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CAPITOL, AUSTIN, TEXAS,
February 2, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Wilson, of Brazoria, from the Committee on Counties and County Boundaries, reported as follows :

COMMITTEE ROOM,
February 1, 1869.

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

SIR: The Committee on Counties and County Boundaries, to whom was referred the declaration introduced by Dr. R. R. Smith re-incorporating the city of Galveston, have had the same under consideration. The committee are of the opinion that a great deal of the power vested in the mayor by the declaration in its present shape should be vested in the city council. The declaration provides that no person who is not duly registered according to law shall be allowed to vote for any of the officers elected under this charter. The committee are of the opinion that every male inhabitant of sane mind and over twenty-one years of age, and who is a resident citizen of Galveston, should be deemed a qualified voter.

It provides that the city council should have power to levy a special tax for public improvements. While the committee are strongly in favor of public improvements, they think that this is lodging too much power in the hands of the city council, the abuse of which would work very great hardship upon the citizens of Galveston, and are of the opinion that that portion of the charter giving the city council the authority to lay a special tax for improvements should be stricken out. As the charter provides for the appointment of most of the city officers by the mayor, instead of their being elected by the city council, as they have been heretofore, the committee are of the opinion that some provision should be made for the removal of every officer so appointed for malfeasance, misfeasance or

nonfeasance in office, and that the power of removal should be vested in two-thirds of the members elected to the city council. Should the Convention deem it proper to make the alteration in the declaration suggested by the committee, I am instructed to make this their report, with the recommendation that the declaration be adopted, with the following proposed alterations and amendments:

Page 4, section 5, in line 14, strike out "at each annual election of mayor," and insert "annually."

Page 5, section 7, in lines 8 and 9, strike out "shall vote, who has not been duly registered according to law," and insert "belonging to the regular army or navy of the United States shall be so entitled."

Page 21, section 28, in line 4, strike out after the word "State" "that the city council shall have authority to levy a special tax for public improvements."

Page 31, section 57, in line 4, strike out "mayor" after the word "the" and insert "city council." In fifth line of the same page and section, after the words "inspectors as," strike out the word "he" and insert "they."

Page 41, section 91, in line 2, after the word "recorder," strike out the words "and the health physician." In same line, after the word "mayor," insert the word "and."

Page 41, section 96, in line 7, after the word "them," insert "or appointed by the mayor."

Page 42, section 96, in line 2, after the word "them," insert "or by the mayor."

Respectfully submitted,

WILSON, of Brazoria,
Chairman Committee.

Mr. Burnett, from the special committee appointed to inquire into the conduct of the Assistant Doorkeeper, reported as follows:

REPRESENTATIVE HALL,
February 1, 1869.

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

SIR: The special committee, to whom was referred the charge made by Hon. Mr. Ruby, of Galveston, against the Assistant Doorkeeper of this Convention, Scipio McKee, to-wit: that said McKee did on this morning, first instant, wantonly and without provocation, violently assault Mr. Ruby on the public street of this city, and while he was on his way to the capitol. After a full examination the committee find that the charge preferred is fully sustained by the evidence, and believing that the only penalty for the offense, so far as this Convention is concerned, is in the dismissal of the offender from the service of this body, and that justice to the member attacked and to the Convention demands this action, respectfully recommend the adoption of the accompanying resolution.

Respectfully submitted,

BURNETT,
Chairman Committee.

RESOLUTION.

Resolved, That Scipio McKee, Assistant Doorkeeper, for committing a violent and unprovoked assault on the person of Mr. Ruby, a member of this Convention, is hereby dismissed the service of this body.

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

Previous question seconded.

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

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

Yeas—Messrs. President, Bellinger, Board, Brown, Butler, Burnett, Carter, Degener, Downing, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jordan, Kuechler, Lippard, Long, Mills, Mullins, Newcomb, Patten, Slaughter, Smith, Thomas, Whitmore—26.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Buffington, Cole, Curtis, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Scott, Sorrell,

Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—33.

So the Convention refused to order the main question.

Mr. Bryant, of Grayson, rose to a question of personal privilege, and moved the expulsion of Mr. Bryant, of Harris.

The Chair decided the motion out of order.

Mr. Bryant appealed from the decision of the chair.

The motion, by leave, was withdrawn.

The question then recurred upon the adoption of the resolution reported from the special committee.

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

Yeas—Messrs. President, Bellinger, Brown, Board, Butler, Burnett, Carter, Degener, Downing, Evans of Titus, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jordan, Kealy, Kuechler, Lippard, Long, Mills, Mullins, Newcomb, Patten, Phillips of San Augustine, Slaughter, Smith, Thomas, Whitmore, Wilson of Milam—29.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bryant of Grayson, Buffington, Cole, Curtis, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Keigwin, Kendal, Kirk, Leib, McCormick, McWashington, Morse, Mundine, Phillips of Wharton, Rogers, Scott, Sorrell, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—32.

So the Convention refused to adopt.

Mr. Hamilton of Travis, presented the following communication from Mr. Mackey :

AUSTIN, February 2, 1869.

Hon. A. J. HAMILTON :

Having been urged by my constituency not to resign my seat as a member of the Convention, therefore I request you to ask the Convention for permission to withdraw my resignation.

Respectfully,

JOHN MACKEY.

By leave of the Convention, Mr. Mackey was allowed to withdraw his resignation.

Mr. Burnett, from the special committee to inquire into the

breach of order of the secretary of the Convention, reported as follows :

REPRESENTATIVE HALL,
February 2, 1869.

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

SIR : The special committee to whom was referred the charges made by the President against the secretary of the Convention, to wit : that the secretary had presented an incorrect account for inscribing the journals of the Convention in record books ; and further, that he had refused to sign the President's pay certificate, because the President would not approve his said account, have had the matters referred under consideration, and having carefully examined the same, have the honor to report :

That the secretary has drawn pay for recording the journals up to October 12, last, at the rate of one dollar per page ; that previous to his drawing any pay, Messrs. Carter, McCormick and Munroe, members of the Convention, at the request of the secretary, examined the records, and agreed with him that the pages would average five hundred words, which at twenty cents per hundred words (the price allowed by the Convention) makes one dollar per page ; and that the secretary, in his account recently presented to the President, claimed one dollar per page, supposing that the subsequent pages recorded would average five hundred words ; but, after as careful an examination as we could make, we find that of the recording unpaid for to the 29th ult., inclusive, two hundred and nineteen pages average five hundred words, or one dollar to the page, and that the balance, three hundred and fifty-one pages, average three hundred and seventy-five words, or seventy-five cents to the page, amounting in all to the sum of four hundred and eighty-two dollars and twenty-five cents, which sum we respectfully recommend be paid to the secretary for recording to the 29th ult., inclusive. The committee did not critically examine the style of the records, or their correctness as compared to the original journals ; but from the examination made, we are free to say that the larger portion of the work is executed in a neat and satisfactory manner.

As to the charge that the secretary told the President that he would not sign his (the President's) pay certificate unless the President would approve the accounts presented by the secretary, for recording the journals, we find that the charge preferred is sustained by the proof. The secretary has assured the committee, however,

as he did the Convention this morning after adjourning, that the remark was made without reflection, and in a moment of ill-temper; that he regretted it, and that he is ready at any time to sign the certificate of the President, or of other members of the Convention, and perform any other duties required of him. We, therefore, recommend that this apology be deemed a sufficient excuse, and that no further action be taken by the Convention in the matter of the contempt of the secretary.

Very respectfully,

J. R. BURNETT,
A. P. McCORMICK,
JAMES BROWN.

Resolved, That the President approve a certificate on the treasury in favor of N. V. Tunstall, secretary of the Convention, for the sum of four hundred and eighty-two dollars and twenty-five cents, for recording the journals of the Convention up to and including the 29th January, 1869.

Mr. Hamilton of Bastrop, offered the following substitute :

Resolved, That the record of proceedings of the Convention made up by the secretary, together with the certified copy of the declaration authorizing the work to be done, be sent for audit and settlement to the proper accounting officers of the Provisional Government, who are requested to verify the accuracy by a scrutiny into the whole record, and after finding the number of words embraced therein, to compute the same at the stipulated rate per one hundred words, deducting from the sum total the aggregate amount of the several sums already paid, allowing the claim of the secretary for the residue, if any, and that the recording cease from this date.

The question recurred upon the adoption of the substitute.

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

Yeas—Messrs. President, Armstrong of Jasper, Bryant of Grayson, Butler, Degener, Evans of Titus, Flanagan, Hamilton of Bastrop, Hunt, Kuechler, Lippard, Long, Newcomb, Patten, Ruby, Slaughter, Smith, Whitmore, Wilson of Milam—19.

Nays—Messrs. Armstrong of Lamar, Bell, Bellinger, Board, Brown, Buffington, Burnett, Carter, Cole, Curtis, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, Mc-

Washington, Mills, Morse, Mullins, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—42.

So the Convention refused to adopt.

Mr. Degener offered the following substitute :

Resolved, That the Secretary, for disrespectful conduct toward the President of the Convention, be discharged from his position.

Mr. Hamilton, of Travis, moved the previous question upon the adoption of the resolution reported by the special committee.

Previous question seconded.

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

Main question ordered.

The question recurred upon the adoption of the report of the special committee.

It was adopted.

Mr. McCormick moved the rules be suspended to put the resolution reported by the special committee on its final passage.

Motion withdrawn.

Mr. Bryant, of Grayson, moved to take up the resolution offered by himself respecting Mr. Bryant, of Harris.

Mr. Butler offered the following amendment :

"Amend by adding the name of C. Caldwell, as he has been accused of conduct unbecoming a gentleman by the newspapers of the State."

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

Previous question seconded.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Mackey, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—32.

Nays—Messrs. President, Bellinger, Board, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Faile, Flana-

gan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Newcomb, Patten, Ruby, Smith, Varnell, Watrous, Whitmore, Williams, Wilson of Milam--31.

So the main question was ordered.

The question recurred upon the adoption of the resolution.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Brown, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Mackey, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Scott, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wilson of Milam, Wright—33.

Nays—Messrs. President, Bellinger, Board, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Newcomb, Patten, Ruby, Smith, Varnell, Watrous, Whitmore, Williams—30.

So the resolution was adopted.

Mr. Thomas rose to a point of order that Mr. Bryant, of Harris, was not expelled, as a two-thirds vote was necessary to expel a member of the Convention.

The President decided the point of order in the negative.

Mr. Thomas appealed from the decision of the Chair.

The question recurred, "Shall the decision of the Chair stand as the decision of the House?"

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Board, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Glenn, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kendal, Kuechler, Kirk, Lippard, Long, Morse, Mullins, Newcomb, Patten, Phillips of Wharton, Ruby, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Whitmore, Williams, Wilson of Milam—40.

Nays—Messrs. Bell, Bellinger, Bryant of Grayson, Cole, Fleming, Gaston, Hamilton of Travis, Harn, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Mills, Mundine, Phillips of

San Augustine, Posey, Rogers, Scott, Thomas, Wilson of Brazoria, Wright—24.

So the decision of the chair was sustained.

Mr. Smith, from the special committee appointed to inquire into the allegations contained in a certain paper, purporting to be a presentment of this Convention for misconduct in engaging in the business of dividing the State, and which proposed to have been issued by the Grand Jury of the United States District Court of the Western District of Texas, reported as follows :

HALL OF THE CONVENTION,
Austin, January 31, 1869.

Hon. E. J. DAVIS,
President :

SIR: The special committee, appointed to "inquire into the allegations and statements contained in a certain paper, purporting to be an official resolution of the grand jury of the district court of the United States, for the Western district of Texas, and to send for persons and papers, and to examine witnesses on oath," respectfully report,

That the chairman issued summons to the following witnesses, to appear before the committee on the 29th at 3 o'clock, viz: J. D. McGary, M. K. Ryan, James Phillips, and J. N. Billingsley, members of the aforesaid grand jury, and whose names were published as signers of the aforesaid paper; and to the Hon. T. H. Duval, judge; A. P. Blocker, marshal; Mathew Hopkins, clerk, and Fred. Carleton, acting district attorney, of the aforesaid United States Court, which summons was couched in the following language, and a copy served upon each of the above named gentlemen by the sergeant-at-arms of this body:

HALL OF THE CONVENTION,
Austin, Texas, Jan. 29, 1869.

SIR: You are hereby summoned to appear before a special committee, appointed by the State Constitutional Convention, to testify in regard to certain statements and allegations contained in a certain paper, purporting to be an official resolution of the grand jurors of the district court of the United States, for the Western district of Texas.

The committee will sit in the Convention hall at 3 o'clock, this afternoon.

ROBERT K. SMITH,
Chairman Committee.

The above named grand jurors declined to appear, one on account of infirm health, and another on account of his private business; the remainder positively and discourteously refused to obey the summons. The Hon. Judge Duval replied to the summons in the following written communication:

U. S. CIRCUIT COURT ROOM,
Austin, January 29, 1869.

To ROBERT K. SMITH, Esq.,
Chairman of the Special Committee:

SIR: In reply to the summons sent to me by you, as chairman of a special committee of the State Convention, to appear at 3 o'clock this afternoon before said committee, and testify in regard to what purports to be an official resolution of the grand jurors of the district court of the United States, I have respectfully to state that I cannot comply therewith; nor can I permit any of the officers of my court to attend, for the reason that the business of the court requires their presence here.

Very respectfully,
T. H. DUVAL,
U. S. Judge.

Your committee would call the attention of the Convention to the fact that the above communication from the court prevented any access to official information upon the subject to be inquired into, and to an avoidance on the part of the court to impart any such information to members of this committee. From other sources of information the committee learn that no such paper as the one referred to, and purporting to be an official paper of the aforesaid United States Grand Jury, was ever presented, or read, or entered upon the minutes of the said court, and that the publication of the said pretended official resolutions was unauthorized by said court. This information was obtained from an officer of that court in a conversation with the chairman of this committee.

The preamble to the resolution contains the following language:

“WHEREAS, We, the Grand Jurors of the District Court of the United States for the Western District of Texas, loyal citizens of
2D SESS.—30

the United States and registered voters of the State of Texas, having finished the business brought before us at the present (January, 1869,) term of said court, and being ready to adjourn *sine die*, having had our attention called to the action and conduct of the Constitutional Convention of the State, now in session in this city"—

Manifestly conveying to the world the idea that, as an official body of men, their attention had been officially called to the conduct of this Convention.

And in the same preamble it is stated that the members are "now, and have been for some time, engaged in general legislation, and in illegal, revolutionary and unauthorized schemes."

The object of the publication of this most extraordinary document is seen upon its face. It is, first, to deceive the people into a belief that it is an official paper; secondly, to deceive them in regard to the official conduct of this Convention; thirdly, to deceive them in reference to questions of fact and allegations throughout the whole paper; and lastly, to manufacture a public opinion which shall hold up to odium and reprobation not only the work of this Convention, but the members who compose it, and to destroy their influence by the most false, perverted and unfounded statements in regard to their arbitrary and arrogant defiance "of the people and their wishes, for purposes of self-aggrandizement and political power."

That the honorable court should, by a refusal to testify, or even to state in the reply to the chairman of this committee, that it was no party to so vile a fraud, and that the paper had no official authority, justify the committee in believing that it was the desire of the court that the said pretended official resolutions should have the same damaging force and effect as though they had been legitimately passed upon, and had the weight of official authority; and that it was also the purpose to convey the impression, in the language of the said paper, that this Convention has shown a desire and taken measures to secure a "dismemberment of our State, contrary to the wishes and desire of a large majority of the loyal citizens and registered voters of Texas," "which dismemberment they propose to accomplish in a manner totally at variance with the mode pointed out by the Constitution and laws of the United States;" and that "the said Convention, or a majority of the members thereof present, since its assemblage, have shown a total disregard for the wishes and feelings of their constituents," "and assert that they will carry out their plans without referring them back to the legal voters of Texas for ratification or rejection; and further, that there is no power "to restrain the said Convention in its unauthorized and revolutionary course;" and further, that the Republicans of this body who are in favor of a division of the State are playing the role of the Secession-

ists of 1861; but they, the fourteen Grand Jurors, feel it to be, in the language of the first resolution, their "solemn and bounden duty, as loyal citizens of the United States and of the State of Texas, to resist and lend our aid to prevent the dismemberment of the State of Texas, at this time, by an unauthorized body of men, as it was under very similar circumstances to resist the dismemberment of the United States by the secession of Texas, in 1861; and as we did then individually resist and attempt to prevent such secession, so we do now most earnestly protest against the division of the State of Texas, as being in violation of law and the wishes of the people."

In view of all these allegations and charges, so falsely made, this committee would most respectfully call the attention of this Convention, of the Commanding General, of the people of Texas, and of the Congress of the United States, to the present organization and composition of the aforesaid District Court of the United States, and submit herewith two official oaths, copied from the originals on file in the Treasury Department of the State of Texas.

OATH OF JUDGE DUVAL,

Of the District Court of the United States.

THE STATE OF TEXAS, }
COUNTY OF TRAVIS. }

I, Thomas H. Duval, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent on me as assistant clerk in the General Land Office, according to the best of my skill and ability, agreeably to the constitution and laws of the State of Texas, and also the constitution and laws of the Confederate States of America, so long as the State of Texas shall remain a member of that Confederacy; and I do further solemnly swear that since the second day of March, 1861, I being a citizen of this State, have not fought a duel with deadly weapons within this State or out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending, so help me God.

[Signed]

THOS. H. DUVAL.

[SEAL]

Sworn and subscribed before me this ninth day of
July, A. D. 1861.

[Signed]

S. CROSBY,

Notary Public, Travis county, Texas.

OATH OF MATTHEW HOPKINS,

Clerk of the District Court of the United States for the Western
District of Texas.

THE STATE OF TEXAS, }
COUNTY OF TRAVIS. }

I, Matthew Hopkins, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent upon me as an assistant clerk in the General Land Office of the State of Texas, according to the best of my ability and skill, agreeably to the constitution and laws of the State of Texas, and also to the constitution and laws of the Confederate States of America, so long as the State of Texas shall remain a member of that Confederacy; and I do further solemnly swear that since the second day of March, 1861, I being a citizen of this State, have not fought a duel with deadly weapons within this State or out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending, so help me God.

[Signed]

MATTHEW HOPKINS.

[SEAL] Sworn and subscribed before me this first day of November, 1861.

[Signed]

FRED. J. ROBERTS, J. P.

Austin, Texas, Travis county, November 1, 1861.

These are some of the evidences of the "loyalty" of two of the gentlemen who are officers of that court, and who under the fourteenth amendment of the constitution of the United States are disqualified from holding office.

Of the loyalty and former status of the fourteen gentlemen who acted as grand jurors, and whose names are attached to the aforesaid publication, your committee have no means of ascertaining officially. But enough is it to know, that under the local influences of Austin and its surroundings, they have been induced to abandon their legitimate duties and enter the arena of politics, and to involve a judicial tribunal in political questions with which, as a court, it has nothing to do, and to publish their unauthorized political mani-

fest to the world; and also to advise other grand juries, as they have done, to "imitate our example and place upon record their protests against the course pursued by the said Convention in failing and refusing to frame a constitution for the whole State."

Your committee cannot but express its deep regret that the grand juries of the district court of the United States for the western district of Texas, during the past three years, has not shown the same spirit and energy within the legitimate scope of their duties in the faithful prosecution of offenders against the law, as has been shown by this particular one in stepping out into the political department of the government, to degrade the court and drag the ermine of justice through the pools of political intrigue. Numberless cases can be found of persons notoriously guilty of the gravest offenses against the laws of the United States, but the docket of that court does not exhibit, within the wide range of eighty counties, that there has been either disposition or action on the part of either the jury or the court to bring such offenders to justice.

If your committee is correctly informed, the Honorable Judge Duval, of the aforesaid court, received from the United States government his full pay, during the period of the rebellion, as judge of the United States court, whilst during a portion of that very time he drew pay as an officer under the so-called Confederate States of America. The oath above referred to, and the pay accounts, are the official evidence of the facts.

Your committee respectfully ask that this report be spread upon the minutes and printed in the daily journal, that a copy thereof be transmitted to each Senator and Representative in the United States Congress, and that they be discharged from the further consideration of the subject.

ROB. K. SMITH,
Chairman.

Mr. Hamilton of Travis moved to reject the report.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Buffington, Burnett, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Keigwin, Kirk, Leib, Mackey, McCormick, Mills, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Sorrell, Stockbridge, Thomas, Wilson of Brazoria, Wright—29.

Nays—Messrs. President, Bell, Board, Brown, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray,

Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Williams—82.

So the Convention refused to reject.

Mr. Fayle, Chairman of Committee on Enrolled Provisions, reported as follows :

COMMITTEE ROOM,
February 2, 1869.

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

The following declarations and resolutions (numbers sixty-one and eighty-eight to one hundred and six inclusive,) have been under examination by the Enrolling Committee, and found to be correct :

No. 61, declaration respecting the Texas and New Orleans and the Pacific railroads.

No. 88, declaration supplemental to a declaration in relation to the International Pacific Railroad Company, passed August 10, 1868.

No. 89, declaration to incorporate the Belton Bridge Company.

No. 90, declaration incorporating the Bolivar Point, East Texas and Red River Railroad Company.

No. 91, Resolution congratulatory of the appointment of Major General Canby to the command of the Fifth Military District.

No. 92, Declaration creating the county of San Jacinto.

No. 93, Resolution respecting the Indians of the frontier of Texas.

No. 94, resolution respecting land certificates of Henry Koontz.

No. 95, declaration to incorporate Galveston canal.

No. 96, declaration incorporating the Phoenix Express and Transportation Company.

No. 97, declaration in regard to valid land certificates.

No. 98, declaration authorizing the police courts of Hays and Goliad counties to levy a special tax to build courthouses at San Marcos and Goliad.

No. 99, declaration to incorporate the Young Men's Real Estate Company.

No. 100, resolution authorizing the Special Committee for the Revision of the Constitution to employ a clerk.

No. 101, declaration attaching parts of Guadalupe county to Wilson county, and changing the name of Wilson county to that of Cibolo.

No. 102, declaration for the relief of the Eastern Texas Railroad Company.

No. 103, declaration authorizing county courts to levy a special tax.

No. 104, declaration authorizing the police court of Houston county to levy a special tax.

No. 105, declaration for the relief of Southern Pacific Railroad.

No. 106, declaration changing the county seat of Refugio county.

Respectfully submitted,

W. R. FAYLE,
Chairman Enrolling Committee.

Reprt adopted.

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

COMMITTEE ROOM,
Austin, Texas, February 2, 1869.

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

SIR: The Committee on Engrossed Provisions, after examination, report the following declarations correctly engrossed, to-wit:

No. 123, declaration making an appropriation for the printing and contingent expenses of the Convention.

No. 124, declaration making an appropriation for mileage and per diem pay of the members and the per diem pay of the employes of the Convention, and appropriating other sums of money for purposes specified therein.

Respectfully submitted,

J. R. SCOTT,
Chairman Committee.

Report adopted.

On motion the Conveation adjourned until the regular hour this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

On motion of Mr. Burnett the Constitution was taken up.

Section 28 being under consideration, Mr. Hamilton, of Bastrop, moved the section be adopted.

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

Yeas—Messrs. President, Bell, Brown, Butler, Curtis, Deegner, Downing, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jedan, Kendal, Kuechler, Lippard, McCormick, McWashington, Millins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Williams, Wilson of Milam—26.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar Beltinger, Board, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, Long, Mills, Morse, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wright—35.

So the Convention refused to adopt.

On motion of Mr. Hamilton, of Bastrop, section 1 of the Legislative Department was adopted.

Mr. Buffington moved the previous question, which is the adoption of section 7 of the Executive Department as engrossed.

Previous question seconded.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Buffington, Cole, Curtis, Evans of Titus, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Kendal, Kirb, Leib, McCormick, McWashington, Mills, Morse, Phillips of San Augustine, Rogers, Schuetze, Sorrell, Stockbridge, Watrous, Wilson of Brazoria, Wright—31.

Nays—Messrs. President, Bellinger, Brown, Bryant of Grayson, Butler, Burnett, Carter, Degener, Downing, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Keigwin, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Thomas, Varnell, Williams, Wilson of Milam—26.

So the main question was ordered.

The question recurred upon the adoption of the section.

It was adopted.

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

Call sustained by the following delegates, to-wit :

Messrs. Hamilton of Travis, Armstrong of Jasper, Harris, Bryant of Grayson, Buffington, Stockbridge, Keigwin, Watrous, Armstrong of Lamar, Fleming, Thomas, Gray, Rogers, Cole, Kealy, Glenn, Gaston.

Mr. Patten moved that Mr. Phillips, of Wharton, be excused on account of sickness.

Excused.

Mr. McWashington moved that Mr. Johnson, of Harrison, be excused on account of sickness.

Excused.

Absentees—Messrs. Mundine and Posey.

Mr. Patten moved a suspension of the call.

Call suspended.

Mr. Butler moved the adoption of section 1, article 6, General Provisions.

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

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McWashington, Mills, Mullins, Newcomb, Patten, Ruby, Schuetze, Slaughter, Smith, Thomas, Varnell, Watrous, Williams, Wilson of Milam—38.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bryant of Grayson, Cole, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, McCormick, Morse, Phillips of San Augustine, Rogers, Scott, Sorrell, Stockbridge, Wilson of Brazoria, Wright—23.

So the section was adopted.

Mr. Hamilton of Travis moved the Convention adjourn till tomorrow morning at half-past nine o'clock.

Convention refused to adjourn.

Mr. Buffington moved the previous question, which was the adoption of section fifteen, General Provisions, as engrossed.

Previous question seconded.

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

Main question ordered.

The question recurred upon the adoption of the section.

It was adopted.

Mr. Flanagan moved the previous question on section twenty-four, General Provisions, as engrossed.

Previous question seconded.

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

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

Yeas—Messrs. Armstrong of Lamar, Buffington, Carter, Curtis, Evans of Titus, Flanagan, Fleming, Hamilton of Travis, Harris, Kendal, Mackey, McCormick, McWashington, Mills, Morse, Schuetze, Scott, Smith, Stockbridge, Watrous, Wilson of Brazoria—21.

Nays—Messrs. President, Armstrong of Jasper, Bell, Bellinger, Board, Brown, Bryant of Grayson, Butler, Burnett, Cole, Degener, Downing, Fayle, Gaston, Glenn, Gray, Hamilton of Bastrop, Harn,

Hunt, Kealy, Keigwin, Kuechler, Kirk, Leib, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Slaughter, Sorrell, Thomas, Varnell, Williams, Wilson of Milam, Wright—39.

Main question not ordered.

Mr. Patten moved the adoption of section twenty-five, of General Provisions, as reported by the committee.

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

Yeas—Messrs. President, Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Butler, Burnett, Cole, Curtis, Degener, Downing, Fayle, Fleming, Gaston, Glenn, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Long, McWashington, Mills, Mullins, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Slaughter, Smith, Sorrell, Thomas, Varnell, Wilson of Milam, Wright—43.

Nays—Messrs. Armstrong of Lamar, Board, Brown, Buffington, Carter, Evans of Titus, Flanagan, Gray, Harris, Mackey, McCormick, Morse, Posey, Schuetze, Scott, Stockbridge, Watrous, Williams, Wilson of Brazoria—19.

So the section was adopted.

Mr Hamilton of Travis moved to adjourn till to-morrow morning at half-past nine o'clock.

Convention refused to adjourn.

Mr. McCormick moved the previous question on section twenty-nine, General Provisions, as engrossed.

Previous question seconded.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Buffington, Carter, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Harris, Harn, Jordan, Keigwin, Kirk, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Morse, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wright—35.

Nays—Messrs. President, Bellinger, Board, Brown, Bryant of Grayson, Butler, Burnett, Carter, Curtis, Degener, Downing, Gaston, Glenn, Hamilton of Bastrop, Hamilton of Travis, Hunt, Kealy,

Kendal, Kuechler, Mullins, Mundine, Newcomb, Patten, Ruby, Slaughter, Thomas, Williams, Wilson of Milam—27.

Main question ordered.

The question recurred upon the adoption of the section.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Buffington, Carter, Cole, Curtis, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Harris, Harn, Jordan, Keigwin, Kendal, Kirk, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Morse, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—38.

Nays—Messrs. President, Bellinger, Board, Brown, Bryant of Grayson, Butler, Burnett, Degener, Downing, Gaston, Hamilton of Bastrop, Hamilton of Travis, Hunt, Kealy, Kuechler, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Ruby, Thomas, Wilson of Milam—23.

So the section was adopted.

Mr. Patten moved the adoption of section thirty-six, General Provisions, as reported by the committee.

It was adopted.

Mr. Patten moved the adoption of section thirty-seven, General Provisions, as reported by the committee.

It was adopted.

Mr. Patten moved the adoption of section thirty-eight, of the General Provisions, as reported by the committee.

It was adopted.

On motion of Mr. Patten, section thirty-nine, General Provisions, as reported by the committee, was adopted.

Mr. Flanagan moved to reject section forty, General Provisions, as reported by the committee.

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

Yeas—Messrs. Armstrong of Lamar, Bell, Bellinger, Board, Brown, Buffington, Burnett, Carter, Fayle, Flanagan, Fleming, Gray, Harris, Harn, Kealy, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wright—36.

Nays—Messrs. President, Armstrong of Jasper, Bryant of Gray-

son, Butler, Cole, Degener, Downing, Evans of Titus, Gaston, Glenn, Hamilton of Bastrop, Hamilton of Travis, Hunt, Jordan, Keigwin, Kuechler, Lippard, Mullins, Newcomb, Patten, Rogers, Sorrell, Thomas, Williams, Wilson of Milam—25.

So the section was rejected.

Mr. Hamilton of Travis moved the Convention adjourn till half-past nine o'clock to-morrow morning.

The Convention refused to adjourn.

Mr. Flanagan moved to reject section forty-one of the General Provisions, as reported by the committee.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Burnett, Carter, Cole, Evans of Titus, Fayle, Flanagan, Fleming, Glenn, Gray, Hamilton of Travis, Harris, Harn, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, Mills, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—39.

Nays—Messrs. President, Bryant of Grayson, Buffington, Butler, Curtis, Degener, Downing, Gaston, Hamilton of Bastrop, Hunt, Jordan, Kealy, Kuechler, Lippard, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Slaughter, Williams, Wilson of Milam—23.

So the section was rejected.

Mr. Patten moved the adoption of section forty-two, General Provisions, as reported by the committee.

It was adopted.

Mr. Hamilton of Bastrop moved the adoption of section forty-three, General Provisions, as reported by the committee.

It was adopted.

Mr. McCormick moved the rejection of section forty-four, General Provisions, as reported by the committee.

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

Yeas—Messrs. President, Bell, Bellinger, Brown, Butler, Degener, Downing, Fleming, Hamilton of Bastrop, Hunt, Kealy, Kuechler, Leib, Lippard, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Slaughter, Smith—22.

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

Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fayle, Flanagan, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Jordan, Keigwin, Kendal, Kirk, Mackey, McCormick, McWashington, Morse, Mills, Mundine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—41.

So the section was rejected.

Mr. Ruby moved the adoption of section forty-five, General Provisions, as reported by the committee.

It was adopted.

Mr. Degener moved section forty-six, General Provisions, as reported by the committee, be adopted.

It was adopted.

On motion of Mr. Hamilton of Travis, section forty-seven, General Provisions, was rejected.

Mr. Buffington moved section forty-eight, General Provisions, as reported by the committee, be rejected.

Motion withdrawn.

On motion of Mr. Flanagan, it was adopted.

On motion of Mr. Flanagan, section forty-nine, General Provisions, as reported by the committee, was adopted.

Mr. Burnett moved to reject section fifty, General Provisions, as reported by the committee.

The question recurred, " Shall section fifty be rejected ? "

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

Yeas—Messrs. President, Armstrong of Lamar, Bell, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Jordan, Kealy, Kendal, Kuechler, Leib, Lippard, Long, Mackey, McCormick, McWashington, Mills, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. Armstrong of Jasper, Board, Bryant of Grayson, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Harris, Keigwin, Kirk, Morse, Posey, Sorrell, Thomas, Varnell—17.

So the section was rejected.

Mr. Varnell offered the following

SUBSTITUTE.

SEC. 50. The Legislature may prohibit the sale of all intoxicating or spirituous liquors in the immediate vicinity of any college or seminary of learning; provided said college or seminary be located other than at a county seat or at the State Capital.

It was adopted.

Mr. Hamilton of Travis moved to reject section fifty-one of General Provisions, as reported by the committee.

It was rejected.

Mr. Harn introduced the following as a new section :

All the qualified voters of each county shall also be qualified jurors for such county.

Mr. Bellinger moved its adoption.

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

Yeas—Messrs. President, Armstrong of Lamar, Bell, Brown, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Jordan, Kealy, Kendal, Kuechler, Leio, Lippard, Long, Mackey, McCormick, McWashington, Mills, Mullins, Mundine, Newcomb, Patten, Phillips of San Augustine, Rogers, Ruby, Scott, Slaughter, Smith, Stockbridge, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. Armstrong of Jasper, Board, Bryant of Grayson, Cole, Evans of Titus, Fleming, Gaston, Glenn, Gray, Harris, Keigwin, Kirk, Morse, Posey, Sorrell, Thomas, Varnell—17.

The new section was adopted.

Mr. Brown moved the Convention adjourn till half-past nine o'clock to-morrow morning.

The Convention refused to adjourn.

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

Ruled out of order.

Mr. Hamilton appealed from the decision of the Chair.

Chair sustained.

Mr. Bryant of Grayson moved the adoption of section fifty-two, mode of amending the constitution, as reported from the committee.

It was adopted.

Mr. Burnett moved the Convention adjourn till to-morrow morning, at half-past nine o'clock.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Cole, Fayle, Fleming, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Kealy, Keigwin, Kuechler, Kirk, Leib, Mackey, McCormick, Mills, Mundine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—35.

Nays—Messrs. President, Bell, Board, Butler, Carter, Curtis, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Harn, Hunt, Jordan, Kendal, Lippard, Long, McWashington, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Varnell—28.

So the Convention adjourned.
