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On motion the Convention resolved itself into Committee of the Whole.

Mr. Evans of McLennan, in the chair.

The Committee rose, and reported that the Committee asked leave to be discharged from the further consideration of the report.

The Committee of the Whole was discharged.

Mr. J. W. Flanagan moved that report of the Committee on Division of the State, with accompanying resolutions, and that the substitute be printed and made the special order for Friday morning at 10 o'clock.

Carried.

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

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CAPITOL, AUSTIN, TEXAS,  
JULY 2, 1868.

Convention met pursuant to adjournment.

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

Mr. Hamilton, of Travis, Chairman of the Committee on Judiciary, made the following report :

TO THE HON. E. J. DAVIS,

President of the Convention :

The Committee on Judiciary, to whom has been referred the message of the Governor, in regard to the purchase and distribution of Paschal's Annotated Digest of the Laws of Texas, have instructed me to report that they find that the work was prepared by Judge Paschal during the leisure which the unhappy civil war enforced; that it consequently has been prepared with a degree of learning, labor, care and accuracy which so able an author could not afford under other circumstances; that it contains the whole body of our statute laws of force, as well as all the organic and repealed laws, upon which so many rights in Texas rest; that these statutes are noted with the decisions which have interpreted them; arranged in a manner which has no equal in any State; that the numbering of the articles of previous digests have been preserved in a manner which renders the Texas Reports intelligible upon many points, when they would be obscure without such aid; and in a word, that the work is indispensable to the profession and in the administration of justice.

The publication of the work was authorized by the Provisional Governor, and so highly has it been approved by the entire legal

profession of the State, that it has been adopted by the Supreme Court, and it is now universally quoted by articles and notes.

The work has thus become an authority, and an indispensable one, since much of the matter is inaccessible to most of the officers of the State.

The whole expense of the enterprise has thus far been borne by the public spirited and patriotic author.

But, in the opinion of your committee, in this case, necessity points to the path of duty.

Judge Paschal has suffered much for his patriotic devotion to the cause of the Union, and independently of the intrinsic merits of a work which has given a high character to the laws of the State, he deserves well of his country; and this Convention could not consistently do less than to purchase the number of copies necessary to supply the immediate wants of the officials who, under the laws, are entitled to digests.

The author asks of the State no speculative price, but he proposes to furnish the work at a rate greatly below any book ever purchased or printed by Texas:

The ability to do so grows out of the fact that the copyright and stereotyped plates belong to the author, who has borne the heavy expense of the outlay.

As the work, therefore, is the best, the cheapest, and under all changes, will be the most useful which the State could purchase, and as we doubt not but the appropriation would meet the approbation of the whole people, the Judiciary Committee have instructed me to report the following resolutions:

ANDREW J. HAMILTON,  
Chairman.

*Resolved*, 1st. That the Governor be instructed to contract with Geo. W. Paschal for the delivery of thirty-five hundred copies of "Paschal's Annotated Digest of the Laws of Texas," in the city of Austin, at the proposed price of nine dollars per volume; the books to be printed and bound in the same style of the first edition.

*Resolved*, 2d. To ensure the early delivery of the work, it shall be the duty of the Governor, as soon as the said Geo. W. Paschal shall execute to the State his bond, with securities to be approved by the Governor, in the sum of forty thousand dollars, for the delivery of said number of the Digests, in the city of Austin, within four months from the date of said bond, to draw upon the Treasurer of the State for twenty thousand dollars of said money, and to draw for the balance as soon as the books shall be delivered to the Secretary of State.

*Resolved, 3d.* The sum of thirty-one thousand five hundred dollars be, and the same is hereby appropriated, to carry into effect this ordinance.

Mr. McCormick, Chairman of the Committee on Contingent Expenses, made the following report :

COMMITTEE ROOM,  
AUSTIN, July 2, 1868.

HON. E. J. DAVIS,

President of the Convention :

SIR : The Committee on Contingent Expenses, to whom was referred the resolution offered by Mr. Evans, of McLennan, making an appropriation to pay the expenses of the committee appointed to investigate the State Penitentiary, have instructed me to report the same back to the Convention, with the recommendation that the blank be filled with "four hundred," and that said resolution be passed.

A. P. McCORMICK,  
Chairman.

*Be it declared,* That the sum of four hundred dollars be, and the same is hereby appropriated, out of the contingent fund of the Convention, to pay the expenses of the committee to investigate the State Penitentiary, traveling expenses, expenses of witnesses, etc., etc.

Mr. McCormick moved that the rules be suspended for the consideration of the declaration.

Rules suspended and declaration read second time.

Mr. Armstrong, of Lamar, moved to insert "500" instead of "400."

The question being upon the amendment of Mr. Armstrong, it was lost.

The question being upon the engrossment of the declaration, it was engrossed.

Mr. McCormick moved a further suspension of the rules to put the resolution on its final passage.

Rules suspended.

Resolution read a third time and passed.

Mr. Caldwell, Chairman of the Special Committee on Lawlessness and Violence, made the following report :

COMMITTEE ROOM,  
AUSTIN, June 30, 1868.

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

SIR: The Committee on Lawlessness and Violence respectfully submit the following report :

We have had access to the following sources of information, viz :  
1. The records of the State Department, particularly the official reports of the Clerks of the District Courts. These reports are, however, very meagre, inasmuch as they represent only about forty counties, and take notice of only those offenses for which indictments have been found. 2d. The records of the office of the Freedmen's Bureau. These records are likewise very imperfect, as they give information from only about sixty counties, and do not supply accounts of all the outrages committed in those counties ; and 3d, the sworn statements of competent and reliable witnesses in different sections of the State. These are also incomplete, for they were made from memory, neither are they as numerous as they should be. We have found no little difficulty in getting gentlemen to testify before us. Many are unwilling, and others are afraid of assassination should they do so, and hence very few have responded to the summons of the committee. We do not, therefore, offer this report as a complete exhibit of crime in Texas. We feel confident that it presents a very imperfect view of the actual violence and disorder in the State.

In collecting the statistics here presented, we have carefully excluded every report that did not bear the marks of veracity. In compiling the number of homicides, for example, we have included only such cases as are either officially reported or distinctly mentioned or remembered by affiants, and we have ventured no statement which is not fully warranted by facts. It is claimed for the report, therefore, that it is faithful and true.

In our statistics we have not embraced assaults with intent to kill, rapes, robberies, whipping of freedmen, and other outrages, many of which we found to be most cruel and wanton ; such a summation would impose an almost endless task. We have directed our investigations to the homicides committed during the period of time intervening between the close of the rebellion and the first of June, 1868, and, from the three sources of information mentioned, we present the following statistics of homicides in Texas :

Killed in 1865,	39	whites;	38	freedmen—	77
“ “ 1866,	70	“	72	“	142
“ “ 1867,	166	“	165	“	331
“ “ 1868,	171	“	133	“	304
Year unknown,	24	“	21	“	45
Of unknown race					40

Total whites, 470; total freedmen, 429; making a grand total of 939 homicides committed in Texas since the conclusion of the war, June, 1865, to June 1, 1868, including a few cases casually reported in the present month. This gives an average of 313 per year.

Of these 939 homicides, there were by whites, 460 whites, 373 freedmen—833; by freedmen, 10 whites, 48 freedmen—58; and by parties whose race is unknown, 48.

Now, incomplete as they are, these figures tell a frightful story of blood. They represent stubborn facts which cannot be suppressed by denials, or by denouncing them as fabricated for political effect; and whoever attempts it is not only unfaithful to history, not only an apologist for crime, but may be justly charged as an accessory to the wickedness itself, as encouraging and abetting murderers, and as equally guilty with them. We cannot shut our eyes upon these appalling scenes of bloodshed; and, instead of attempting to conceal them, it becomes us to face them honestly, and address ourselves to the duty of discovering the cause, and locating the responsibility of this slaughter of our fellow citizens.

Many of these homicides have doubtless been committed for the purpose of plunder and robbery. The facts and the testimony show that many of our highways are infested by bandits, who will take life for a horse, or a pistol, or a purse. These desperadoes, with very few exceptions, were either Confederate officers, or soldiers or bushwhackers during the late war, and now constitute one of the legitimate entailments of secession and rebellion. It is also true that many of these homicides have resulted from private quarrels. There is much bad blood in the land. But this wholesale killing cannot be accounted for by either or both of the causes named. The figures themselves shed some light on this subject.

During the last three years, according to the reports consulted, three hundred and seventy-three freedmen have been killed by whites, whilst only ten whites have been killed by freedmen. Now, it cannot be that all these colored people, or any considerable number of them, were murdered for their money. Their extreme poverty forbids the supposition. Neither can it be that many of them were slain in personal altercation with whites; for, in that event,

there should have been as many whites killed by freedmen, as freedmen by whites—the freedmen being, it is said, generally as well armed as the whites. This great disparity between the numbers of the two races killed, the one by the other, shows conclusively, that “the war of races” is all on the part of the whites against the blacks. The evidence in our possession also shows that a very large portion of the whites murdered were Union men, and that the criminals, with remarkably few exceptions, were and are disloyal to the Government.

We are, hence, directed to the hostility of feeling entertained by ex-rebels against loyal men of both races, for the discovery of the cause of a large proportion of these outrages. Men naturally hate those whom they have wronged; and we are authorized by facts to affirm that multitudes who participated in the Rebellion, disappointed and maddened by their defeat, are now intensely embittered against the freedmen on account of their emancipation and enfranchisement, and on account of their devotion to the Republican party; and against the loyal whites for their persistent adhesion to the Union, that they are determined to resist by every means promising success, the establishment of a free Republican State government; that it is their purpose, even by desperate measures, to create such a state of alarm and terror among Union men and freedmen, as to compel them to abandon the advocacy of impartial suffrage or fly from the State; and that this feeling of animosity prompts and inspires them to many of these murders, unrestrained, as it is, by any fear of retribution.

There is absolute freedom of speech in very few localities of Texas. Union men dare not generally avow their political convictions. In many places they can hold public meetings only when supported by troops or armed men; and in many others they dare not hold them at all. In several instances their assemblies have been broken up and fired upon, and their speakers ordered to desist. The dominant rebel element will not tolerate free discussion.

We have been challenged to produce cases of Union men and freedmen being persecuted for their loyalty. We now do so: Judge Black was a Republican; he was murdered in 1867, in Uvaldi county, by a rebel. Milton Biggs was a Union man, and had been appointed County Judge of Blanco county; he was murdered, in 1867, while plowing in his field, before he could qualify. Judge Christian, a loyal man, of Bell county, was pursued into Missouri, and murdered by a party of rebels. Mr. Wade and seven other gentlemen were killed in Lamar county, last year, for their Unionism. Four men were recently murdered in the county of Hunt, and six in Bell county, for their loyalty. Within the present

month, the County Judge and the District Clerk of Hunt county have been driven from their homes, and compelled to fly for their lives, because of their unyielding attachment to the Government. Hundreds of loyal men, to our knowledge, are, at this time, forsaking their homes in Texas, fleeing from the assassin—forced away by rebel intolerance. And we here put it to record, that Honorable members of this Convention are to-day exiles from their friends, and dare not return to their families, for the only reason that they will not forswear their principles.

Now, whilst it remains true that the Union men of Texas constitute a very small proportion of the white population, and whilst it is true that they are being killed by the rebels, it is impossible to escape the conclusion that they are killed for their Unionism. In other words—if they were rebels they would not be killed.

And when we come to examine the persecutions suffered by the freed people, the mass of testimony is so overwhelming that no man of candor can for a moment question the statement that they are, in very many parts of the State, wantonly maltreated and slain, simply because they are free, and claim to exercise the rights of freemen. Some months ago, in Panola county, a party of whites rode up to a cabin wherein some freed people were dancing, and deliberately fired upon them, killing four, one a woman, and seriously wounding several others. In 1867, in DeWitt county, a white man met a freedman riding, and asked him what he was going to do with the whip he had in his hand, and on being answered, "Nothing," shot the freedman, killing him instantly. In the county of Fort Bend, last year, a white man was riding through town, and seeing a negro man standing on the steps of the office of the Freedmen's Bureau, he drew his revolver and shot him dead. The criminal had never seen or spoken to the freedman before. In Newton county, 1867, a white man met a colored man driving a team, the former made the freedman get out of his wagon, and then shot him seven times in cold blood. In Fort Bend county, same year, the freed people were holding a fair to procure funds to finish their church, and while they were singing a hymn two white men rode by and fired their pistols into the church. In October, 1867, a white man was traveling in Grayson county and met a freedman; after passing him a few yards, he turned and fired upon him, hitting him in the back. The freedman died in a few hours; he had not spoken a word to the murderer; had never seen him before. But a few days ago a party of white men assaulted the family of an unoffending freedman in Falls county, killing one and dangerously wounding another freedman. In the same county, a few weeks ago, two armed white men, in open day, went to the house of a colored man, and without any provocation murdered him. Soon

after this a white man, in the same neighborhood, rode up to two freedmen, and, without any known cause, shot one of them dead and fired at the other. Last week the colored Registrar in Burleson county was found murdered; and in January last the colored Registrar of Milam county was called to his door at night and shot. And so the bloody story runs.

We mention some minor outrages. In April last, a party of white men visited the cabins of two quiet industrious freedmen in Freestone county, captured one of them and took him to the woods to murder him; he, however, escaped, being fired at several times and receiving one wound. In that and adjoining counties the whites are driving the freedmen from their homes and from their crops, some of whom are in this city to-day, fugitives from rebel violence. In the county of Marion bands of armed whites are traversing the county, forcibly robbing the freedmen of their arms, and committing other outrages upon them. Last week a colored woman was whipped in Parker county by a white man; and some time ago, in another county, a white man cut off the ears of a freedwoman. It is openly proclaimed by many of the perpetrators of these wrongs that their object is to compel the negroes to give up loyal leagues, and to get satisfaction out of them for supporting Yankees.

We could extend this account. We have selected these cases at random to exhibit the feeling of hatred cherished by a certain class of ex-rebels against Union men and freedmen; and we deem them sufficient to sustain our allegation, that there is a settled determination on the part of many to suppress the growth of loyalty, and, if possible, to expel or exterminate the white and colored Unionists in the State.

It has also come to our knowledge that there are organizations of disloyal desperate men in several sections of the State, leagued together for the purpose of murdering prominent Unionists. This fact is set forth in the notices sent to leading Republicans in different portions of the State. It is not only believed by many good citizens, but it is claimed and openly asserted by rebels in many localities that such organizations do exist. The fact is stated too by several witnesses. It reveals itself likewise in the outrages systematically perpetrated on loyal whites and freedmen in the localities where these organizations are reported as existing. Some weeks ago a discreet officer of the United States Army was sent with instructions to investigate certain murders in Bell and Corryell counties, and he found tangible evidence of such an organization there. He found it in the murder of six or seven loyalists, several of whom had fought under the Union flag during the rebellion, and had to the last refused to desert their colors. He found it too in the terror and

dread among the loyalists of that section, and in the precipitate flight of many from the State for safety. In the instances investigated by him, the murderers went in a body at night, in April last, and murdered in cold blood several loyal law-abiding citizens, rousing them from their beds and shooting them. They then gave out that their victims were horse thieves, but a thorough examination exploded that falsehood. In his official report the said officer uses this language: "From all that I could learn, it is very evident that the rebels of Bell county have determined to kill or drive every loyal Union man from the county. This they are doing every day; and after they get rid of the men they seize their stock or whatever they can lay their hands on; so that instead of killing horse thieves, they prove to be thieves and murderers themselves." Again he says: "There appears to be a regularly organized band in Bell county for the oppression and extermination of the Union element." He also gives the names of some of this organization, and says, "they are all rebels, and disfranchised.

We have evidence of similar organizations in other parts of the State. Only a few weeks ago, since the meeting of this Convention, some arrests were made by the military authorities in Freestone county. The arresting party came upon the criminals by surprise at midnight and secured three of them, and by daylight the whole country was swarming with armed desperadoes from three different counties, who pursued the officer and soldiers, and, numbering about two hundred, rescued the prisoners. The officer who had charge of the expedition testifies: "It is my opinion that there is an organization of lawless men in that section. One of the men whom I let go stated this plainly to me, that they were bound to help one another, and from all that transpired I am satisfied that they have their signals, their runners and system of action."

We have intimated that bad men do not fear the civil courts of Texas. Why should they? During the years 1865, 1866 and 1867, as shown by the State Department, there were 249 indictments for murder found in the District Courts of the State, and only five convictions, about two per cent. of the whole; and it is a fact known to all that for the 900 murders known to have been committed since the conclusion of the war, there has been but one capital execution according to the forms of law, and that was the execution of a freedman in the county of Harris. These figures of themselves demonstrate the insecurity of human life in Texas. The criminal laws of the State are not executed.

In some districts the combinations of lawless men are too strong for the civil authorities, and openly defy them. This is the case in twenty-five or thirty counties. In some instances the county officers

are themselves involved in these acts of violence, or connive at them, or willfully neglect to make arrests. The Sheriff of one county, for example, is one of a band of murderers, the Sheriff of another is at the head of certain desperadoes who have committed numerous outrages, including murder on the loyal whites and blacks of the county. We have information of numerous cases where the officers of the law most criminally refuse to make arrests for violations of law, and "no arrest" is the almost universal appendage to reports of lawlessness in our possession, although the criminals are generally known to the community. Not unfrequently they are aided in their escape, and harbored or concealed by citizens claiming respectability.

But all of these obstacles to the punishment of criminals are not sufficient to explain the inadequacy of civil government in Texas. We are compelled to introduce here that animosity toward the government and its friends, so prevalent everywhere, as a factor in bringing about such a state of anarchy. It is our solemn conviction that the courts, especially juries, as a rule, will not convict ex-rebels for offenses committed against Union men and freedmen; neither will they award judgments in favor of Union men and freedmen as against rebels. This is explicitly affirmed in nearly all the testimony before us. In one case wherein a white man had committed an offence against a freedman, the offender was brought to trial, found guilty, and, because he could not give bond, released; and when the agent of the Freedman's Bureau notified the magistrate that the law authorized committal in default of bail, the reply was, "you would not send a white man to jail for a nigger." In another case a freedman sued a white man, the judge ruled in favor of the freedman, but the jury, contrary to the law and the evidence, decided against him. The case was reversed by the Bureau. In another instance a white man brutally assaulted a freedman with intent to kill; he was arrested by the agent of the Bureau, turned over to the civil authorities, found guilty, and *finéd one cent!* Such cases are frequent. In another county a freedman was tried for assault with intent to kill a white man, and the jury convicted him, when the facts proved on trial, as shown in the proceedings of the case, showed that the freedman was the assaulted and injured party. He was pardoned by Gov. Pease. A white boy, thirteen years old, was waylaid and shot and severely wounded by a man named Johnson, in Hopkins county. Said Johnson was arrested by the Sheriff, a loyal man, brought before Judge Mayberry, of the 8th Judicial District, found guilty of a simple assault, and fined ten dollars. The Sheriff of Hunt county, a Union man, was resisted and shot whilst arresting a criminal; the said criminal was tried before the said Mayberry, bailed in a bond of six hundred dollars, and is now

at large. In another county a rebel murdered a boy not fourteen years old; he was tried and acquitted on the ground that he had lost an arm in the Confederate service. In another case a loyal man was assaulted with intent to kill by a rebel, and after being fired at once, shot and kill his adversary; he was promptly arrested and compelled to give bond for fifty thousand dollars. Another loyal man was assaulted with deadly weapons three times by a party of rebels; he made oath of the facts before the proper authorities, but to this day the said authorities have refused to arrest the criminals, though well known to the Sheriff.

The result of all this discrimination against Union men and freedmen is, that they have despaired of securing their rights by law. They feel that the courts are only employed as an engine for their oppression; and they would rather suffer their wrongs patiently than seek legal redress only to be mocked at for so attempting.

In other instances, where the officers of the law are disposed to do their duty, they are not sustained by the citizens. The people are sometimes afraid to aid in the enforcement of the laws, and they not unfrequently, on account of their sympathy with the criminals, positively refuse to do so. In a certain county a loyal sheriff called upon the citizens to assist him in arresting some criminals in town, and the citizens refused, saying, "Call on your nigger friends." Several officers have resigned their places because they cannot get the support of the people in the execution of the laws; many of the important offices in the State are now vacant because men either fear to accept them, or feel that they could not have the co-operation of the citizens; and we know of efforts being made to intimidate fearless and efficient officers from the discharge of their duties.

A very noteworthy fact developed by our investigations is the increase of crime within the last seven months. Witnesses from various parts of the State testify of increased bitterness against the Government and its supporters, and of the multiplication of crime during the last winter and spring; and official data confirm their testimony. This fact, we know, is persistently denied by Conservatives; and they claim, further, that, if true, it is to be charged against the present provisional State Government. They tell us that the offices of the State are in the hands of Radicals or military appointees, and that, therefore, the Republican officials of Texas are responsible for this increased lawlessness and disorder. To this we reply:

First. The powers of the provisional State government are very limited, and are exercised in subordination to the authority of the Commander of the Fifth Military District. The State government is without any militia or police whatever. It is dependent entirely on the spirit of the people themselves for the maintenance of order,

and is utterly powerless of itself to enforce a single law. Either the citizens themselves must keep the peace, or the military must interfere and compel obedience, or there will be no peace. And we submit that, with such limited powers, and with such a spirit of lawlessness as dominates in Texas, and without the efficient co-operation of the military power, no government under the sun could preserve the peace of society.

Second. It is not true that the offices of the State are held by Republicans. Governor Pease qualified as Governor of Texas on the eighth of August, 1867. There were at that time 2,377 elective offices held by persons elected in 1866. Some time after this some changes, removals and appointments, were made by the military. These all, to the twenty-fourth instant, amount to 796. Of these 247 were made to fill vacancies, leaving 549 removals and appointments, and 394 of the appointees refused or failed to qualify—many of them declining for fear of assassination; in which cases the old incumbents continue to act; so that there are 1,975 of the elective offices in Texas in the occupancy of those elected in 1866, and only 402 in the possession of military appointees. There are 182 notaries public appointed by Governor Throckmorton still in office, and there are only twenty-seven who have been appointed by Governor Pease. It thus appears that only one-fifth of the officers in Texas to-day are loyal men. And yet some have the effrontery to hold this one-fifth responsible for the acts of the whole. But, certainly, if any responsibility at all rests upon the State government, it legitimately rests upon the large majority of Conservatives who hold the power of the State, and who, as we have seen, too frequently use that power for the protection of criminals. And,

Third. The only period of time in which the present administration of Texas could justly be said to have been Republican, was marked by the greatest amount of tranquility. That period was between the eighth of August, the date of Governor Pease's qualification, and the twenty-ninth of November, the date of General Hancock's assuming command of the District—about three months of 1867. In the three months of September, October and November, 1867, there were twenty-seven murders committed in Texas, as reported by the Freedmen's Bureau; that is to say, there were nine murders per month; whilst in the other nine months of the same year there were 160 murders committed in Texas, as reported by the same authority; that is to say, there were about eighteen murders per month—double the former number.

These simple statements are amply sufficient to refute the slander so frequently repeated by Conservatives, and to vindicate the present

civil administration of Texas from all complicity in the increased lawlessness in the State.

But it is not difficult to fix the responsibility of this increase of crime. Previous to the succession of Gen. Hancock to the command of the Fifth Military District, there was some degree of respect for life in Texas. The numerous arrests of criminals by the military authorities, and the prospect of trial by military commissions inspired bad men with a salutary fear. But on the publication of General Orders No. 40 from Headquarters Fifth Military District, dated Nov. 29, 1867, a very different and a very turbulent spirit manifested itself throughout the State. That order was understood to proclaim the supremacy of civil law and the suspension of the military power, in the treatment of crime; and, hence, criminals who, as has been demonstrated, entertain very little fear of the civil courts, interpreted the said Order as a license for the perpetration of all manner of villainies. This was evidenced at the time by words and by the tone of the rebel press, and more forcibly ever since by unrestrained violence.

During the three months of Governor Pease's administration, aided and sustained by Generals Sheridan and Mower, and previous to the advent of General Hancock, the murders in Texas, as already seen, averaged nine per month. The number during the other months of the same year, averaged eighteen per month. And, confining our estimates to the records of the office of the Freedmen's Bureau, the number, since the first of December, 1867, has averaged thirty-one per month. During the first month of Hancock's administration, December, there were thirty murders reported by the Bureau. In other words, according to the lowest calculation, the *peace administration of Generals Hancock and Buchanan has to account for twice the number of murders committed under the Sheridan-Throckmorton administration, and three times the number committed under the Sheridan-Pease administration.*

*Moreover, fuller reports show that since the policy of General Hancock was inaugurated, sustained as it is by President Johnson, the homicides in Texas have averaged fifty-five per month; and for the last five months they have averaged sixty per month. And it is for the Commander of the Fifth Military District to answer to the public for at least two-thirds of the 330, or more, homicides committed in Texas since the first of December, 1867. Charged by law to keep the peace and afford protection to life and property, and having the army of the United States to assist him in so doing, he has failed. He has persistently refused to try criminals, rejected the prayers of the Executive of the State and the Commanding General of the District of Texas for adequate tribunals, and*

turned a deaf ear to the cry of tried and persecuted loyalists. And, knowing whereof we affirm, and in the face of the civilized world, we do solemnly lay to his charge the death of hundreds of the loyal citizens of Texas—a responsibility that should load his name with infamy, and hand his very memory to coming years as a curse and an execration.

The obligations of the government and of the citizen are mutual and correlative. If true allegiance is rendered by the latter, ample protection is due from the former. And for, and in the name of the loyal whites and blacks in Texas, we do avow that we have been true and unwavering in our fidelity to the United States Government. In the face of persecution, in the face of social proscription, in the face of the halter, and in the face of every imaginable peril, we have stood firm in our devotion. If there be a people on earth who can rightfully claim the protection of Government, the loyalists of Texas certainly have that right; especially now that it is in the power of the Government to extend it, do they claim protection from the vengeance of those who still pursue them for their allegiance. But, let the responsibility rest where it may, we say it deliberately, *that protection has not been granted us.*

The Committee recommend the adoption of the following resolution:

That the President of the Convention be requested to forward a copy of this report to the President of the Senate and Speaker of the House of Representatives, to the end that Congress may afford such relief as, in their wisdom, we may be entitled to.

CALDWELL, Chairman.  
 WHITMORE,  
 SUMNER,  
 EVANS,  
 BLEDSOE,  
 COLE,  
 BELL,

Committee.

Mr. Hamilton, of Bastrop, moved a suspension of the rules, to allow consideration of report and accompanying resolutions.

Rules suspended.

Mr. Hamilton, of Travis, moved that one thousand copies of the report be printed, which was agreed to.

Mr. Hamilton, of Travis, asked consent of the Convention to make a report from the Judiciary Committee.

Consent given.

COMMITTEE ROOM,  
July 1, 1868.

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

Your Committee on the Judiciary, to which was referred the resolution introduced by Mr. Lindsay in reference to providing that no bond shall be required of the State in suits to which the State may be a party, have instructed me to report the accompanying declaration :

A. J. HAMILTON,  
Chairman.

*Be it declared, by the delegates of the People of Texas in Convention assembled,* That no bond shall be required of the State in any suit now pending, or which may hereafter be instituted, to which the State may be a party, as a condition for the issuance of any writ to which the State may be otherwise entitled, and that this declaration take effect and be in force from and after passage until the adopting of some constitutional provision regulating and controlling the subject.

The President announced the hour had arrived to take up the special order of the day, which was the report and resolution from the Committee on Commerce and Manufactures, exempting machinery from taxation.

Mr. Mullins offered the following amendment :

Amend as follows : After the word "purposes" insert the words "including the building and premises in and upon which the same may be situated, together with all necessary appliances for carrying it out successfully." Also, after the word "taxation" insert the words "and forced sale, except for purchase money and wages of operatives."

Mr. Mullins moved that the whole subject be recommitted to the Committee on Commerce and Manufactures.

Lost.

Mr. Hamilton, of Bastrop, moved to lay the amendment on the table.

Carried.

Mr. Bryant, of Grayson, moved that the report and resolutions of the Committee on Commerce and Manufactures be indefinitely postponed.

Upon which motion the yeas and nays were called for, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Bellinger, Bled-

soe, Bryant of Grayson, Buffington, Cole, Constant, Degener, Downing, W. Flanagan, Fleming, Gaston, Glenn, Gray, Grigsby, Hamilton of Bastrop, Hamilton of Travis, Harris, Harne, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Kirk, Lieb, Lindsay, Lippard, Mackey, McWashington, Muckleroy, Mundine, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Rogers, Ruby, Schuetze, Scott, Smith of Marion, Sorrell, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—52.

Nays—Messrs. President, Bell, Board, Bryant of Harris, Burnett, Carter, Curtis, Evans of McLennan, Evans of Titus, Fayle, Flanagan, Foster, Goddin, Hunt, Kuechler, Morse, Mullins, Phillips of Wharton, Posey, Talbot, Varnell—21.

So the matter was indefinitely postponed.

The hour having arrived, the President announced the next business in order was the report of the Committee on Federal Relations, with accompanying resolution, ceding the county of El Paso to the United States.

Mr. Flanagan offered the following amendment to come in at end of resolution:

“And shall pay to the State of Texas one million of dollars for said cession.”

Mr. Sumner moved to lay the amendment on the table. Motion withdrawn by consent.

Mr. Caldwell offered the following substitute to the original resolution and amendment:

*Be it resolved*, That the people of Texas, in Convention assembled, relying on the justice of the Congress of the United States to award to the people of Texas such compensation as Congress may deem adequate, do hereby cede the political jurisdiction and right of “public domain” over the county of El Paso to the United States; *Provided*, that the United States shall form a Territorial Government, of which the county of El Paso shall be a part.

Mr. Munroe moved to lay the whole matter on the table.

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

Yeas—Messrs. President, Adams, Armstrong, of Jasper, Bell, Bellinger, Bledsoe, Board, Buffington, Curtis, Degener, Downing, Evans, of McLennan, Evans, of Titus, Flanagan, W. Flanagan, Glenn, Hamilton of Bastrop, Harris, Hunt, Keigwin, Kendall, Kuechler, Kirk, Lippard, Mackey, Morse, Mullins, Munroe, Newcomb, Phillips, of San Augustine, Smith, of Galveston, Sorrell, Talbot, Thomas, Whitmore, Wilson, of Milam, Yarborough—87.

Nays—Messrs. Armstrong of Lamar, Brown, Bryant of Harris, Burnett, Caldwell, Carter, Cole, Coleman, Constant, Fayle, Fleming, Fos-

ter, Gaston, Goddin, Gray, Grigsby, Hamilton, of Travis, Harne, Johnson, of Calhoun, Jordan, Kealy, Leib, Lindsay, Long, McCormick, McWashington, Mills, Muckleroy, Mundine, Pedigo, Phillips, of Wharton, Posey, Rogers, Ruby, Schuetze, Scott, Smith, of Marion, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Williams, Wilson, of Brazoria, Wright—45.

So the Convention refused to lay the matter on the table.

Mr. Degener moved to indefinitely postpone the consideration the subject.

Motion withdrawn.

Mr. Hamilton, of Bastrop, moved to commit the subject to the Committee on the Division of the State.

Mr. Mills moved the previous question upon the adoption of the report and resolutions offered by the Committee on Federal Relations.

Previous question seconded.

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

The yeas and nays were called for, and resulted thus :

Yeas—Messrs. Armstrong, of Lamar, Board, Brown, Bryant, of Grayson, Bryant, of Harris, Caldwell, Carter, Cole, Coleman, Constant, Curtis, Fayle, Fleming, Foster, Gaston, Goddin, Gray, Grigsby, Hamilton, of Travis, Johnson, of Calhoun, Jordan, Kealy, Kendal, Kirk, Lindsay, Long, McCormick, McWashington, Mills, Mundine, Pedigo, Phillips, of Wharton, Posey, Rogers, Ruby, Scott, Smith, of Marion, Stockbridge, Sumner, Talbot, Varnell, Vaughan, Watrous, Williams, Wilson, of Brazoria, Wright—47.

Nays—Messrs. President, Adams, Armstrong, of Jasper, Bell, Belling, Bledsoe, Buffington, Burnett, Degener, Downing, Evans, of McLennan, Evans, of Titus, Flanagan, W. Flanagan, Glenn, Hamilton, of Bastrop, Harris, Hunt, Keigwin, Kuechler, Leib, Lippard, Mackey, Morse, Mullins, Munroe, Newcomb, Phillips, of San Augustine, Schuetze, Smith, of Galveston, Sorrell, Thomas, Whitmore, Wilson of Milam, Yarborough—35.

So the main question was ordered.

The question recurring upon the second reading of the report and resolutions.

Mr. Flanagan moved a call of the House.

Call sustained.

Mr. Munroe moved that the Convention adjourn until to-morrow morning at nine o'clock.

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

Yeas—Messrs. Adams, Armstrong, of Jasper, Bell, Belling, Degener, Evans, of Titus, Flanagan, Glenn, Hamilton, of Bastrop, Harris, Jordan, Kuechler, Mackey, Morse, Mullins, Munroe, Newcomb, Pedigo, Rogers, Ruby—20.

Nays—Messrs. President, Armstrong, of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Coleman, Constant, Curtis, Downing, Evans, of McLennan, Fayle, W. Flanagan, Fleming, Foster, Gaston, Goddin, Gray, Grigsby, Hamilton, of Travis, Harne, Hunt, Johnson, of Calhoun, Kealy, Keigwin, Kendal, Kirk, Leib, Lindsay, Lippard, Long, McCormick, McWashington, Mills, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Schuetz, Scott, Smith, of Galveston, Smith, of Marion, Sorrell, Stockbridge, Sumner, Talbot, Thomas, Varnell, Vaughan, Watrous, Whitmore, Williams, Wilson, of Brazoria, Wilson of Milam, Wright, Yarborough—62.

So the Convention refused to adjourn.

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

Carried.

So the call of the House was suspended.

Mr. Flanagan moved a call of the House.

Call lost again.

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

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CAPITOL, AUSTIN, TEXAS,  
July 3, 1868.

Convention met pursuant to adjournment.

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

The President announced the reception of the following communication from his Excellency E. M. Pease, Governor of Texas, transmitting communications from the Comptroller:

EXECUTIVE OFFICE,  
AUSTIN, July 2, 1868.

HON. E. J. EAVIS,

President of the Convention:

SIR: I transmit, herewith, copies of two communications received at this office, from Geo C. Rives, Esq., the acting Comptroller of Public Accounts, concerning the finances of the State, which I request may be laid before the Convention.

Very Respectfully,

Your Ob't Servant,

E. M. PEASE.