

**TEXAS**  
**LAW**

**Tarlton Law Library**  
Jamail Center for Legal Research

Citation: *Journal of the Reconstruction Convention: which met at Austin, Texas. Texas.*

*Constitutional Convention (1868-1869). Austin, TX: Tracy, Siemering & Co., printers, 1870.*

Content downloaded from

Tarlton Constitutions 1824-1876 (<http://tarlton.law.utexas.edu/constitutions/>)

The text of these documents is in the public domain. That is, the original words and content are freely usable.

The images of the documents are copyrighted material; the copyright is held by the Tarlton Law Library. The copyrighted images may be used only with permission. Permission is granted to use the copyrighted materials in the classroom for educational purposes. Downloading, printing, publication, public display or otherwise using any of the copyrighted images, including on the web or in a forum other than a classroom, requires permission from Tarlton. Requests for permission to use these materials should be submitted online to [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

If you are uncertain whether you need permission to use these materials, please contact us at [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

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

*And provided,* That the State, through the Governor, shall be authorized to terminate such lease at any time on giving six months notice, in case it should prove, on trial, that this system of lease is inexpedient, or hurtful to the interests of the State, or the inmates of the Penitentiary.

The question recurred upon the adoption of the amendment.

It was not agreed to.

Mr. Munroe offered the following amendment :

And the Governor shall be empowered to insert such other terms in the contract as he may deem of interest to the State, which do not conflict with the rules herein prescribed.

The amendment was adopted.

The question recurred upon the adoption of the declaration.

It was adopted.

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

Rules suspended.

The declaration was passed.

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

---

CAPITOL, AUSTIN, TEXAS,  
August 22, 1868.

Convention met pursuant to adjournment.

Roll called. Quorum present. Prayer by the Chaplain. Journal of yesterday read and adopted.

The president announced the business in order was section seven of the report of the Judiciary Committee,\* upon the amendment to section seven, offered by Mr. Board.

Upon the adoption of the amendment, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Bledsoe, Board, Bryant of Grayson, Constant, Flanagan, Flanagan W., Harris, Jordan, Mundine, Rogers, Talbot—12.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter,

\*For report see page 465.

Cole, Curtis, Degener, Downing, Fayle, Fleming, Gaston, Goddin, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Harrison, Johnson of Calhoun, Keigwin, Kendal, Leib, Lindsay, McWashington, Morse, Muckleroy, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Phillips of Wharton, Ruby, Schuetze, Scott, Smith of Galveston, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—50.

So the Convention refused to adopt the amendment.

Mr. Lindsay offered the following amendment to section seven :

At the end of first line insert "causes;" at the beginning of thirteenth line, the words "for the;" in the same line after the word appointing, "of;" after "guardians" insert "for the;" after "granting" insert "of;" and in sixteenth line after the word "and" insert "for."

The question recurred upon the adoption of the amendment.

It was adopted.

The section as amended was adopted.

Mr. Wright moved the previous question upon the adoption of section eight.

Previous question seconded.

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

Main question ordered.

The question recurred upon the adoption of the section.

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

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter Cole, Constant, Downing, Fayle, Flanagan, Flanagan W., Foster, Goddin, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kirk, Leio, Lindsay, Long, McWashington, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Phillips of Wharton, Rogers, Ruby, Scott, Smith of Galveston, Stockbridge, Talbot, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—49.

Nays—Messrs. Bledsoe, Board, Boyd, Bryant of Harris, Butler, Curtis, Degener, Gaston, Harris, Hunt, Kendal, Morse, Oaks, Patten, Whitmore, Yarborough—16.

So the Convention adopted the section.

Mr. Patten moved to strike out the words "judge thereof" in the first line, and insert "Governor of the State."

The amendment was not agreed to.

Mr. Kirk offered the following amendment:

Strike out, in first and second lines, the words "be appointed by

the judge thereof," and insert "shall be elected by the qualified electors in each county."

Mr. Whitmore offered the following amendment :

Strike out in first line all after the words "shall be," and insert "elected by the qualified electors;" in second line strike out all after "years," in third line strike out so as to include "minutes of the court."

Ruled out of order.

The question recurred upon the adoption of the amendment.

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

Yeas—Messrs. President, Bell, Bledsoe, Board, Boyd, Bryant of Grayson, Bryant of Harris, Butler, Burnett, Carter, Cole, Constant, Curtis, Degener, Downing, W. Flanagan, Foster, Goddin, Harris, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lippard, Long, McCormick, McWashington, Morse, Muckleroy, Mundine, Munroe, Patten, Phillips of San Augustine, Rogers, Schuetze, Smith of Galveston, Smith of Marion, Sumner, Talbot, Thomas, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—49.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Buffington, Caldwell, Fayle, Flanagan, Fleming, Hamilton of Travis, Harn, Johnson of Calhoun, Leib, Lindsay, Newcomb, Patten, Scott, Stockbridge, Vaughan, Varnell, Yarborough—19.

So the amendment was adopted.

Mr. Buffington moved the previous question.

Previous question seconded.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Cole, Degener, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Hamilton of Travis, Harn, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Leib, Lindsay, Long, McCormick, McWashington, Morse, Pedigo, Phillips of Wharton, Rogers, Ruby, Scott, Smith of Galveston, Stockbridge, Talbot, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wright—43.

Nays—Messrs. President, Bell, Board, Boyd, Bryant of Harris, Butler, Constant, Curtis, Goddin, Harris, Hunt, Johnson of Harrison, Kirk, Muckleroy, Mundine, Munroe, Newcomb, Patten, Phillips of San Augustine, Schuetze, Smith of Marion, Sumner, Thomas, Whitmore, Wilson of Milam, Yarborough—26.

So the main question was ordered.

The question recurring upon the adoption of section nine as amended, the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Hamilton of Travis, Harn, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Lindsay, McCormick, McWashington, Morse, Mundine, Pedigo, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith of Galveston, Stockbridge, Talbot, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. President, Bledsoe, Board, Bryant of Grayson, Constant, Degener, Goddin, Harris, Hunt, Johnson of Harrison, Lippard, Muckleroy, Munroe, Newcomb, Patten, Phillips of San Augustine, Smith of Marion, Sumner, Thomas, Whitmore, Williams, Yarborough—22.

So the section was adopted.

Mr. Sumner gave notice that he would introduce a resolution providing for the adjournment of the Convention until the second Monday in January, 1869.

Mr. Lindsay moved to strike out the words "shall not be," in third line of section ten, and insert the words "are not."

Adopted.

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

Yeas—Messrs. President, Armstrong of Lamar, Bell, Bledsoe, Board, Bryant of Harris, Buffington, Burnett, Caldwell, Constant, Carter, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Leib, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Muckleroy, Mundine, Pedigo, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Thomas, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—56.

Nays—Messrs. Armstrong of Jasper, Bryant of Grayson, Goddin, Harris, Patten, Whitmore, Williams, Yarborough—8.

So section ten as amended was adopted.

Mr. Smith, of Galveston, moved to amend by striking out the words "whenever he may be interested," in first line of section eleven.

Lost.

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

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Constant, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Foster, Goddin, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Leib, Lindsay, McWashington, Morse, Muckleroy, Mundine, Munroe, Patten, Pedigo, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—59.

Nay—Whitmore—1.

So the section was adopted.

Mr. Wilson of Brazoria offered the following amendment to section twelve.

Amend by striking out all in first and second lines before the words, "each judicial district," and add, "There shall be a district attorney elected by the qualified electors of."

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Buffington, Burnett, Caldwell, Carter, Fayle, W. Flanagan, Fleming, Foster, Hamilton of Travis, Horne, Johnson of Calhoun, Jordan, Kealy, Leib, Lindsay, McWashington, Munroe, Phillips of Wharton, Posey, Stockbridge, Talbot, Vaughan, Yarborough—25.

Nays—Messrs. President, Bell, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Cole, Constant, Curtis, Downing, Flanagan, Goddin, Harris, Harn, Hunt, Johnson of Harrison, Keigwin, Kendal, Kirk, Lippard, McCormick, Morse, Muckleroy, Mundine, Patten, Phillips of San Augustine, Rogers, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Thomas, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—39.

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

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurred upon the adoption of section twelve as amended.

It was adopted.

Mr. Patten offered the following amendment to section thirteen :

Strike out "four thousand five hundred dollars" and insert "three thousand five hundred dollars," and insert "two thousand

dollars." Add in fourth line "or increased," after the word "diminished."

Mr. Flanagan moved the previous question.

Previous question seconded.

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

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

Yeas—Messrs. Armstrong of Lamar, Board, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Curtis, Degener, Fayle, Flanagan, W. Flanagan, Fleming, Hamilton of Travis, Harn, Horne, Johnson of Calhoun, Kealy, Keigwin, Kendal, Leib, Lindsay, McCormick, McWashington, Muckleroy, Munroe, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Scott, Stockbridge, Vaughan, Watrous, Wilson of Brazoria, Wright—37.

Nays—Messrs. President, Armstrong of Jasper, Bell, Bledsoe, Bryant of Grayson, Butler, Cole, Constant, Downing, Foster, Goddin, Harris, Hunt, Jordan, Lippard, Morse, Newcomb, Patten, Phillips of San Augustine, Smith of Marion, Sumner, Talbot, Thomas, Whitmore, Williams, Wilson of Milam—26.

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

Yeas—Messrs. Armstrong of Lamar, Board, Buffington, Burnett, Caldwell, Curtis, Degener, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Hamilton of Travis, Harn, Horne, Johnson of Calhoun, Kealy, Keigwin, Kendal, Leib, Lindsay, McCormick, McWashington, Mundine, Munroe, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Smith of Galveston, Stockbridge, Wilson of Brazoria, Wright—34.

Nays—Messrs. President, Armstrong of Jasper, Bell, Bledsoe, Bryant of Grayson, Butler, Carter, Cole, Constant, Downing, Goddin, Harris, Hunt, Jordan, Lippard, Morse, Muckleroy, Newcomb, Patten, Phillips of San Augustine, Smith of Marion, Sumner, Talbot, Thomas, Whitmore, Williams, Wilson of Milam, Yarborough—28.

So the section was adopted.

Section fourteen, on motion, was adopted.

Mr. Flanagan moved a reconsideration of the vote adopting the section.

Carried.

Mr. Lindsay moved to strike out in first line of section fourteen the words "or district attorneys."

Carried.

Section fifteen, on motion, was adopted.

Mr. Bledsoe moved to strike out section sixteen.

Lost.

Section sixteen, on motion, was adopted.

Section seventeen, on motion, was adopted.

Mr. Smith of Galveston offered the following amendment :

Strike out all after the word "be" in the first line, to the end of line, and insert "elected by the qualified voters of such county."

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

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

Yeas—Messrs. Armstrong of Lamar, Bryant of Grayson, Buffington, Caldwell, Carter, Constant, Fayle, Fleming, Hamilton of Travis, Horne, Johnson of Calhoun, Lindsay, Munroe, Phillips of Wharton, Posey, Scott, Stockbridge, Varnell, Vaughan—19.

Nays—Messrs. President, Armstrong of Jasper, Bell, Bledsoe, Board, Bryant of Harris, Butler, Burnett, Cole, Curtis, Degener, Downing, Flanagan, W. Flanagan, Foster, Goddin, Harris, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Long, McCormick, McWashington, Morse, Muckleroy, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Sumner, Talbot, Thomas, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—49.

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

By consent, Mr. Smith withdrew his amendment.

Mr. McCormick offered the following amendment :

Strike out all after "county," in the first line, to the word "who" in the second line, and insert, "shall be elected by the qualified voters thereof;" and in third line strike out "said" and insert "the district," and after the word "court," in third line, insert "for said county."

The amendment was adopted.

Mr. Degener moved to strike out all after the word "court," in third line, to "process," in fourth line.

Mr. Lindsay moved the previous question.

Previous question seconded.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong, of Lamar, Bell, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Constant, Curtis, Downing, Fayle, W. Flanagan, Foster, Hamilton of Travis, Harn, Horne,



Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Kendal, Leib, Lindsay, Long, McCormick, McWashington, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Posey, Rogers, Scott, Smith of Galveston, Stockbridge, Talbot, Thomas, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—49.

Nays—Messrs. President, Degener, Flanagan, Fleming, Goddin, Harris, Keigwin, Kirk, Lippard, Morse, Newcomb, Patten, Ruby, Smith of Marion, Sumner, Whitmore, Williams—17.

So the main question was ordered.

The question recurring upon the adoption of section eighteen as amended, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Constant, Curtis, Fayle, Flanagan, W. Flanagan, Foster, Hamilton of Travis, Harn, Horne, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Leib, Lindsay, McCormick, McWashington, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Posey, Rogers, Ruby, Scott, Smith of Galveston, Stockbridge, Sumner, Talbot, Thomas, Varnell, Watrous, Vaughan, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—50.

Nays—Messrs. President, Boyd, Degener, Fleming, Goddin, Hunt, Johnson of Harrison, Lippard, Long, Morse, Newcomb, Smith of Marion, Whitmore, Williams—14.

So section 18 was adopted.

Mr. Bryant, of Grayson, offered the following amendment to section 19 :

In fourth line, insert "four" for the word "two."

The amendment was agreed to.

Mr. Sumner offered the following amendment :

In second line, after the word "peace" insert "who shall receive a salary of not less than five hundred dollars annually."

On motion the amendment was laid upon the table.

Mr. Constant offered the following amendment :

Insert "at least" before "five," line two.

Mr. Buffington moved the previous question.

Previous question seconded.

The question recurring, "shall the main question be now put?"

The main question was ordered.

The question recurring upon the adoption of the section as amended.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett,

Caldwell, Carter, Cole, Constant, Curtis, Degener, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Kendal, Leib, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Muckleroy, Munroe, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Scott, Smith of Galveston, Stockbridge, Talbot, Thomas, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Yarborough—56.

Nays—Messrs. President, Bledsoe, Boyd, Harris, Keigwin, Kirk, Smith of Marion, Sumner, Whitmore, Williams, Wright—11.

So section 19 was adopted.

Mr. Buffington moved the adoption of section 20.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Boyd, Bryant of Grayson, Buffington, Caldwell, Carter, Cole, Constant, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Calhoun, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Lindsay, Long, McCormick, McWashington, Morse, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Scott, Smith of Galveston, Stockbridge, Talbot, Thomas, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—57.

Nays—Messrs. President, Board, Harris, Newcomb, Smith of Marion, Sumner, Whitmore—7.

So section 20 was adopted.

Mr. Constant moved to strike out the word "two" in third line in section 21, and insert "four."

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

The yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Boyd, Bryant of Grayson, Buffington, Caldwell, Carter, Cole, Constant, Curtis, Downing, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Hamilton of Travis, Harn, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Leib, Lindsay, Long, McCormick, McWashington, Morse, Muckleroy, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Scott, Smith of Galveston, Stockbridge, Talbot, Varnell, Vaughan, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—52.

Nays—Messrs. President, Board, Harris, Hunt, Kirk, Newcomb, Smith of Marion, Thomas, Whitmore, Williams—10.

Section 21 was adopted.

Section 22, on motion, was adopted.

Section 23, on motion, was adopted.

Mr. Sumner offered the following as a proposed new section :

All county and district officers, whose removal is not otherwise provided for, may be removed on conviction by a jury, after indictment for malfeasance, nonfeasance or misfeasance in office.

The question recurred upon the adoption of the proposed new section.

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

Yeas—Messrs. President, Bell, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Carter, Cole, Constant, Curtis, Degener, Downing, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Kendal, Kirk, Leib, Lindsay, Long, McWashington, Mundine, Munroe, Newcomb, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Thomas, Varnell, Wilson of Brazoria, Wright—50.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Boyd, Butler, Fayle, Harris, Morse, Muckleroy, Phillips of Wharton, Scott, Vaughan, Whitmore, Williams, Wilson of Milam, Yarborough—15.

So the section was adopted as section twenty-four.

Mr. Smith of Galveston moved that the rules be suspended to take up the report from the special committee.

Rules suspended.

Mr. Phillips of Wharton, from the special committee appointed to inquire into the right of certain delegates to a seat, reported as follows :

COMMITTEE ROOM,  
August 21, 1868.

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

SIR : Your special committee appointed to investigate the right of certain gentlemen to seats on this floor having attended to that duty, respectfully report that they have investigated the case of William Keigwin, who has been representing Leon county as a member of the Convention, and find, from the official records of the Bureau of Civil Affairs, that the said Wm. Keigwin was a registrar and Presi-

dent of the Board; also acted as clerk of the revision. That the said Keigwin was the presiding Judge of Election to this Convention; and the committee would respectfully call the attention of the Convention to section six of circular sixteen, dated Headquarters District of Texas, Galveston, May 16, 1867, as follows: "No supervisor, registrar or clerk shall be a candidate for any office while engaged as such, and each will be held to a rigid accountability for the performance of his duties, and be subject to trial by military commission for fraud or partial conduct."

\* \* \* \* \*

Mr. Smith of Galveston offered the following resolution:

*Resolved*, That William Keigwin holds a seat in this Convention in violation of a military order, and the seat thus held is declared by this Convention vacant.

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

---

#### AFTERNOON SESSION—FOUR O'CLOCK.

Convention met pursuant to adjournment.

Roll called. Quorum present.

Mr. Phillips of San Augustine offered the following:

#### DECLARATION.

WHEREAS, There is no jail in the county of San Augustine, in this State; and

WHEREAS, The said county is and has been, for a number of years, unable to meet her liabilities; and

WHEREAS, The almost total failure of crops in said county in 1867 has left the people thereof in very embarrassed circumstances; therefore,

*Be it declared by the people of Texas in Convention assembled*, That Brevet Major-General J. J. Reynolds, Commander of the Fifth Military District, be requested to order the relinquishment of the State tax due the State from said county, for the years 1867 and 1868, to San Augustine county, for the purpose of building a jail in said county.

Mr. Phillips of Wharton moved the rules be suspended to consider resolution.

Rules not suspended.

Mr. McCormick introduced the following:

### DECLARATION.

WHEREAS, it is probable that this Convention will adjourn at an early day, to re-assemble about the beginning of the ensuing winter, and that the Congress of the United States will be in session during the recess of the Convention.

*Resolved*, That it is the sense of this Convention that the reconstruction of loyal government in this State, the public tranquility, and the general welfare of the people would be greatly promoted by sending to the city of Washington competent persons, who shall be members of this body, authorized by this Convention to confer with the President and Congress of the United States, and the General of the army, in relation to the condition and wants of the people of the State, until such time as this Convention shall re-assemble.

*Resolved*, That, for the purpose set forth in the foregoing resolution, the Hon. Andrew J. Hamilton, and the Hon. Colbert Caldwell shall proceed to the National Capital immediately upon the adjournment of this Convention, to co-operate with the Hon. Morgan C. Hamilton, whose previous appointment by this body is hereby continued.

*Resolved*, That the Commanding General of the Fifth Military District is hereby requested to appropriate the sum of three thousand dollars out of any moneys in the treasury not otherwise appropriated, to defray the expenses of the said three commissioners; the said sum to be equally divided between them.

*Resolved*, That this Convention reposes entire confidence in Brevet Major-General J. J. Reynolds; and that, in the appointment of the above-named commissioners, it is the desire of the Convention to co-operate with him in his present earnest and patriotic efforts to discharge efficiently the trust reposed in him.

Mr. McCormick moved a suspension of rules to take up declaration.

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

Yeas—Messrs. Armstrong of Lamar, Bell, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Curtis, Fayle, Flanagan, Fleming, Foster, Goddin, Horne, Johnson of Calhoun, Kealy, Kendal, Leib, Lindsay, Long, McCormick, Mc-

Washington, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Scott, Smith of Galveston, Smith of Marion, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wright—36.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Butler, Cole, Constant, Downing, Harris, Harn, Jordan, Keigwin, Kirk, Lippard, Morse, Muckleroy, Newcomb, Oaks, Patten, Rogers, Thomas, Whitmore, Williams, Wilson of Milam—24.

So the Convention refused to suspend rules.

Mr. Downing called up the report of the Committee on Federal Relations, with accompanying declaration, providing for the granting of land to soldiers and their heirs, from the State of Texas, in the war for the suppression of the rebellion.

[Mr. Phillips, of San Augustine, in the chair.]

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

Third line, section one, insert, after the word "force," "purporting to be from Texas."

The amendment was adopted.

Mr. Davis of Nueces offered the following amendment :

At the end of section first add :

"And the Legislature is directed to provide a bounty in money for each non-commissioned officer, or private, in any of the above organizations, who served one year or more, one hundred dollars, and for each non-commissioned officer, or private, who served less than one year, fifty dollars; such bounty to go to the heirs of same in case of their decease."

The amendment was adopted.

Mr. Davis, of Nueces, offered the following as a substitute for section five of the declaration :

"That the Secretary of State is hereby directed to procure, from the Secretary of War of the United States, a true copy or copies of the muster rolls of the Texas organizations in the service of the United States, and have the same filed in the Executive Office of the State of Texas."

The substitute was adopted.

Mr. Smith, of Marion, 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, Bell, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Caldwell, Carter Constant, Curtis, Downing, Fayle, Fleming, Foster, Goddin, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Kendal, Leib, Lippard, Long, McCormick, McWashington, Mundine, Munroe, Newcomb, Patten, Phillips of San Augustine, Phillips of Whar-ton, Posey, Rogers, Ruby, Scott, Smith of Galveston, Smith of Marion, Talbot, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—46.

Nays—Messrs. Armstrong of Jasper, Board, Boyd, Cole, W. Flanagan, Keigwin, Morse, Muckleroy, Varnell—9.

Mr. Burnett asked to be excused from voting.

Excused.

Mr. Lindsay asked to be excused from voting.

Excused.

Mr. Stockbridge asked to be excused from voting.

Excused.

Mr. Thomas asked to be excused from voting.

Excused.

Messrs. Hamilton, Davis, Slaughter and Hunt, being interested, were excused from voting.

The main question was ordered.

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

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bell, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Caldwell, Carter, Constant, Curtis, Downing, Fayle, Fleming, Foster, Goddin, Ham-ilton of Travis, Harn, Johnson of Harrison, Jordan, Kealy, Kendal, Leib, Lippard, Long, McCormick, Mundine, Munroe, Newcomb, Patten, Phillips of San Augustine, Phillips of Whar-ton, Posey, Rogers, Ruby, Smith of Galveston, Smith of Marion, Talbot, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—44.

Nays—Messrs. Armstrong of Jasper, Board, Boyd, Cole, Keig-win, Morse, Muckleroy, Varnell—8.

Mr. Hamilton, of Travis, moved a suspension of rules to take up declaration.

Rules suspended.

Mr. Hamilton, of Travis, offered the following amendment :

First section insert " non-commissioned " before word " officer,"

in first line; also, strike out word "officer" before "non-commissioned officer," in second line.

Mr. Smith, of Marion, moved to lay the amendment upon the table.

Carried.

Mr. Johnson, of Calhoun, offered the following amendment:

Amend by doubling the amount of the land which is to be granted, and strike out all that portion which contemplates giving money.

On motion the amendment was laid on the table.

Mr. Phillips, of San Augustine, offered the following amendment:

Provided, that those who joined the army and served as a substitute for any other person, shall not be entitled to the benefit of the foregoing resolution.

Mr. Smith, of Marion, moved to lay the amendment upon the table.

Carried.

Mr. Smith, of Galveston, moved the previous question upon the final passage of the declaration.

Previous question seconded.

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

Main question ordered.

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

Yeas—Messrs. Armstrong of Lamar, Bell, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Caldwell, Carter, Constant, Curtis, Downing, Fayle, Fleming, Foster, Goddin, Johnson of Harrison, Jordan, Kendal, Leib, Lippard, Long, McCormick, McWashington, Mundine, Munroe, Newcomb, Oaks, Patten, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Scott, Smith of Galveston, Smith of Marion, Talbot, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—45.

Nays—Messrs. Armstrong of Jasper, Boyd, Board, Cole, W. Flanagan, Keigwin, Morse, Muckleroy, Varnell—9.

So the declaration as amended was passed.

Mr. Patten moved to adjourn until Monday morning, at nine o'clock.

Lost.

Mr. Fayle called up the report of the Committee on Internal Im-



provements, upon the motion to reconsider the vote laying the report upon the table, and the motion to lay that motion on the table.

The question recurred upon the motion to lay the motion to reconsider the motion upon the table.

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

Yeas—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Burnett, Cole, Keigwin, Kendal, Lippard, Morse, Newcomb, Oaks, Patten, Smith of Marion, Talbot, Thomas, Whitmore, Wilson of Milam—18.

Nays—Messrs. Armstrong of Lamar, Bell, Board, Bryant of Harris, Bryant of Grayson, Buffington, Butler, Caldwell, Carter, Curtis, Fayle, Flanagan, W. Flanagan, Fleming, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Johnson of Calhoun, Kealy, Leib, Lindsay, Long, McCormick, McWashington, Munday, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Scott, Slaughter, Smith of Galveston, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—42.

So the Convention refused to lay on the table.

The question recurred upon the motion to reconsider.

The Convention agreed to reconsider the vote laying the vote laying the report upon the table.

The question recurred upon the adoption of the substitute offered by Mr. Caldwell.

Substitute adopted.

Mr. Caldwell moved to strike out all that portion of the substitute in relation to the Buffalo Bayou, Brazos and Colorado Railroad.

The motion prevailed.

Mr. Davis moved to insert in section third: "On the 1st day of March, A. D. 1868.

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

It was adopted.

The question recurred upon the declaration in relation to the Houston Tap Railroad.

Mr. Davis moved to strike out section five of the declaration.

Carried.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Smith, of Galveston, moved a suspension of the rules to put declaration on its final passage.

Rules suspended.

Mr. Caldwell offered the following amendment to section two of first declaration :

Amend the second section of the first declaration so that it shall read as follows :

It shall be the duty of the Governor, as soon after the passage of this declaration as may be consistent with his other official duties, to cause said railroads to be advertised for sale, for sixty days, in the following named newspapers, to-wit : The San Antonio Express, The Austin Republican, Flake's Galveston Bulletin, the Galveston News, the National Index, at Tyler, Smith county, and some newspaper in the city of Marshall, in Harrison county, and also for forty days in some leading newspaper in the city of New York. The sale shall take place on the steps of the Capitol, in the city of Austin, between the hours of ten o'clock A. M., and two o'clock P. M., under the direction of the Governor. The said roads shall be sold separately. The sale shall transfer to the purchaser all the property in the road ; and of the company to which the bonds executed for the loan of the special school fund are a lien, as set forth in the third section of the act of the thirteenth of August, A. D. 1856, concerning the loan of the school fund.

Mr. Armstrong, of Lamar, moved to strike out " Galveston News," and insert " Paris Vindicator."

Accepted.

Mr. Talbot moved to amend by inserting one leading paper in Philadelphia and Boston.

Mr. Slaughter moved to insert the McKinney Messenger.

Accepted.

The question recurred upon the adoption of the amendment,

It was adopted.

Mr. Caldwell offered the following amendment to section six of the first declaration :

Amend the sixth section of the declaration, by adding to it the following :

And any person or persons who may purchase said roads, or either of them, from the Governor, under the provisions of this section, shall be required to deposit in the treasury of the State, for the Texas and New Orleans roads, the sum of one hundred thousand dollars in United States currency; and, for the Southern Pacific road, the sum of twenty thousand dollars in United States currency. Said deposits shall be upon the consideration, which shall be expressed in the contracts, that, when the purchaser of either of said roads shall have expended an amount equal to the amount deposited, in

making proper repairs upon the roads, said purchaser shall have the right to withdraw one-half of the amount deposited, upon the certificate of the Governor; and when a further sum, equal to the whole amount of the sum originally deposited, shall be expended by the purchaser in making proper repairs upon the roads, then said purchaser shall have the right to withdraw the remainder of the deposit, upon the certificate of the Governor. And it shall also be stipulated that if the purchaser making the deposit, as above provided, shall fail to make proper repairs upon the road purchased, equal in value to the amount deposited, within six months from the time such purchaser shall obtain possession of the road purchased, then the sum deposited shall be absolutely forfeited to the State; and it shall be further provided in any contract which the Governor may make with any purchaser of either of said roads, that if said purchaser shall fail to comply with the engagement to put the road purchased in good running order, for the use of the public, within the time agreed upon in the contract, then the road shall be forfeited to the State, and the Legislature, at its first session thereafter, shall declare the forfeiture, and make such disposition of the road as may be deemed most beneficial to the State. Having respect to all the provisions of this section, the Governor is hereby authorized to sell said roads to such person or persons as shall, in his judgment, offer the greatest advantages to the State.

The question recurred upon the adoption of the amendment.

It was adopted.

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

It was adopted.

The question recurred upon the adoption of the declaration respecting the Houston Tap railroad.

It was adopted.

On motion, the Convention adjourned until Monday morning at 9 o'clock.