, Mundine, Phillips of San Augustine, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—34.

Mr. Smith of Galveston rose to a question of personal privilege, stating that he had been assaulted in the hall of the Convention by

Mr. Bryant of Grayson, and desired the matter referred to the committee appointed to inquire into the conduct of certain officers.

Mr. Burnett moved the motion to refer be laid on the table.

Carried.

Mr. Armstrong of Lamar moved to take up the constitution.

• Carried.

Mr. Scott, from the Committee on Engrossed Provisions, reported as follows :

COMMITTEE ROOM,
Austin, Texas, February 1, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Engrossed Provisions, after examination, report the following declarations and resolutions correctly engrossed, to-wit :

No. 109. Resolution expressing the opinion of the Convention respecting the division of the State of Texas, and providing for the election of delegates to proceed to Washington to represent the condition of the State.

No. 110. Declaration incorporating the Rock Creek Bridge and Turnpike Company.

No. 111. Declaration incorporating the Ship Channel and Bolivar Point Company.

No. 112. Declaration incorporating the Jefferson Navigation Company.

No. 113. Declaration granting the right to build a ferry across the Neches river.

No. 114. Declaration creating the county of Latimer.

No. 115. Resolution providing that the Legislature may make an appropriation for the heirs of W. A. Smith, deceased.

No. 116. Declaration granting mileage to G. H. Slaughter for distance actually traveled.

No. 117. Resolution respecting absent members and the payment thereof.

No. 118. Resolution authorizing Hon. L. D. Evans to draw the pay of Mr. Mullins, deceased.

No. 119. Declaration to incorporate the Port Sullivan, Belton and Northwestern Railroad Company.

No. 120. A declaration incorporating the Liverpool and Texas Steamship Company—limited.

No. 121. Declaration incorporating the Austin Bridge Company.

No. 122. Declaration in relation to Corpus Christi Ship Channel.

Very respectfully submitted.

J. R. SCOTT,
Chairman Committee.

Article thirteen of the constitution being under consideration, Mr. Hamilton of Bastrop moved to amend section two by striking out "third" and insert "tenth," so as to read "tenth of February."

Carried.

Section two was adopted as amended.

Mr. Hamilton of Bastrop moved to strike out "August" and insert "October," in first line, section three, of article thirteen.

Section three, on motion, was adopted.

Mr. Hamilton of Travis moved to amend section four, article thirteen, by inserting after the word "certificates" the words "now in existence."

Section four, on motion, was adopted.

Mr. Carter moved to strike out, in section five, in third line, the words "excepting mineral lands."

Mr. Hamilton moved to amend the amendment by adding :

Provided that all practical miners and discoverers of mineral lands be protected in the enjoyment of their discoveries.

Amendment accepted.

The question recurred upon the adoption of the amendment.

The Convention refused to adopt.

Mr. Flanagan offered the following amendment, to come in at end of section:

Which shall be reserved for the State, and subject to legislation.

Amendment lost.

Mr. Newcomb moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bell, Board, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Newcomb, Phillips of San Augustine, Ruby, Slaughter, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam—28.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Fleming, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, McCormick, McWashington, Mundine, Phillips of Wharton, Posey, Rogers, Scott, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wright—31.

Main question not ordered.

Mr. Varnell moved to strike out the three last words in section five, article thirteen.

Carried.

Mr. Wright moved to strike out section five.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bellinger, Board, Bryant of Grayson, Fleming, Harris, Scott, Thomas, Wright—9.

Nays—Messrs. President, Armstrong of Jasper, Bell, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam—49.

So the Convention refused to strike out.

On motion, section five, article thirteen, was adopted.

Mr. Hamilton of Travis moved to amend section six, article thirteen, as follows :

Amend by inserting, after the word "persons," in the first line, as follows : " Nor shall any certificates for land be sold at the land office."

Amendment agreed to.

On motion section six, article 13, as amended, was adopted.

Section seven, article thirteen, on motion, was adopted.

Mr. Buffington offered the following as an additional section :

SEC. 8. To every head of a family who has not a homestead there shall be donated one hundred and sixty acres of land out of the public domain, upon the condition that he will select, locate and occupy the same for three years, and pay the office fees on the same.

To all single men twenty-one years of age there shall be donated eighty acres of land out of the public domain, upon the same terms and conditions as is imposed upon the head of a family.

Mr. Hamilton of Bastrop moved to lay the proposed section on the table

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Board, Butler, Carter, Cole, Degener, Downing, Hamilton of Bastrop, Keigwin, Kirk, Patten, Slaughter—12.

Nays—Messrs. President, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Curtis, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Scott, Smith, Sorrell, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—47.

So the Convention refused to lay on the table.

Mr. Hamilton moved to strike out all relating to single men.

Lost.

Mr. Thomas moved to amend by making the proposed section " pay," instead of " paying."

Agreed to.

The question recurred upon the adoption of the amended section. It was adopted.

Mr. Burnett offered the following as an additional section :

The State of Texas hereby releases to the owner or owners of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of taxation as the Legislature may impose."

The question recurring upon the adoption of the additional section, the Convention adopted the section.

The consideration of the amendments offered by the Committee on the Revision of the Constitution, and upon the Judicial Department, the question recurred upon the adoption of section two of the Judicial Department as reported by the committee.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Board, Brown, Bryant of Grayson, Butler, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harris, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lippard, Long, McWashington, Morse, Mullins, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell, Thomas, Whitmore, Williams, Wilson of Milam, Wright—44.

Nays—Messrs. Bellinger, Buffington, Burnett, Fayle, Fleming Gray, Harn, McCormick, Mundine, Phillips of Wharton, Posey, Schuetze, Stockbridge, Varnell, Watrous, Wilson of Brazoria—16,

So section two as reported was adopted.

Mr. Degener moved the previous question.

Previous question seconded.

Mr. Hamilton of Travis moved a call of the House.

Call sustained by the following delegates, to-wit : Messrs. Sorrell, Kirk, Armstrong of Jasper, Buffington, Hamilton of Travis, Stockbridge, Schuetze, Posey, Watrous, McCormick, Mundine, Fayle, Fleming, Gray, Wilson of Brazoria—15.

On motion, the Convention adjourned till the usual hour this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. McCormick asked leave of absence for Mr. Wilson of Brazoria, for to-night.

Leave granted.

Mr. Carter moved that Mr. Kuechler be added to the Committee on Style.

It was so ordered.

Mr. Evans asked that Mr. Phillips of Wharton be excused on account of sickness.

Excused.

Mr. Hamilton of Travis moved a re-consideration of the vote adopting the second section of the Judiciary Department reported by the committee.

Mr. Patten moved to lay the motion on the table.

Mr. Hamilton of Travis moved a call of the House.

Call sustained by the following delegates, to-wit:

Messrs. Buffington, Kirk, Armstrong of Jasper, Stockbridge, Posey, Leib, Varnell, Watrous, Keigwin, McCormick, Mandine, Fayle, Fleming, Rogers, Harn, Cole, Scott, Hamilton of Travis—17.

Absentees—None.

Messrs. Glenn and Gaston, being reported sick, were excused.

Mr. Butler was excused on account of sickness.

The question recurred upon the motion of Mr. Patten to lay the motion to reconsider on the table.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Bryant of Grayson, Cole, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kealy, Kendal, Kuechler, Lippard, Long, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Whitmore, Williams. Wilson of Milan, Wright—35.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Buffington, Burnett, Carter, Curtis, Fayle, Fleming, Gray, Hamilton of Travis, Harn, Keigwin, Kirk, Leib, Mackey, McCormick, Mun-

dine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Varnell, Watrous—25.

So the motion to reconsider was laid on the table.

Mr. Degener moved the previous question upon the adoption of section two of the judiciary department as reported from Committee on Revision.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of section two of the judicial department.

It was adopted.

Mr. Whitmore asked leave of absence for Mr. Williams.

Leave granted.

Mr. Board offered the following amendment to section seven of the judiciary department:

"The establishment of county, police and probate courts shall be given to the Legislature to establish, change or abolish at pleasure."

On motion the amendment was laid on the table.

Section seven, on motion, was adopted.

Mr. Davis, of Nueces, offered the following amendment to section eleven of the judiciary department.

Insert after the word law, in 12th line of section eleven of the judiciary department, the following words:

"And when the district judge is disqualified to try any case or cause within his district, the Governor of the State, on such fact being certified to him, may appoint some person learned in the law to try such case or cases who shall receive such compensation as may be given by law."

The amendment was adopted.

Mr. Davis moved to strike out in thirteenth line of section eleven of the judiciary department the words "in trials at" and insert the word "by."

Carried.

The section, as amended, was then adopted.

Mr. Smith moved the previous question upon the adoption of the original section twelve.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the original section twelve.

It was adopted.

Section twenty-five, as reported by the committee, was adopted.

Mr. Hamilton, of Travis, moved to reject section twenty-seven of the judiciary department.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Downing, Evans of Titus, Flanagan, Gray, Hamilton of Travis, Harris, Harn, Johnson, Kealy, Keigwin, Kendal, Kirk, Mundine, Phillips of San Augustine, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Wright, Watrous—32.

Nays—Messrs. President, Brown, Curtis, Degener, Fayle, Fleming, Hamilton of Bastrop, Hunt, Jordan, Kuechler, Leib, Lippard, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Posey, Ruby, Slaughter, Varnell, Whitmore, Wilson of Milam—24.

So the section was rejected.

Mr. Hamilton, of Travis, moved to reject section twenty-eight of the judiciary department as reported from the committee.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Buffington, Burnett, Cole, Evans of Titus, Fayle, Fleming, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Wright—25.

Nays—Messrs. President, Armstrong of Lamar, Bell, Brown, Carter, Curtis, Degener, Downing, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Varnell, Watrous, Whitmore, Wilson of Milam—32.

So the Convention refused to reject.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained by the following delegates, to-wit :

Messrs. Scott, Bellinger, Evans of Titus, Armstrong of Jasper, Harris, Hamilton of Travis, Bryant of Grayson, Buffington, Posey, Stockbridge, Keigwin, Mundine, Rogers, Cole, Thomas, Kealy.
Absentees--Messrs. Board and Mackey.

The President directed the following communication to be read :

Austin, Texas, February 1, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: I have the honor to hand you this, my resignation of the office of delegate from the counties of Caldwell and Travis to the Constitutional Convention now in session.

Very respectfully,

Your obedient servant,

JOHN MACKEY.

Mr. Hamilton, of Travis, by request of Mr. Mackey, asked leave to withdraw the resignation of Mr. Mackey.

Mr. Flanagan moved the resignation of Mr. Mackey be accepted.

Mr. Mundine moved to adjourn till the usual hour to-morrow morning.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fleming, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, McWashington, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wright—32.

Nays—Messrs. President, Bell, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, McCormick, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Whitmore, Wilson of Milan—24.

So the Convention adjourned.

CAPITOL, AUSTIN, TEXAS,
February 2, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Wilson, of Brazoria, from the Committee on Counties and County Boundaries, reported as follows :

COMMITTEE ROOM,
February 1, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The Committee on Counties and County Boundaries, to whom was referred the declaration introduced by Dr. R. R. Smith re-incorporating the city of Galveston, have had the same under consideration. The committee are of the opinion that a great deal of the power vested in the mayor by the declaration in its present shape should be vested in the city council. The declaration provides that no person who is not duly registered according to law shall be allowed to vote for any of the officers elected under this charter. The committee are of the opinion that every male inhabitant of sane mind and over twenty-one years of age, and who is a resident citizen of Galveston, should be deemed a qualified voter.

It provides that the city council should have power to levy a special tax for public improvements. While the committee are strongly in favor of public improvements, they think that this is lodging too much power in the hands of the city council, the abuse of which would work very great hardship upon the citizens of Galveston, and are of the opinion that that portion of the charter giving the city council the authority to lay a special tax for improvements should be stricken out. As the charter provides for the appointment of most of the city officers by the mayor, instead of their being elected by the city council, as they have been heretofore, the committee are of the opinion that some provision should be made for the removal of every officer so appointed for malfeasance, misfeasance or

nonfeasance in office, and that the power of removal should be vested in two-thirds of the members elected to the city council. Should the Convention deem it proper to make the alteration in the declaration suggested by the committee, I am instructed to make this their report, with the recommendation that the declaration be adopted, with the following proposed alterations and amendments:

Page 4, section 5, in line 14, strike out "at each annual election of mayor," and insert "annually."

Page 5, section 7, in lines 8 and 9, strike out "shall vote, who has not been duly registered according to law," and insert "belonging to the regular army or navy of the United States shall be so entitled."

Page 21, section 28, in line 4, strike out after the word "State" "that the city council shall have authority to levy a special tax for public improvements."

Page 31, section 57, in line 4, strike out "mayor" after the word "the" and insert "city council." In fifth line of the same page and section, after the words "inspectors as," strike out the word "he" and insert "they."

Page 41, section 91, in line 2, after the word "recorder," strike out the words "and the health physician." In same line, after the word "mayor," insert the word "and."

Page 41, section 96, in line 7, after the word "them," insert "or appointed by the mayor."

Page 42, section 96, in line 2, after the word "them," insert "or by the mayor."

Respectfully submitted,

WILSON, of Brazoria,
Chairman Committee.

Mr. Burnett, from the special committee appointed to inquire into the conduct of the Assistant Doorkeeper, reported as follows:

REPRESENTATIVE HALL,
February 1, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The special committee, to whom was referred the charge made by Hon. Mr. Ruby, of Galveston, against the Assistant Doorkeeper of this Convention, Scipio McKee, to-wit: that said McKee did on this morning, first instant, wantonly and without provocation, violently assault Mr. Ruby on the public street of this city, and while he was on his way to the capitol. After a full examination the committee find that the charge preferred is fully sustained by the evidence, and believing that the only penalty for the offense, so far as this Convention is concerned, is in the dismissal of the offender from the service of this body, and that justice to the member attacked and to the Convention demands this action, respectfully recommend the adoption of the accompanying resolution.

Respectfully submitted,

BURNETT,
Chairman Committee.

RESOLUTION.

Resolved, That Scipio McKee, Assistant Doorkeeper, for committing a violent and unprovoked assault on the person of Mr. Ruby, a member of this Convention, is hereby dismissed the service of this body.

Mr. Hamilton, of Bastrop, moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded and resulted thus :

Yeas — Messrs. President, Bellinger, Board, Brown, Butler, Burnett, Carter, Degener, Downing, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jordan, Kuechler, Lippard, Long, Mills, Mullins, Newcomb, Patten, Slaughter, Smith, Thomas, Whitmore — 26.

Nays — Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Buffington, Cole, Curtis, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Keudal, Kirk, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Scott, Sorrell,

Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—33.

So the Convention refused to order the main question.

Mr. Bryant, of Grayson, rose to a question of personal privilege, and moved the expulsion of Mr. Bryant, of Harris.

The Chair decided the motion out of order.

Mr. Bryant appealed from the decision of the chair.

The motion, by leave, was withdrawn.

The question then recurred upon the adoption of the resolution reported from the special committee.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bellinger, Brown, Board, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jordan, Kealy, Kuechler, Lipard, Long, Mills, Mullins, Newcomb, Patten, Phillips of San Augustine, Slaughter, Smith, Thomas, Whitmore, Wilson of Milam—29.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Buffington, Cole, Curtis, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Keigwin, Kendal, Kirk, Leib, McCormick, McWashington, Morse, Mundine, Phillips of Wharton, Rogers, Scott, Sorrell, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—32.

So the Convention refused to adopt.

Mr. Hamilton of Travis, presented the following communication from Mr. Mackey :

AUSTIN, February 2, 1869.

Hon. A. J. HAMILTON :

Having been urged by my constituency not to resign my seat as a member of the Convention, therefore I request you to ask the Convention for permission to withdraw my resignation.

Respectfully,

JOHN MACKEY.

By leave of the Convention, Mr. Mackey was allowed to withdraw his resignation.

Mr. Burnett, from the special committee to inquire into the

breach of order of the secretary of the Convention, reported as follows :

REPRESENTATIVE HALL,
February 2, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The special committee to whom was referred the charges made by the President against the secretary of the Convention, to wit: that the secretary had presented an incorrect account for inscribing the journals of the Convention in record books; and further, that he had refused to sign the President's pay certificate, because the President would not approve his said account, have had the matters referred under consideration, and having carefully examined the same, have the honor to report :

That the secretary has drawn pay for recording the journals up to October 12, last, at the rate of one dollar per page; that previous to his drawing any pay, Messrs. Carter, McCormick and Munroe, members of the Convention, at the request of the secretary, examined the records, and agreed with him that the pages would average five hundred words, which at twenty cents per hundred words (the price allowed by the Convention) makes one dollar per page; and that the secretary, in his account recently presented to the President, claimed one dollar per page, supposing that the subsequent pages recorded would average five hundred words; but, after as careful an examination as we could make, we find that of the recording unpaid for to the 29th ult., inclusive, two hundred and nineteen pages average five hundred words, or one dollar to the page, and that the balance, three hundred and fifty-one pages, average three hundred and seventy-five words, or seventy-five cents to the page, amounting in all to the sum of four hundred and eighty-two dollars and twenty-five cents, which sum we respectfully recommend be paid to the secretary for recording to the 29th ult., inclusive. The committee did not critically examine the style of the records, or their correctness as compared to the original journals; but from the examination made, we are free to say that the larger portion of the work is executed in a neat and satisfactory manner.

As to the charge that the secretary told the President that he would not sign his (the President's) pay certificate unless the President would approve the accounts presented by the secretary, for recording the journals, we find that the charge preferred is sustained by the proof. The secretary has assured the committee, however,

as he did the Convention this morning after adjourning, that the remark was made without reflection, and in a moment of ill-temper; that he regretted it, and that he is ready at any time to sign the certificate of the President, or of other members of the Convention, and perform any other duties required of him. We, therefore, recommend that this apology be deemed a sufficient excuse, and that no further action be taken by the Convention in the matter of the contempt of the secretary.

Very respectfully,

J. R. BURNETT.
A. P. McCORMICK,
JAMES BROWN.

Resolved, That the President approve a certificate on the treasury in favor of N. V. Tunstall, secretary of the Convention, for the sum of four hundred and eighty-two dollars and twenty-five cents, for recording the journals of the Convention up to and including the 29th January, 1869.

Mr. Hamilton of Bastrop, offered the following substitute :

Resolved, That the record of proceedings of the Convention made up by the secretary, together with the certified copy of the declaration authorizing the work to be done, be sent for audit and settlement to the proper accounting officers of the Provisional Government, who are requested to verify the accuracy by a scrutiny into the whole record, and after finding the number of words embraced therein, to compute the same at the stipulated rate per one hundred words, deducting from the sum total the aggregate amount of the several sums already paid, allowing the claim of the secretary for the residue, if any, and that the recording cease from this date.

The question recurred upon the adoption of the substitute.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bryant of Grayson, Butler, Degener, Evans of Titus, Flanagan, Hamilton of Bastrop, Hunt, Kuechler, Lippard, Long, Newcomb, Patten, Ruby, Slaughter, Smith, Whitmore, Wilson of Milam—19.

Nays—Messrs. Armstrong of Lamar, Bell, Bellinger, Board, Brown, Buffington, Burnett, Carter, Cole, Curtis, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, Mc-

Washington, Mills, Morse, Mullins, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—12.

So the Convention refused to adopt.

Mr. Degener offered the following substitute :

Resolved, That the Secretary, for disrespectful conduct toward the President of the Convention, be discharged from his position.

Mr. Hamilton, of Travis, moved the previous question upon the adoption of the resolution reported by the special committee.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the report of the special committee.

It was adopted.

Mr. McCormick moved the rules be suspended to put the resolution reported by the special committee on its final passage.

Motion withdrawn.

Mr. Bryant, of Grayson, moved to take up the resolution offered by himself respecting Mr. Bryant, of Harris.

Mr. Butler offered the following amendment :

"Amend by adding the name of C. Caldwell, as he has been accused of conduct unbecoming a gentleman by the newspapers of the State."

Mr. Hamilton, of Travis, moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Mackey, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—32.

Nays—Messrs. President, Bellinger, Board, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flana-

gan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Newcomb, Patten, Ruby, Smith, Varnell, Watrous, Whitmore, Williams, Wilson of Milan—31.

So the main question was ordered.

The question recurred upon the adoption of the resolution.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Mackey, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wilson of Milan, Wright—33.

Nays—Messrs. President, Bellinger, Board, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Newcomb, Patten, Ruby, Smith, Varnell, Watrous, Whitmore, Williams—30.

So the resolution was adopted.

Mr. Thomas rose to a point of order that Mr. Bryant, of Harris, was not expelled, as a two-thirds vote was necessary to expel a member of the Convention.

The President decided the point of order in the negative.

Mr. Thomas appealed from the decision of the Chair.

The question recurred, "Shall the decision of the Chair stand as the decision of the House?"

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Board, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Glenn, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kendal, Kuechler, Kirk, Lippard, Long, Morse, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Whitmore, Williams, Wilson of Milan—40.

Nays—Messrs. Bell, Bellinger, Bryant of Grayson, Cole, Fleming, Gaston, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Mills, Mundine, Phillips of

San Augustine, Posey, Rogers, Scott, Thomas, Wilson of Brazoria, Wright—24.

So the decision of the chair was sustained.

Mr. Smith, from the special committee appointed to inquire into the allegations contained in a certain paper, purporting to be a presentment of this Convention for misconduct in engaging in the business of dividing the State, and which proposed to have been issued by the Grand Jury of the United States District Court of the Western District of Texas, reported as follows :

HALL OF THE CONVENTION.

Austin, January 31, 1869.

Hon. E. J. DAVIS,

President :

SIR: The special committee, appointed to "inquire into the allegations and statements contained in a certain paper, purporting to be an official resolution of the grand jury of the district court of the United States, for the Western district of Texas, and to send for persons and papers, and to examine witnesses on oath," respectfully report,

That the chairman issued summons to the following witnesses, to appear before the committee on the 29th at 3 o'clock, viz: J. D. McGary, M. K. Ryan, James Phillips, and J. N. Billingsley, members of the aforesaid grand jury, and whose names were published as signers of the aforesaid paper; and to the Hon. T. H. Duval, judge; A. P. Blocker, marshal; Mathew Hopkins, clerk, and Fred. Carleton, acting district attorney, of the aforesaid United States Court, which summons was couched in the following language, and a copy served upon each of the above named gentlemen by the sergeant-at-arms of this body :

HALL OF THE CONVENTION,

Austin, Texas, Jan. 29, 1869.

SIR: You are hereby summoned to appear before a special committee, appointed by the State Constitutional Convention, to testify in regard to certain statements and allegations contained in a certain paper, purporting to be an official resolution of the grand jurors of the district court of the United States, for the Western district of Texas.

The committee will sit in the Convention hall at 3 o'clock, this afternoon.

ROBERT K. SMITH,
Chairman Committee.

The above named grand jurors declined to appear, one on account of infirm health, and another on account of his private business; the remainder positively and discourteously refused to obey the summons. The Hon. Judge Duval replied to the summons in the following written communication:

U. S. CIRCUIT COURT ROOM,
Austin, January 29, 1863.

To ROBERT K. SMITH, Esq.,
Chairman of the Special Committee:

SIR: In reply to the summons sent to me by you, as chairman of a special committee of the State Convention, to appear at 3 o'clock this afternoon before said committee, and testify in regard to what purports to be an official resolution of the grand jurors of the district court of the United States, I have respectfully to state that I cannot comply therewith; nor can I permit any of the officers of my court to attend, for the reason that the business of the court requires their presence here.

Very respectfully,
T. H. DUVAL,
U. S. Judge.

Your committee would call the attention of the Convention to the fact that the above communication from the court prevented any access to official information upon the subject to be inquired into, and to an avoidance on the part of the court to impart any such information to members of this committee. From other sources of information the committee learn that no such paper as the one referred to, and purporting to be an official paper of the aforesaid United States Grand Jury, was ever presented, or read, or entered upon the minutes of the said court, and that the publication of the said pretended official resolutions was unauthorized by said court. This information was obtained from an officer of that court in a conversation with the chairman of this committee.

The preamble to the resolution contains the following language:

“WHEREAS, We, the Grand Jurors of the District Court of the United States for the Western District of Texas, loyal citizens of

the United States and registered voters of the State of Texas, having finished the business brought before us at the present (January, 1869,) term of said court, and being ready to adjourn *sine die*, having had our attention called to the action and conduct of the Constitutional Convention of the State, now in session in this city"—Manifestly conveying to the world the idea that, as an official body of men, their attention had been officially called to the conduct of this Convention.

And in the same preamble it is stated that the members are "now, and have been for some time, engaged in general legislation, and in illegal, revolutionary and unauthorized schemes."

The object of the publication of this most extraordinary document is seen upon its face. It is, first, to deceive the people into a belief that it is an official paper; secondly, to deceive them in regard to the official conduct of this Convention; thirdly, to deceive them in reference to questions of fact and allegations throughout the whole paper; and lastly, to manufacture a public opinion which shall hold up to odium and reprobation not only the work of this Convention, but the members who compose it, and to destroy their influence by the most false, perverted and unfounded statements in regard to their arbitrary and arrogant defiance "of the people and their wishes, for purposes of self-aggrandizement and political power."

That the honorable court should, by a refusal to testify, or even to state in the reply to the chairman of this committee, that it was no party to so vile a fraud, and that the paper had no official authority, justify the committee in believing that it was the desire of the court that the said pretended official resolutions should have the same damaging force and effect as though they had been legitimately passed upon, and had the weight of official authority; and that it was also the purpose to convey the impression, in the language of the said paper, that this Convention has shown a desire and taken measures to secure a "dismemberment of our State, contrary to the wishes and desire of a large majority of the loyal citizens and registered voters of Texas," "which dismemberment they propose to accomplish in a manner totally at variance with the mode pointed out by the Constitution and laws of the United States;" and that "the said Convention, or a majority of the members thereof present, since its assemblage, have shown a total disregard for the wishes and feelings of their constituents," "and assert that they will carry out their plans without referring them back to the legal voters of Texas for ratification or rejection; and further, that there is no power "to restrain the said Convention in its unauthorized and revolutionary course;" and further, that the Republicans of this body who are in favor of a division of the State are playing the role of the Secession-

ists of 1861; but they, the fourteen Grand Jurors, feel it to be, in the language of the first resolution, their "solemn and bounden duty, as loyal citizens of the United States and of the State of Texas, to resist and lend our aid to prevent the dismemberment of the State of Texas, at this time, by an unauthorized body of men, as it was under very similar circumstances to resist the dismemberment of the United States by the secession of Texas, in 1861; and as we did then individually resist and attempt to prevent such secession, so we do now most earnestly protest against the division of the State of Texas, as being in violation of law and the wishes of the people."

In view of all these allegations and charges, so falsely made, this committee would most respectfully call the attention of this Convention, of the Commanding General, of the people of Texas, and of the Congress of the United States, to the present organization and composition of the aforesaid District Court of the United States, and submit herewith two official oaths, copied from the originals on file in the Treasury Department of the State of Texas.

OATH OF JUDGE DUVAL,

Of the District Court of the United States.

THE STATE OF TEXAS, }
COUNTY OF TRAVIS. }

I, Thomas H. Duval, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent on me as assistant clerk in the General Land Office, according to the best of my skill and ability, agreeably to the constitution and laws of the State of Texas, and also the constitution and laws of the Confederate States of America, so long as the State of Texas shall remain a member of that Confederacy; and I do further solemnly swear that since the second day of March, 1861, I being a citizen of this State, have not fought a duel with deadly weapons within this State or out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending, so help me God.

[Signed]

THOS. H. DUVAL.

Sworn and subscribed before me this ninth day of
July, A. D. 1861.

[SEAL]

[Signed]

S. CROSBY,

Notary Public, Travis county, Texas.

OATH OF MATTHEW HOPKINS,

Clerk of the District Court of the United States for the Western
District of Texas.

THE STATE OF TEXAS, }
COUNTY OF TRAVIS. }

I, Matthew Hopkins, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent upon me as an assistant clerk in the General Land Office of the State of Texas, according to the best of my ability and skill, agreeably to the constitution and laws of the State of Texas, and also to the constitution and laws of the Confederate States of America, so long as the State of Texas shall remain a member of that Confederacy; and I do further solemnly swear that since the second day of March, 1861, I being a citizen of this State, have not fought a duel with deadly weapons within this State or out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending, so help me God.

[Signed]

MATTHEW HOPKINS:

[SEAL] Sworn and subscribed before me this first day of No-
vember, 1861.

[Signed]

FRED. J. ROBERTS, J. P.

Austin, Texas, Travis county, November 1, 1861.

These are some of the evidences of the "loyalty" of two of the gentlemen who are officers of that court, and who under the fourteenth amendment of the constitution of the United States are disqualified from holding office.

Of the loyalty and former status of the fourteen gentlemen who acted as grand jurors, and whose names are attached to the aforesaid publication, your committee have no means of ascertaining officially. But enough is it to know, that under the local influences of Austin and its surroundings, they have been induced to abandon their legitimate duties and enter the arena of politics, and to involve a judicial tribunal in political questions with which, as a court, it has nothing to do, and to publish their unauthorized political mani-

festo to the world; and also to advise other grand juries, as they have done, to "imitate our example and place upon record their protests against the course pursued by the said Convention in failing and refusing to frame a constitution for the whole State."

Your committee cannot but express its deep regret that the grand juries of the district court of the United States for the western district of Texas, during the past three years, has not shown the same spirit and energy within the legitimate scope of their duties in the faithful prosecution of offenders against the law, as has been shown by this particular one in stepping out into the political department of the government, to degrade the court and drag the ermine of justice through the pools of political intrigue. Numberless cases can be found of persons notoriously guilty of the gravest offenses against the laws of the United States, but the docket of that court does not exhibit, within the wide range of eighty counties, that there has been either disposition or action on the part of either the jury or the court to bring such offenders to justice.

If your committee is correctly informed, the Honorable Judge Duval, of the aforesaid court, received from the United States government his full pay, during the period of the rebellion, as judge of the United States court, whilst during a portion of that very time he drew pay as an officer under the so-called Confederate States of America. The oath above referred to, and the pay accounts, are the official evidence of the facts.

Your committee respectfully ask that this report be spread upon the minutes and printed in the daily journal, that a copy thereof be transmitted to each Senator and Representative in the United States Congress, and that they be discharged from the further consideration of the subject.

ROB. K. SMITH,
Chairman.

Mr. Hamilton of Travis moved to reject the report.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Buffington, Burnett, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Keigwin, Kirk, Leib, Mackey, McCormick, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—29.

Nays—Messrs. President, Bell, Board, Brown, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray,

Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Williams—32.

So the Convention refused to reject.

Mr. Fayle, Chairman of Committee on Enrolled Provisions, reported as follows :

COMMITTEE ROOM,
February 2, 1869.

Hon. E. J. DAVIS,
President of the Convention :

The following declarations and resolutions (numbers sixty-one and eighty-eight to one hundred and six inclusive,) have been under examination by the Enrolling Committee, and found to be correct :

No. 61, declaration respecting the Texas and New Orleans and the Pacific railroads.

No. 88, declaration supplemental to a declaration in relation to the International Pacific Railroad Company, passed August 10, 1868.

No. 89, declaration to incorporate the Belton Bridge Company.

No. 90, declaration incorporating the Bolivar Point, East Texas and Red River Railroad Company.

No. 91, Resolution congratulatory of the appointment of Major General Canby to the command of the Fifth Military District.

No. 92, Declaration creating the county of San Jacinto.

No. 93; Resolution respecting the Indians of the frontier of Texas.

No. 94, resolution respecting land certificates of Henry Koontz.

No. 95, declaration to incorporate Galveston canal.

No. 96, declaration incorporating the Phoenix Express and Transportation Company.

No. 97, declaration in regard to valid land certificates.

No. 98, declaration authorizing the police courts of Hays and Goliad counties to levy a special tax to build courthouses at San Marcos and Goliad.

No. 99, declaration to incorporate the Young Men's Real Estate Company.

No. 100, resolution authorizing the Special Committee for the Revision of the Constitution to employ a clerk.

No. 101, declaration attaching parts of Guadalupe county to Wilson county, and changing the name of Wilson county to that of Cibolo.

No. 102, declaration for the relief of the Eastern Texas Railroad Company.

No. 103, declaration authorizing county courts to levy a special tax.

No. 104, declaration authorizing the police court of Houston county to levy a special tax.

No. 105, declaration for the relief of Southern Pacific Railroad.

No. 106, declaration changing the county seat of Refugio county.

Respectfully submitted,

W. R. FAYLE,

Chairman Enrolling Committee.

Report adopted.

Mr. Scott, from Committee on Engrossed Provisions, reported as follows:

COMMITTEE ROOM.

Austin, Texas, February 2, 1869.

HON. E. J. DAVIS,

President of the Convention:

SIR: The Committee on Engrossed Provisions, after examination, report the following declarations correctly engrossed, to-wit:

No. 123, declaration making an appropriation for the printing and contingent expenses of the Convention.

No. 124, declaration making an appropriation for mileage and per diem pay of the members and the per diem pay of the employes of the Convention, and appropriating other sums of money for purposes specified therein.

Respectfully submitted,

J. R. SCOTT,
Chairman Committee.

Report adopted.

On motion the Convention adjourned until the regular hour this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

On motion of Mr. Burnett the Constitution was taken up.

Section 28 being under consideration, Mr. Hamilton, of Bastrop, moved the section be adopted.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Bell, Brown, Butler, Curtis, Degener, Downing, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jordan, Kendal, Kuechler, Lippard, McCormick, McWashington, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Williams, Wilson of Milam—26.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Belinger, Board, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Long, Mills, Morse, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—35.

So the Convention refused to adopt.

On motion of Mr. Hamilton, of Bastrop, section 1 of the Legislative Department was adopted.

Mr. Buffington moved the previous question, which is the adoption of section 7 of the Executive Department as engrossed.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Buffington, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Kendal, Kirb, Leib, McCormick, McWashington, Mills, Morse, Phillips of San Augustine, Rogers, Schuetze, Sorrell, Stockbridge, Watrous, Wilson of Brazoria, Wright—31.

Nays—Messrs. President, Bellinger, Brown, Bryant of Grayson, Butler, Burnett, Carter, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Keigwin, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Thomas, Varuell, Williams, Wilson of Milam—26.

So the main question was ordered.

The question recurred upon the adoption of the section.

It was adopted.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained by the following delegates, to-wit:

Messrs. Hamilton of Travis, Armstrong of Jasper, Harris, Bryant of Grayson, Buffington, Stockbridge, Keigwin, Watrous, Armstrong of Lamar, Fleming, Thomas, Gray, Rogers, Cole, Kealy, Glenn, Gaston.

Mr. Patten moved that Mr. Phillips, of Wharton, be excused on account of sickness.

Excused.

Mr. McWashington moved that Mr. Johnson, of Harrison, be excused on account of sickness.

Excused.

Absentees—Messrs. Mundine and Posey.

Mr. Patten moved a suspension of the call.

Call suspended.

Mr. Butler moved the adoption of section 1, article 6, General Provisions.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McWashington, Mills, Mullins, Newcomb, Patten, Ruby, Schuetze, Slaughter, Smith, Thomas, Varnell, Watrous, Williams, Wilson of Milam—38.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, McCormick, Morse, Phillips of San Augustine, Rogers, Scott, Sorrell, Stockbridge, Wilson of Brazoria, Wright—23.

So the section was adopted.

Mr. Hamilton of Travis moved the Convention adjourn till tomorrow morning at half-past nine o'clock.

Convention refused to adjourn.

Mr. Buffington moved the previous question, which was the adoption of section fifteen, General Provisions, as engrossed.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the section.

It was adopted.

Mr. Flanagan moved the previous question on section twenty-four, General Provisions, as engrossed.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Lamar, Buffington, Carter, Curtis, Evans of Titus, Flanagan, Fleming, Hamilton of Travis, Harris, Kendal, Mackey, McCormick, McWashington, Mills, Morse, Schuetze, Scott, Smith, Stockbridge, Watrous, Wilson of Brazoria—21.

Nays—Messrs. President, Armstrong of Jasper, Bell, Bellinger, Board, Brown, Bryant of Grayson, Butler, Burnett, Cole, Degener, Downing, Fayle, Gaston, Glenn, Gray, Hamilton of Bastrop, Harn,

Hunt, Kealy, Keigwin, Kuechler, Kirk, Leib, Lippard, Long, Mullins, Newcomb, Patten. Phillips of San Augustine, Rogers, Ruby, Slaughter, Sorrell, Thomas, Varnell, Williams, Wilson of Milam, Wright—39.

Main question not ordered.

Mr. Patten moved the adoption of section twenty-five, of General Provisions, as reported by the committee.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Butler, Burnett, Cole, Curtis, Degener, Downing, Fayle, Fleming, Gaston, Glenn, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Long, McWashington, Mills. Mullins, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Slaughter, Smith, Sorrell, Thomas, Varnell. Wilson of Milam, Wright—43.

Nays—Messrs. Armstrong of Lamar, Board, Brown, Buffington, Carter, Evans of Titus, Flanagan, Gray, Harris, Mackey, McCormick, Morse, Posey, Schuetze, Scott, Stockbridge, Watrous, Williams, Wilson of Brazoria—19.

So the section was adopted.

Mr. Hamilton of Travis moved to adjourn till to-morrow morning at half-past nine o'clock.

Convention refused to adjourn.

Mr. McCormick moved the previous question on section twenty-nine, General Provisions, as engrossed.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Buffington, Carter, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Harris, Harn, Jordan, Keigwin, Kirk, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Morse, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wright—35.

Nays—Messrs. President, Bellinger, Board, Brown, Bryant of Grayson, Butler, Burnett, Carter, Curtis, Degener, Downing, Gaston, Glenn, Hamilton of Bastrop, Hamilton of Travis, Hunt, Kealy,

Kendal, Kuechler, Mullins, Mundine, Newcomb, Patten, Ruby, Slaughter, Thomas, Williams, Wilson of Milam—27.

Main question ordered.

The question recurred upon the adoption of the section.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Buffington, Carter, Cole, Curtis, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Harris, Harn, Jordan, Keigwin, Kendal, Kirk, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Morse, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—38.

Nays—Messrs. President, Bellinger, Board, Brown, Bryant of Grayson, Butler, Burnett, Degener, Downing, Gaston, Hamilton of Bastrop, Hamilton of Travis, Hunt, Kealy, Kuechler, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Ruby, Thomas, Wilson of Milam—23.

So the section was adopted.

Mr. Patten moved the adoption of section thirty-six, General Provisions, as reported by the committee.

It was adopted.

Mr. Patten moved the adoption of section thirty-seven, General Provisions, as reported by the committee.

It was adopted.

Mr. Patten moved the adoption of section thirty-eight, of the General Provisions, as reported by the committee.

it was adopted.

On motion of Mr. Patten, section thirty-nine, General Provisions, as reported by the committee, was adopted.

Mr. Flanagan moved to reject section forty, General Provisions, as reported by the committee.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bell, Bellinger, Board, Brown, Buffington, Burnett, Carter, Fayle, Flanagan, Fleming, Gray, Harris, Harn, Kealy, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wright—36.

Nays—Messrs. President, Armstrong of Jasper, Bryant of Gray-

son, Butler, Cole, Degener, Downing, Evans of Titus, Gaston, Glenn, Hamilton of Bastrop, Hamilton of Travis, Hunt, Jordan, Keigwin, Kuechler, Lippard, Mullins, Newcomb, Patten, Rogers, Sorrell, Thomas, Williams, Wilson of Milam—25.

So the section was rejected.

Mr. Hamilton of Travis moved the Convention adjourn till half-past nine o'clock to-morrow morning.

The Convention refused to adjourn.

Mr. Flanagan moved to reject section forty-one of the General Provisions, as reported by the committee.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Burnett, Carter, Cole, Evans of Titus, Fayle, Flanagan, Fleming, Glenn, Gray, Hamilton of Travis, Harris, Harn, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—39.

Nays—Messrs. President, Bryant of Grayson, Buffington, Butler, Curtis, Degener, Downing, Gaston, Hamilton of Bastrop, Hunt, Jordan, Kealy, Kuechler, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Slaughter, Williams, Wilson of Milam—23.

So the section was rejected.

Mr. Patten moved the adoption of section forty-two, General Provisions, as reported by the committee.

It was adopted.

Mr. Hamilton of Bastrop moved the adoption of section forty-three, General Provisions, as reported by the committee.

It was adopted.

Mr. McCormick moved the rejection of section forty-four, General Provisions, as reported by the committee.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Bell, Bellinger, Brown, Butler, Degener, Downing, Fleming, Hamilton of Bastrop, Hunt, Kealy, Kuechler, Leib, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith—22.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Board,

Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fayle, Flanagan, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Jordan, Keigwin, Kendal, Kirk, Mackey, McCormick, McWashington, Morse, Mills, Mundine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—41.

So the section was rejected.

Mr. Ruby moved the adoption of section forty-five, General Provisions, as reported by the committee.

It was adopted.

Mr. Degener moved section forty-six, General Provisions, as reported by the committee, be adopted.

It was adopted.

On motion of Mr. Hamilton of Travis, section forty-seven, General Provisions, was rejected.

Mr. Buffington moved section forty-eight, General Provisions, as reported by the committee, be rejected.

Motion withdrawn.

On motion of Mr. Flanagan, it was adopted.

On motion of Mr. Flanagan, section forty-nine, General Provisions, as reported by the committee, was adopted.

Mr. Burnett moved to reject section fifty, General Provisions, as reported by the committee.

The question recurred, " Shall section fifty be rejected ? "

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Armstrong of Lamar, Bell, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Jordan, Kealy, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. Armstrong of Jasper, Board, Bryant of Grayson, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Harris, Keigwin, Kirk, Morse, Posey, Sorrell, Thomas, Varnell—17.

So the section was rejected.

Mr. Varnell offered the following

SUBSTITUTE.

SEC. 50. The Legislature may prohibit the sale of all intoxicating or spirituous liquors in the immediate vicinity of any college or seminary of learning; provided said college or seminary be located other than at a county seat or at the State Capital.

It was adopted.

Mr. Hamilton of Travis moved to reject section fifty-one of General Provisions, as reported by the committee.

It was rejected.

Mr. Harn introduced the following as a new section :

All the qualified voters of each county shall also be qualified jurors for such county.

Mr. Bellinger moved its adoption.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Armstrong of Lamar, Bell, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Jordan, Kealy, Kendal, Kuechler, Leio, Lippard, Long, Mackey, McCormick, McWashington, Mills, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. Armstrong of Jasper, Board, Bryant of Grayson, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Harris, Keigwin, Kirk, Morse, Posey, Sorrell, Thomas, Varnell—17.

The new section was adopted.

Mr. Brown moved the Convention adjourn till half-past nine o'clock to-morrow morning.

The Convention refused to adjourn.

Mr. Hamilton of Travis moved to adjourn till to-morrow morning, at half-past nine o'clock.

Ruled out of order.

Mr. Hamilton appealed from the decision of the Chair.

Chair sustained.

Mr. Bryant of Grayson moved the adoption of section fifty-two, mode of amending the constitution, as reported from the committee.

It was adopted.

Mr. Burnett moved the Convention adjourn till to-morrow morning, at half-past nine o'clock.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Cole, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Kealy, Keigwin, Kuechler, Kirk, Leib, Mackey, McCormick, Mills, Mundine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—35.

Nays—Messrs. President, Bell, Board, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Harn, Hunt, Jordan, Kendal, Lippard, Long, McWashington, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Varnell—28.

So the Convention adjourned.

CAPITOL, AUSTIN, TEXAS,
February 3, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

On motion of Mr. Lippard, Mr. Brown was excused on account of sickness.

Mr. Patten moved to take up the Constitution and postpone all other business.

Mr. McCormick rose to a point of order, stating that the Constitution was not properly in order, but that the business next in order was the business on the President's table, of which first to be considered was the resolution offered by the special committee on printing the debates.

The President ruled that the point of order was correctly made, and that business could only be postponed by a two-thirds vote.

The question recurred upon the adoption of Mr. Patten's motion.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bell, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Johnson, Jordan, Kealy, Kendal, Kuechler, Kirk, Leib, Lippard, Long, Mackey, McWashington, Mills, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—58.

Nays—Messrs. Armstrong of Lamar, Fleming, Harris, Keigwin, McCormick, Mundine, Phillips of Wharton—7.

So the motion was adopted.

Mr. Patten moved the adoption of section one, article six, "Registration of Voters." as reported by the committee.

Mr. Burnett offered the following substitute for section one :

REGISTRATION OF VOTERS.

SECTION 1. All citizens of the United States, twenty-one years old and upwards, who have been resident in this State one year, and six months in the district, county, city or town in which they may offer to vote, except such as are disqualified from holding office by the fourteenth article of the Constitution of the United States, shall be entitled to register as voters; and all citizens whose said disabilities have been removed, or may hereafter be removed by the Congress of the United States, should also be entitled to register as voters.

Mr. Patten moved the previous question.

Previous question seconded.

Mr. Hamilton of Travis moved a call of the House.

Call sustained by the following delegates, to wit:

Messrs. Scott, Kirk, Armstrong of Jasper, Bryant of Grayson, Hamilton of Travis, Harn, Glenn, Wright, Evans of Titus, Schuetze, Buffington, Phillips of Wharton, Posey, McCormick, Mills, Leib, Keigwin, Morse, Mundine, Fleming, Thomas, Rogers, Gray, Cole, Gaston, Kealy, Harris, Wilson of Brazoria, Sorrell, Stockbridge.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Board, Brown, Butler, Carter, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Williams, Wilson of Milam—23.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson Buffington, Burnett, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, Long, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—42.

Main question not ordered.

The question recurred upon the adoption of the substitute offered by Mr. Burnett.

Mr. Patten moved its rejection.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Bellinger, Board, Brown, Butler, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, Mackey, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Slaughter, Smith, Varnell, Wilson of Milam, Wright—27.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, McCormick, McWashington, Mills, Morse, Mundine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria—38.

So the Convention refused to reject.

The question recurred upon the adoption of the substitute of Mr. Burnett.

It was adopted.

Mr. Hamilton of Travis offered the following substitute for the substitute :

RIGHT OF SUFFRAGE.

SECTION 1. Every male citizen of the United States, of the age of twenty-one years and upwards, not laboring under the disabilities named in this Constitution, without distinction of race, color or former condition, who shall be a resident of this State at the time of the adoption of this Constitution, or who shall thereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceeding any election, shall be entitled to vote for all officers that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at any election ; provided, that no person shall be allowed to vote or hold office who is now or hereafter may be disqualified therefor by the Constitution of the United States until such disqualification shall be removed by the Congress of the United States ; provided, further, that no person while kept in any asylum, or confined in prison, or who has been convicted of a felony. or who is of unsound mind, shall be allowed to vote or hold office.

Mr. Degener moved to lay the substitute of Mr. Hamilton on the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bellinger, Board, Carter, Degener, Downing, Flanagan, Hunt, Johnson, Jordan, Long, Mullins, Ruby, Smith, Varnell—15.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kuechler, Leib, Lippard, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Slaughter, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—50.

So the Convention refused to lay on the table.

Mr. Hamilton, of Bastrop, moved to strike out, Provided that no person shall be allowed to vote or hold office who is now or hereafter may be disqualified by the Constitution of the United States until such disqualification shall be removed by the Congress of the United States.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Board, Butler, Degener, Downing, Flanagan, Hamilton of Bastrop, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Slaughter, Thomas, Varnell—17.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—48.

So the Convention refused to strike out.

Mr. Evans, of Titus, moved the adoption of the substitute offered by Mr. Hamilton, of Travis.

It was adopted.

Mr. Smith, of Galveston, moved to amend as follows :

Amend, by adding at the end of the section, the following :

“*Provided*, That no person shall be permitted to register who is

now, by any existing law of the United States Congress, prohibited from voting."

Mr. Hamilton, of Travis, moved its rejection.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Cole, Curtis, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—36.

Nays—Messrs. President, Board, Butler, Carter, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendall, Kuechler, Lippard, Long, Mackey, Mills, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Slaughter, Smith, Varnell—26.

So the amendment was rejected.

Mr. Phillips, of Wharton, offered the following substitute for the substitute :

"SECTION 1. All male persons, twenty-one years of age and upwards, who have resided in this State for the length of time required by the Constitution, and who are not disfranchised by the fourteenth article of the amendment to the Constitution of the United States, and who are not disfranchised by the reconstruction acts of the Congress of the United States, (Indians, not taxed, excepted), shall be permitted to register, and deemed qualified electors."

Mr. Hamilton, of Travis, moved the previous question.

Previous question seconded.

Mr. Patten moved to lay the whole matter upon the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Board, Brown, Butler, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Slaughter, Smith, Varnell, Wilson of Milan—22.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter,

Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray-Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—43.

So the Convention refused to lay on the table.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of the substitute.

Upon which the yeas and nays were demanded and resulted thus :

Yeas.—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wright—30.

Nays.—Messrs. President, Board, Butler, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, Mackey, Mills, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Slaughter, Smith, Thomas, Varnell, Wilson of Milam—26.

So the substitute was adopted.

Mr. Newcomb moved a further suspension of the rules to put substitute on its final passage.

Rules suspended.

Substitute read a third time and passed.

Mr. Hamilton moved a reconsideration of the vote just taken, and to lay the motion to reconsider upon the table.

Carried.

Mr. Hamilton, of Bastrop, moved the rejection of section one of the registration of voters, as reported by the committee.

It was rejected.

On motion of Mr. Varnell section two of the registration of voters, as reported by the committee, was rejected.

On motion, section four of the registration of voters was rejected.

On motion, section five of the registration of voters was rejected.

On motion, section six of the registration of voters was rejected.

On motion, section one, article eight, "Militia," as reported by the committee, was rejected.

Mr. Patten moved the rejection of section two, article eight, Militia.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Board, Buffington, Butler, Curtis, Downing, Flanagan, Gaston, Glenn, Hamilton of Travis, Hamilton of Bastrop, Harris, Harn, Hunt, Johnson, Kendal, Kuechler, Kirk, Long, Mackey, Newcomb, Patten, Phillips of Wharton, Rogers, Ruby, Schuetze, Scott, Smith, Varnell, Williams, Wilson of Brazoria, Wilson of Milam, Wright—33.

Nays—Messrs. President, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Burnett, Carter, Cole, Degener, Evans of Titus, Fayle, Fleming, Gray, Jordan, Kealy, Keigwin, Leib, Lippard, McCormick, McWashington, Morse, Mullins, Mundine, Phillips of San Augustine, Posey, Slaughter, Sorrell, Stockbridge, Thomas, Watrous—30.

So it was rejected.

Mr. Patten moved the rejection of section three, article eight, Militia, as reported by the committee.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bellinger, Board, Buffington, Butler, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Kuechler, Long, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Williams, Wilson of Milam—21.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Burnett, Carter, Cole, Curtis, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Lippard, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—41.

So the Convention refused to reject.

The question recurred upon the adoption of section three, article eight, Militia.

It was adopted.

Mr. Varnell offered the following apportionment for congressional districts :

DECLARATION.

SECTION 1. *Be it declared by the people of Texas in Convention assembled :*

That the territory comprised within the limits of the following named counties shall compose congressional districts of the State of Texas, until otherwise provided by law.

SEC. 2. The first congressional district shall be composed of the counties of Anderson, Angelina, Cherokee, Harrison, Henderson, Houston, Jasper, Jefferson, Liberty, Nacogdoches, Newton, Orange, Panola, Polk, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity, Tyler, Hardin, Chambers, Van Zandt and Wood.

SEC. 3. The second congressional district shall consist of the counties of Marion, Upshur, Davis, Bowie, Titus, Red River, Lamar, Hopkins, Kaufman, Fannin, Grayson, Hunt, Collin, Dallas, Tarrant, Cook, Denton, Montague, Wise, Parker, Palo Pinto, Jack, Clay, Wichita, Archer, Young, Throckmorton, Wilbarger, Hardeman, Knox, Haskell, Jones, Shackelford, Stephens, Ellis, Johnson, Callahan, Eastland, Erath, Hood and Taylor.

SEC. 4. The third congressional district shall consist of the counties of Galveston, Brazoria, Fort Bend, Harris, Austin, Montgomery, Walker, Grimes, Brazos, Washington, Burleson, Milam, Robertson, Madison, Leon, Freestone, Limestone, Falls, McLennan, Matagorda, Wharton, Bosque, Hill and Navarro.

SEC. 5. The fourth congressional district shall consist of the counties of Colorado, Fayette, Lavaca, Jackson, Bastrop, Travis, Williamson, Bell, Hamilton, Comanche, Brown, Coleman, Runnels, Concho, McCullough, San Saba, Lampasas, Burnett, Llano, Mason, Kendall, Edwards, Kerr, Gillespie, Blanco, Bandera, Comal, Hays, Caldwell, Guadalupe, Bexar, Wilson, Gonzales, De Witt, Karnes, Goliad, Victoria, Calhoun, Refugio, San Patricio, Nueces, Bee, Live Oak, Atascosa, Medina, Uvalde, Dawson, Zavala, Frio, Dimmitt, Lasalle, McMullen, Encinal, Dual, Cameron, Hidalgo, Starr, Zapata, Webb, Kinney, Presidio, Maverick, El Paso and Coryell.

Mr. Buffington moved its adoption.

It was adopted.

Mr. Hamilton, of Travis, moved an adjournment until half-past seven o'clock, this evening.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Johnson, Jordan, Keigwin, Kendal, Kirk, Leib, Mackey, McWashington, Mundine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas. Watrous, Williams, Wilson of Brazoria, Wilson of Milam—32.

Nays—Messrs. President, Bell, Board, Butler, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Harn, Hunt, Kealy, Kuechler, Lippard, Long, McCormick, Mills, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Slaughter, Smith, Sorrell, Varnell, Wright—33.

So the Convention refused to adjourn.

Mr. Patten offered the following resolution :

Resolved, That this Convention do take a recess from Thursday, February 4, at ten o'clock, P. M., till the first Monday in July next, subject to be re-assembled at an earlier day by the Commanding General, or the President of the Convention.

On motion, with the consent of the Convention, withdrawn.

Mr. Hamilton, of Travis, moved the previous question on the adoption of section 34, general provisions, as engrossed.

Previous question seconded.

The question recurred, " Shall the main question be now put ? "

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Board, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harn, Johnson, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wright—43.

Nays—Messrs. President, Bell, Brown, Butler, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Kuechler, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Thomas, Varnell, Wilson of Milam—21.

So the main question was ordered.

The question recurred, "Shall section 34 be adopted?"

It was adopted.

Mr. Hamilton, of Bastrop, offered the following as a substitute for section 35, general provisions, as engrossed :

SEC. —. That all debts created by the so-called State of Texas from and after the 28th day of January, 1861, and prior to the 5th day of August, 1865, were and are null and void, and the Legislature is prohibited from making any provisions for the acknowledgment or payment of such debts.

SEC. —. That all unpaid balance, whether of salary, per diem or monthly allowance due to employes of the State, who were in the service thereof on the said 28th day of January, 1861, civil or military, and who gave their aid, countenance or support to the rebellion then inaugurated against the Government of the United States, or turned their arms against the said government, thereby forfeited the sums severally due to them.

SEC. —. That all the ten per cent. warrants issued for military services and exchanged during the rebellion of the treasury for new interest warrants, are hereby declared to have been fully paid and discharged.

Mr. Bryant moved its adoption.

It was adopted.

Mr. Davis offered the following as an amendment to the substitute for section 35, general provisions, as engrossed :

Provided, That any loyal person, or his or her heirs or legal representative, may, by proper legal proceedings, to be commenced within two years after the acceptance of this Constitution by the Congress of the United States, show proof in avoidance of any contract made, or revise or annul any decree or judgment rendered, since the said 28th day of January, 1861, when, through fraud practised, or threats or violence used towards such persons, no adequate consideration for the contract has been received, or when, through absence from the State of such person, or through political

prejudice against such person, the decision complained of was not fair or impartial.

On motion the amendment was adopted.

Mr. Ruby offered the following resolution :

WHEREAS, The Enrolling Clerk of this Convention has, besides the enrolling of the Constitution, now nearly completed, a great amount of legislative matter to enroll, and

WHEREAS, Said duties are so arduous that one or more assistant clerks are imperatively necessary, therefore

Be it resolved, That the Enrolling Clerk be and is hereby authorized to employ one or more assistants, in the further discharge of his duties, at the compensation of four dollars per day, and that the Secretary's certificate and the President's approval thereof shall be a sufficient voucher for the Comptroller to pay the same.

Mr. Ruby moved a suspension of the rules to take up resolution.
Rules suspended.

Mr. Ruby moved the adoption of the resolution.

It was adopted.

Mr. Ruby moved a further suspension of the rules to put resolution on its engrossment.

Rules suspended.

Mr. Ruby moved the engrossment of the resolution.

It was engrossed.

Mr. Ruby moved a further suspension of the rules to put resolution on its final passage.

Rules suspended.

Resolution read third time and passed.

Mr. Patten offered the following

RESOLUTION.

Resolved, That this Convention do adjourn (without day) on Thursday, February 4, at 10 o'clock P. M., subject to be reconvened (if found necessary) by the Commanding General or the President of the Convention.

On motion resolution was adopted.

Mr. Evans, of Titus, offered the following

RESOLUTION.

Resolved, That N. Frank Carter be admitted to the commission to Washington to represent Northern Texas north of 32° and west of the Trinity.

Mr. Hamilton, of Travis, moved a reconsideration of the vote taken on the resolution of Mr. Patten respecting adjournment.

Mr. Degener moved to lay the motion of Mr. Hamilton on the table.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Butler, Burnett, Degener, Flanagan, Hamilton of Bastrop, Hunt, Lippard, Long, Mullins, Newcomb, Patten, Varnell—14.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant, Buffington, Carter, Cole, Curtis, Downing, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—50.

So the Convention refused to lay on the table.

The question recurred upon the reconsideration of the vote.

The yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant, Buffington, Burnett, Carter, Cole, Curtis, Downing, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—46.

Nays—Messrs. President, Bell, Board, Brown, Degener, Evans of Titus, Flanagan, Hamilton of Bastrop, Hunt, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter, Varnell—16.

So the Convention agreed to reconsider the vote.

The question recurred upon the adoption of the resolution offered by Mr. Evans of Titus.

Mr. Harn moved its rejection.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Buffington, Cole, Curtis, Degener, Downing, Fleuving, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Johnson, Keigwin, Kendal, Mackey, McCormick, McWashington, Mills, Muudine, Posey, Rogers, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—35.

Nays—Messrs. President, Bell, Bellinger, Board, Brown, Bryant, Burnett, Evans of Titus, Fayle, Flanagan, Harris, Hunt, Jordan, Kealy, Kuechler, Leib, Lippard, Long, Morse, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Varnell, Wright—26.

So the resolution was rejected.

Mr. Phillips of Wharton offered the following as additional sections to the general provisions of the Constitution :

Resolved, That the following be inserted in the Constitution as one of the general provisions :

The Legislature, at its first session after the adoption of this Constitution, shall provide by law some adequate means by which the holders of matured obligations for the payment of money, executed by the proper authorities of any county, city, or incorporated towns in this State, may be enabled to enforce the payment of such obligations.

Resolved, That no debt created for the purpose of aiding the late rebellion shall ever be paid.

Be it declared by the people of Texas in Convention assembled, That suits may be brought against the State in such manner and in such courts as the Legislature may provide by law.

Be it declared by the people of Texas in Convention assembled :

That all liabilities of drawers of bills of exchange and of endorsers of negotiable instruments of every description, shall not be discharged by any lapse of time between the second of March, 1861,

and the date of recognition by the Congress of the United States of a loyal State government in Texas.

The Legislature shall provide by law, at its first session after the adoption of this Constitution, for the establishment of a Bureau of Industrial Resources.

This bureau shall be under the direction of a commissioner, who shall be appointed by the Governor, with the advice and consent of the Senate, and who shall hold his office for the term of four years, unless sooner removed by the Governor, with the consent of the Senate, for cause.

Said commissioner shall receive an annual salary of twenty-five hundred dollars, until otherwise ordered by the Legislature. The said commissioner shall collect, preserve, and, under the direction of the Legislature, publish condensed statistical information concerning the commerce, manufactories and agricultural productions and resources of the State. The commissioner shall perform such other duties as may be required by law.

On motion, the Convention adjourned till half-past seven o'clock this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. Kirk rose to a privileged question, and asked that a substitute offered by him to the judiciary report be inserted in the minutes.

It was so ordered.

The following is the substitute :

“The Supreme Court shall consist of five judges, to be elected by the qualified electors of the State, and shall hold their office for a term of eight years ; they shall have power to select from their body a presiding officer.

If a vacancy shall occur, such vacancy shall be filled by the

Governor until the next general State election, when said vacancy shall be filled by election as aforesaid."

Mr. McCormick asked leave of absence for Messrs. Slaughter, Phillips of Wharton, and Wilson of Brazoria.

Leave granted.

Mr. Scott introduced the following resolution :

WHEREAS, The appropriation made by this Convention to pay for the publication of the engrossed constitution is not sufficient,

Be it resolved, That an additional sum of one hundred dollars be appropriated out of any money in the treasury not otherwise appropriated to pay the editor of the Texas Vindicator for the publication of 5000 copies of the engrossed constitution.

Mr. Scott moved a suspension of the rules to take up resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Scott moved a further suspension of the rules to put resolution on its passage.

Rules suspended.

The question recurred upon the passage of the resolution.

It was read a third time and passed.

The President caused the following order to be read :

HEADQUARTERS FIFTH MILITARY DISTRICT,
Austin, Texas, February 3, 1869.

Special Orders, }
No. 26. }

[Extract.]

* * * * *

VII. In accordance with Paragraph I, Special Orders No. 100, dated Headquarters Fifth Military District, Austin, Texas, December 10, 1868, at an election held in the district composed of Burnett and Williamson counties, Texas, to fill a vacancy caused by the resignation of J. W. Talbot, Richard E. Talbot having received a plurality of the votes cast for Delegate to a Convention, as fixed and

apportioned among counties, is hereby announced as elected to fill said vacancy.

* * * * *

By order of Brevet Major General E. R. S. Canby.

LOUIS V. CAZIERC, A. D. C.,
Acting Assistant Adjutant General.

Mr. Degener moved the rules be suspended to take up the following resolution :

Resolved, That Mr. Talbot is entitled to his per diem since last Friday.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Scott moved a further suspension of the rules to put resolution on its passage.

Rules suspended.

Resolution read third time and passed.

Mr. Schuetze moved a suspension of the rules to take up the following

RESOLUTION.

1. *Resolved*, That the publishers of the San Antonio Free Press, the Galveston Union and the Houston Texas Staats-Zeitung, be invited to offer proposals for the printing in the German language of ten thousand copies of the constitution and declarations passed by this Convention, including the cost of a correct translation.

2. *Resolved*, That said proposals shall be made to the President of the Convention on or before the 1st day of —, 1869; and he shall be authorized to order the said number of copies to be printed by the publisher who offers to perform the work for the lowest price.

The Convention refused to suspend the rules.

Mr. Armstrong, of Jasper, offered the following as an additional section to section seven of the constitution :

“SEC. ---. Every person who is prohibited by section third of article fourteenth of the Constitution of the United States being a Senator or Representative in Congress, or an officer, civil or military, under the United States, or under any State, is hereby de-

clared a qualified elector of this State on his taking an oath of allegiance to the government of the United States.”

The question recurred upon the adoption of the proposed new section.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Brown, Butler, Burnett, Cole, Degener, Evans of Titus, Flanagan, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Hunt, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lippard, Long, McCormick, Morse, Mullins, Newcomb, Patten, Schuetze, Scott, Sorrell, Thomas, Varnell—32.

Nays—Messrs. President, Armstrong of Lamar, Bell, Bellinger, Board, Bryant, Buffington, Carter, Curtis, Fayle, Fleming, Johnson, Jordan, Leib, Mackey, McWashington, Mills, Mundine, Phillips of San Augustine, Posey, Rogers, Ruby, Smith, Stockbridge, Talbot, Watrous, Williams, Wilson of Milam, Wright—29.

Mr. Varnell moved this vote be taken by commencing at the foot of the roll and calling upwards.

So the new section was adopted.

Mr. Evans, of Titus, moved to reconsider the vote by which the substitute was adopted.

Mr. Patten moved to lay the motion on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Board, Butler, Burnett, Degener, Flanagan, Gaston, Glenn, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Keigwin, Kuechler, Kirk, Lippard, Long, Moise, Mullins, Newcomb, Patten, Smith, Sorrell, Thomas, Varnell—26.

Nays—Messrs. President, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant, Buffington, Carter, Curtis, Evans of Titus, Fayle, Fleming, Gray, Hamilton of Travis, Harn, Kealy, Kendal, Leib, Mackey, McCormick, McWashington, Mills, Mundine, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Stockbridge, Talbot, Watrous, Williams, Wilson of Milam, Wright—35.

So the Convention refused to lay on the table.

The question recurred upon the motion to reconsider the vote adopting the additional section.

The Convention agreed to reconsider.

Mr. Mills moved to lay the additional section on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bellinger, Bell, Brown, Bryant, Buffington, Carter, Curtis, Evans of Titus, Fayle, Fleming, Gray, Hamilton of Travis, Harn, Jordan, Keigwin, Kendal, Leib, Long, Mackey, McCormick, McWashington, Mills, Mundine, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Smith, Stockbridge, Talbot, Watrous, Williams, Wilson of Milam, Wright—38.

Nays—Messrs. Armstrong of Jasper, Board, Butler, Burnett, Cole, Degener, Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Hunt, Johnson, Kealy, Kuechler, Kirk, Lippard, Morse, Mullins, Newcomb, Patten, Sorrell, Thomas, Varnell—24.

So the section was laid on the table.

The President announced the business next in order was the section offered by Mr. Gray this morning.

Mr. Patten moved to lay the section on the table.

Mr. Burnett moved a suspension of the rules to put the Constitution as a whole upon its passage.

Rules suspended.

The question recurred upon the passage of the sections reported from the Committee on Revision as a Whole, and passed to engrossment.

The sections were adopted.

The President announced the business next in order was the sections introduced by Mr. Phillips, of Wharton.

Mr. Wright moved to lay the sections on the table.

Carried.

Mr. Burnett offered additional sections.

By leave the sections were withdrawn.

The President announced the business next in order was the declaration submitting the Constitution to the people of the State.

Mr. Hamilton, of Bastrop, moved to reject the declaration.

It was rejected.

Mr. Gray offered the following declaration :

AN ORDINANCE

Providing for the submission of the Constitution to the Registered Voters, and for the re-establishment of Civil Government in Texas.

Be it ordained by the delegates of the people in Convention assembled, That the General commanding the Fifth Military District be and he is hereby requested to submit the Constitution framed by this Convention for ratification or rejection to the registered voters of the State of Texas, in the manner provided by the acts of Congress "for the more efficient government of the rebel States," at an election to be held on or before the second Monday in June, 1869; also, to cause polls to be opened at the same time for the election of all the officers, county, State and Federal, whose election is authorized by the proposed Constitution and the laws of this State.

SEC. 2. *Be it further ordained,* That the returns of the election herein authorized be made to the Commanding General, who is requested to count the votes and award certificates of election.

SEC. 3. *Be it further ordained,* That the Governor, Lieutenant Governor and members of the Legislature elected shall, within — days after the acceptance of the Constitution by the people, convene at the capital, at the city of Austin, and organize according to law.

Mr. Board moved the rejection of the declaration.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Bellinger, Board, Brown, Butler, Carter, Degener, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Kuechler, Lippard, Mullins, Newcomb, Patten, Ruby, Schuetze, Smith, Talbot, Varnell, Williams, Wilson of Milam—23.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant, Buffington, Burnett, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Long, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wright—39.

So the Convention refused to reject.

Mr. Board offered the following

RESOLUTION.

WHEREAS, Thus, that inasmuch as this Convention has been in session over one hundred days, and has not as yet made anything like a Constitution under which the people can live, therefore,

Be it resolved, That this Convention do adjourn on Thursday, the fourth day of February, 1869, at twelve o'clock, noon, and that this adjournment be sine die, never to assemble again.

The question recurred upon the adoption of the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Board, Brown, Butler, Burnett, Degener, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Kuechler, Lippard, Newcomb, Patten, Ruby, Smith, Varnell, Williams—17.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant, Buffington, Carter, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Long, Mackey, McCormick, McWashington, Mills, Morse, Mullins, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Wilson of Milam, Wright—45.

So the Convention refused to adopt.

Mr. Patten introduced the following

RESOLUTION.

Resolved, That this Convention do adjourn (without day) on Thursday, February 4, at 10 o'clock P. M., subject to be reassembled (if found necessary) by the Commanding General or the President of the Convention.

Upon the adoption the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Bell, Board, Brown, Butler, Burnett, Carter, Degener, Flanagan, Hamilton of Bastrop, Hunt, Johnson,

Lippard, Long, Mullins, Newcomb, Patten, Ruby, Smith, Varnell—20.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Belinger, Bryant, Buffington, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Williams, Wilson of Milam, Wright—42.

So the Convention refused to adopt.

On motion the Convention adjourned till the usual hour to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
February 4; 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

On motion of Mr. Burnett the President of the Convention was excused from attendance, to take effect at any time after to-day.

Mr. Flanagan asked leave of absence for Mr. Board.

Leave granted.

Mr. Patten asked leave of absence for himself after to-day.

Leave granted.

Mr. Newcomb asked leave of absence for Mr. Hunt.

Leave granted.

Leave of absence was asked for Mr. Smith, of Galveston.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Board, Butler, Burnett, Degener, Flanagan, Hamilton of Bastrop, Hunt, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Talbot, Varnell, Wilson of Milam—17.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Beltinger, Bryant, Buffington, Carter, Cole, Curtis, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Kendal, Kuechler, Kirk, Leib, Mackey, McCormick, Mills, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—35.

So the Convention refused to excuse.

The President laid before the Convention the following communication:

AUSTIN, Texas,
February 6, 1869.

GENERAL: I have to inform you that this Convention, on 2d

inst., expelled Mr. C. W. Bryant, representing Harris and other counties, for an alleged crime, thus creating a vacancy.

Respectfully,

EDMUND J. DAVIS,

President of the Convention.

General E. R. S. Canby,

Commanding Fifth Military District.

Mr. Schuetze offered the following resolution :

Resolved, That this Convention do adjourn on Monday, February 8, 1869, at 12 o'clock M., to reassemble, in case of a rejection of the Constitution by the people of Texas, on the ninth Monday after the day of election, on which the vote on the Constitution will have been taken, or to reconvene subject to the order of the General Commanding the Fifth Military District or the President of this Convention

Mr. Gray offered to amend by making the resolution read Saturday, 6th, at 1 o'clock P. M.

Mr. Davis, of Nueces, offered the following amendment :

Provided, That this Convention may be called together again to reconsider the Constitution now submitted to the people, or to consider other matters relating to reconstruction, should the Congress of the United States direct the same to be again called together.

Amendment accepted.

The question recurred upon the adoption of the resolution as amended.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Board, Brown, Burnett, Carter, Downing, Evans of Titus, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Smith, Schuetze, Slaughter, Talbot—28.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Belinger, Bryant, Buffington, Butler, Cole, Curtis, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Keigwin, Kirk, Leib, Mackey, McCormick, Mills, Mundine, Posey, Rogers, Scott, Sorrell, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—34.

The Convention refused to adopt.

Mr. Patten offered the following resolution :

Resolved, That this Convention do adjourn (without day) on Thursday, February 4, at 10 o'clock P. M., subject to be reassembled (if found necessary) by the Commanding General or the President of the Convention.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Board, Butler, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell—21.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant, Buffington, Burnett, Carter, Cole, Curtis, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—41.

Mr. Burnett offered the following preamble to the Constitution :

PREAMBLE. •

“We, the people of the State of Texas, acknowledging, with gratitude, the grace of God, in permitting us to make a choice of our form of government, do hereby ordain and establish this condition.”

Preamble adopted.

Mr. Hamilton, of Bastrop, moved to strike out the words “acknowledging with gratitude the grace of God.”

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Board, Curtis, Degener, Hamilton of Bastrop, Kuechler, Newcomb, Patten, Slaughter, Varnell, Wilson of Milam—11.

Nays—Messrs. President, Armstrong of Lamar, Bellinger, Bryant, Buffington, Butler, Burnett, Curtis, Downing, Evans of Titus, Fayle, Flanagan, Fleming, Gaston, Glenn, Gray, Hamilton of

Travis, Harris, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Morse, Mullins, Mundine, Phillips of San Augustine, Poscy, Rogers, Ruby, Smith, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—49.

So the Convention refused to strike out.

Mr. Burnett moved a suspension of the rules to put the preamble on its final passage.

Rules suspended.

Preamble read third time and passed.

Mr. Hamilton, of Bastrop, offered the following resolution :

WHEREAS, The Provisional Executive of Texas having thought proper, for special reasons, to recognize as law the legislation of this Convention, in manifest defiance of all precedent; and

WHEREAS, The numerous declarations, bills and ordinances passed by the body are likely, under the example of his Excellency, to be put in force and treated as law, to the great detriment, if not the ruin, of many citizens of the country, as well as capitalists abroad; and

WHEREAS, The constitution framed by the Convention ought to be submitted to the popular vote upon its own merits, unaided or unembarrassed by the vast weight of legislative matter, much of which is of a corrupted nature, well calculated to influence unduly many persons deeply interested in such legislation; be it therefore

Resolved, That every declaration, bill or ordinance passed by this Convention shall, before the same shall be recognized or treated as law by the courts of Texas, have the sanction of a majority of the registered voters thereof.

Be it further resolved, That all bills, declarations and ordinances, enacted by this Convention, shall be submitted to the registered voters of Texas, for their approval or rejection, separate and apart from the constitution, either at the same time that instrument is submitted, or at a different time, as the Commanding General shall direct.

Mr. Hamilton of Bastrop moved a suspension of the rules to take up the resolution.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Armstrong of Jasper, Bryant, Butler, Burnett, Degener, Downing, Evans of Titus, Gaston, Glenn, Gray, Hamilton of Bastrop, Hunt, Kendal, Kuechler, Kirk, Lippard, Mills, Morse, Newcomb, Patten, Sorrell, Talbot, Williams—24.

Nays—Messrs. Bellinger, Board, Buffington, Carter, Cole, Curtis, Fayle, Flanagan, Fleming, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Long, Mackey, McCormick, McWashington, Mullins, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Slaughter, Smith, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—36.

So the Convention refused to suspend the rules.

The President announced that the business in order was the consideration of the declaration submitting the constitution to the people of Texas, for ratification or rejection.

Mr. McCormick offered the following substitute :

A DECLARATION

Concerning the election for ratification of the Constitution, and for State, District and County Officers and Members of Congress.

Be it declared by the people of the State of Texas in Convention assembled :

1. That the constitution adopted by this Convention be submitted for ratification to the voters of this State, registered and qualified, as provided by the acts of Congress, known as the reconstruction laws, at an election commencing on the first Monday in July, 1869, and continuing for the number of days specified in the constitution adopted by this Convention, for the holding of general election. The vote on said constitution shall be "for the constitution," and "against the constitution." The said election shall be held at the places, and under the regulations to be prescribed by the Commanding General of this military district, and the returns made to him as directed by law.

2. An election shall be held at the same time and place as the ratification of the constitution, for Senators and Representatives in

the Legislature, and for all State, district and county officers, who are to be elected by the people under this constitution.

3. The said election for State, district and county officers, shall be conducted under the same regulations as the election for the ratification of the constitution, and by the same persons. The returns of elections shall be made to the Provisional Governor, who shall give certificates of election to the persons chosen for the respective offices. The officers as elected shall commence the discharge of the duties of the office for which they have been chosen, as soon as elected and qualified, in compliance with the provisions of the constitution herewith submitted, and shall hold their respective offices for the term of years prescribed by the constitution, beginning from the day of their election, and until their successors are elected and qualified.

4. An election for members of the United States Congress shall be held in each Congressional District, as established by this Convention, at the same time and place as the election for ratification of the constitution; said election shall be conducted by the same persons and under the same regulations as before mentioned in this declaration. The returns shall be made to the Provisional Governor, who shall give the persons chosen certificates of election.

5. The members of the Legislature elected under this Declaration, shall assemble at the capitol, in the city of Austin, on the 2d Monday in September, A. D. 1869.

6. The Commanding General of this Military District is requested to enforce this Declaration.

Upon the adoption of the substitute the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellingier, Bryant, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, McCormick, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—37.

Nays—Messrs. President, Board, Butler, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, McWashington, Mullins, Newcomb, Ruby,

Slaughter, Smith, Talbot, Varnell, Williams, Wilson of Milam—24.

So the substitute was adopted.

Mr. Butler offered the following amendment :

Insert "commanding general" in place of "provisional governor," where it occurs.

Upon the adoption of the amendment the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Flanagan, Gaston, Glenn, Hamilton of Bastrop, Harris, Harn, Hunt, Johnson, Jordan, Keigwin, Kendal, Kuechler, Leib, Lippard, Mackey, McWashington, Morse, Mullins, Newcomb, Phillips of San Augustine, Ruby, Slaughter, Smith, Sorrell, Talbot, Varnell, Watrous, Williams, Wilson of Milam—43.

Nays—Messrs. Board, Fayle, Fleming, Gray, Hamilton of Travis, Kealy, Kirk, Long, McCormick, Mills, Mundine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Wilson of Brazoria, Wright—18.

So the amendment was adopted.

Mr. Phillips of San Augustine offered the following amendment :

Insert after the word "acceptance" the words "or rejection."

The amendment to the amendment was adopted.

Mr. Evans of Titus offered the following additional section :

The question being on the adoption of the section,
Mr. Flanagan moved to lay the section on the table.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Bellinger, Board, Butler, Carter, Cole, Curtis, Downing, Fayle, Flanagan, Hamilton of Travis, Harn, Johnson, Jordan, Kealy, Kendal, Kuechler, Kirk, Leib, Long, McWashing-

ton, Mullins, Mundine, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Talbot, Thomas, Varnell, Watrous, Wright—38.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bryant, Buffington, Burnett, Degener, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Bastrop, Hunt, Keigwin, Lippard, Mackey, McCormick, Morse, Newcomb, Williams—21.

Laid on the table.

Mr. Davis of Nueces offered the following amendment as an additional section :

SEC. 8. It is further provided that this Convention may be called together again to reconsider the constitution now submitted to the people, or to consider other matters relating to reconstruction, should the Congress of the United States direct the same to be again called together.

Mr. McCormick moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?" which main question was the engrossment of the declaration, as amended, offered by Mr. McCormick, and cutting off the amendment offered by Mr. Davis.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant, Buffington, Cole, Curtis, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Mundine, Phillips of San Augustine, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—32.

Nays—Messrs. President, Armstrong of Lamar, Board, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Talbot, Varnell, Williams—28.

Main question ordered.

The question recurred upon the adoption of the declaration.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellingier, Bryant, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—38.

Nays—Messrs. President, Board, Butler, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Talbot, Varnell, Williams, Wilson of Milam—23.

So the declaration was adopted.

Mr. Smith offered the following resolution :

Resolved, That this Convention adjourn on Friday, February 5, at ten o'clock P. M., subject to be reconvened by the Commanding General or the President of the Convention.

The question recurred upon the adoption of the resolution.

The yeas and nays were demanded, and resulted thus : .

Yeas—Messrs. President, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Kuechler, Leib, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell—23.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellingier, Board, Bryant, Buffington, Cole, Constant, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Kendal, Kirk, Mackey, McCormick, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—39.

So the Convention refused to adopt.

Mr. Ruby offered the following declaration :

AN ORDINANCE

To prevent the intimidation of voters.

Be it ordained by the people of Texas in Convention assembled, and it is hereby ordained as follows :

SECTION 1. Any person who shall prevent or endeavor to prevent

any qualified elector of this State from the free exercise of the elective franchise by violence or bribery, or by threats of violence or injury to his person or property, or by depriving an elector of employment, or threatening to deprive him of employment, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not less than one month nor more than six months, or by fine of not less than one hundred dollars nor more than five hundred dollars for each offence, and one half of the fine shall go to the prosecutor.

SEC. 2. *Be it further ordained*, That the hiring of any laborer upon the condition that the same shall vote, or not vote, for any special candidate, or any particular party, or in any specific manner, shall be deemed bribery within the meaning of this act, upon the part of the person demanding the said condition.

SEC. 3. *Be it further ordained*, That this ordinance shall be published and circulated with the Constitution for the information of voters, and shall be in force from and after the date of its passage.

Mr. Ruby moved to suspend the rules to take up the declaration, Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Butler, Carter, Degener, Flanagan, Hunt, Kuechler, Lippard, Long, Mackey, Mullins, Patten, Ruby, Smith, Varnell, Watrous, Williams, Wilson of Milam—18.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Board, Bryant, Buffington, Burnett, Cole, Curtis, Downing, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, McCormick, McWashington, Mills, Morse, Mundine, Newcomb, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Slaughter, Sorrell, Stockbridge, Talbot, Thomas, Wilson of Brazoria, Wright—44.

So the Convention refused to suspend the rules.

On motion the Convention adjourned until the regular hour this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. Carter presented the following new section :

WHEREAS, Some doubt exists as to who are denied the right of suffrage by the first proviso of the first section of the article on the "Rights of Suffrage;" therefore

Be it declared, That the true intent and meaning of the said section is that no person shall be allowed to vote or hold office who is now, or who may hereafter, be ineligible to office under the Constitution of the United States, or who is denied the right to vote under the Reconstruction Acts of Congress, until such disqualification shall be removed by the Congress of the United States.

Mr. Patten moved the consideration of the question be postponed till to-morrow morning at eleven o'clock.

Withdrawn.

Mr. Burnett moved to lay the section on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant, Buffington, Burnett, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, McCormick, Morse, Mundine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—29.

Nays—Messrs. President, Bellinger, Board, Butler, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Leio, Lippard, Long, Mackey, McWashington, Mills, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Talbot, Varnell, Watrous, Williams, Wilson of Milam—34.

So the Convention refused to lay on the table.

Mr. Butler rose to a point of order, that as it was a new section it could not be adopted unless by a two-thirds vote, and being a new section in reference to the suffrage question, it could not now be entertained.

Decision reserved.

The question recurring upon the adoption of the section, the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Bellinger, Board, Butler, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McWashington, Mills, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Talbot, Varnell, Watrous, Williams, Wilson of Milam—33.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant, Buffington, Burnett, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, McCormick, Morse, Mundine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—30.

So the resolution was adopted.

The President announced that under the rules it takes a two-thirds vote to add an additional section altering or amending a section in the constitution previously adopted, and that the Convention had refused to adopt the new section offered by Mr. Carter.

Mr. Smith appealed from the decision of the chair.

The question recurred " Shall the decision of the chair stand as the decision of the House ?"

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant, Buffington, Butler, Cole, Degener, Evans of Titus, Flanagan, Fleming, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kuechler, Kirk, Leib, McCormick, Morse, Mundine, Posey, Rogers, Schuetze, Scott, Slaughter, Sorrell, Stockbridge, Talbot, Thomas, Wilson of Brazoria, Wright—39.

Nays—Messrs. Bellinger, Board, Barnett, Carter, Curtis, Downing, Fayle, Kendal, Lippard, Long, McWashington, Mills, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Smith, Varnell, Watrous, Williams, Wilson of Milam—22.

So the decision of the Chair was sustained.

Mr. Leib offered the following as a new section :

SECTION —. No person shall be entitled to register or vote who is now, by the fourteenth article of the Constitution, incapable of

holding office. And no person shall be entitled to register or vote who does not take the registration oath prescribed in the Reconstruction Acts of Congress.

Mr. Armstrong of Lamar rose to the point of order that as the Constitution had been adopted as a whole new sections could not be interpolated.

The President decided the point of order in the affirmative, and ruled Mr. Leib's section out of order.

Mr. Gray moved to adjourn till to-morrow morning, at the usual hour.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Board, Burnett, Downing, Gray, Harris, Jordan, Kealy, Mullins, Williams, Wilson of Milam—10.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant, Buffington, Butler, Carter, Cole, Curtis, Degener, Evans of Titus, Fayle, Flanagan, Fleming, Gaston, Glenn, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Johnson, Keigwin, Kendal, Kirk, Leib, Long, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Newcomb, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Talbot, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—52.

So the Convention refused to adjourn.

Mr. Butler moved to suspend the rules to take up the declaration submitting the constitution to the people of the State.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Board, Bryant, Buffington, Butler, Burnett, Evans of Titus, Flanagan, Hamilton of Bastrop, Harn, Hunt, Johnson, Jordan, Kuechler, Long, Mackey, McWashington, Mullins, Phillips of San Augustine, Ruby, Smith, Talbot, Thomas, Watrous—24.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Carter, Cole, Curtis, Degener, Downing, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Kealy, Keigwin, Kendal, Kirk, McCormick, Mills, Morse, Mundine, Newcomb, Patten, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Varnell, Williams, Wilson of Brazoria, Wilson of Milam, Wright—36.

Convention refused to suspend the rules.
Mr. Patten introduced the following

RESOLUTION.

Resolved, That this Convention do adjourn on Friday, February 5, at ten o'clock P. M. to be re-convened (if found necessary) by the Commanding General or the President of the Convention.

The question recurred upon the adoption.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Board, Butler, Burnett, Carter, Degener, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Leib, Long, McWashington, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Varnell, Wilson of Milam—22.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant, Buffington, Cole, Curtis, Downing, Evans of Titus, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Mackey, McCormick, Mills, Morse, Mundine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—46.

So the Convention refused to adjourn.

Mr. Patten moved the Convention adjourn till the regular hour to-morrow morning.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Board, Bryant, Butler, Burnett, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Mullins, Newcomb, Patten, Phillips of San Augustine, Schuetze, Scott, Slaughter, Smith, Stockbridge, Talbot, Thomas, Varnell, Watrous, Williams, Wilson of Milam, Wright—33.

Nays—Messrs. Armstrong of Jasper, Bellinger, Buffington, Carter, Cole, Curtis, Fleming, Gaston, Glenn, Hamilton of Travis, Harn, Johnson, Kealy, Keigwin, Kuechler, Kirk, Leib, Long, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Posey, Rogers, Ruby, Sorrell, Wilson of Brazoria—29.

So the Convention adjourned till the usual hour to-morrow morning.

CAPITOL, AUSTIN, TEXAS,
February 5, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Varnell offered the following resolution :

Resolved, That this Convention do now adjourn, without day, to be reconvened, if found necessary, by the Commanding General, or the President of the Convention.

The question recurred upon the adoption of the resolution.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Board, Butler, Burnett, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith, Varnell, Wilson of Milam—20.

Nays—Messrs. Armstrong of Lamar, Bellinger, Bryant, Buffington, Carter, Cole, Curtis, Downing, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Johnson, Kealy, Keigwin, Kirk, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—40.

Convention refused to adopt.

Mr. Hamilton moved that Mr. Long, of Limestone, be excused.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Board, Bryant, Cole, Fayle, Flanagan, Fleming, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kirk, Lippard, Mackey, McCormick, McWashington, Mullins, Mundine, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell,

Stockbridge, Thomas, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. Bellinger, Buffington, Butler, Burnett, Carter, Curtis, Downing, Kendal, Kuechler, Leib, Mills, Morse, Newcomb, Schuetze, Talbot, Varnell, Watrous—19.

Leave granted.

Mr. Patten asked leave of absence for Messrs. Downing, Smith and Slaughter.

Leave granted.

Mr. Butler moved to take up the declaration submitting the constitution to the people.

Mr. Barnett moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. President, Armstrong of Jasper, Board, Butler, Burnett, Carter, Cole, Curtis, Downing, Evans of Titus, Fayle, Flanagan, Gaston, Glenn, Gray, Hamilton of Bastrop, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Long, Mackey, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Slaughter, Sorrell, Talbot, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—49.

Nays—Messrs. Armstrong of Lamar, Bellinger, Bryant, Buffington, Fleming, McCormick, Mills, Mundine, Schuetze, Scott, Smith, Stockbridge, Williams—13.

So the Convention ordered the main question.

The question recurred upon the adoption of the declaration.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant, Buffington, Burnett, Carter, Cole, Curtis, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Johnson, Kealy, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Mackey, McCormick, McWashington, Morse, Mundine, Newcomb, Phillips of San Augustine, Posey, Rogers, Scott, Sorrell, Stockbridge, Talbot, Thomas, Watrous, Wilson of Brazoria, Wright—42.

Nays—Messrs. President, Board, Butler, Downing, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Mills, Patten, Ruby, Slaughter, Smith, Williams, Wilson of Milan—15.

So the declaration was adopted.

Mr. Smith introduced the following protest.

HALL OF THE CONVENTION,
Austin, February 4, 1869.

Hon. E. J. DAVIS,
President of the Convention :

SIR : We, the undersigned, delegates to the Constitutional Convention of the State of Texas, do hereby express disapproval of the proposed constitution adopted by a majority of this Convention.

We object to it, because it is based upon the unwarranted assumption that the constitution of the United States, with the treaties and laws made in pursuance thereof, and the accepted constitution of the State of Texas (of 1845), have not been continuously the supreme law of the land. Believing as we do, that all pretended laws and judicial decisions made within the national limits, and not authorized by and subordinate to the government of the United States, were from the beginning and must remain null and void, and the undersigned will never compromise this principle for any supposed policy.

We do most earnestly and solemnly protest against that provision in the proposed constitution which extends the right of suffrage to all those who voluntarily became the public enemy of the United States, feeling assured that it was the aim of Congress to enable the loyal people of the State of Texas, without regard to any distinction of race or color, to reorganize and maintain a government in the place of that overthrown by the rebellion, and we cannot forbear to express the conviction that the adoption by the majority of the Convention of the provision in regard to suffrage was obtained by virtue of a premeditated and deliberate deception, and by methods of intimidation, which deserve the gravest censure. The majority of the Convention have deliberately removed from the constitution every safeguard for the protection of the loyal voter, white and black. They have stricken from that instrument the whole system of registry; they have repudiated the oath of loyalty contained in the reconstruction laws; they have spurned the test of equal, civil and political rights, and we do most solemnly call upon the registered

voters of Texas to vindicate the national honor, and the cause of right and of justice, by their votes.

M. C. HAMILTON,
Delegate from Bastrop.

JAMES P. BUTLER,
Delegate from Walker.

H. C. HUNT,
Delegate representing Comal, Blanco and Hays counties.

GEO. H. SLAUGHTER,
Delegate from Smith County.

JAMES BROWN,
Kaufman, Van Zandt.

ANDREW DOWNING,
Of Bosque County.

JAMES P. NEWCOMB,
Delegate from Bexar County.

JOHN H. LIPPARD,
Freestone County.

S. MULLINS,
McLennan County.

I subscribe to the foregoing, because I believe that many of the members were gulled, and did not understand what they were doing, and also because there were a great many absent when the vote was taken.

N. M. BOARD,
Harrison county.

JACOB KUECHLER,
Delegate from Gillespie, Kendall, Llano, Mason, Kimble, San Saba,
Menard.

NATHAN PATTEN,
McLennan County.

J. H. WILSON,
Milam County.

I sign this protest for the above reasons, and because I firmly believe that the adoption of the Constitution will be the first step towards a general disfranchisement of the colored race.

E. DEGENER,
Bexar County and District.

ROBERT K. SMITH,
Galveston and Harris District.

I join in the above protest, except only that part which charges deception and intimidation on the part of members.

EDMUND J. DAVIS,
 Delegate from Nueces, etc.
 RALPH LONG,
 Limestone County.

I sign this protest for all of the above reasons, believing that the right, not only of loyal blacks and whites are imperiled, but that the expressed will of Congress has been ignored.

G. T. RUBY,
 Galveston County.
 W. JOHNSON,
 Of Marshall.

I was under the impression that I voted for a substitute that included the future, not the past. I protest against the past.

B. F. WILLIAMS.

I join the above protest, excepting the part which charges deception and intimidation on the part of the members.

A. P. H. JORDAN.

I join in this protest so far as it has reference to the suffrage question, and disclaiming any charge of fraud on the part of the mover of the substitute.

W. FRANK CARTER.
 Parker County.

Mr. Hamilton, of Travis, moved a suspension of the rules to consider the following

RESOLUTION:

Resolved, That the Engrossing Clerk be authorized to employ such assistance as may be necessary to enable him to complete the engrossing the work before him, and that each of his assistants be entitled to four dollars per diem for their services.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Rules further suspended.

Resolution read a third time and passed.

Mr. Evans, from the special committee appointed January 23, 1869, to inquire into the circumstances related in the protest of Mr. Hamilton, of Travis, with regard to the expulsion of Mr. F. W. Sumner, reported as follows:

REPRESENTATIVE HALL,
Austin, Texas, February 5, 1869.

Hon. E. J. DAVIS,
President of the Convention:

SIR: The special committee appointed to consider the circumstances related in the protest of Mr. Hamilton, of Travis, concerning the expulsion of Mr. Sumner have considered the same and make the following report:

The protestants, in their relation of the circumstances concerning the expulsion of Mr. Sumner, have suppressed the material facts and misrepresented the action of the President and the Convention in every important particular. They say:

"We deliberately affirm that the following is a true statement of the facts as they actually existed and transpired: The previous question on the adoption of the resolutions reported by the committee of the whole Convention in reference to a division of the State, and sending commissioners to Washington, etc., having been seconded, and a motion to lay on the table negatived, a motion for a call of the Convention was made, and being sustained by the requisite number, the President ordered the proper officer of the Convention to close the doors, and the Secretary to call the roll of the Convention, which was accordingly done, and the Secretary announced the absentees, Mr. Slaughter and Mr. Sumner. After which Mr. Degener, of Bexar, addressed the President and moved that Mr. Sumner be expelled."

So far from this statement being true, the most material fact as known to even the whole Convention is suppressed.

As stated in the protest, it is true the motion to lay the previous question on the table was negatived and a motion for a call of the Convention was made, but the protest suppresses the fact that Mr. Sumner hurriedly withdrew from the hall of the Convention, after the previous question had been negatived, and before the call of the House could be seconded and the doors closed.

The withdrawal of Mr. Sumner contumaciously to prevent, by his absence, a vote, knowing that the call would be sustained, was patent to the Convention and known to every member who signed the pro-

test, and would not be denied or controverted by any man who has regard for truth. But the protestants say :

“We deliberately and solemnly affirm, that when Mr. Sumner retired from the hall of the Convention there was no order of the Convention or rule thereof forbidding him to do so, or making it improper in the smallest degree for him or any other member of the Convention to retire from the hall of the Convention without leave, and that when the call of the Convention had been made, and up to the time that Mr. Sumner’s expulsion was announced, there was not the slightest evidence produced that he had any knowledge that the call was pending.”

It is very surprising that party feeling should cause so many honorable gentlemen to make this statement.

By rule thirty-six “no member shall absent himself from the sittings of the Convention without leave unless in case of sickness.”

Now, that Mr. Sumner absented himself in contempt of this rule cannot be denied. No one pretends that he was sick or absented himself for any other purpose than to prevent action of the Convention.

By the rules of the Convention, upon a call of the Convention, if there be absentees, “the sergeant-at-arms or a special messenger may be sent for them, and the question pending shall be without a motion laid on the table until such of the absentees as have been in attendance on the Convention, within five days next preceding the day on which the call is made, shall appear or the call be suspended.”

Mr. Sumner had been one of some fifteen or more members who had persistently for more than six weeks kept up the call of the House under the pretense of compelling the attendance of absent members, and at last when every member of the Convention, required by the rule, was present, he made himself an absentee in order that his associates might continue the call.

By the rules of the Convention fifty-five and sixty-seven, any fifteen members may sustain a call of the Convention, and with the concurrence of the President compel the attendance of the absent members.

These rules were made for the protection of the Convention and the maintenance of the rights of the majority. Surely no fair minded man will pretend that these rules were made to enable a minority of fifteen to send a member out and thus defeat the action of the Convention.

Fifteen members had a right to compel the attendance of Mr. Sumner, but not the right to secrete him so that the sergeant-at-arms could not find him.

The protestants say :

“Nor was there any reasonable evidence that he was eluding the sergeant-at-arms or special messenger, but without waiting sufficient time for the sergeant-at-arms to make the most hasty and casual inquiry for Mr. Sumner in the city, or for Mr. Sumner himself to return after the conclusion of any ordinary engagement that might have called him from the hall; without one particle of proof further than the fact that he was then absent, but had not been absent more than an hour; cutting off all argument by the previous question, in a transport of frenzy the vote was taken, and with equal recklessness the President declared that the concurrence of a bare majority was sufficient to expel.”

They furnish in this another lamentable evidence of the injustice and blinding effects of party spirit.

It was in proof before the Convention that the sergeant-at-arms and three messengers were dispatched immediately upon the call of the House, and they made the most diligent pursuit, looking for him at every point where he could hide himself; and it is a perplexing mystery now to the sergeant-at-arms how his agility eluded them.

The committee examined many witnesses to ascertain his hiding place. The nearest they came at this was from the taunt of Mr. Sumner himself to the sergeant-at-arms, that “You could not find me when searching for me: had you come to Mr. Phillips’ you might have found me.” And that he was secreted at the house of Mr. Phillips is not improbable. One of the members of the committee stated that Mr. Sumner had informed him that he was there.

The committee summoned Mr. Phillips to testify, who declined to appear; and as they did not deem it important he was not compelled, there being no pretense that Mr. Sumner had not secreted himself to elude the sergeant-at-arms.

Mr. Sumner for weeks was conspicuous in persisting to keep up the “call of the House,” to prevent all action by the Convention. On one occasion, a few days before his expulsion, he, in combination with some fifteen others, attempted to break the quorum of the House by refusing to vote, in violation of rule sixty, which says: “every member who shall be in the Convention when a question is put shall give his vote, unless the Convention for special reasons shall excuse him.”

And again, after the “call of the House” was seconded, he attempted to force his way out before the doors were closed, and reached the door as the sergeant-at-arms was closing it; he drew his cane on the sergeant-at-arms in a menacing attitude, saying “damn you, I will kill you if you undertake to stop me.”

It was due to our own respect as well as to the country that the business of this Convention should not have longer been delayed by

the action of this contumacious member, and every right thinking man cannot but concede that it was just and proper that he should have been dropped from the roll, so that the Convention might proceed, as it has done, to the completion of the constitution.

The only doubt suggested by any friend of speedy reconstruction was as to the competency of the majority to effect his expulsion. This doubt arises from the fact that the national Congress and the several State Legislatures are restricted by positive law from expelling a member by less than a two-thirds vote.

But this Convention, not being restricted by any such positive law, the act of the majority is the act of the Convention in all cases except where it has imposed on itself a contrary law.

All of which is respectfully submitted, with the testimony before the committee, and ask to be discharged from further consideration of the resolution.

L. D. EVANS, Chairman,
J. H. WILSON,
ANDREW DOWNING.

Mr. Harn introduced the following declaration :

Be it declared by the people of Texas in Convention assembled :

1. That the following loyal newspapers are hereby selected to publish for distribution, amongst the registered voters of this State, the constitution as framed by this Convention, together with all the resolutions and declarations as passed by this Convention. The Houston Union shall publish five thousand copies for distribution in the counties of Galveston, Brazoria, Fort Bend, Harris, Austin, Montgomery, Walker, Madison, Grimes, Brazos, Washington, Leon, Freestone, Limestone, Falls, McLennan, Matagorda, Wharton, Hill, Bosque, Navarro, Jasper, Jefferson, Liberty, Chambers, Houston, Trinity, Hardin, Tyler, Orange, Newton.

The Austin Republican shall publish five thousand copies for distribution in the counties of Colorado, Fayette, Lavaca, Bastrop, Travis, Williamson, Bell, Hamilton, Comanche, Brown, San Saba, Lampasas, Barnett, Llano, Hays, Caldwell, Guadalupe, Burleson, Milam, Robertson, Polk, Hunt, Collin, Dallas, Tarrant, Cook, Denton, Montague, Wise, Parker, Palo Pinto, Jack, Clay, Young, Johnson, Ellis, Erath, Hood and Taylor.

The Tyler Index shall publish five thousand copies for distribution in the counties of Anderson, Angelina, Cherokee, Harrison, Henderson, Rusk, Sabine, San Augustine, Shelby, Smith, Davis,

Bowie, Titus, Red River, Lamar, Hopkins, Nacogdoches, Panola, Van Zandt and Wood.

The San Antonio Express shall publish five thousand copies for distribution in the counties of Jackson, Mason, Menard, Kendall, Edwards, Kerr, Gillespie, Blanco, Bandera, Comal, Bexar, Wilson, Gonzales, DeWitt, Karnes, Victoria, Goliad, Calhoun, Refugio, San Patricio, Nueces, Live Oak, Bell, Atascosa, Medina, Zavala, Cameron, Hidalgo, Starr, Zapata, Webb, Kinney, Presidio, Maverick, Coryell, El Paso, Kaufman, Fannin and Grayson.

The San Antonio German "Freie Presse" shall publish six thousand copies for distribution amongst the registered voters in this State of German descent, wherever located; provided, that the publication be in pamphlet form.

2. *Be it further declared*, That the Committee on Style shall remain in session, after the adjournment of this Convention, for the purpose of compiling the constitution, resolutions and declarations, as passed by this Convention, superintend the copying and proper transmittal of the same to the respective owners of the aforementioned newspapers. The members of the Committee on Style, so retained, shall receive their per diem pay as heretofore:

Provided, That said extension of session shall not exceed twenty-five days.

3. *Be it further declared*, That the enrolling clerk of this Convention shall be retained and shall act as secretary for the Committee on Style, and hire such assistants as may be necessary for the speedy copying of all enrolled provisions, for revisal by the committee and transmittal to the owners of the before mentioned newspapers. The "per diem" pay of the enrolling clerk shall be as heretofore, and the sum of two hundred and fifty dollars, or as much thereof as may be necessary, out of the contingent fund of this Convention, is hereby appropriated to defray the expenses for the hire of the assistants, as herein before mentioned.

Provided, That the enrolling clerk shall not be retained for a longer period than twenty-five days.

4. *Be it further declared*, That the sum of ——— dollars, or so much thereof as may be necessary, out of any moneys in the treasury belonging to this Convention, is hereby appropriated for the purpose of defraying the expenses of the publication of the constitution, resolutions and declarations, herein provided for.

5. *Be it further declared*, That the certificate of the Secretary (who is hereby retained upon his per diem until this work is complete) and the approval of the Chairman of the Committee on Style (during the absence of the President of this Convention) shall be a sufficient voucher for the Comptroller to draw his warrant upon the Treasurer in furtherance of the payment of all expenses accrued under the provisions of this declaration.

Ruled out of order.

Mr. Patten moved to lay the original report on publication of journals, and substitute thereto, on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Board, Bryant, Butler, Burnett, Carter, Downing, Evans of Titus, Flanagan, Fayle, Hamilton of Bastrop, Hunt, Jordan, Kuechler, Long, Newcomb, Patten, Ruby, Slaughter, Smith, Thomas, Varnell, Wilson of Milam—25.

Nays—Messrs. Armstrong of Lamar, Bellinger, Buffington, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Mackey, McCormick, McWashington, Morse, Mullins, Mundine, Phillips of San Augustine, Posey, Rogers, Schutze, Scott, Sorrell, Stockbridge, Talbot, Watrous, Wilson of Brazoria, Wright—33.

So the Convention refused to lay on the table.

The question recurred upon the adoption of the substitute.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bellinger, Bryant, Buffington, Cole, Curtis, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Talbot, Watrous, Williams, Wilson of Brazoria, Wright—34.

Nays—Messrs. President, Armstrong of Jasper, Board, Butler, Burnett, Carter, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Kendal, Kuechler, Leib, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Thomas, Varnell, Wilson of Milam—27.

So the Convention adopted the substitute.

Mr. Butler offered the substitute of Mr. Harn for the substitute.

Mr. Hamilton of Travis moved the previous question.

Previous question withdrawn.

The President declared the Convention adjourned till the usual hour this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

A quorum not being present, forty-four only answering to their names.

Mr. Mandine moved a call of the House.

Call sustained.

Upon calling the roll a quorum answered.

The President directed the following letter to be read from the Commanding General :

HEADQUARTERS FIFTH MILITARY DISTRICT,
State of Texas,
Austin, February 5, 1869.

Hon. E. J. DAVIS,
President of the Convention:

SIR: In reply to your inquiry I have the honor to state the printing of the Constitution framed by the Convention, and of the ordinance submitting it to the registered voters of the State for ratification, is regarded as coming within the province of the district commander, and will be provided for if the Convention should not otherwise provide.

Very respectfully, sir.

Your obedient servant,

E. R. S. CANBY,

Brevet Major General Commanding.

Mr. Mills, occupying the floor, was called to order by Mr. Evans, of Titus, for language disrespectful to the President, and requested to take his seat, by the President.

Mr. Mills failing to take his seat was ordered into custody of the sergeant-at-arms by the President.

Mr. Armstrong, of Lamar, made the point of order, that the

President could not order Mr. Mills under the custody of the sergeant-at-arms without the authority of the Convention.

The President decided adversely.

Mr. Hamilton, of Travis, raised the point of order that Mr. Mills was entitled to the privilege of making an explanation of his remarks.

Mr. Williams, of Colorado, tendered his resignation as a member of the Convention.

Mr. Hamilton again rose to the point of order that Mr. Mills was entitled to explain.

Mr. Ruby, of Galveston, tendered his resignation by the following letter :

To the Hon. E. J. DAVIS,
President of Reconstruction Convention :
State of Texas.

SIR: Believing that the present Reconstruction Convention has lost, through many of its members, all regard for dignity and honor as a legislative assemblage, and that its continued session will only terminate in disgrace to the entire country, I herewith tender my resignation as a member hereof and as delegate from the county of Galveston.

G. T. RUBY,
Delegate from Galveston county.
Convention Hall, night, February 5, 1869.

The Convention adjourned.

CAPITOL, AUSTIN, TEXAS,
 Half-past seven o'clock,
 February 6, 1869.

Convention met.

No quorum.

The President directed the Secretary to read the following communication :

HEADQUARTERS FIFTH MILITARY DISTRICT,
 Austin, Texas, February 5, 1869.

Hon. E. J. DAVIS,
 President of the Constitutional Convention.

SIR: In reply to your inquiry I have the honor to state that the records of the Convention will, when completed, be turned over to the custody of the assistant adjutant general of the district, remaining in the meantime in the custody and under the control of the proper officer of the Convention.

Very respectfully,

Your obedient servant,

E. R. S. CANBY,
 Brevet Major General U. S. A. Commanding.

Mr. Patten moved the Convention adjourn, without date, subject to be re-convened by the order of the Commanding General.

There being no quorum present the motion of Mr. Patten was ruled not in order.

The President of the Convention thereupon declared the Reconstruction Convention adjourned, and directed the Secretary to turn over the Constitution adopted by this Convention and all ordinances, declarations and resolutions adopted by the same, and books and records, to the Adjutant General of the Fifth Military District as fast as the same could be arranged, written out and enrolled, and that the Secretary be charged with seeing to the compliance with this order.

LIST OF DELEGATES

TO THE

RECONSTRUCTION CONVENTION.



LIST OF DELEGATES

TO THE

RECONSTRUCTION CONVENTION,

AS ANNOUNCED IN SPECIAL ORDER NO. 213, DATED
HEADQUARTERS FIFTH MILITARY DISTRICT, NEW
ORLEANS, LA., APRIL 13TH, 1868.

Aaron Grigsby, Geo. W. Smith and C. Caldwell, Counties of
Bowie, Davis and Marion.

W. H. Fleming, County of Red River.

L. D. Evans, County of Titus.

B. W. Gray, Counties of Red River and Titus.

M. L. Armstrong, County of Lamar.

D. W. Cole, County of Hopkins.

J. R. Scott, Counties of Lamar and Hopkins.

E. C. Rogers and D. C. Constant, Counties of Fannin and Hunt.

F. W. Sumner¹ and A. M. Bryant, Counties of Grayson, Cooke,
Montague, Jack, Wise, Young, Clay, Wichita, Archer, Wilbarger,
Baylor, Throckmorton, Knox, Hardeman, Haskell and Greer.

J. W. Thomas and Thomas Kealy, Counties of Collin and Denton.

James Brown, Counties of Kaufman and Van Zandt.

L. P. Harris and G. Yarborough, Counties of Upshur and Wood.

N. V. Board, C. E. Coleman, Mitchel Kendal and W. Johnson,
Counties of Harrison and Panola.

J. W. Flanagan and Webster Flanagan, County of Rusk.

G. W. Whitmore and G. H. Slaughter, County of Smith.

A. Bledsoe, County of Dallas.

¹ Expelled.

Arvin Wright and W. F. Carter, Counties of Ellis, Tarrant, Parker, Palo Pinto, Stephens, Jones and Shackelford.

A. L. Kirk, Counties of Erath, Johnson and Hood.

P. P. Adams and Marsh Glenn, Counties of Henderson and Anderson.

James R. Burnett and A. T. Munroe, Counties of Houston and Trinity.

W. H. Mullins and M. A. Gaston, Counties of Cherokee and Angelina.

David Muckleroy, Sr., County of Nacogdoches.

William Phillips and John Morse, Counties of Shelby, San Augustine, Sabine and Newton.

James Armstrong, Counties of Jasper, Hardin, Jefferson and Orange.

H. C. Pedigo, Counties of Tyler, Liberty and Chambers.

M. H. Goddin, County of Polk.

G. F. Ruby, County of Galveston.

W. R. Fayle and C. W. Bryant,¹ County of Harris.

Robert K. Smith, Counties of Harris and Galveston.

Erwin Wilson, County of Brazoria.

W. E. Horne, County of Fort Bend.

W. J. Phillips, Counties of Matagorda and Wharton.

A. P. McCormick, Counties of Brazoria, Fort Bend, Matagorda and Wharton.

J. P. Butler, A. Buffington and C. D. Harn, Counties of Grimes, Walker and Madison.

J. McWashington, County of Montgomery.

Wm. Keigwin, County of Leon.

Stephen Curtis, County of Brazos.

J. B. Boyd, County of Robertson.

J. H. Lippard, County of Freestone.

M. L. Sorrell and Ralph Long, Counties of Limestone, Navarro and Hill.

A. J. Evans, Nathan Patten and Wm. E. Oaks,² Counties of McLennan, Falls and Bell.

Andrew Downing, Counties of Coryell, Lampasas, Bosque, Comanche and Hamilton.

J. H. Wilson, County of Milam.

T. H. Mundine, County of Burleson.

J. G. Lieb, C. J. Stockbridge and B. O. Waters, County of Washington.

¹ Expelled.

² Died. H. C. Hunt, elected to fill vacancy.

John G. Bell, County of Austin.

H. H. Foster, County of Colorado.

B. F. Williams, Counties of Austin and Colorado.

L. Lindsey, County of Fayette.

Morgan C. Hamilton, County of Bastrop.

Julius Schuetze, Counties of Fayette and Bastrop.

A. J. Hamilton and John Mackey, Counties of Travis and Caldwell.

J. W. Talbot,³ Counties of Williamson and Burnet.

Jacob Kuechler, Counties of Kendall, Gillespie, Llano, San Saba, Mason, Brown, Menard, Coleman, McCulloch, Concho, Callahan, Eastland, Taylor, Runnels and Kimble.

Geo. Klappenbach,³ Counties of Comal, Hays and Blanco.

E. Degener and J. P. Newcomb, Counties of Bexar, Wilson, Kerr, Bandera, Medina, Uvalde, Kinney, Maverick, Edwards and Zavalla.

F. A. Vaughan, County of Guadalupe.

E. Bellinger, County of Gonzales.

W. H. Posey, County of Lavaca.

Wm. M. Varnell and S. M. Johnson, Counties of DeWitt, Victoria, Jackson and Calhoun.

A. P. H. Jordan, Counties of Bee, Goliad, Karnes and Atascosa.

E. J. Davis, Counties of Refugio, San Patricio, Nueces, Cameron, Hidalgo, Starr, Webb, Live Oak, Duval, Zapata, McMullen, Frio, La Salle, Dimmitt and Encinal.

W. W. Mills, Counties of El Paso and Presidio.

³ Resigned. Richard E. Talbot, elected to fill vacancy.

³ Died. S. Mullins, elected to fill vacancy.

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