"Section 1. The Legislature may at any regular session, by a vote of two-thirds of all the members of each house, pass a joint resolution, to take the sense of the qualified electors of this State, at the next succeeding general election, upon the proposition to call a constitutional convention; and if at such election a majority of those voting vote in favor of calling a constitutional convention, the Legislature at the next succeeding session shall pass a joint resolution calling a constitutional convention; which convention, when it shall assemble, shall frame a Constitution and submit the same to a vote of the qualified electors of the State for ratification or rejection; and if a majority of those voting at that election shall vote in favor of the ratification of said Constitution, it shall, by proclamation of the Governor, be declared the Constitution of the State."

Mr. DeMorse offered the following as a substitute for Mr. Dohoney's substitute for Section 1:

"The Legislature, by a majority of all the members, shall have the power to suggest and provide by appropriation for a convention of the people for the purpose of creating a new organic law, and shall submit the proposition to a popular vote; and, a majority of the people approving, the succeeding Legislature shall, by a majority vote, recognize their will, and provide that no general election shall be held until the convention shall have assembled and provided therefor to suit the exigency; but this election shall not be considered as in any degree questioning the sovereign right of the people to assemble and create organic law, without authorization from any legislative body, and by such means as they prefer."

Judge Reagan moved to lay both substitutes on the table.

Mr. Murphy moved to adjourn until 9 o'clock the next morning. The motion to adjourn was lost.

Judge Reagan's motion to lay the substitutes on the table was carried by a vote of 48 yeas and 24 nays.

TWENTY-FIFTH DAY

Monday, October 4, 1875

Mr. Dohoney presented the petition of Mrs. G. W. Hyatt, of Eldorado, praying for woman suffrage as a "legitimate application of Democratic principles."

49The proceedings for this day were taken from the State Gazette (Austin), October 5, 1875.
Mr. Martin, of Navarro, made a furious onslaught against woman suffrage. He said the Alabama Convention had transacted its business and adjourned, and if such a question as this—the discussion of the right of a woman to a husband, a new bonnet, a baby, and a cradle—was to be injected into the Texas Convention, there was no knowing when they would finish their work.

Mr. Dohoney spoke for the reception of the petition and its reference to the Committee on Suffrage. He felt that the humblest citizen had the right to ask that much. Opposition to the measure advocated in a petition was no justification of a refusal to hear a petition sent up in a respectful manner.

Mr. Weaver seconded the remarks of Mr. Dohoney. He felt that the very least the Convention could do was to refer the petition to the Committee on Suffrage.

Mr. W. Blassingame, of Grayson, entered a vigorous protest against either receiving the petition or entering it upon the journals of the Convention.

Mr. Demorse defended the position taken by Mr. Dohoney and Mr. Weaver. He repeated that the petition of the humblest citizen was entitled to careful consideration.

Mr. Stockdale was of a similar opinion. He thought the duty of the Convention was clear in the case being considered.

General Whitfield said he agreed with Governor Stockdale. He was of the opinion that the Convention could not afford not to consider the petition of any citizen, regardless of the subject presented, if it were presented in a respectful manner.

Mr. W. W. Dillard, of Bowie, moved the previous question, which was ordered, it being, shall the petition be rejected? It was lost by a vote of 32 ayes to 41 nays, and the petition was then referred to the Committee on Suffrage.

Mr. Murphy proposed clauses in addition to the legislative article which had reference to the organization of the militia, giving the Governor power to call out the militia to repel raiders.

Judge Reagan thought the subject had been covered by the clause giving the Governor power to suppress insurrection and repel invasion.
Mr. Murphy said the effect of his proposition would be merely to authorize the militia of the Nueces being called out to repel raiders, and not that of the whole State.

Judge Reagan objected to the word raiders. He said he had never known it used in connection with a Constitution. He requested Mr. Murphy to withdraw his motion.

Mr. Murphy withdrew his motion.

Mr. Nunn called up his motion to reconsider the vote taken on the motion of Mr. Davis, of Brazos, with reference to State colleges and universities. The Convention had refused to add to the list of institutions for which the Legislature might appropriate public money, State colleges and universities.

Mr. B. H. Davis, of Brazos, spoke somewhat at length as follows:

"Mr. President, I am satisfied that this Convention did not understand the object I had in view in proposing the amendment and did not understand the effect of Section 48, as it now reads, upon the educational interests of the State. By that section it is seen that the Legislature is prevented from making any appropriation hereafter for colleges or universities; it is prohibited from imposing any tax whatever on the people for any other objects than those specified in the section. I proposed my amendment, Mr. President, for the purpose of empowering the Legislature in the future to make such appropriations as might be found necessary for the support of colleges and universities under the control of the State. I believe that it was necessary and I believe still, that if Section 48 is adopted without the amendment and without giving further power to the Legislature, it will have the effect of destroying the only institution of learning the State now has under its control. I refer to the Agricultural and Mechanical College. If it is permitted to stand as it now reads and as passed by this Convention, notwithstanding the very large grants of money and land scrip heretofore made to that college by the State and general government, it will cease to exist. All the expenditures made by the State—amounting to $131,000—for the erection of the principal college edifice and the other buildings attached thereto, will be thrown away, and these buildings will stand as a stupendous mass of brick and mortar, utterly worthless to the State. Let me explain the status and condition of that college as affected and controlled by the act of Congress under which it was founded, in order that the Convention may have a clear conception of the matter in voting for a reconsideration of the vote upon my

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50Mr Davis' remarks are taken from the State Gazette of October 9, 1875.
amendment. I am satisfied that when they understand the question they will see the propriety of adopting the amendment.

"The college was founded under an act of Congress of 1862 giving to each of the states of this Union 30,000 acres of land for each Senator and Representative in Congress to which they were entitled, and requiring of them the establishment of an Agricultural and Mechanical College for the purpose of affording a liberal education to the agricultural and industrial professions of the State, requiring also that the grant should be accepted and the college established within five years from the passage of the law. By a subsequent act of Congress, passed in 1866, the provisions of the law were extended for five years, and under these provisions the State of Texas in 1871, by an act of the Legislature, accepted the terms of the grant and by the same act established the Agricultural and Mechanical College of Texas, now located in the County of Brazos. By accepting this donation of Congress, the State of Texas received $180,000 in land scrip of the United States. That land scrip was sold by the Secretary of State in 1871, and the money invested in $174,000 of Texas frontier bonds, bearing 7 per cent interest, which bonds, with coupons attached, are now in the State Treasury, and the interest thereupon now amounts to $40,000, making a total amount due the Agricultural and Mechanical College of $214,000. If we prevent additional appropriations to the college it cannot be completed and put into operation, and we not only lose this money in the Treasury, but all the expenditures that have been made in the erection of college buildings, amounting to $131,000, together with 2,290 acres of land, purchased by the citizens of Brazos, for which they paid $22,000, and donated to this State, upon the condition that the college should be located thereon, making a total of $367,000, which I say, Mr. President, the State will surrender up and throw away at once—under the provisions of the act of Congress by which the grant of land was made to the State. Let me draw the attention of the Convention to the provisions of that act. I read from the fourth section of the act of Congress of 1862, which is as follows:

"Section 4. And be it further enacted, That all moneys derived from the sales of the aforesaid lands by the states to which the lands are apportioned, and from the sales of land scrip hereinbefore provided for, shall be invested in the stocks and bonds of the United States, or of the states, or some other safe stocks, yielding not less than 5 per centum upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in Section 5 of this act), and the interest of which shall be inviolably appropriated by each state which may take and claim the benefits of this act, to the endowment, support, and maintenance
of at least one college, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics; to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the states may respectively prescribe, in order to promote the liberal and practical education of the industrial classes, in the several pursuits and professions of life.'

"Section 5. And be it further enacted, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions hereinbefore contained, the previous assent of the several states shall be signified by legislative acts:

"1. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall by any action or contingency, be diminished or lost, it shall be replaced by the state to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding 10 per centum upon the amount received by any state under the provisions of this act, may be expended for the purchase of lands or sites for experiment farms, whenever authorized by the respective Legislatures of said states.'

"2. No portion of said fund, nor the interest thereon, shall be applied directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.'

"3. Any state which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to such state shall cease; and said state shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the state shall be valid.'

"Now, Mr. President, it will be seen that this grant was given to the State of Texas under three conditions, first, that the grant should remain forever undiminished; second, that the interest alone should be applied to the support and maintenance of the college and neither principle nor interest should be applied to the erection or repairs of the buildings; third, if this college should not be established within four years of the date of acceptance, or if for any cause whatever the State should abandon it, then the State is compelled to pay back to the United States the money raised on the scrip granted to the State. Now, sir, what is the effect of this Section 48, as it now reads, upon this college? By the provisions of this section the Legislature can make no appropriation for the erection
and completion of the buildings necessary to put the college into operation, because it is prevented from imposing any tax to meet such appropriation. And, sir, in the condition in which the college now is, it is necessary that additional appropriations be made. While the principal edifice is completed, and the President’s Mansion and Steward’s Hall nearly so, yet, sir, it is necessary, as is shown by the message of the Governor to the second session of the Fourteenth Legislature, that additional appropriations should be made at once, in order to erect other necessary buildings to put the college into successful operation. I read from the message of the Governor:

"The report of the Board of Commissioners, who, under the legislation of Texas, are charged with the administration of the finances of this institution, and with the supervision and direction of the construction of the college buildings, is herewith submitted for your consideration. It appears from this report that the college edifice is rapidly approaching completion, and that in order to complete it fully an additional appropriation of $7,000 is necessary. These commissioners ask an appropriation of $25,000 to erect a boarding hall, $21,000 to erect three professors’ dwellings, and $5,000 to lay off and fence grounds, make walks, plant trees, and erect a barn. I respectfully recommend that these appropriations be made as suggested in this report, being satisfied that they are absolutely essential, and that the appropriation heretofore made is being economically and honestly administered."

"Now, Mr. President, it will be perceived from the Governor’s message that the commissioners of the college asked for an appropriation of $7,000 to complete the principal college edifice; $25,000 to erect a boarding hall; $21,000 to erect three professors’ buildings; and $5,000 to lay off and fence grounds, make walks, plant trees, etc.; and the Governor recommends that these appropriations be made, aggregating the sum of $58,000, being satisfied, as he says, that they were absolutely necessary and essential to make the necessary improvements required to put the college in successful operation. The Legislature, in response to this recommendation, appropriated only $32,000, which was known at the time to be not sufficient to make the necessary improvements. The Legislature left a deficit in the appropriations asked for of $28,000, but I am compelled to say, for the information of this Convention, that in this sum was not included the necessary appropriation for seats and desks, without which the college could not be put in operation.

"And it will require an additional appropriation of at least $30,000 to complete and furnish the buildings still necessary to utilize what has already been done.

"I have shown, Mr. President, that $131,000 has been expended in the erection of buildings for this college; that land to the value of $22,000 has been donated to it by the citizens of Brazos County;
and that it has a fund of $214,000 of State bonds in the Treasury, making a grand total of property of the value of $367,000 belonging to this college. And I have shown, sir, that this large amount of property can be utilized, and a college established second to none in the South, affording a practical and scientific education to the sons of toil in this broad State, for the paltry sum of $30,000.

"Now, sir, I ask this Convention, will you refuse to reconsider your vote and adopt my amendment? Will you thus destroy this college and throw to the winds all of the property belonging to it, and through it to the State of Texas? Will you deprive the people of the benefits and advantages of the only institution of learning they have, or will ever have, if this section is not changed? Can we, sir, send before the country with any hope of satisfaction, a Constitution impressed with this penny wise and pound foolish policy? Can we say to our constituents that we have thrown away this vast amount of property, because we were afraid to trust future Legislatures with the power of making appropriations to the amount of $30,000 to sustain this college? Why, sir, are we so jealous and suspicious of future Legislatures? Why do we have this remarkable animosity to them?

"Is it because we have exhausted all of honesty, wisdom, and patriotism in this body politic, and that the people will hereafter be incapable of self-government, incapable of electing honest, capable, and patriotic members of the Legislature? Whether we believe this or not, we are making a Constitution, sir, which in this legislative article, will reflect it upon the people. And I tell this Convention that this policy will not commend itself favorably to the people of this State, and to a favorable vote on the adoption of this Constitution. We cannot go before the country with a Constitution which has crushed out forever the establishment of colleges and universities for the education of the youths of Texas. We cannot ignore, in the Constitution we may make, an educational system, either in the lower or the higher branches of learning; and when, sir, by constitutional provisions, we so tie the hands of future Legislatures that they cannot encourage a proper system of education, we strike down, sir, one of the strongest pillars of free government.

"Intelligence and morality go hand in hand, as do ignorance and vice. The great fundamental principle of our system of government is that it rests upon the will of the people; but, sir, its stability and prosperity must depend upon the still greater underlying principle, the intelligence and virtue of the people; and whenever by a policy of hostility to legislation upon the subject, we crush out a proper educational system in the State, then, sir, I say we strike down one of the main pillars upon which this government depends for its future prosperity.
"Now, Mr. President, I, as a delegate to this Convention, stand here pledged to retrenchment and reform. I come here from a constituency who have cried out for it as loudly as any in the State, and I will go as far as any one to accomplish it, provided it does not come in conflict with the still greater duty devolving upon us of securing good government for the people.

"We can effect retrenchment and reform, but we should act the part of statesmanship in doing it. We should seek reform in those subjects which in themselves are calculated to produce fraud and corruption in legislation. There are many sources of corruption, and whenever we find a subject which may be brought to the door of the Legislature, and which is calculated, however honest the Legislature may be, to corrupt its legislation, then I say, let us put it down with the strong hand of the Constitution. We see these sources of corruption in private corporations, railroad charters, monopolies of every kind, and a hundred different subjects. And I will strike hands with any gentleman on this floor in striking out such sources of corruption, by the strong arm of this Constitution. Further than this I am unwilling to go, nor should any one else wish to go further. It is not the part of wisdom or statesmanship to wish to go further. I believe in the power and capabilities of the people for self-government, and that there is yet some patriotism and virtue left with them, and that they will in the future be able to send some worthy representatives to the Legislature, men worthy of their confidence. I hold, sir, that as few restrictions and limitations should be placed upon the legislative power of the people as is consistent with an honest administration of the government.

"Now, what is there on the subject of education calculated to corrupt the future Legislatures? Where are the parties who are to bribe legislators to establish schools and colleges? The people alone are interested in this matter, and must we assume that they will bribe their own Legislature to furnish them with a system of education? No, sir, let us not tie the hands of our future Legislatures, but leave them untrammeled, to establish without restraint, in this great empire state of ours, an educational system that will keep pace with the systems of other states and other governments that have raised them to greatness and to the highest eminence in the scale of nations. Witness Prussia, which alone and distinctive of all other governments, possesses the most perfect system of education. This government, sir, has continued to rise step by step in the scale of nations and in power and greatness, until she stands today the most powerful government upon the globe and defiant to world, and her people represent the highest type of humanity on earth. To what does she owe her greatness? What, sir, but her perfect system of education? Strike that down and she will retrace her steps from her proud position, in the direction of a San Domingo,
with perhaps the same rapidity which has marked her rise to

"Sir, an earnest cry has been heard in this very Convention from
delegates representing various sections of the State to relieve them
from the misrule of ignorance and its concomitants, hatred and
malignity, and we are called upon to shape legislation, sir, in their
behalf. Are we, sir, to shut our eyes to this condition of things
in our own midst and fail to provide for its correction by future
legislation in the establishment of a proper system of education?
No, sir; let us meet this question like men, and like statesmen, and
leave our Legislatures untrammeled to provide for the education of
the people, and my word for it—I know the sentiment of the people
of my district—not one murmur will be heard against it."

Mr. DeMorse said he was strongly in favor of the views ex-
pressed by the delegate from Brazos, and that he would vote for the
amendment offered if it were not coupled with any other matter.

Mr. Robertson said he hoped Mr. Davis would consent to have
his plan to support higher education in Texas separated from the
legislative article, otherwise he could not vote for it.

The vote was reconsidered, and Mr. Davis' amendment to add
after the word "schools" in line 246, "and colleges and universities
under the control of the State," was before the House.

Mr. Flournoy moved to add to the amendment, "to cost no more
than $40,000 in the aggregate, to be applied to the completion of
the State Agricultural and Mechanical College."

Mr. DeMorse offered a substitute to the amendment, to add after
"schools" "and the maintenance and support of the Agricultural and
Mechanical College of Texas."

Mr. Stockdale supported this amendment, praising both its
purpose and the form in which it was arranged.

Colonel Crawford opposed the amendments. He objected to the
clauses which offered support to the Agricultural and Mechanical
College, and gave no promise of support to other prospective insti-
tutions of higher learning. He reminded delegates that there was
a university fund, and said that it was the hope of many enlightened
citizens that Texas would soon have one university at least. He
hoped that the whole matter would be referred to a special commit-
tee for study and a report.

Judge Ballinger moved to add Mr. DeMorse's amendment to line
248, just after the word "asylum."
TWENTY-FIFTH DAY

Mr. DeMorse accepted the amendment.

Mr. Dohoney moved to add “and such other colleges, universities, and normal schools as may be established by law.”

Mr. Dohoney’s amendment was lost by a vote of 27 yeas to 34 nays.

Mr. Norvell moved to strike from the DeMorse amendment the words “maintenance and support” and insert “completion and repairs.”

Mr. Norvell’s amendment was lost by a vote of 25 to 32.

Mr. Stayton moved to add after “schools,” “in which shall be included colleges and universities established by the State.”

Mr. Russell, of Wood, moved to postpone until after the Committee on Education had reported, but was ruled out of order.

Mr. Stayton’s amendment was adopted.

Mr. DeMorse’s amendment was adopted.

Mr. Flournoy moved to postpone further consideration of the legislative article until one week thence. It was adopted.

The resolution to alter the rule and require nine members to call the ayes and noes was taken up.

Mr. German opposed the change, defending the rule as it stood.

Mr. McCormick favored the change. As had been well said by General Whitfield, the calling of the ayes and nays would cost the State thousands of dollars. It was not only the “ayes and noes” of many members which wanted stopping, but their mouths also. He thought there was entirely too much talk. If members wanted to live up to their professions of retrenchment and reform now was the time to practice it.

Mr. Wade moved to change the rule so as to read, “six members may call the ayes and noes.” His amendment was lost.

The motion to amend the rule, and require nine members to call the ayes and noes, was lost.

Executive Department

The report of the Committee on Executive Department was taken up.

Mr. Fleming moved to eliminate the office of Superintendent of Public Instruction.

His amendment was adopted by a vote of 38 to 21.
Mr. Russell, of Wood, moved to eliminate the office of Lieutenant-Governor.

His amendment was lost by a vote of 33 to 35.

Mr. West moved to strike out "except Secretary of State" in Section 2, which would have made the office elective. His motion was lost.

General Whitfield moved to strike from Section 4 the word "two" and insert "four," to make it read, "and the Governor shall hold his office for the term of four years."

His motion was adopted by a vote of 43 to 27.

Mr. C. B. Kilgore, of Gregg, moved to strike from line 28 in Section 4 the word "six" and insert "eight," to make it read, "and the Governor shall not be eligible to election more than four years out of eight successive years."

His amendment was adopted.

Mr. Waelder moved to amend the section so that it should read, "he shall not be eligible for more than two terms in succession."

Mr. Demorse offered as a substitute, "he shall not be eligible for more than two successive terms."

The substitute was declared out of order.

Mr. A. C. Graves, of Coryell, moved to amend line 28, so that it should read, "he shall not be eligible for more than four years out of six successive years."

His amendment was declared out of order.

Mr. Martin, of Navarro, moved to reconsider the vote adopting Mr. Kilgore's amendment.

The Convention refused.

Mr. Waelder's motion was lost by a vote of 30 to 32.

Mr. Johnson, of Collin, moved to strike out "five" in Section 5, and insert "four," so the Governor's salary would be "$4,000 and no more."

Mr. Wade moved to strike out "five" and insert "three" adding "in gold."

His amendment was lost.

Mr. German moved to strike out "five" and insert "three."

His amendment was lost.

Mr. Johnson called for the yeas and nays on his amendment.
Mr. Stockdale said it seemed as if none of the committee were willing to defend their report.

Judge Ballinger said the committee thought the report spoke for itself.

Mr. Stockdale spoke in favor of the report. He condemned the idea of reducing the salary of the chief executive below that of any other State officer, for whose good conduct he was made responsible. Senators and members of Congress received $5,000 a year and mileage, and could devote their time, when not actually engaged in their official duties, in any occupation they liked, but by a provision of this Constitution the Governor was prohibited from doing this, and rightly so. It was an office requiring the highest order of talent, probity, and integrity, and the very credit of the State, and its future as well as its present honor and glory required that it should not be reduced beyond the figures reported by the committee.

Mr. Kilgore moved to amend by striking out "five thousand" and inserting "four thousand and five hundred."

Mr. Johnson, of Collin, spoke in defense of his amendment. He offered, in case Governor Coke could not serve at the salary provided in his amendment, to serve as Governor himself.

Mr. McCormick said that if there was any possible way of getting the last speaker to act as Governor he should be in favor of the lowest possible salary, suggesting that it should not be more $1,000 a year.

Mr. Kilgore's motion to place the salary of the Governor at $4,500 a year was lost by a vote of 12 ayes to 60 nays.

Mr. Johnson's amendment to place the salary at $4,000 was lost by a vote of 35 to 37.

Mr. Nugent moved to strike out "five thousand" and insert "three thousand five hundred."

Upon Mr. McCormick's motion it was tabled by a vote of 43 to 26.

Mr. German moved to reconsider the vote on Mr. Johnson's amendment. He said that the increase in salaries had been due to the difference between currency and specie. Before the war the Governor's salary had been $3,000. Then it had been increased by the Convention of 1866 to $4,000. The Convention of 1869 had raised it to $5,000, which seemed to him a little too much, in fact,
$4,000 seemed a little too much. He had promised his people to demand a reduction in the salaries of officials, and intended to keep his pledge. The position had been filled with men of ability when the salary was $3,000, and he saw no reason to continue the increase over that figure. The position should not be one that men would aspire to for the sake of the money in it, but rather for the honor attached to it.

MR. MCCORMICK said he wanted the Governor of a great State like Texas to be adequately paid, and attacked the record of the last gentleman in the Fourteenth Legislature. He claimed that Mr. German had failed to vote for a reduction of the per diem from $8 per day or for a reduction of the 32 cents mileage, coon tail measurement. It was strange that such a change should come over the spirit of his dream when reduction of the Governor's salary was to be considered.

MR. FLOURNOY said the office of Governor should never be sought as a remunerative one, and a man with the qualifications for Governor could make much more than $4,000 a year, but he thought that the salary—which was $333 a month, together with a house and furniture—was fairly reasonable and ought to be sufficient.

MR. WEAVER said he was not bound beyond his conscientious views in the matter. He was pledged, however, to reasonable retrenchment and reform. Still he thought the salary of $4,000 a year ought to be amply sufficient.

MR. GERMAN replied to Mr. McCormick and defended his record in the Fourteenth Legislature. He said the Journals of that body would show that he had contended as far as mileage was concerned, for $3 for every twenty-five miles; then for $5, and failed again. Members on that floor, as well as the Journals, would bear him out in those assertions, and his voice had always been for retrenchment and reform in the Fourteenth Legislature.

MR. WEST spoke of his experience in Austin during the last twenty-five years, and said he knew he spoke correctly when he said that the salaries of the Governors under the Constitutions of 1866 and 1869, considering the extraordinarily high price of living, were insufficient. A Governor was required not only to be a man of ability, but must also be hospitable, and must be prepared to entertain members of the Legislature, visitors from abroad, and our own
citizens. A narrow-minded man was hardly a fit man to be Governor. He referred to Governors Lubbock, Houston, and Coke as examples of inability to save anything out of their salaries. Governor Coke had been compelled to spend $2,000 a year above his salary.

MR. KING defended the report of the committee. He did not think $5,000 was an extravagant salary for the Governor.

MR. P. R. SCOTT, of Cass, moved the previous question, which being ordered, the amendment of Mr. Johnson to reduce the Governor's salary to $4,000 was before the Convention.

JUDGE BALLINGER defended the report of the committee. He said he had no idea that the Governor's office should be sought for profit, but felt that it should certainly be equal to the payment of his actual expenses. He thought the case as stated by Mr. West was conclusive. Governor Henderson, one of the most honorable and noble of men, was compelled to practice law while holding the position of Governor. So was Governor Davis, and he believed he did it from honest motives, and because it was necessary to the support of his family. But the Governor was by other provisions in the Constitution prohibited from practicing his profession. He did not think the executive should be called upon to maintain his office out of his private fortune.

MR. RUSELL, of Wood, supported the amendment. He said a minority report on the subject would have been presented, but the minority in the committee had desired to avoid burdening the Journals.

COLONEL CRAWFORD spoke against the amendment. He condemned any parsimonious spirit in the matter; he showed the growth of population and the increase in revenues of the State since the date of low salaries. He spoke of the bright-eyed offsprings of some of the past governors, who would have been left in different circumstances had their fathers been as true to their personal interests as they had been to the interests of their country.

MR. ROBERTSON, of Bell, said he voted in accordance with the wishes of his people, and not in any desire to degrade the office of Governor. His constituents desired him to vote for no higher salary than $4,000, and he felt bound by his pledge.

Mr. Johnson's amendment was carried by a vote of 44 to 32.
The Frontier Question

Mr. Murphy moved to amend Section 7, of the executive article, by adding after the word "invasion," "and raiders from the Mexican Republic," which would make it read as follows: "He" (the Governor) "shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions and raiders from the Republic of Mexico."

Mr. Murphy’s amendment was lost.

Mr. Stayton moved to add after the word "invasion," "by troops, under the direction or control of other states or governments, or predatory bands therefrom."

Judge Reagan opposed Mr. Stayton’s amendment, repeating his former argument, and adding that it might cause confusion between the civil and military powers, especially when the outrages might be committed in whole or in part by our own citizens.

Colonel Ford denied that there was any ground for supposing that the raids were made by American citizens. The evidence showed that the raiders came from Mexico with repeating rifles and pistols, bearing the mark of the Mexican Government thereon. It was idle to suppose that a sheriff’s posse could cope with these raiders who came over in bands of from ten to one hundred, all armed to the teeth. He referred to McNally’s gallant fight, where the raiders waited for half an hour on purpose to bring on a pitched battle, and then were defeated. If the clause did not give the Governor any additional powers, it would convey a moral force if inserted in the Constitution which might have a salutary effect, both at home and at Washington.

Mr. McCormick said he was in favor of anything that would give protection to the frontier.

Mr. Murphy said he suspected that some members of the Convention were treating the question with cold hearts because they were safely removed from all danger. He pictured some of the horrors of the recent raids in the Corpus Christi region.

Mr. Flournoy spoke in favor of the Stayton amendment. He said: "Mr. President, it is the admitted object of government to protect life and property. That is why we are assembled here."

51 His speech was printed in the State Gazette (Austin), October 22, 1875.
If any portion of the people of this State are endangered in their rights, liberty, and property, it is the duty of this Convention to give the chief executive authority to protect them. That is one of the first objects in view in framing organic law. It is true that life, liberty, and property are endangered on the frontier of this State. That it is endangered is a fact, and in support of that fact let me read the correspondence on this subject between the general commanding the United States forces and James G. Brown, the sheriff of Cameron County:

Brownsville, June 1st, 1875.

GEN. J. H. POTTER, U.S.A.
Commanding Fort Brown, Texas.

GENERAL: I received positive news this morning that a party of men from Mexico were going in the direction of the mouth of the Arroyo Colorado in search of cattle. They seldom remain more than two or three days. Others, with myself, have made three unsuccessful trips, because I had not enough men to station in the rear while I went ahead.

Captain McNelly, of the State Volunteers, left for Corpus Christi last Thursday. Therefore, I am obliged to call on you for assistance, say ten or twelve men for two or three days.

I am, General very respectfully, your most obedient servant,

JAMES G. BROWN,
Sheriff, Cameron County, Texas.

(Endorsement)

Headquarters,
Fort Brown, Texas, June 2, 1875.

Respectfully returned to the Sheriff of Cameron County, Texas, with the remark that, under recent instructions, I am not authorized to furnish troops as asked within.

H. C. MERRIAM,
Major 24th Infantry,
Temporarily Commanding Post.

"Mr. President, the reply is decisive, 'unable under recent orders to oblige you.' What is meant by the power to repel invasion? It means nothing, unless it means the organization and equipment of an army to repel an army. The term contemplates that idea, and therefore, as stated in the original ordinance, it does seem peculiarly appropriate that the Governor of Texas, whom we entrust with the execution of the laws, should be permitted, not to make war, not to invade a neighboring power, but to arm the forces of the State, and to do that temporary work that may be necessary for the protection of the citizens, to call forth such portions of the militia of the State as he deems necessary to protect the lives and property of the citizens of the State. This power may be extensive in its character or otherwise. There is no money mentioned
in the original proposition. We must trust the executive in the
exercise of prudence in these matters. We already authorize him
to repel invasion and suppress insurrection, and what difference
is there in fact between raiding on our borders and an armed
force marshaled and officered to invade our borders? One has
an appearance of grandeur and is awarded a place in history, but
it does no more harm and cannot do more harm than these lawless
raids have done for years past. There is not a barbaric or civilized
power on the face of the globe that would have stood this thing so
long as the United States has done without armed resistance.
Suppose these raids came from Canada, what would we have done?
Why, there would have been peace long ago—yes, even if it had
taken war to produce peace. I do not wish Texas to make war.
She has yielded the war-making power, but she has not yielded
politically and morally the right to use such power as she possesses
to protect her citizens in their rights, properties, and liberties.
The citizen has no other use for the government except this. For
some two hundred miles he is invested with a river which estab-
lishes a boundary between him and a foreign power. He, too, pays
taxes, and yet must stand at his door with his rifle to protect himself
and his family. Shall he look to himself and not to the govern-
ment for protection? I do not intend to make a speech, but there
is a principle behind this. Texas is always suffering from these
armed raids. Take our frontier for example. There is no period
in our history in which our people have not demanded that their
homes be protected from the savage foe. What is the difference
between the Mexican and the Indian foe? One comes in predatory
bands at the different moons on occasional visits; pretends not to
be at peace, but at war, members of a warlike tribe by nature and
tradition; and the other holds out his hand in the graps of friend-
ship and pretends to be at peace with the United States and Texas,
and yet if gentlemen will only look at the evidence which has been
compiled by the officers of the United States Government from
American citizens and Mexicans, they will be astounded that no
effort has been made by the Government to protect our people along
the Rio Grande. And shall we, as citizens of Texas, say that, be-
cause a few thousand dollars are expended in giving the protection,
because Captain McNally's and other companies will cost about
nine thousand six hundred dollars, that they ought not to have it?
I say that it is not just to the people of Texas that we should fail
to trust the Governor to this extent, to use such part of the militia
as may be necessary to punish raiders from Mexico—because to put
it plainly, that is what it means—should hesitate to say that the
executive shall have power to repel these raids, whether made
by large or small parties, shall have the power to protect the
poorest as well as the wealthiest, the highest as well as the weakest in life, liberty, and property."

TWENTY-SIXTH DAY

TUESDAY, OCTOBER 5, 187552

The Executive Article

The question pending was Mr. Stayton’s amendment to add after the word “invasions,” in line 44, Section 7, “by troops under the direction or control of other states or governments or predatory bands therefrom.”

MR. STAYTON defended his amendment. In the first place, it has been contended that the executive had power, as the section stood, to do all that is asked in the protection of the frontier, whether the amendment became a part of the Constitution or not.

Such was not his understanding of the clause presented in the committee report. On the contrary, he conceived that it would limit the executive to a course of action different from that contemplated in his amendment. As defined by Judge Reagan the word invasion embraced every attack, whether made by troops of an organized government or whether made by predatory bands of foreign territory. Mr. Stayton thought that such a meaning was not generally attached to it, and referred to the legislation of Texas law-making bodies in support of his views. He held that the same provision had been in all the Constitutions of the State, as well as in the Constitution of the United States, but was inadequate to the species of protection desired, since the hands of the President and of the Governor were tied down in express language and confined to repelling troops from a foreign government and attacks by invasion. Such was its construction, and it did not go one inch beyond it. They were told that the practical operation of the provision in Texas was different, and that the government then had troops on the frontier and on the Mexican border.

The troops were there in obedience to and under a special law, an act of the Fourteenth Legislature, and not in accordance with

52The proceedings for this day were taken from the State Gazette (Austin), October 6, 1875.