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1st. *Resolved*, By the Convention, that a A. P. O'Leary, a blind man, who is without ability to subsist himself, having been boarding with one of the unfortunate individuals who have just been burned out, and is now destitute and in great want.

2d. And that this resolution shall be sufficient to authorize the admission of the said O'Leary into the Blind Institute.

Mr. Burnett moved its reference to the Committee on State Affairs.

It was so referred.

Mr. Burnett moved to adjourn until 3 o'clock this afternoon.

The Convention refused to adjourn.

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

CAPITOL, AUSTIN, TEXAS,
JUNE 10, 1868.

Convention met pursuant to adjournment.

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

The President announced the following communication from the Secretary of State:

AUSTIN, June 9, 1868.

HON. E. J. DAVIS,

President of the Convention:

SIR: In answer to a resolution of the Convention requesting the Provisional Secretary of State to direct the State Librarian to open the State Library to the members of this Convention at all reasonable hours, I beg to inform the members of the Convention that when Governor Pease came into office, the position of State Librarian was vacant, and there being no appropriation for the payment of a librarian, no appointment has been made.

The Superintendent of Public Instruction for this State, Hon. E. M. Wheelock, occupies the State Library room for an office.

No copies of Paschal's Digest of the Laws of Texas have been purchased by the State, and the Secretary of State has none under his control. There is no appropriation for the purchase of books.

Respectfully submitted,

W. C. PHILLIPS,

Secretary of State.

Mr. Munroe, from the Committee on Engrossed Bills, made the following report:

To the HON. E. J. DAVIS,

President of the Convention :

The Committee on Engrossed Provisions, to whom was referred a declaration making an appropriation for the per diem pay and mileage of the members and the per diem pay of the officers of the Convention, having examined the same, beg leave to report it as correctly engrossed.

A. T. MUNROE,

Chairman of Committee on Engrossed Provisions.

Mr. Evans, of McLennan, from the Committee on Federal Relations, made the following majority report :

HALL OF REPRESENTATIVES,
June 9, 1868.

To the HON. E. J. DAVIS,

President of the Convention :

SIR: Your Committee on Federal Relations beg leave to report that they have had under patient consideration the propositions submitted to them; in reference to past ordinances, laws, etc., and beg leave to submit that the committee are unanimously in favor of the first and the second propositions, submitted to them, and recommend their adoption after striking out the words "local" and "municipal" in the second proposition, which does not change the same.

But your committee regret to say that upon the third proposition we are not unanimous; but a majority of your committee report that they endorse said third proposition, and ask that it do pass this Convention.

A. J. EVANS,

Chairman of Committee on Federal Relations.

Mr. Sumner made the following minority report :

We, the minority committee, would respectfully recommend that the following be added to the above declaration :

That this declaration shall confine itself to all laws and acts passed in aid of the rebellion, and all laws conflicting with the Constitution of the United States, and we would further recommend that the whole be respectfully referred to the Committee on the Judiciary.

Respectfully submitted,

F. W. SUMNER,
C. E. COLEMAN,
J. R. SCOTT,
A. L. KIRK.

Mr. Gray, Chairman of the Committee on State Affairs, made the following report, with accompanying resolution :

To the HON. E. J. DAVIS,

President of the Convention :

The undersigned, Committee on State Affairs, to whom was referred a resolution defining and declaring the powers which this Convention may legitimately exercise, have had the subject matter of the resolution under consideration, and ask leave to submit the following report, as the result of their labors.

Your committee regard the questions presented as of great importance; yet, it is believed, the questions are not difficult of solution.

As declared in the first section of the proposed resolution, the right of this Convention to assemble depends wholly on the provisions of what is known as the Reconstruction Acts of Congress. At the close of the war, the President of the United States, in his proclamation, declared that the States in rebellion had deprived themselves of all civil government. There was not an officer within our borders authorized to execute civil law.

Any one at all acquainted with the history of the past knows that it is the established policy, as well as theory, of the National Government, that there exists no power, except in the political authority, to reconstruct the State government recently waging war.

Hence it follows, as a self-evident proposition, that this Convention is assembled here to-day in obedience to, and by the authority of the Government of the United States, as manifested through its officers and agents.

The second proposition contained in the proposed resolution, is as to the powers of this Convention.

By the fourth section of the first supplementary act, touching the reconstruction of the States recently in rebellion, among other things it is declared that "the Commanding General, within sixty days from the date of election, shall notify the delegates to assemble in Convention, at a time and place to be mentioned in the notification; and said Convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act and the act to which it is supplementary."

The language quoted from the act of Congress is in the nature of a command directed to the Convention, when engaged in the work of framing a constitution and organizing civil government; and it is only a constitution thus framed which this Convention is authorized to submit to the registered voters for ratification.

There is but one limit on the powers of this Convention, in framing a constitution, that is, that it be Republican in form, and the right to determine this question belongs exclusively to Congress. It was in aid of that provision of the Constitution of the United States which makes it the duty of the Government of the United States to guarantee to every State of the Union a Republican form of government, that the several reconstruction acts were passed. It is the opinion of your committee that Congress has conferred all necessary power on the Convention to frame a State constitution and civil government for Texas. It is believed that the acts of Congress do not limit the powers of this Convention.

It is apparent that this Convention may or ought to exercise just such power, and none other, as will result in the organization of a State government. Hence, your committee respectfully submit and recommend the adoption of the accompanying resolution, as a substitute for the original one under discussion. All of which a majority of the committee instruct me to report.

B. W. GRAY,

Chairman of Committee on State Affairs.

Resolved, 1st. That this Convention is assembled by the authority of and in obedience to the laws of the United States.

2d. That this Convention possesses the power to frame a Constitution and civil government for Texas, and that it is a question alone for this Convention to determine what ordinances, declarations and resolutions are necessary and proper to carry out the expressed will of Congress.

Mr. Gray, Chairman of the Committee on State Affairs, made the following additional report :

COMMITTEE ROOM,
AUSTIN, TEXAS, June 8, 1868.

To the HON. E. J. DAVIS,

President of the Convention :

The undersigned Committee on State Affairs, to whom the petition of W. R. Story has been referred, asking to be relieved of the disability of minority, have carefully examined the same, and submit the following report :

Your committee are of opinion that the relief sought does not properly come within the range of the duties of this Convention; being of a purely legislative character, it should be addressed to the Legislature. It would be wholly impracticable for the Convention to undertake the work of legislation, except of such general character as might be necessary and proper to organize civil government.

Your committee therefore ask that the petition be laid on the table.

Respectfully submitted,
B. W. GRAY,
Chairman.

Mr. Lindsay, from the Committee on the Judiciary, made the following majority report :

To the President of the Convention :

MR. PRESIDENT :

The committee to whom was referred the declaration offered by the delegate from Rusk, providing "that all sales of property by Sheriffs in the State be, and the same are hereby suspended, until further action can be had therein," have had the subject under consideration, and the majority of the committee beg leave to submit the following report :

That regarding the powers and duties of the Convention as special and specific, and from the nature of the trust committed to its hands by the great body of its constituency, confined and restricted solely and exclusively to the formation of a written constitution for their adoption or rejection; they are unable to discover in the delegated authority to the Convention any power which would warrant the passage of the declaration proposed.

This body represents the whole political element of the State for a certain and definite object only, and it cannot respond to a mere fragment of it by any legislative action. It has no authority to afford relief, if relief it be, in any such way. It can neither legislate for the debtor nor for the creditor portion of the community. Nor are the committee, or the majority of it, prepared to concede the soundness of such legislation, if the Convention were invested with the power. Such interference between debtor and creditor would be the commission of a species of injustice which no civil government should indulge or tolerate; and the founders of our National Government, sagaciously foreseeing the tendency of local municipal governments thus to pervert the principles of natural justice, wisely imposed a check upon all the States against passing any law, organic or legislative, impairing the obligation of contracts. It must be borne in mind by the Convention that we are now living under a Provisional Government, in which all the powers of State are invested, subject to the supervision and control of the military authority, established over it by the acts of Congress, until such time as this Convention shall have completed its special labors and they shall have received the ratification of the people of the State and the guarantee of the National Government. If then any

relief could be afforded, as contemplated by the declaration, the appeal would have to be made necessarily to the Provisional Government, and not to this Convention.

In our judgment, the Convention equally depart from the sphere of its duty to memorialize the Provisional Government to grant the relief sought for, as, in the opinion of the majority of the committee, the assumption of such power by the military and Provisional Government would be violative of the Constitution of the United States.

All of which is respectfully submitted.

L. LINDSAY,
JAMES R. BURNETT,
W. H. MULLINS,
W. R. FAYLE,
A. J. EVANS.

Mr. Hamilton, of Travis, Chairman of the Judiciary Committee, offered the following minority report and resolution :

COMMITTEE ROOM,
June 9, 1868.

HON. E. J. DAVIS,

President of the Convention :

SIR: A minority of the Committee on the Judiciary, to whom was referred the ordinance introduced by Mr. J. W. Flanagan, in reference to the suspension of forced sales, are not able to agree with the recommendations made in the majority report. We fully concur as to the legal principles upon which the majority report reposes, and agree that this Convention has no power to grant the relief sought.

We believe that the social, political and financial condition of the State is so peculiar and so embarrassing as to fully justify us in calling upon the military officer in command of this District, whose powers are believed to be plenary for the relief sought. We therefore submit herewith a resolution as a substitute for the original resolution, with the recommendation that said substitute be passed.

A. J. HAMILTON,
A. P. McCORMICK,
C. CALDWELL,
H. C. PEDIGO.

Resolved, 1st. That it is the opinion of this Convention that the social, political and financial condition of this State is so peculiar and so embarrassing that the public good would be promoted by the suspension of all process for the enforcement of judgments sounding

in debt or damages. That this Convention has no power to make the required provision, but are of opinion that the military commander of the Fifth Military District is clothed with sufficient power, and we therefore respectfully urge the subject upon his attention and request him to make said provision by general order.

Resolved, 2d. That the President of this Convention is requested to transmit these resolutions to the Headquarters of the Fifth Military District, and have the same brought to the attention of the commander in such a manner as will be most likely to secure his prompt and favorable action on the same.

Mr. Bledsoe offered the following resolution :

Resolved, That I be permitted to go before the Speaker's desk and have him administer to me what is known as the iron clad oath.

Resolution laid over one day under rule.

Mr. Armstrong, of Lamar, offered the following declaration, and moved its reference to Committee on Finance.

It was so referred.

A Declaration for the relief of R. S. Brame, Assessor and Collector of Lamar County.

Whereas, on the 26th night of December, A. D. 1866, the store house of Messrs. Travis, G. Wright, and Ed. Gibbons, merchants, trading in the city of Paris, Lamar county, Texas; was burglariously entered, and the sum of \$2,339 93 abstracted from the safe of said Wright and Gibbons, it being the amount of State and County Taxes collected by Richard S. Brame, the Assessor and Collector of the Taxes for Lamar county, and deposited in said safe.

And Whereas, the facts being made known to Gov. Throckmorton, the collection of the State Tax was by him suspended. The County Court of Lamar county, by order of the same, released said Assessor and Collector of any liability for losses sustained by said county, which amounted to the sum of \$881 $\frac{3}{4}$.

Therefore, We, the People of the State of Texas, in Convention assembled, do hereby declare that Richard S. Brame, Assessor and Collector of Taxes for the county of Lamar, be, and he is hereby discharged from any liability whatever, in consequence of the amount so abstracted from the safe of Wright and Gibbons, on the night of the 26th December, 1866.

Mr. Degener offered the following ordinance, and asked its reference to the Committee on Finance.

It was so referred.

AN ORDINANCE

Explanatory and defining the Legal Tender Acts, passed by the 37th Congress of the United States, 1861 and 1862.

We, the people of Texas, in Convention assembled, acknowledging that the Constitution of the United States, and the laws passed in pursuance thereof, are the supreme law of the land, declare

1st, That the citizens of Texas had, and have now the undoubted right to bind themselves for the payment of gold or silver, or its equivalent in the legal tender coin of America.

2d, That the Legal Tender Act of the Congress of the United States, was not intended to, nor does it restrict, alter, modify, or change the above specified right; and therefore ordain,

That the Courts of Texas shall hereafter conform their decisions to the time, intent and meaning of the contracts which may come before them for adjudication; unless the Supreme Court of the United States shall declare that the said Legal Tender Act applies to all the personal contracts of the citizens of the United States, without regard to the forms of their contract.

The President announced, that the unfinished business of yesterday was the report of the Committee on Printing, and upon the substitute offered by Mr. Thomas.

Mr. Newcomb, by consent of the House, rose to make a personal explanation in reference to an attack in the *Republican* upon him as Editor of the San Antonio *Express*.

Mr. Caldwell commenced a reply to the explanation of Mr. Newcomb.

The Chair decided that Mr. Caldwell was out of order.

Mr. Hamilton, of Travis, appealed from the Decision of the Chair to the Convention; and upon the question, "Shall the appeal be sustained?" the yeas and nays were demanded, which resulted as follows:

Yeas—Messrs. Armstrong, of Jasper, Bryant of Harris, Buffington, Carter, Constant, Glenn, Goddin, Grigsby, Hamilton, of Travis, Harne, Kirk, Mackey, McCormick, Mundine, Pedigo, Posey, Schutze, Scott, Smith, of Marion, Sumner, Whitmore, Wilson, of Brazoria, Wright—23.

Nays—Messrs. Armstrong, of Lamar, Bell, Bellinger, Bledsoe, Board, Boyd, Brown, Bryant, of Grayson, Butler, Burnett, Cole, Curtis, Degener, Downing, Evans, of McLennan, Fayle, Flanagan, W, Flanagan, Fleming, Foster, Gaston, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson, of Harrison, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lindsay, Lippard, Long, McWashington, Mills, Morse, Munroe, Newcomb, Oaks, Patten, Phillips, of San Augustine, Phillips, of Wharton,

Rogers, Ruby, Slaughter, Smith, of Galveston, Sorrel, Stockbridge, Talbot, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson, of Milam—57.

So the decision of the Chair was sustained.

The President announced that the next order of business was upon the resolution reported by the Committee on Printing.

Mr. Burnett moved the previous question.

Seconded.

Upon the question, "Shall the main question be now put?" It was so ordered.

The question recurring upon the engrossment of the resolution,

Mr. Degeper demanded the yeas and nays, which resulted as follows :

Yeas—Armstrong of Lamar, Bellinger, Board, Buffington, Burnett, Caldwell, Carter, Cole, Coleman, Constant, Downing, Evans of McLennan, Fayle, Flanagan, Fleming, Foster, Goddin, Gray, Grigsby, Hamilton, of Travis, Harris, Harne, Johnson, of Calhoun, Kealy, Lindsay, Mackey, McCormick, Mills, Mundine, Pedigo, Phillips, of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Smith, of Marion, Sorrel, Sumner, Varnell, Vaughan, Wilson of Milam, Wright, Yarborough—43.

Nays—Messrs. President, Adams, Armstrong, of Jasper, Bell, Bledsoe, Boyd, Brown, Bryant, of Grayson, Bryant of Harris, Butler, Curtis, Degener, W. Flanagan, Gaston, Glenn, Hamilton, of Bastrop, Hunt, Johnson, of Harrison, Jordan, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Long, McWashington, Morse, Mullins, Munroe, Newcomb, Qaks, Patten, Ruby, Schuetze, Slaughter, Stockbridge, Talbot, Thomas, Watrous, Whitmore, Williams, Wilson of Brazoria—43.

Being a tie vote, the President decided that the Convention refused to engross the resolution.

Mr. Newcomb offered the following resolution :

Resolved, That the Committee on Printing is hereby instructed to contract for the publication of the Journal of the proceedings of this Convention, one thousand copies of each day's journal to be furnished upon the desks of members, before the opening of the morning session.

Ruled out of order.

The President announced that the next business in order was upon the Declaration reported by the Committee on Contingent Expenses, fixing the *per diem* pay of delegates and officers of the Convention.

Mr. Evans, of McLennan, moved the adoption of the Declaration.

It was read a third time and passed.

The President announced that the next business in order was the

Resolution offered by Mr. Talbot, on the 8th inst., and laid over under the rules.

Mr. Burnett moved the adoption of the Resolution. Adopted.

Mr. Evans, of McLennan, being in the chair, Mr. Davis, of Nueces, offered the following resolution, and asked that the rules be suspended, that the resolution may be put upon its passage.

Rules suspended.

Resolved, That the Secretary of the Convention order two thousand copies of the Daily Austin Republican, at five cents per copy; five hundred copies of the tri-weekly Freie Presse of San Antonio, and four hundred copies of the San Antonio daily Express, for the use of members of this Convention. *Provided*, That these papers shall publish the journal of the Convention; and that the price of the two last shall not exceed eight (8) cents per copy.

Mr. Caldwell offered the following amendment:

“Amend by striking out four hundred copies of the San Antonio Express.”

Mr. Hamilton, of Bastrop, moved to lay the whole matter upon the table. Motion withdrawn.

Mr. Evans, of McLennan, moved a division of the question. Carried.

The question recurred on laying the amendment offered by Mr. Caldwell on the table, upon which the yeas and nays were demanded and resulted as follows:

Yeas—Messrs. President, Armstrong, of Lamar, Bell, Bledsoe, Board, Brown, Bryant, of Grayson, Bryant of Harris, Butler, Curtis, Degener, Downing, Evans, of McLennan, Fayle, Flanagan, Flanagan, Webster, Foster, Goddin, Gray, Hamilton, of Bastrop, Harris, Hunt, Johnson of Harrison, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, McWashington, Morse, Oaks, Patten, Phillips, of San Augustine, Ruby, Schuetze, Slaughter, Smith, of Galveston, Talbot, Thomas, Whitmore, Williams, Wilson of Milam, Yarborough—44.

Nays—Messrs. Adam, Armstrong, of Jasper, Bellinger, Boyd, Buffington, Burnett, Caldwell, Carter, Cole, Coleman, Constant, Fleming, Gaston, Glenn, Grigsby, Hamilton, of Travis, Harne, Johnson, of Calhoun, Jordan, Kealy, Kirk, Lindsay, Mackey, McCormick, Mills, Mullins, Mundine, Munroe, Phillips, of Wharton, Posey, Rogers, Smith, of Marion, Sorrel, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Wilson, of Brazoria, Wright—40.

So the amendment was laid on the table.

The question recurred upon laying on the table the original resolution offered by the delegate from Nueces, which motion was lost.

Mr. Sumner offered the following amendment:

"Amend by making the number of the Austin Republican two thousand copies, at five cents per copy."

Mr. Degener offered the following substitute :

Resolved, That the Committee on Printing be instructed to furnish each member with ten copies of the Journal of this Convention, and to contract therefor with the lowest republican bidder. *Provided*, That henceforth the Journal be furnished one day after the respective sessions took place.

Mr. Hamilton, of Travis, moved to lay the substitute on the table. Carried.

Mr. Armstrong moved to adjourn until to-morrow morning, 9 o'clock. Lost.

The question recurring on the amendment offered by Mr. Sumner, it was adopted.

The question now recurring upon the adoption of the resolution as amended offered by Mr. Davis, of Nueces, Mr. Smith, of Galveston, moved the previous question, which was seconded. And upon the question, "Shall the main question be now put?" the yeas and nays were ordered, which resulted as follows :

Yeas—Messrs. President Armstrong of Lamar, Bell, Bellinger, Bledsoe, Board, Brown, Bryant, of Grayson, Bryant, of Harris, Buffington, Butler, Caldwell, Carter, Cole, Coleman, Constant, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, Flanagan Webster, Fleming, Foster, Goddin, Gray, Grigsby, Hamilton, of Travis, Harris, Harne, Hunt, Johnson, of Harrison, Johnson of Calhoun, Jordan, Kealy, Kendal, Kuechler, Leib, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Mills, Morse, Mundine, Munroe, Oaks, Patten, Pedigo, Phillips of San Augustine, Phillips, of Wharton, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, of Galveston, Smith, of Marion, Stockbridge, Sumner, Talbot, Vaughan, Watrous, Whitmore, Williams, Wilson, of Brazoria, Wilson, of Milam, Wright, Yarborough—72.

Nays—Adams, Armstrong, of Jasper, Boyd, Burnett, Gaston, Glenn, Hamilton of Bastrop, Keigwin, Kirk, Mullins, Posey, Sorrel, Thomas, Varnell—14.

So the main question was ordered.

The question then recurred upon the engrossment of the resolution, when it was ordered to be engrossed.

On motion, the rules were suspended and the resolution put on its third reading.

Mr. Flanagan offered the following amendment :

Provided, That the Austin Republican shall publish a synopsis of the debates. Amendment withdrawn.

The question then recurred upon the passage of the resolution. And the resolution was adopted.

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

Resolved, That the President of this Convention appoint a special committee of five, to investigate the administration of the financial affairs of the State Penitentiary, since August, 1866; and that they report the same, showing the difference, if any, between the assets at the date referred to and the present time; and that said committee have power to take testimony and to send for persons, records and papers.

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

The rules were then suspended and the resolution adopted.

Mr. Burnett moved a further suspension of the rules, and that the resolution be engrossed.

It was ordered to be engrossed.

Mr. Butler moved a further suspension of the rules, to put the resolution upon its third reading.

Rules suspended, resolution read third time and passed.

Mr. Smith, of Galveston, offered the following resolution :

WHEREAS no provision having been made to publish the debates of this Convention : Therefore be it

Resolved, That the services of the gentleman employed at fifteen dollars per day, to report the debates, be and are hereby dispensed with.

Resolution went over under the rules.

On motion, the Convention adjourned till 10 o'clock to-morrow morning.

CAPITOL, AUSTIN, TEXAS,

JUNE 11, 1868.

Convention met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain. Journal of yesterday read and adopted.

By consent of the Convention, the President instructed the Secretary to read a communication from the official reporter of the Convention.

AUSTIN, June 10, 1868.

To the Hon. E. J. DAVIS,

President of Texas Constitutional Convention :

Sir : I have just learned, with no small degree of astonishment, through Dr. Smith, of Galveston, and other members of the Consti-