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

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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.

COMPTROLLER'S OFFICE,  
Austin, Texas, June 30, 1868.

HIS EXCELLENCY GOV. E. M. PEASE,

SIR: Referring to my letter of this date, you will readily perceive, that I took no note of the probable receipts from the General Land Office, and other sources of revenue, which in the aggregate would not amount to \$7,000 per annum, nor did I take into account many appropriations likely to be made by the Constitutional Convention, or by the Legislature, should one assemble. This subject is a very serious one, and I beg that you will give it your consideration.

I have the honor to be,

Your ob't servant,

GEO. C. RIVES,  
Acting Comptroller.

COMPTROLLER'S OFFICE,  
Austin, Texas, June 30, 1868.

To His Excellency, E. M. PEASE,  
Governor of Texas.

SIR: I beg leave, most respectfully to call your attention to the probable receipts and expenditures of the State Government during the period from July 1st, 1868, to July 1st, 1869, which shows that the treasury will, in all probability, be unable to meet the demands likely to be made upon it during the next twelve months.

STATEMENT.

Ordinary expenses of the State Government, (estimated)	- \$300,000
Appropriation for Penitentiary, - - - - -	25,000
"    for arresting Criminals, - - - - -	25,000
Pay of officers of first Provisional Government, - - -	15,000
Expense of Convénion, - - - - -	125,000
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Total - - - - -	\$490,000
Expense of Legislature, - - - - -	160,000
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Total - - - - -	\$650,000
Cash on hand, say - - - - -	\$200,000
Amount likely to be derived from taxation by 1st of July, 1869, (estimated) - - -	875,000
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Total - - - - -	\$575,000
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Leaving a deficit, say of - - - - -	75,000

Should the Convention levy a tax to reimburse the Treasury for the amount drawn in its behalf, and if it should be paid into the treasury during the next twelve months, then, we may hope to have a small balance on hand July 1st, 1869, otherwise I see no way of keeping the treasury in funds.

I have the honor to be,

Your most ob't serv't,

GEO. C. RIVES,

Acting Comptroller.

Mr. Evans, of McLennan, offered the following declaration :

*Be it declared*, that the following shall be a section of the new Constitution of Texas :

SECTION —. From and after the year 1870, Waco, McLennan county, Texas, shall be the Capitol of the State of Texas; and that the University fund of Texas, shall be equally divided, and increased double its present amount by the Legislature of Texas, and two Universities established, the one at Tyler, Smith county, Texas, the other at San Antonio, Bexar county, Texas.

On motion, the declaration was referred to the Committee on State Affairs.

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

*Resolved*, That Brevet Maj. Gen. J. J. Reynolds, commanding the District of Texas, be and is, hereby respectfully requested to cause the Comptroller of Public Accounts of Texas, to prepare and transmit for the use of this Convention the following statements and information, to-wit :

1st Statement—showing the assessment of taxes in each county in the State, for the year 1867.

2nd. Estimate of cost of collection of taxes under existing laws.

3d. Amount collected upon assessment for 1867.

4th. Statement of the different accounts, showing the receipts from the 4th of September, 1867, and the balances in the different kind of funds standing as credits of each account on 31st of May, 1868.

5th. Statement of warrants drawn by the Comptroller upon the Treasurer, during the period commencing September 4th, 1867, and ending with May 31st, 1868.

6th. Statement of public debt.

7. Reports of Railway companies made to comptroller under act of February 7th, 1853.

8th. Statement showing the present indebtedness of each Railroad Company, to the State, and also what amount of interest has

been paid, when, in what kind of funds paid, and amounts remaining unpaid.

9th. Statement of amounts paid for Asylums, from their establishment to June 1st, 1868, and in what kind of funds paid.

10th. Statement of amounts paid for Penitentiary from its establishment to June 1st, 1868, and in what kind of funds paid.

11th. Statement, showing the amount and character of funds paid for School Lands during the existence of the rebellion.

Mr. Hamilton, of Bastrop, moved a suspension of the rules, for consideration of the resolution.

Rules suspended.

Resolution read a second time, and agreed to.

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

Rules suspended, resolution read a third time and passed.

Mr. Sumner offered the following resolution :

*Resolved*, That hereafter, no member of this Convention shall be allowed to speak over thirty minutes at one time, without the consent of a majority of all members present.

Mr. Sumner moved a suspension of rules to consider resolution.

Rules suspended, and resolution agreed to.

Mr. Smith, of Galveston, offered the following declaration and asked its reference to Judiciary Committee :

*Be it declared*, that any discrimination made by court officers in the selection of jurors, on account of race or color, shall be deemed a misdemeanor in office, and punishment by fine and imprisonment, and that this Convention require this principle to be incorporated in the Constitution.

Referred to the Judiciary Committee.

Mr. Fayle offered the following preamble and resolutions:

WHEREAS, The fragments of rebel usurpation within this State are so violent in their antipathies to the United States Government, and so hostile to the Reconstruction Acts of Congress that, notwithstanding all the magnanimity and forbearance of the Government towards them, they are still arrayed in strong opposition, endeavoring to thwart and, if possible, defeat the measures of Congress for the reconstruction of the State, and its restoration to a place in the general Government; and

WHEREAS, From all the facts before us, there is evidently a wicked combination of the old secession rebel elements to defeat by force and fraud the organization of a civil government in loyal hands within this State, or, if unable to defeat, seeking to control; and

WHEREAS, The military power in the limits of the State, at the

disposal of the Commanding General, is altogether inadequate for the protection and defense of the loyal and peaceable portion of the citizens thereof, and this to such an alarming extent as to leave some sections almost in a state of anarchy, and threatening the entire State with the direst oppression and misrule; and

WHEREAS, There is no likelihood of any sufficient force being sent into the State, such as would meet the exigencies of the case, or if sent could arrive in time to accomplish the desired results of preserving peace and giving protection; and

WHEREAS, The loyal citizens of this State are a law-abiding, order-loving people, and willing and able to defend themselves, if it could be done under the sanction of and in accordance with law. Yet inasmuch as the greater part of the offices in the State are in the hands of rebels and devoted adherents to the lost cause, and are backed up by the lawless and violent of their respective communities, there is, under the present administration of affairs, no redress; and

WHEREAS, Under such circumstances, there can be no true election by the people—the malicious and revengeful spirit of the enemies of the United States Government have inaugurated a reign of terror, such as existed in the year 1860, thereby allowing no just expression of the public will—no fair choice to be made by the people;

AND WHEREAS, The Reconstruction Acts positively require of this Convention not only that they should “frame a Constitution, Republican in its principles,” but make it their imperative duty to “establish a civil government loyal in its character,” specifying only that the members of the Legislature be elected directly by the people; leaving all other matters pertaining to the offices and machinery of the State government to be regulated by, and as may seem best to this body, and in conformity to the exigencies and condition of things.

*Therefore be it resolved,* That this Convention do hereby appoint a committee of seven of its members, representing the different parts of the State, whose duty it shall be to select and appoint the entire executive officers of the State, to serve during the first term, as required by the Constitution framed by this Convention, and to take their seats upon its acceptance by Congress.

FAYLE.

On motion it was referred to the Executive Committee.

Mr. Hunt, of Comal, offered the following declaration:

WHEREAS, Corrupt means have been heretofore used in this State to obtain charters and special privileges, monopolies having thereby been created in the interest of a favored class, including political speculators and demagogues, who have used their franchise to sub-

serve and strengthen party cliques, to the detriment of the welfare of the community at large.

*Be it therefore declared by this Convention,* That no charter shall hereafter be granted by any further Legislature, having for its object the development of the resources of the State, or improvement of the country in any way, without the party or parties who apply for such charter or privilege shall first give full and sufficient security of ability to carry out to successful completion the right or privilege desired.

Granted.

On motion the declaration was referred to the Committee on State Affairs.

Mr. Harne offered the following resolution.

*Resolved,* That the Judiciary Committee be instructed to report by declaration or otherwise, the propriety of defining the qualification of grand and petit jurors, so that all persons of good moral character, who are qualified electors, shall be competent jurors.

On motion, the resolution was referred to the Judiciary Committee.

Mr. Kealy offered the following resolution :

*Resolved,* That each county of the State shall make provisions for the poor of their respective counties, by purchasing three hundred and twenty acres of land, convenient to the county site of such county, and erect suitable buildings for the accommodation and care of said poor persons, who may become charges on any of said counties, and said lands be brought into cultivation for the support of said poor persons; said land and buildings not to exceed in value the sum of five thousand dollars, unless by a two-third vote of the legal voters of said counties. All the necessary appointees to superintend and carry out the purchase of land, erect buildings, etc., shall be left to the convening of the next sitting of the State Legislature; who shall, at their session, make all the necessary preliminaries to carry the same into effect.

On motion, the resolution was referred to the Committee on State Affairs.

Mr. McCormick asked leave of absence for Mr. Vaughan until next Wednesday.

Leave granted.

Mr. Evans, of McLennan, asked leave of absence for Mr. Patten, until next Monday.

Leave granted.

Mr. Evans, of McLennan, in the Chair.

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

*Resolved,* That this Convention selects Messrs. M. C. Hamilton and C. Caldwell, members of this body, as a committee, with instruc-

tions to proceed to Washington without delay, and lay before Congress the condition of lawlessness and violence prevalent in this State, and urge the immediate necessity for action on the following matters :

First. The adoption of some law or regulation that will secure the filling of all State Provisional officers with competent and loyal incumbents.

Second. The organization of a loyal militia, to be placed under the direction and control of the loyal Provisional authorities of Texas.

Laid over one day under the rules.

The President announced that the hour had arrived to take up the business made the special order of the day, for ten o'clock this day, which was upon the substitute offered by Mr. Hamilton, of Travis, for the report and resolutions offered by the Committee on the Division of the State.

Mr. Hamilton, of Travis, asked leave of absence until Monday next.

Leave granted.

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