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Rogers, Ruby, Slaughter, Smith of Galveston, Smith of Marion, Talbot, Thomas, Vaughan, Whitmore, Wilson of Milam, Yarborough—42.

Nays—Messrs. Armstrong of Lamar, Bell, Board, Caldwell, Carter, Curtis, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Muckleroy, Mundine, Pedigo, Phillips of San Augustine, Phillips of Wharton, Schuetze, Scott, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—34.

Messrs. Bryant of Grayson and Sumner declined voting.

Excused.

So the Convention laid the substitute upon the table.

Mr. Smith, of Galveston, moved to reconsider the vote laying the substitute upon the table.

Mr. Degener moved to lay the motion to reconsider upon the table.

On motion, the Convention adjourned until to-morrow morning at 9 o'clock.

CAPITOL, AUSTIN, TEXAS,
AUGUST 20, 1868.

Convention met pursuant to adjournment.

Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Carter moved that the rules be suspended to take up the report of the Committee on Contingent Expenses, appropriating twenty-five thousand dollars for payment of the expenses of the Convention.

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

Yeas—Messrs. Bell, Board, Boyd, Buffington, Butler, Burnett, Caldwell, Carter, Constant, Curtis, Fayle, W. Flanagan, Foster, Goddin, Grigsby, Hamilton of Travis, Harn, Harris, Johnson of Harrison, Johnson of Calhoun, Kealy, Kendal, Mackey, McCormick, McWashington, Munroe, Pedigo, Posey, Rogers, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Yarborough—43.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Bry-

ant of Grayson, Bryant of Harris, Cole, Degener, Downing, Evans of McLennan, Flanagan, Fleming, Gaston, Hunt, Keuchler, Leib, Lindsay, Lippard, Morse, Muckleroy, Newcomb, Patten, Phillips of San Augustine, Scott, Thomas, Whitmore, Wright--26.

So the Convention refused to suspend the rules.

Under the rules, the President announced the business before the house was the report of the Committee on General Provisions,* and upon the Substitute offered by Mr. Bryant of Harris.

Mr. Bryant asked leave to withdraw the substitute.

Mr. Thomas offered the following as a substitute to section forty-four of the report :

“The laws of this State are the laws passed in pursuance of the Constitution of this State, as defined in the preceding section.

The so-called ordinance of secession, adopted by a pretended convention of the people of Texas, on the first day of February, 1861, is, and was from the beginning, null and void.

All laws or parts of laws, whether fundamental or statutory, which conflict with the Constitution or laws of the United States; or are inconsistent with the great fundamental truth, that all men have equal civil and political rights, are null and void, and shall forever remain without force or effect in this State.

The people of this State, with its present organization, or so much thereof as is loyal to the United States, are hereby remitted to their rightful constitution and laws, as defined in sections one, two and four of this ordinance.

All offices now vacant, or which may hereafter become vacant, shall be filled in the manner prescribed by law; provided, however, that prior to the first Monday in August, one thousand eight hundred and seventy, all members of the Legislature, and all officers, before entering upon the duties of their offices, shall take the following oath or affirmation:

This ordinance shall take effect and be in force from and after notice of its approval by the Congress of the United States.”

Mr. Buffington moved to lay the substitute on the table.

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

Yeas—Messrs. Bell, Board, Buffington, Caldwell, Carter, Flan-

*For report see page 236.

agan, W. Flanagan, Fleming, Foster, Gaston, Goddin, Grigsby, Hamilton of Travis, Harn, Horne, Johnson of Calhoun, Jordan, Leib, Lindsay, Mackey, McCormick, McWashington, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Scott, Smith of Galveston, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—36.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Bryant of Grayson, Bryant of Harris, Butler, Burnett, Cole, Constant, Degener, Downing, Evans of McLennan, Fayle, Harris, Hunt, Johnson of Harrison, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lippard, Long, Morse, Muckleroy, Newcomb, Oaks, Patten, Ruby, Schuetze, Slaughter, Sumner, Talbot, Thomas, Vaughan, Whitmore, Yarborough—38.

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

Mr. Degener moved the previous question.

Previous question seconded.

Mr. Caldwell moved a call of the house.

Call sustained.

Absentees: Messrs. Mundine, Brown, Armstrong of Lamar.

Mr. Armstrong of Lamar asked that Mr. Brown be excused.

Mr. Burnett moved to lay section forty-four upon the table.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Boyd, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Cole, Constant, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Grigsby, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Johnson of Calhoun, Kealy, Keigwin, Kirk, Leib, Lindsay, Mackey, McCormick, McWashington, Morse, Muckleroy, Mundine, Munroe, Pedigo, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Smith of Galveston, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wright, Yarborough—52.

Nays—Messrs. President, Bryant of Harris, Butler, Curtis, Degener, Downing, Evans of McLennan, Foster, Goddin, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, Newcomb, Oaks, Patten, Ruby, Schuetze, Slaughter, Smith of Marion, Talbot, Thomas, Whitmore, Williams, Wilson of Milam—27.

So the Convention laid the section upon the table.

Mr. Caldwell offered the following as a new section :

That the ordinance of the Convention passed on the 1st day of February, A. D. 1861, commonly known as the ordinance of secession, was in contravention of the Constitution and laws of the

United States, and therefore null and void from the beginning; and all laws or parts of laws founded upon said ordinance, were also null and void from the date of their passage.

That the Legislature which sat in the State of Texas from the 18th day of March, A. D. 1861, until the 6th day of August, A. D. 1866, had no Constitutional authority to make laws binding upon the people of Texas; provided, that this section shall not be construed to inhibit the authorities of this State from respecting and enforcing such rules and regulations as were prescribed by the said so-called Legislature which were not in violation of the Constitution and laws of the United States and of this State, or in aid of the rebellion against the United States, or prejudicial to the citizens of this State who were loyal to the United States, and which have been actually enforced or observed in Texas during the above period of time, nor to affect prejudicially private rights which may have grown up under such rules and regulations; nor to invalidate official acts not in aid of the rebellion against the United States during said period of time.

That the Legislature which assembled in the city of Austin on the 6th day of August, A. D. 1866, was provisional only, and its acts are to be respected only so far as they were not in violation of the Constitution and laws of the United States, or were not intended to reward those who participated in the late rebellion, or to discriminate between citizens on account of race or color, or to operate prejudicially to any class of citizens.

That all debts contracted by the rebel organization in the State of Texas in aid of the late rebellion against the United States were created without constitutional authority, and the Legislature is prohibited from recognizing or making any provision for the payment, and the legislature is prohibited also from assuming or making provision for the payment of any debt contracted or incurred, or any warrant or evidence of debt issued by the said rebel organization of the State of Texas, from the 28th day of January, A. D. 1861, until the 5th day of August, A. D. 1865, except such warrants or evidence of debt as were issued in payment of services rendered, or liabilities incurred before the 28th day of January, A. D. 1861.

That all debts incurred in aid of the rebellion against the United States by the several counties, cities, and towns of the State, were without constitutional authority, and the corporate authorities of said counties, cities and towns are prohibited from ever making any provisions for the payment of such debts.

That it shall be the duty of the Legislature to ascertain

and make provision for the payment of all debts that were owing by the State of Texas on the 28th day of January, A. D. 1861.

That the declaration take effect from and after its passage.

[Mr. Evans, of McLennan, in the Chair.]

Mr. Davis, of Nueces, offered the following substitute :

SECTION — The constitution adopted by a convention of the people, on the twenty-seventh day of August, 1845, accepted by the Congress of the United States, on the twenty-ninth day of December, 1845, and amended by the people of this State on the sixteenth day of January, 1850, is the Constitution of the State of Texas, except as hereinafter provided.

SEC. — The laws of this State are the laws passed in pursuance of the Constitution of this State, as defined in the preceding section.

SEC. — The so-called ordinance of secession, adopted by a pretended convention of the people of Texas on the 1st day of February, 1861, is, and was from the beginning, null and void.

SEC. — All laws or parts of laws, whether fundamental or statutory, which conflict with the Constitution or laws of the United States, or are inconsistent with the great fundamental truth that all men have equal civil and political rights, are null and void, and shall forever remain without force or effect in this State.

SEC. — The people of this State, with its present organization, or so much thereof as is loyal to the United States, are hereby permitted to their rightful constitution and laws, as defined in sections one, two and four of this ordinance.

SEC. — All offices now vacant, or which may hereafter become vacant, shall be filled in the manner prescribed by law ; provided, however, that prior to the first Monday in August, one thousand eight hundred and seventy, all members of the Legislature, and all officers, before entering upon the duties of their offices, shall take the following oath or affirmation :

SEC. — This ordinance shall take effect and be in force from and after notice of its approval by the Congress of the United States.

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 Lamar, Board, Bryant of Harris,

Buffington, Burnett, Caldwell, Carter, Cole, Constant, Fayle, Flanagan, Fleming, Foster, Grigsby, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Johnson of Calhoun, Kealy, Kendal, Kirk, Leib, Lindsay, Mackey, McCormick, McWashington, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—47.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Bryant of Grayson, Butler, Curtis, Degener, Downing, Evans of McLennan, Goddin, Hunt, Jordan, Keigwin, Kuechler, Lippard, Long, Morse, Newcomb, Oaks, Patten, Ruby, Smith of Marion, Talbot, Thomas, Whitmore, Yarborough—27.

So the main question was ordered.

The question recurred upon the adoption of the section, as proposed by Mr. Caldwell.

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

Yeas—Messrs. Armstrong of Lamar, Board, Buffington, Burnett, Caldwell, Carter, Constant, Evans of McLennan, Fayle, Flanagan, Fleming, Foster, Grigsby, Hamilton of Travis, Harn, Johnson of Harrison, Johnson of Calhoun, Kealy, Kendal, Leib, Lindsay, Mackey, McCormick, McWashington, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Bryant of Grayson, Butler, Cole, Curtis, Degener, Downing, Goddin, Harris, Hunt, Jordan, Keigwin, Kuechler, Kirk, Lippard, Long, Morse, Newcomb, Oaks, Patten, Ruby, Smith of Marion, Talbot, Thomas, Yarborough—28.

Mr. Caldwell moved a reconsideration of the vote upon the adoption of the section, and to lay the motion to reconsider upon the table.

Mr. Caldwell moved a call of the House.

Call sustained.

Mr. Patten moved that the Convention adjourn until four o'clock this afternoon.

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

Carried.

The yeas and nays were demanded upon the motion to lay the motion to reconsider the vote adopting section — on the table, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Board, Buffington, Burnett, Caldwell, Carter, Fayle, Flanagan, Fleming, Foster, Grigsby, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Johnson of Calhoun, Kealy, Keadal, Leib, Lindsay, Mackey, McCormick, McWashington, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Bryant of Grayson, Bryant of Harris, Butler, Cole, Constant, Curtis, Degener, Downing, Evans of McLennan, Goddin, Hunt, Jordan, Keigwin, Kuechler, Long, Morse, Newcomb, Oaks, Patten, Ruby, Smith of Marion, Sumner, Talbot, Thomas, Whitmore, Williams, Yarborough—31.

So the motion prevailed.

On motion, the Convention adjourned until four o'clock.

AFTERNOON SESSION—FOUR O'CLOCK.

Convention met pursuant to adjournment.

Roll called. Quorum present.

Mr. Carter moved a suspension of rules to take up resolution reported from the Committee on Contingent Expenses, appropriating twenty-five thousand dollars to pay the expenses of the Convention.

Mr. Buffington moved a call of the House.

Call not sustained.

Rules suspended, two-thirds voting in the affirmative.

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

Yeas—Messrs. Armstrong of Lamar, Bell, Board, Boyd, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Fayle, W. Flanagan, Fleming, Foster, Goddin, Hamilton of Travis, Harris, Hunt, Johnson of Harrison, Johnson of Calhoun, Kendal, Kirk, Long, McCormick, Mundine, Munroe, Pedigo, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Scott, Smith of Galveston, Stockbridge, Talbot, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—41.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Cole, Downing, Evans of McLennan, Flanagan, Kealy, Keigwin, Kuechler, Leib, Lippard, Morse, Muckleroy, Newcomb, Oaks, Patten, Thomas, Whitmore, Yarborough—20.

So the resolution was adopted.

Mr. Patten moved to suspend the rules to take up resolution respecting adjournment.

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

Yeas—Messrs. President, Armstrong of Jasper, Bell, Bledsoe, Boyd, Bryant of Grayson, Butler, Burnett, Downing, Evans of McLennan, Fayle, Hunt, Johnson of Harrison, Keigwin, Kendal, Kuechler, Lippard, McCormick, Morse, Newcomb, Oaks, Pedigo, Patten, Talbot, Thomas, Whitmore, Wilson of Brazoria, Wilson of Milam—28.

Nays—Messrs. Armstrong, of Lamar, Board, Bryant of Harris, Buffington, Carter, Cole, Constant, Curtis, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Calhoun, Jordan, Kealy, Kirk, Leib, Long, Mackey, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Varnell, Watrous, Williams, Wright—38.

So the Convention refused to suspend the rules.

Mr. Whitmore from the Committee on General Provisions, reported as follows :

COMMITTEE ROOM,
Austin, Texas, August 20, 1868.

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

SIR: The Committee on General Provisions, to whom was referred a declaration introduced by Mr. Slaughter, have had the same under advisement, and after mature deliberation instruct me to report back the same to the Convention as a section of the Constitution, under the head of general provisions.

WHITMORE,
Chairman.

SEC. — That all acts of incorporation made and granted by the Legislature of the State of Texas for the year A. D. 1866, be and the same are hereby declared null and void, except the following acts of incorporation :

Institutions of learning; orphans home; cities and towns; bridge companies; wharf and press companies; estates; ferries; mills; chambers of commerce; ice companies; odd fellows and masons.

Mr. Patten moved a suspension of the rules for the consideration of the report.

Rules not suspended.

Mr. Hunt, from the Committee on State Affairs, reported as follows :

COMMITTEE ROOM,
Austin, August 19, 1868.

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

SIR: Your Committee on State Affairs have had under consideration a petition of citizens of the town of Fredericksburg, asking for the incorporation of said town as a city, and passage of regulations governing the same. A majority of your committee are in favor of granting the request of petitioners, and to this end have instructed me to report the accompanying ordinance to the Convention and ask its adoption.

H. C. HUNT,
Chairman.

AN ORDINANCE

To incorporate the city of Fredericksburg.

SECTION 1. *Be it ordained by the people of the State of Texas in Convention assembled,* That the citizens of the town of Fredericksburg be and they are hereby declared a body corporate, by the name and style of the corporation of the city of Fredericksburg, and by that name may sue and be sued, plead and be impleaded, and may hold and dispose of real and personal estate.

SEC. 2. *Be it further ordained,* That the limits of said corporation shall be one mile square, of which the courthouse of the county of Gillespie, in the said city of Fredericksburg, shall be the center.

SEC. 3. *Be it further ordained,* That Brevet Major General Reynolds, commanding Fifth Military District, be requested to appoint a mayor, five aldermen, a treasurer, a recorder and a constable, as soon as practicable after the passage of this ordinance; and the persons so appointed shall hold their offices until the next regular election; and annually thereafter, for a similar purpose, an election shall be conducted by the mayor, or a majority of the aldermen acting at the time of such election; and the persons elected shall continue in office one year, or until their successors are duly qualified; and the annual election for mayor and aldermen shall be held at such place in the city of Fredericksburg as may be designated by the board for the convenience of the people.

SEC. 4. *Be it further ordained*, That whenever a vacancy shall occur in the office of mayor, a majority of the aldermen acting shall order and conduct an election to fill such vacancy; and the persons so elected shall hold their offices until the next regular election, or until his successor has duly qualified; and in case of the death, resignation or removal of any alderman, treasurer or constable, the mayor shall order an election under such rules and regulations as may be prescribed by the board to fill such vacancies.

SEC. 5. *Be it further ordained*, That no person shall be eligible to office of mayor, alderman, treasurer or constable, unless such person be a citizen of said city.

SEC. 6. *Be it further ordained*, That the mayor shall be president of the board of aldermen, that three of the members of said board shall constitute a quorum to transact business, and that said board shall enact such by-laws for the government of said city, not inconsistent with the constitution and laws of the State, as may be deemed proper, and may impose fines for the infraction or disobedience of the same, not exceeding twenty dollars for such offence.

SEC. 7. *Be it further ordained*, That the board of aldermen shall have and exercise control over the public square and streets of said town, and may compel all male citizens (ministers of the gospel excepted,) over the age of seventeen years and under that of forty-five, to work on the same; provided, that such person shall not be required to work more than six days, in any one year, and shall be exempt from other road duty in said county; and the board may impose such fines on defaulters as they may deem necessary, in which they all shall be governed by the laws of this State regulating roads.

SEC. 8. *Be it further ordained*, That the board of aldermen shall have power to appoint such additional officers, with the regulation of their duties and compensation, as may be necessary; and may require of them bond and security, to be given to the mayor, in such sum as may be deemed necessary to compel the efficient discharge of such duties as may be assigned them.

SEC. 9. *Be it further ordained*, That the board of aldermen shall have the power to levy a tax on all persons and property, both real and personal, in said town, subject to taxation by the laws of the State; provided, that the tax on property shall not in any one year exceed one-half of one per cent. ad valorem on said property; and no tax shall be levied unless by a vote of two-thirds of the members present; which shall be assessed and collected by the constable in the same manner as the State tax is collected.

SEC. 10. *Be it further ordained*, That all offences against the by-laws be presented before the mayor, and governed by the laws

organizing justices' courts, and the constable shall execute and return all writs issued by the mayor in the same manner as is provided by the law defining the duties of constables.

SEC. 11. *Be it further ordained*, That the constable shall give bond and security as required of other constables, and shall have the same power and be entitled to the same fees for similar services.

SEC. 12. *Be it further ordained*, That the mayor of said city shall be entitled to such fees as may be allowed justices of the peace for similar services, together with such other compensation as may be allowed him by a majority of the aldermen present at the time of such allowance.

SEC. 13. *Be it further ordained*, That the aldermen shall be entitled to such compensation as may be allowed by a majority of the board; provided, that in no case the sum shall exceed two dollars per day for each day they may be required to sit as such aldermen.

SEC. 14. *Be it further ordained*, That the treasurer safely keep all the money of said corporation; shall pay out the same upon the order of the board, and shall do such other duties as may be assigned him by the by-laws; and shall give bond and security, payable to the mayor, in such sum as may be deemed proper, conditioned for the faithful performance of his duties, to be approved by the board; and shall be allowed such compensation as may be specified by the board of aldermen.

SEC. 15. *Be it further ordained*, That the books and records of the corporation shall at all times be open for the examination of any citizen of said city.

SEC. 16. *Be it further ordained*, That this ordinance take effect from and after its passage.

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

COMMITTEE ROOM,
August 20, 1868.

Hon. 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. 39. Resolution for the payment of the per diem of Mr. Horne, a member of the Convention.

No. 40. Resolution appropriating \$15,000 to pay officers appointed by Provisional Governor Hamilton.

No. 41. Resolution referring a resolution of appropriation of \$25,000 to Major-General Reynolds, for his approval.

No. 42. Declaration incorporating the Belleville, Hempstead and Brazos Bridge Company.

No. 43. Resolution authorizing the Secretary to pay Fred. Slaughter one dollar and fifty cents per day as mail carrier of the Convention.

No. 44. Resolution authorizing the transcribing the journals of the Convention.

No. 45. Declaration requesting Congress to pass the International Railroad bill.

No. 46. A declaration incorporating the Houston City Railroad Company.

Respectfully submitted,

A. T. MUNROE,
Chairman.

Mr. Butler introduced the following report, and asked that the reading be dispensed with.

Carried.

COMMITTEE ROOM,
August 17, 1868.

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

SIR: A majority of your committee appointed to investigate the financial affairs of the State Penitentiary, have now the honor of submitting the following report:

We find, after a close examination of the past history of the institution, up to the first of June of this year, of keeping the books and accounts, and of its management, that no system had been adopted previous to the first of June of this year, when, at the instance of the present Comptroller, Mr. M. C. Hamilton, efficient regulations were introduced. A majority of your committee, therefore, in a measure, consider the present condition of the finances of the institution attributable to that fact. But while now, under the new regulations, the Financial Agent is required to render his accounts to the Comptroller, the Superintendent is left with no other accountability than a general superintendence by the Directory, which practically amounts to nothing, and is a mere farce. It is true, the Financial Agent produces receipts for raw material and supplies bought; but

when these materials and supplies are turned over to the Superintendent, he is not required to take them up on a return, or render any abstract of expenditures, or vouchers for what has been made proper use of, or what not. No certain ration is prescribed for a convict: provisions are bought and turned over to the Superintendent without any requisition for the same, or without any person being aware if all these provisions, or how many of them, are consumed by the convicts, or if they are used for other purposes; in short, the Superintendent is without any control whatever, and the whole system of administration, to say the least, a very loose one.

A precedent has been established by the Superintendent, at what time your committee was unable to ascertain, but it was established before the appointment of the present Superintendent; suffice it to say that it has been established, to compel guards to board with the Superintendent, without any law compelling the latter to furnish decent board. However dissatisfied the guard may be in this regard, he has no chance to complain, because he has no authority to appeal to. If dissatisfied, he is at the mercy of the Superintendent, turned off, no matter how faithful and useful he may have been otherwise, with the consolation that there are plenty others who, through extreme necessity, are willing to submit to the outrage.

A majority of your committee do not want to convey the idea that they would have the guards board away from the institution, but that the State, and not the Superintendent, should board them, from the following facts, that the State furnishes the stove, cooks, and wood to cook their victuals with, furnishes waiters to wait on them, sufficient feed for twenty or thirty hogs for meat; land, and convicts to cultivate and raise vegetables with, and, in fact, almost everything but the flour and meal for bread, which could also be furnished by the State, under the present loose commissary system, without the least trouble or fear of detection. All these facts go to show that the State should board these guards. The Superintendent receives a very liberal salary to attend to the interests of the State; the board of the guards amounts to over \$5000 a year, and as the Superintendent is at but very little cost to board them, the balance is allowed him, for we have no law forbidding it, under this precedent established, when it properly belongs and should go to the State.

From the facts stated above, a majority of your committee are forced to the conclusion that, to keep up and work such an institution by State authority, as it has been conducted, will always be a source of great corruption: it will be a harvest to be gathered by some favorite politician of the party in power at the time; and while the State revenue ought to derive at least \$25,000 per annum from

the profits of the institution, it will always prove to be an expense to the State.

It is clearly to the interest of the State to remove the source of corruption from the gaze of keen-sighted politicians, by leasing the whole establishment to individuals, requiring the lessee to make semi-annual payments or forfeit his lease. The treatment and support of the convicts should remain within the control and management of the State, and the lessee should only be entitled to the labor of the convicts, under such rules and regulations as the State may prescribe. This arrangement can easily be made, and it is believed that at least \$25,000 per annum could in this way be realized by the State treasury. Should, however, the Penitentiary continue to be conducted as it is, defalcation and confusion may be expected to continue, and the institution will continue to beg at the doors of the treasury for bread.

A majority of your committee deem it not improper to suggest, that, in case it is thought preferable to let the Penitentiary remain in its present relation to the State treasury, the Comptroller of the State be required to send an agent, who shall be a competent accountant, to, once in every six months, inspect the books and accounts both of Superintendent and Financial Agent, and make his report to the Comptroller.

The condition of finances of the institution is such that it will want the most prudent management to retrieve the losses incurred. The statement hereto annexed shows the assets of the Penitentiary at two different periods, August 1856, and January 1868, which latter have continued the same until the present time. At the former period the institution was quite prosperous, for the assets, consisting of manufactured goods, raw material and moneys, amounted to \$106,287.49.

Seventeen months after, these, as far as we could ascertain, were reduced to almost nothing, for no material and no money was on hand, and only a few manufactured goods, valued at \$1,893.93.

Besides this, a confusion prevails, which will want further labor, to ascertain whether these assets will not be changed into liabilities.

The main causes why the Financial Agent of that period has failed to preserve the finances of Penitentiary in the former prosperous condition, we have found to be the following :

Imprudent agreement with agents, to whom was granted unlimited power to dispose of manufactured goods without any control or restriction, and whose main object it seems to have been to get rid of them as fast as possible ;

Want of economy in the purchase of supplies ; and

Want of system and order in books and accounts.

During a period of twelve months goods were consigned to the agents, T. H. McMahan & Co., in Galveston, who, as per account sales, account for 1,265,818 yards.
 The books of the Penitentiary show a little less; viz. 1,258,234 yards.

Difference..... 7,584 yards,
 which can only be accounted for by omissions in these books.

After deducting from the proceeds of sales the charges, consisting in freight from Navasota to Galveston, insurance, commission, storage, freight to New Orleans and New York, and good many others, the proceeds of the above accounted for 1,265,818 yards were \$150,518.10; or 11 cents per yard Osnaburgs, 12½ cents per yard cotton Jeans, 24½ cents per yard W. Kerseys, 21¼ cents per yard White Plains.

But these were not yet the net proceeds, for in their account currents McMahan & Co. make charges of outlay for freight from Huntsville to Navasota and commission thereof, forwarding, labor on goods, interest on payments, reclamations for damaged goods, advertising, commissions on advancing and commission on disbursements, etc., etc., in all amounting to \$26,085.18, which reduce the proceeds of Osnaburgs from eleven cents to the net proceeds, "nine cents per yard."

According to books, the following rates have been paid for the raw cotton, out of which the above goods were manufactured:

1866. September, from 17½ to 20 cents; average, 18¾ cents.
 October, 20 cents; average, 20 cents.
 November, 20 cents; average, 20 cents.
 December, from 18 to 20 cents; average, 19 cents.
1867. January, 20 cents; average, 20 cents.
 February, from 18 to 20 cents; average, 19 cents.
 March, from 16 to 18 cents; average, 17 cents.
 April, from 15½ to 20 cents; average, 17¾ cents.
 May, from 13 to 18 cents; average, 15½ cents.
 June, from 14 to 16 cents; average, 15 cents.
 July, from 13½ to 19 cents; average, 16½ cents.
 August, from 13½ to 15 cents; average, 14¼ cents.
 September, from 15 to 16 cents; average, 15½ cents.
 October, 16 cents; average, 16 cents.
 Average rate per pound, 17½ cents.

As evidence for our assertion, that the Financial Agent was want-

ing in economy in purchasing supplies, we wish to draw attention to the latter rates. During September and October, 1867, cotton could be bought at Huntsville at from 7 to 9 cents, whereas from 15 to 16 cents have been paid.

One pound of raw cotton, the average price of which was $17\frac{3}{4}$ cents, yields $1\frac{3}{4}$ yard of Osnaburg, and as the net proceeds of 1 yard of Osnaburg, as stated before, was 9 cents, the net proceeds of $1\frac{3}{4}$ yard Osnaburg or 1 pound cotton was $15\frac{3}{4}$ cents, or $1\frac{3}{4}$ cents less than the cost of it. McMahan & Co. had received, besides other goods, 1,123,353 $\frac{1}{2}$ yards Osnaburgs, equivalent to 641,916 pounds cotton; these alone caused an actual loss of \$11,233.53 in specie.

Great sacrifices have been made by the shipment of goods to New York, which, considering the facility the telegraph offers to gain information in regard to the New York market, appears a very thoughtless undertaking, provided the agents had in view the interest of the consignor. Seven hundred and fifty bales of goods were consigned to New York;

75 bales of these, measuring 45,269 yards, brought....	\$3,757.66
McMahan & Co.'s charges... ..	130.00

Proceeds.....	<u>\$3,327.66</u>
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Or $7\frac{1}{8}$ c. per yard.

And, after deducting the proper share of McMahan & Co.'s charges of \$26,085.18, moderately estimated

at..... $1\frac{1}{8}$ c.

The net proceeds are 6c. per yard.

And $1\frac{3}{4}$ yards representing 1 pound cotton, the net proceeds of the latter is $10\frac{1}{2}$ cents. The raw material, bought in Huntsville at an average price of $17\frac{1}{2}$ cents per pound, brought, therefore, after requiring the labor of convicts, (and their support, wear of machinery, &c., considered) converted into goods and shipped to New York, 7 cents per pound less than cost.

After charging the Penitentiary with \$147 68 for extra labor during the overflow, the agents in Galveston sold 158 bales of goods, which, according to their statement, were damaged during that calamity, and amongst which was a considerable part woolen; they brought not even half the cotton value.

The books of the Financial Agent are kept without system and order. A comparison with the accounts current of McMahan & Co. has brought to light omissions to the amount of \$14,034 43, some

of which could possibly have escaped his knowledge, as they were charges per invoice. The accounts current above mentioned acknowledge, amongst others, the following receipts of moneys :

1867. February 8.	From Perkins, Swenson & Co.,	cash	\$3,286 04
March 1.	" A. Sessums & Co.,	"	2,008 59
	" do	"	966 87
April 15.	Draft on A. J. Burke,	"	218 18

Of these payments no entries can be found, and it can scarcely be presumed that the paying firms should have neglected to give notice to the Financial Agent, or that McMahan & Co. kept these receipts secret. The latter statement will sufficiently show how little reliable the books are.

The Financial Agent ought to be a man of some mercantile knowledge. Such a one would not have entered in agreement which gives the agents unrestricted authority to dispose of goods as ever they think proper, reserving for himself no right to stop them when he sees that they get rid of them too fast and at too low a figure. It was, to say the least, an imprudent act, which has taken from the institution a great deal of money, and thereby the means to increase its efficiency. Agreements of such magnitude ought, in future, to be subject to the endorsement of the Comptroller. For a person of mercantile knowledge it is an easy matter to calculate the actual cost of goods and the charges to the place of consignment, which will enable him to instruct his agents under what minimum price not to sell; he will, when no profitable market can be found, rather stop manufacturing, than evidently throw away money.

For the purpose of protecting the Penitentiary against losses and further claims, a majority of your Committee suggests, finally, that the books may be further investigated, the accounts balanced, and thereby ascertained who has claims against the institution, and who is debtor to it. We think the conclusion of this investigation of books, which would take from four to six weeks more, so much the more necessary, as it has important bearing upon the duties of Financial Agent as well as Comptroller.

STATEMENT SHOWING THE ASSETS OF THE STATE PENITENTIARY, AUGUST, 1866.

By G. W. Sinks, ex-Financial Agent, were delivered to D. C. Dickson, Financial Agent :

Manufactured goods on hand	\$45,962 66
do do with agents,	36,103 97

Moneys with agents,	7,808 01
Cash on hand,	412 85
Material, viz: 80,000 lbs. wool at 20c.,	16,000 00
	<hr/>
	\$106,287 49

JANUARY 14TH, 1868.

By D. C. Dickson, ex-Financial Agent, were delivered to G. W. Sinks, Financial Agent:

Manufactured goods on hand,	\$1,893 93
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N. B. From January 14th until the present time the Penitentiary has not only not improved financially, but has drawn \$12,500 from the State Treasury, and to-day it is wanting money again.

If the Penitentiary has greater assets, as stated above, or, as is presumed, has liabilities, such can only be ascertained by continued investigation of books.

JAMES P. BUTLER,
Chairman Committee.

Mr. Carter presented the following report and resolution:

COMMITTEE ROOM,
Austin, August 19, 1868.

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

SIR: Your committee, to which was referred the resolutions and declarations of Mr. Carter, and the substitute of Mr. Armstrong, in regard to opening the Memphis and El Paso railroad reserve to settlement, and to enable the settlers on said Memphis and El Paso railroad reserve to obtain titles to their homes, has thought that the object sought would be more quickly arrived at, and relief to the settlers on said reserve be more immediate and positive, by substituting the ordinances and declarations reported by your committee for the resolutions and declarations referred to it, and recommend that they be adopted.

CARTER,
On the part of the committee.

AN ORDINANCE

Granting land to actual settlers, to purchasers of lands, and location of genuine certificates, within the limits of the Memphis and El Paso railroad reserve.

SECTION 1. *Be it ordained and declared by the people of Texas in Convention assembled*, That all heads of families actually settled on vacant lands lying within the Memphis and El Paso railroad reserve, shall be entitled to and receive from the State of Texas eighty acres of land, including the place occupied, on payment of all expenses of survey and patent.

SEC. 2. *Be it further ordained and declared*, That all vacant lands lying within the Memphis and El Paso railroad reserve is hereby declared open and subject to sale to heads of families actually settled on, or who may actually settle in said reserve, at the price of one dollar per acre; and said vacant land within said reserve shall be open to preemption settlers, and subject to the location of all genuine land certificates.

SEC. 3. Whereas, on the fourth day of February A.D. 1856, an act, entitled "An Act to incorporate the Memphis, El Paso and Pacific Railroad Company," was approved by the Governor; and

Whereas, on the twenty-fifth day of August, 1856, the nineteenth section of said act was amended and approved by the Governor; and

Whereas, By the said act and amendment aforesaid, a certain quantity of lands per mile was granted to said Memphis, El Paso and Pacific railroad company, upon the express condition that the said company put in complete order twenty miles of said road; and

Whereas, A large quantity of certificates for lands have been issued by the Commissioner of the General Land Office to said company, and many patents have been issued thereon; and

Whereas, It is believed by this Convention that said patents and certificates have been issued in violation of the express provision of said act,

Therefore be it further resolved by this Convention, That it shall be the duty of the Attorney General of the State of Texas to prosecute suits in any court in this State, having competent jurisdiction, against said company, or any person or persons holding any of said certificates or patents for the purpose of having the same cancelled.

SEC. 4. *Be it further ordained and declared*, That this ordinance take effect from and after its adoption and approval.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Boyd, Bryant of Harris, Buffington, Caldwell, Carter, Cole, Constant, Curtis, Fayle, Fleming, Foster, Goddin, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Kirk, Lippard, McCormick, Munroe, Pedigo, Phillips of Wharton, Posey, Rogers, Scott, Stockbridge, Talbot, Watrous, Wilson of Brazoria, Wright—35.

Nays—Messrs. President, Butler, Burnett, Degener, Downing, Evans of McLennan, Flanagan, W. Flanagan, Harris, Johnson of Harrison, Keuchler, Leib, Lindsay, Long, Mackey, Morse, Muckle-roy, Newcomb, Oaks, Patten, Ruby, Schuetze, Slaughter, Smith of Galveston, Thomas, Whitmore, Williams, Wilson of Milam, Yarborough—29.

So the Convention refused to suspend the rules.

Mr. Horne introduced the following resolution :

Resolved, That a committee of three be appointed by the chair, to ascertain up to what date the reporter of this Convention has written out the speeches and debates, and to report thereon to-morrow.

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

Rules suspended.

Resolution read and adopted.

The President appointed Messrs. Horne, Talbot, and Thomas as the committee.

Mr. Board introduced the following resolution :

Resolved, That this Convention will not force money upon any member who does not want it.

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

Mr. Johnson, of Calhoun, moved a rejection of the resolution.

Carried.

Mr. Constant, of Hunt, moved to call up the report of the special committee appointed to visit the Blind Asylum.

The question recurred upon the adoption of the declaration reported by the committee.

It was adopted.

Mr. Smith moved a suspension of the rules, to put resolution upon its passage.

Rules suspended.

Resolution read and agreed to.

The question recurring upon the final passage of the resolution, it was adopted.

Mr. Schuetze moved that the rules be suspended to take up the report of the Committee on Education, respecting the appointment of a committee to visit the State asylums.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

The President appointed Messrs. Schuetze, Munroe, Slaughter, Talbot and Constant.

Mr. Smith, of Marion, introduced the following declaration :

A DECLARATION

To incorporate the Jefferson, Marshall and Big Cypress Bayou Bridge Company.

SECTION 1. That George W. Keene, Aaron Grigsby and W. H. Johnson, and such other persons as they may associate with themselves, and their successors, are hereby incorporated under the name of the Jefferson, Marshall and Big Cypress Bayou Bridge Company, and under such name shall sue and be sued, and have succession for thirty years.

SEC. 2. Said company shall have the right to construct a bridge of iron or wood across the Big Cypress Bayou, at a point opposite the city of Jefferson, between said city of Jefferson and Marshall.

SEC. 3. Said company shall construct said bridge in a good and substantial manner, within five years from the 1st day of January, A. D. 1869, and shall keep the same in good repair for the term of thirty years from the completion thereof, and to be ready at all times to pass all passengers, carriages, wagons, teams and stock that may wish to cross on said bridge, and be responsible as common carriers to the law for any loss of property in transit over said bridge.

SEC. 4. That said company shall be entitled to charge and receive, from the completion of said bridge, for the term of thirty years, the following tolls from all persons who may cross themselves or their property, viz : four-horse or ox stage, or wagon, loaded, fifty cents ; for six-horse or ox stage, or wagon, sixty cents ; and for each addi-

tional pair of horses, mules, or oxen, attached to said wagon, ten cents; for man and horse, ten cents; single horse and buggy, twenty-five cents; two-horse buggies, two-horse or ox wagons, forty cents, other vehicles in proportion; footman, five cents; cattle, five cents per head; hogs, sheep and goats, two cents per head; and all other property not mentioned in proportion to the above rates.

SEC. 5. That no other bridge or ferry shall be constructed or kept across the said Big Cypress Bayou or river, for the space of thirty years after the completion of the bridge, within a space of four miles on a straight line up and down said Big Cypress Bayou or river from said bridge, which said Jefferson, Marshall and Big Cypress Bayou Bridge Company may construct; provided, that in case the said bridge shall get out of repair, the said company shall be authorized to keep a ferry boat for the crossing of passengers over said bayou or river, until the said bridge is put in order.

SEC. 6. That any person crossing said bridge, or who shall by attempting to pass around said bridge, or otherwise attempt to evade the payment of the toll herein allowed, when said company are authorized to demand and receive the same, shall forfeit and pay to said company for every such attempt the sum of five dollars for each time attempted to be evaded, which may be recovered before any justice of the peace in whose jurisdiction such person may be found; provided, nothing herein contained shall be construed to prevent any person from crossing at any ford on said river, and that this declaration be and have effect from and after its passage, and all laws conflicting with this declaration are hereby repealed.

The question recurred upon the passage of the declaration.

It was agreed to.

Mr. Hamilton, of Travis, moved a suspension of the rules to put declaration upon its final passage.

Rules suspended.

Mr. Caldwell offered the following amendment:

Amend by adding the names of Aaron Grigsby and William H. Johnson.

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

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurred upon the final passage of the declaration, as amended.

It was passed.

Mr. Degener called up a declaration offered by Mr. Schuetze, on the 13th inst., respecting the repeal of laws relating to certain offenses on Sundays, approved December 16, 1863.

Mr. Degener moved the previous question.

Previous question seconded.

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

The main question was ordered.

The question recurred upon the adoption of the resolution.

It was adopted.

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

Rules suspended.

Mr. Hamilton, of Travis, moved that the word "repealed" be inserted instead of "null and void."

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Boyd, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Curtis, Downing, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Hamilton of Travis, Harris, Harn, Horne, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Leib, Lindsay, McWashington, Morse, Muckleroy, Mundine, Munroe, Pedigo, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith of Galveston, Smith of Marion, Stockbridge, Varnell, Wilson of Brazoria, Wilson of Milam, Wright—49.

Nays—Messrs. President, Degener, Evans of McLennan, Hunt, Kuechler, Lippard, Newcomb, Patten, Thomas, Whitmore, Williams—11.

So the motion prevailed.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Davis, of Nueces, called up the report of the special committee appointed to consider a communication and declaration respecting the State Penitentiary, laid before the Convention by His Excellency Governor E. M. Pease.*

By consent of the Convention Mr. Davis withdrew his call, to allow Mr. Degener to call up the report of the Committee on Political Disabilities.

On motion, the Convention adjourned until to-morrow morning at nine o'clock.

* For report see page 803.