

Legislative Pardon for Impeachment in Texas. On September 25, 1917, the senate of Texas, sitting as a court of impeachment, pronounced against Governor James E. Ferguson the judgment of removal from office and disqualification to hold office in Texas. Eight years later, Mrs. Miriam A. Ferguson, wife of the impeached governor, occupied the gubernatorial chair, and at her urging the legislature passed an amnesty act undertaking to absolve all persons against whom any judgment of conviction had been theretofore rendered by the senate in any impeachment proceedings from such judgment and the effects and consequences thereof. Before its passage, the attorney-general ruled that the measure was unconstitutional; and the succeeding legislature repealed it.¹

It was contended by ex-Governor Ferguson that the passage of the amnesty act and his compliance with its provisions had operated to terminate the effect of the senate's judgment as to his eligibility for office; and in April, 1930, he filed an original petition for mandamus in the supreme court to compel the state Democratic executive committee to certify his name for a place on the Democratic ticket as a candidate for governor in the July primary.

Two of the regular members of the supreme court disqualified themselves, and Governor Moody appointed special justices in their places. On May 23, 1930, the court unanimously ruled that the amnesty act was unconstitutional.² Disregarding the briefs and arguments of counsel concerning the history, legislation, and judicial decisions relating to impeachment, the court found the solution of its problem in the provisions of the state constitution. The pardoning power, it pointed out, is by the constitution (Art. IV, sec. 11) conferred upon the governor; but the constitutional provision positively excepts impeachment from the pardoning power of the executive. Where the constitution grants a power and prescribes the means for its exercise, such means are exclusive of all others. Had the constitutional convention intended that an officer convicted of impeachment should be subject to pardon by the legislature, or by any other department of the government, it would have provided accordingly. In a previous decision, the court had held that where the constitution declares qualifications for office, it is not within the power of the legislature to change or add to these

¹ See this *Review*, Vol. XXIV, pp. 653-658 (August, 1930).

² *Ferguson v. Wilcox et al.*, 28 S.W. (2d) 526-536 (1930).

qualifications.³ If the legislature cannot add to the qualifications, it undoubtedly may not take away disqualifications, provided by the constitution. In the trial of impeachment cases, the senate is a court of original, exclusive, and final jurisdiction, whose judgment of impeachment can be called into question only for lack of jurisdiction or excess of constitutional power⁴ No express or implied power can be found in the constitution authorizing the legislature to nullify the judgment of the senate in case of conviction of impeachment.

Overruling a motion for rehearing, the court said: "The disqualification to hold office in Texas by one who has been impeached is in keeping with the governmental policy of this and the other states of the United States."

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³ *Dickson v. Strickland*, 265 S.W. 1012, 1015 (1924).

⁴ *Ferguson v. Maddox*, 263 S.W. 888 (1924).