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CAPITOL, AUSTIN, TEXAS,  
 JULY 11, 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 A. Siemering & Co., proprietors of the San Antonio Express :

Hon. E. J. DAVIS,

President of the Convention :

SIR: Learning that a resolution has passed to engrossment, discontinuing the four hundred copies of the San Antonio Express, subscribed for by the Convention, we would respectfully represent that this sudden action on the part of the Convention, will be a considerable injury to us, as we have made outlays to meet the demand of the Convention, and we ask that fair notice be given, or that the Convention continue the papers at a reduced price, say five cents per copy, in order to enable us to use up the extra quantity of paper we have on hand.

Yours most ob't,

A. SIEMERING & CO.

AUSTIN, July 11th, 1868.

Mr. Bell offered the following resolution :

Resolved, That the President appoint a committee of five members, to enquire into the circumstances of the personal difficulty between two or more members of this body in the Convention hall this morning, and that such committee have power to send for witnesses, and that said committee report by resolution or otherwise.

On motion to suspend the rules to take up resolution, the rules were suspended.

Mr. Flanagan moved to lay the resolution on the table.

Carried.

Mr. Flanagan moved the resolution be expunged from the minutes, upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Board, Bryant, of Grayson, Carter, Coleman, Evans of Titus, Fayle, Flanagan, W. Flanagan, Hamilton, of Travis, Harris, Hunt, Jordan, Mills, Phillips, of San Augustine, Phillips, of Wharton, Posey, Schuetze, Scott, Stockbridge, Varnell, Vaughan, Wilson of Brazoria—23

Nays—Messrs. President, Armstrong of Jasper, Armstrong, of Lamar, Bell, Bellinger, Bledsoe, Brown, Bryant, of Harris, Bur-

nett, Cole, Curtis, Degener, Downing, Evans, of McLennan, Fleming, Foster, Gaston, Gray, Grigsby, Harne, Johnson, of Calhoun, Kealy, Keigwin, Kendal, Kuechler, Lindsay, Lippard, Long, McWashington, Morse, Muckleroy, Mundine, Munroe, Oaks, Patten, Pedigo, Rogers, Ruby, Slaughter, Smith, of Galveston, Smith, of Marion, Sumner, Thomas, Watrous, Whitmore, Williams, Wilson of Milam, Wright, Yarborough—49.

So the motion to expunge from the minutes was lost.

Mr. Flanagan, Chairman of the Committee on Internal Improvements made the following report :

COMMITTEE ROOM,  
Austin, July 11, 1868.

Hon. E. J. DAVIS,

President of the Convention :

SIR: Your Committee on Internal Improvements, have had under consideration a declaration introduced by Hon. A. J. Evans, of McLennan, authorizing the county courts for police purposes, to authorize the people in any county or counties to vote a tax for railroad purposes, and I am instructed to report back the declaration, and to recommend the adoption of the same.

J. W. FLANAGAN,  
Chairman.

Mr. Flanagan offered the following additional report :

COMMITTEE ROOM,  
Austin, July 11th, 1868.

To the Hon. E. J. DAVIS,

President of the Constitutional Convention :

SIR: The Committee on Internal Improvements, heretofore charged by resolution of the Convention with the duty of ascertaining the indebtedness of the several railway companies of the State to the special School Fund, and also the condition of said Companies, and their Roads, and to report to the Convention, has had these subjects under consideration, and has instructed me to make the following report :

The special School Fund of the State was created by the Act of the 31st of January, A. D., 1854. The Act authorizing the loan of the special School Fund to railway companies was passed on the 13th of August, A. D., 1856. This latter act provided that the Board of School Commissioners created by the act should not deliver to any railway company any warrant on the Treasury of the State, against the special School Fund, until such company had de-

livered into the Treasury its bonds, in sums of not more than one hundred and fifty thousand dollars, and not less than fifty thousand dollars, with coupon bonds for six per cent. per annum interest, payable annually; and the same section of the act provided that, in addition to the annual interest of six per cent. to be paid on the bonds, every company accepting any loan under the provisions of the act should pay annually the further sum of two per cent. upon the amount of the loan, for the purpose of establishing a sinking fund, to be applied towards the payment of the loan at maturity. The amount paid for the purpose of establishing the sinking fund to be credited to the company paying the same.

Under the provisions of the act of August 13th, 1856, four railway companies have received loans from the special School Fund, to-wit: The Houston and Texas Central Railway Company; the Buffalo Bayou, Brazos and Colorado Railway Company; the Texas and New Orleans Railway Company, and the Southern Pacific Railway Company.

By special acts of the Legislature, the benefit of the act of the 13th of August was extended to two other companies, to-wit: The Washington County Railway Company, and the Houston Tap and Brazoria Railway Company; so that the six companies above named became indebted to the special School Fund of the State.

According to the statement furnished to your committee by the Comptroller of Public Accounts, the Houston and Texas Central railway company borrowed from the special School Fund, in the years 1857, 1858, and 1859, the sum of \$450,000, for which sum, said company executed its bonds, in conformity with the act of August 13th, 1856, which said bonds were deposited in the Treasury of the State. The whole amount of interest accruing on these bonds to March 1st, 1868, was \$257,255 56. To the 31st day of August, 1860, the said company paid, in specie, on account of the two per cent. sinking fund required by law, the sum of \$18,000; thereby reducing the principal of the debt to the sum of \$432,000. On account of accrued interest, said company has paid as follows: From March 1st, 1858, to March 1st, 1860, inclusive, in specie, the sum of \$49,801 21; from December 31st, 1866, to December 31st, 1867, inclusive, in specie, the sum of \$38,290; making total payment of interest, in specie, \$88,091 21. The said company also paid, in the year 1864, on account of interest, in State Warrants, \$49,146 49; and in State Warrants fundable in 8 per cent. bonds \$56,188 67; and in State Warrants fundable in 6 per cent. bonds, \$439; making the whole amount of interest paid in State Warrants \$105,774 35; and the whole amount of interest paid, both in specie

and State Warrants, \$193,865 56 ; leaving a balance due on account of interest, of \$63,390.

By way of full explanation, your committee deem it proper here to state, that, by the 7th section of an act of the 11th Legislature, entitled "An Act regulating the Collection of Debts," approved November 10th, 1866, it was provided that "all railroad companies that are owing interest upon the bonds for loan of the Common School Fund, shall have an extension of time for the payment of interest now due, as follows : The entire amount of interest now due shall be divided into eight equal parts, and paid as follows, in specie; one equal eighth part due by each company, shall be paid on or before the first day of January next; and one equal eighth part every six months thereafter, until the entire amount shall have been paid : Provided, that on failure of any company to pay any one of such installments, as above stipulated, such company shall forfeit the benefits of this act, and the entire amount of interest then due shall be collected as now provided by law."

The arrears of interest due by the Houston and Texas Central Railway Company, and intended to be embraced in the above provision of the act of 10th November, 1866, are included in the above amount of \$63,390.

The Buffalo Bayou, Brazos and Colorado Railway Company borrowed from the special School Fund, in the years 1858 and 1859, the sum of \$420,000. The whole amount of accruing interest on this loan, to March 1st, 1868, was \$228,158. This company paid, prior to the 8th day of October, A. D., 1860, on account of the two per cent. sinking fund, in specie, the sum of \$12,000 ; thereby reducing the principal of their debt to the sum of \$408,000. To the 31st March, A. D., 1860, inclusive of that day, this company paid, in specie, on account of accrued interest, the sum of \$32,218 75. On the 7th day of January, 1867, this company paid, in specie, on account of accrued interest, the sum of \$6,120. During the year 1864, this company, on account of accrued interest, paid, in State Warrants, the sum of \$23,815, and in State Warrants fundable in 8 per cent. bonds the further sum of \$74,204 25, making the total amount paid in State Warrants, on account of interest, \$98,019 25, and the whole sum of payments on account of interest, both in specie and in State Warrants, \$136,358, leaving a deficit of the whole amount of accrued interest to March 1st, 1868, of \$91,800; thus making the whole indebtedness of this company to the special School Fund, on March 1, 1868, amount to \$499,800. The deficiency in the interest account embraces the arrears of interest intended to be embraced within the provisions of the 7th section of the act of the 10th of November, 1866, before referred to.

The Texas and New Orleans Railway Company borrowed from the special School Fund, in the years 1860 and 1861, the sum of \$430,500. Of the two per cent. sinking fund required by law to be annually paid, this company has never paid any amount. On account of accrued interest, this company paid, on March 1st, 1861, in specie, the sum of \$14,271 52, and on the 5th of January, 1867, in specie, the sum of \$16,143 75, making total payments in specie, on account of accrued interest, amount to \$30,415 27. This company has never paid any further sum on account of interest, in any kind of funds. The whole amount of accrued interest due on the sum borrowed to March 1st, 1868, was \$195,081 52. The deficit on interest is therefore, to March 1st, 1868, \$164,666 25, and the whole amount due this company to the special School Fund, on March 1st, 1868, was \$595,166 25.

In this connection, your committee deems it proper to call the attention of the Convention, to the second section of an act passed during the extra session of the Eighth Legislature, entitled "An Act for the relief of the Texas and New Orleans Railroad Company." The act referred to was approved on the 7th day of February, 1861. The said second section provided that "said railroad company shall have the power and is hereby authorized to issue a first mortgage upon its railroad, from the west bank of the Trinity river to the city of Houston; provided that this company shall relinquish all claims to the State Loan on said section of its road." Your committee is informed that, under the provisions of this act, the said railway company executed a first mortgage on the forty miles of their road lying between the west bank of the Trinity river and the city of Houston, for the sum of six thousand dollars per mile, making the sum of \$240,000. If the act referred to of the 7th of February, 1861, is a law of the State, or was such at the time of its passage, then this first mortgage, to the amount of \$240,000, will take precedence of the lien of the State upon that portion of the road, and of course the value of the security for the payment of the debt to the special School Fund will be correspondingly diminished. Further reference will be made to this matter before concluding this report.

The Washington County Railway Company borrowed from the special School Fund, in the year 1859, the sum of \$66,000. The whole amount of accrued interest to March 1st, 1868, was \$29,312 59. This company paid on June 6, 1860, on account of two per cent. sinking fund, in specie, the sum of \$1,320. On the 11th day of May, A. D., 1865, this company also paid, and had placed to its credit, on account of said sinking fund, the sum of \$27,663, in State Treasury Warrants, reducing the principal of its debt, by the said

payment, to the sum of \$37,017. On account of accrued interest this company paid, on the 23th day of February, 1860, in specie, the sum of \$2,899 45. And on January 1st, 1867, said company paid, on account of interest, in specie, the further sum of \$317 98, making the total payments of interest, in specie, \$3,217 43. During the year 1864, this company paid on account of accrued interest, in State Treasury Warrants, the sum of \$15,546 40; and on the 11th day of May, A. D., 1865, said company paid the further sum, on account of interest, in State Treasury Warrants, of \$3,880 80, making total payments of interest in State Warrants of every kind \$19,427 20; and total payments on account of interest in specie and State Warrants, \$22,644 63, leaving balance due of interest on 1st March, 1868, of \$6,667 96; thus making the whole indebtedness of said company to the special School Fund on March 1st, 1868, \$43,684 96.

The Southern Pacific Railway Company borrowed from the special School Fund, on the 31st of May A. D., 1862, the sum of \$150,000. The interest on this loan to March 1st, 1868, amounted to \$52,625. This company has never paid any sum, either as sinking fund or interest. The account is therefore easily stated: Principal, \$150,000; interest to March 1st, 1868, \$52,625; total indebtedness of this company to special School Fund on March 1st, 1868, \$202,625.

The Houston Tap and Brazoria Railway company borrowed from the special School Fund, in the years 1859 and 1860, the sum of \$300,000. This company paid on the 1st of January, 1861, in specie, on account of the two per cent. sinking fund required by law, \$4,200, reducing thereby the amount of the principal debt to the sum of \$295,800. The whole amount of interest due on the loan to this company, on March 1st, 1868, was \$142,849 58. This company paid on account of accrued interest, on 27th February, 1860, in specie, the sum of \$2,375 38. This company also made payments of interest in State warrants, as follows: on June 23d, 1864, in 8 per cent. warrants, \$2,000; on July 13th, 1864, in 6 per cent. warrants, the sum of \$13,163 33; on the 20th of August, 1864, the sum of \$270 in 8 per cent. warrants, and the sum of \$1,730 in 6 per cent. warrants; and on the 24th of August, 1864, in 8 per cent. warrants, the sum of \$50,075, and in 6 per cent. warrants, the sum of \$2,245; making total payments on account of interest in State warrants of every kind, \$69,483 33; and total payments on account of interest, both in specie and in State warrants, \$71,858 71; leaving balance due on account of interest on March 1st, 1868, of \$70,990 87, making entire indebtedness of said com-

pany to the special School Fund, on 1st of March, A. D., 1868, \$366,790 87.

To recapitulate, these six companies are indebted to the special School Fund, as follows :

Houston and Texas Central.....	\$495,390 00
Buffala Bayou, Brazos and Colorado.....	499,800 00
Texas and New Orleans.....	595,166 25
Southern Pacific.....	202,625 00.
Houston Tap and Brazoria.....	366,790 87
Washington County Road.....	43,684 96

Aggregate indebtedness..... \$2,203,457 08.

From the foregoing statement it will be seen that not only have all the companies named (except the Southern Pacific) made payments on account of interest, in the State treasury warrants, but that the Washington County Railroad Company also made a considerable payment on the principal of its debt in State warrants. It therefore becomes proper to state the authority, or pretended authority, under which these payments in treasury warrants were made. Your committee believes that the first step towards authorizing such payments was taken by the Tenth Legislature, in the passage of an act entitled, "An Act authorizing the Comptroller of the State to receive from railroad companies in this State the interest that may be now due, or hereafter become due on their bonds." This act was approved December 16th, 1863, and provided that the Comptroller should be authorized to receive from railroad companies all interest on their bonds then due, or afterwards to become due, provided the same should be tendered in State bonds or in State treasury warrants, previous to the meeting of the next regular session of the Legislature. The act also provided that for all sums so paid in, the Comptroller and Treasurer should issue to the special School Fund, the bonds of the State bearing six per cent. interest. The next step in this direction was taken at the called session of the Tenth Legislature, by the passage of an act amending the act above referred to, and providing that the act of December 16th, 1863, should not apply to railroad companies that might fail or refuse to receive State bonds or State treasury warrants at par, for freight or passage, at the prices or rates established by law; and it was made the duty of the Comptroller to refuse to receive State bonds or treasury warrants, for the interest due on their bonds, from companies that failed or refused to receive such bonds and warrants at par for freights or passage at the rates established by law. This second

act was approved May 28th, 1864. The last action on this subject was that of the Tenth Legislature at its second extra session, in the passage of an act entitled, "An Act to authorize railroad companies to discharge their indebtedness to the special School Fund with the treasury warrants and bonds and coupons of the State." This act provided that the railroad companies indebted to the School Fund should continue to have the privilege of paying their interest in treasury warrants and bonds and coupons of the State; and that such companies might also discharge the whole or any part of the principal of their indebtedness to the School Fund in the same manner, provided such railroad companies should satisfy the Comptroller that the treasury warrants and bonds and coupons of the State were received by them at par, with specie for freights and passenger travel. This last act was approved November 15th, 1864, and provided that all treasury warrants and bonds and coupons, that might be received in the treasury under its provisions should be cancelled, and that the Comptroller should issue bonds of the State bearing six per cent. interest to the School Fund, for the amount paid in. Your committee has received no direct communication from any of the railway companies indebted to the School Fund, except the Houston and Texas Central Railway Company. The President of that company has addressed a written communication to the Chairman of your committee, accompanied by a printed pamphlet, setting forth the condition, purposes, prospects and wants of said company. This company has become the owner of the Washington County Road. This Washington County Road is twenty-five miles in length, extending from the town of Hempstead, a few miles east of the Brazos river, to the town of Brenham, which is the county seat of Washington county. The Houston and Texas Central Railway Company desires to have the Washington County Road declared to be a branch of the Central, and it wishes to have the privilege of extending this branch from the town of Brenham to the city of Austin. At the close of the war the Central Road was eighty miles in length; since which time the company has built twenty additional miles and opened the same to travel and traffic. The President informs your committee that thirty miles more of road are now under contract and in process of construction, and will be completed and opened to travel and traffic by the first of October next. The President claims that the company is solvent; that since the close of the war, the road, then broken down, dilapidated and unsafe, has been renewed and made safe, its bridges renewed, stone supports put in the place of wooden ones, new ties, new locomotives and cars costing \$209,000 procured, the floating debt taken up, and back interest to foreign and Northern bond-holders and creditors fully

paid, and the credit of the road built up and established. The President says that the gross earnings of the road, since the war, have been about six hundred thousand dollars per annum, and the legitimate expenses about forty per cent. of the earnings. He says that no dividends have been made of the earnings amongst the stockholders, but that the whole amount of the earnings has been used to repair and extend the road. Your committee believes this company to be solvent, and desirous to extend its roads as rapidly as possible, and proposes, at an early day, to make its affairs the subject of a further report.

The Texas and New Orleans Road is represented to be in very bad condition. The bridge over the Trinity river is stated to be unfit for use, and the road generally in a state of extreme dilapidation. Cars have ceased to pass over it. This road is believed to be greatly needed by the people of Texas, and with a connection with New Orleans would certainly be a very valuable property. The present company has not shown the ability to make the road serviceable to the public, and under its present management it will soon cease to be, if it has not already ceased to be, an adequate security for the large sum due to the School Fund.

The same, in the judgment of your committee, is true of the Buffalo Bayou, Brazos and Colorado Railway. This road has been for several years in operation, and while the company is in arrears of interest to a large amount to the School Fund, your committee is informed that the company owes a large floating debt, for which it is not able to provide; that its stock is very greatly depreciated in value, and the road suffering greatly for want of repairs. These two last named companies are indebted to the State more than a million of dollars, and the two roads in the hands of companies able to keep them in good condition, ought to be ample security for the amount due, or even for a larger sum. They must always be important lines, enjoying the advantage of much travel and traffic. Your committee does not hesitate to express the opinion that immediate steps ought to be taken to rescue these roads from the hands in which they now are, and to make them a perfect security for the debts due by the present companies, to the School Fund, and also to make them more widely beneficial to the people of the State. Your committee is of opinion that these desirable objects can easily be accomplished. These roads are valuable, and must attract the attention of capitalists. Let the roads be sold, but in such manner and upon such conditions that there will be no sacrifice of the School Fund, or of any part of it.

What your committee has to propose on this subject is embodied

in an accompanying declaration or ordinance, which your committee hopes will receive the favorable consideration of the Convention.

The Southern Pacific Road is also a valuable property, and the State ought not to lose any part of the debt of the company owning the road to the School Fund. This road has been sold under execution, as your committee has been informed, and is now conducted in the interests of a very few individuals. Your committee is of opinion that the State should foreclose its mortgage upon this road, and it is embraced within the provisions of the ordinance relating to the Houston and New Orleans Road, and the Buffalo Bayou, Brazos and Colorado Railroad.

The changed condition of the country on the lower Brazos and Colorado, growing out of the events of the war, has made the Houston Tap and Brazoria Railroad of but little value. It is the opinion of your committee, based on what is deemed reliable information, that this road cannot long be maintained. There is not travel and traffic sufficient to sustain it. The only return which this road can make to the School Fund will probably be such sum as can be obtained for the iron, and in order to find a purchaser for the iron of this road, such purchaser must have authority to remove the iron and use it elsewhere. The only question concerning the disposition to be made of this road is: Will the State take such a course as to realize some portion of the debt to the School Fund, or will the road be permitted to fall into absolute ruin, so that no part of the debt to the School Fund can ever be recovered? Your committee is of opinion that this road ought to be sold, with a right on the part of the purchaser either to run the road under the laws of the State, or to remove the iron from the same. In this way a portion of the debt can be saved; in no other way can any part of it be recovered. Your committee presents herewith an ordinance or declaration respecting the sale of this road. Whether the act of the 7th of February, 1861, giving the right to the Texas and New Orleans Railway Company to execute a first mortgage on that portion of its road between the Trinity river and the city of Houston, is to be treated as having the force of law or not, your committee entertains no doubt of the right of the State to sell the whole line of said railway, subject to the lien created under the provisions of said act. Such right is clearly to be deduced, in the judgment of your committee, from the provisions of the 3d, and 11th and 12th sections of the act of the 13th August, 1856; and so far as the right of the State to vary the manner of sale for the purpose of collecting the debts due the School Fund, from that prescribed by the act of 1856, may be called in question, your committee deems it only necessary to refer to the 14th section of the said act of 1856, which is in the

following terms: "The State of Texas expressly reserves the right to enact hereafter all such laws as may be deemed necessary to protect the interest of the special School Fund, in securing the payment of said bonds, and in enforcing the lien reserved thereon." This right of the State, it will be seen, to make any change that may be deemed necessary in the manner of sale or in the terms and conditions of sale for the purpose of enforcing its lien, is one of the fundamental conditions of the loan; and none of the delinquent companies can be heard to complain that the State now exercises this right.

Your committee forbears, on account of the necessary length of this report, to present to the Convention further arguments in support of the recommendations embodied in the accompanying declarations or ordinances.

Your committee feels confident that the great importance of the subject here presented will secure from the Convention the deliberate consideration of this report, and wise action in the premises.

All of which is respectfully submitted,

J. W. FLANAGAN,  
Chairman.

#### A DECLARATION.

SECTION 1. *It is hereby declared by the Delegates of the people of Texas, in Convention assembled,* That it shall be and is hereby made the duty of the present Provisional Governor of this State to cause the following named railroads to be sold, for the payment of the indebtedness of the companies owning them, respectively, to the Special School Fund of the State, to-wit: the Buffalo Bayou, Brazos and Colorado Railroad; the Texas and New Orleans Railroad; and the Southern Pacific Railroad.

SEC. 2. It shall be the duty of the Governor, as soon after the passage of this act as may be consistent with his other official duties, to cause said railroads to be advertised for sale, for sixty days, in the following named newspapers, to wit: the San Antonio Express, the Austin Republican, Flake's Galveston Bulletin, the Galveston News, the National Index, at Tyler, Smith county, some newspaper in the city of Marshall, Harrison county, and one leading paper in the city of New York. The sale shall take place on the steps of the Capitol, in the city of Austin, between the hours of ten o'clock, A. M., and two o'clock, P. M., under the direction of the Governor. The said roads shall be sold separately. The sale shall transfer to the purchaser all the property in the road and of the company to which the road belongs, upon which the bonds executed for the loan of the special school fund are a lien, as set forth in the third section

of the act of the thirteenth of August, A. D. 1856, concerning the loan of the School Fund.

SEC. 3. For the purpose of the sale herein contemplated, it is hereby declared that the Buffalo Bayou, Brazos and Colorado Railroad Company was indebted to the Special School Fund of the State, on the first day of March, A. D. 1868, in the sum of \$499,800, principal and interest; that the Texas and New Orleans Railway Company was indebted to the Special School Fund, on the same day, in the sum of \$595,166 25, principal and interest, and that the Southern Pacific Railway Company was indebted to the Special School Fund, on the same day, in the sum of \$202,625, principal and interest.

SEC. 4. The sale of these roads shall be at public auction; and if any person shall bid for either of said roads the whole amount of the debt due by the company owning the road to the Special School Fund, with interest to the day of sale, the whole amount to be paid down in coin, it shall be the duty of the Governor to accept such bid, and to cause the road in question to be knocked off to such purchaser, provided he cannot obtain a better bid in cash; but, if no person shall bid the whole amount due by the companies owning said roads respectively, it shall be the duty of the Governor to bid for each of said roads the whole amount due by the company to which the road belongs to the School Fund, and thus purchase each of said roads for the State; and upon the making of such bid by the Governor, and his public declaration that he purchases said roads for the State, said roads shall become the property of the State; and the Governor shall, on the same day, file in the office of the Secretary of State a written declaration that he purchased said roads, or either or any of them, as the case may be, for the State, which declaration shall be attested by the Secretary of State and the seal of the State.

SEC. 5. If any person other than the Governor shall become the purchaser of said roads, or either or any of them, then it shall be the duty of the Governor, after the payment of the price, to give to such purchaser a certificate of sale, signed by himself officially, and attested by the Secretary of State, using the seal of the State; which said certificate, after being recorded in the office of the Secretary of State, shall be delivered to the purchaser, and shall vest in said purchaser full title to the road or roads so purchased, with all the rights, franchises, property, &c., &c., set forth in the third section of the act of the thirteenth of August, 1856, concerning the loan of the School Fund.

SEC. 6. If the Governor shall purchase either or any or all of said roads for the State, he shall have, and is hereby vested with power to resell either or any or all of said roads to any person or company

or association of persons that can show, to the satisfaction of the Governor, the pecuniary ability to put said road or roads in complete running order for the use of the public; and that shall also enter into contract with the Governor to put such road or roads in complete running order within a reasonable time; and any person or company or association of persons proposing so to contract with the Governor for the purchase of one or more of said roads, shall, in such contract, stipulate that the bonds of the former company or companies, for the sums borrowed from the School Fund, shall continue to be a first lien on said road or roads, for the amounts due said School Fund; and in making any such contract the Governor shall, as the representative of the State, stipulate that the party purchasing either or any or all of said roads shall have an extension of time for payment of the bonds of the former company or companies for the amounts due to the School Fund, of twenty years from the date of such contract; and such contract shall also contain a stipulation that if the party purchasing either or any or all of said roads shall make default for a period of thirty days in the payment of the interest upon said bonds, then the principal as well as the interest of said bonds shall be deemed to be due, and the State shall have the right to proceed to sell the road or roads upon which the bonds so becoming due are a lien, in such manner as is now or may hereafter be prescribed by law. Such resale and contract with the Governor shall subrogate the party purchasing to all the rights and privileges granted by the charter or charters of the company or companies sold out, and shall subject the party purchasing to all the provisions of the laws of the State as fully as the sold out company or companies was or were.

SEC. 7. If the Governor shall not make any re-sale of said roads or either or any of them before the first day of the meeting of the next Legislature of the State, then his power to re-sell said roads or such of them as at that time have not been re-sold by him, shall cease, and it shall be the duty of the Legislature to make such disposition of such roads or road as may be the property of the State, as will best protect the Special School Fund, and subserve the interests of the public.

SEC. 8. In the event that the Governor shall purchase any or either of these roads for the State, as hereinbefore provided, he shall have authority to take possession of the roads or road purchased, and to appoint a receiver or receivers to control and manage the same for the State, under his direction, until a re-sale shall be made, or until the Legislature shall otherwise direct.

SEC. 9. In the event of a purchase of these roads, or either of them, from the Governor, under the provisions of the sixth section

of this declaration, nothing in this declaration contained, and nothing in the contract which the purchaser may enter into with the Governor, shall be construed or understood to deprive the Legislature of the power to control said roads by law, or to make any further agreement with such purchaser as may be deemed beneficial to the roads or to the public, and conducive to the security of the School Fund.

SEC. 0. It shall be the duty of the Governor to recite this declaration in the advertisement of said roads for sale.

### A DECLARATION.

SECTION 1. *It is hereby declared by the delegates of the people of Texas, in Convention assembled,* That it shall be and is hereby made the duty of the present Provisional Governor of the State to cause the Houston Tap and Brazoria Railroad to be sold for the payment of the indebtedness of the company owning the same, to the Special School Fund of the State.

SEC. 2. As soon after the passage of this ordinance as may be consistent with his other official duties, the said Provisional Governor shall cause the said railroad to be advertised for sale for sixty days, in the following newspapers: the San Antonio Express, the Austin Republican, Flake's Galveston Bulletin, the Houston Telegraph; and for at least forty days in some leading paper in the city of New York. The sale shall take place in front of the Capitol, in the city of Austin, between the hours of ten o'clock A. M. and two o'clock P. M. The sale shall be at public auction and under the direction of the Provisional Governor. The sale shall be for cash to be paid down in gold or silver money of the United States, or in its equivalent in United States currency, on the day of sale.

SEC. 3. As there may be some question as to the rights of a purchaser under the existing law of the State, it is hereby declared that any purchaser of this road shall have the right either to run and manage said road in conformity with the charter of the company now owning the same, and subject to the laws of the State in the premises, or to take up and remove the iron from said road; but if the use of said road shall ever be discontinued and the iron removed from the same, then the franchises granted in the charter authorizing the construction of said road shall revert to the State of Texas.

SEC. 4. If any person shall appear and bid for said road and become the purchaser thereof on the day fixed for the sale, it shall be the duty of the Governor to give to such purchaser a certificate of the sale and purchase, which shall be signed by the Governor offi-

cially, and attested by the Secretary of State, and the seal of the State; which said certificate shall be recorded in the office of the Secretary of State before being delivered to the purchaser; and such certificate shall vest full title to said road in the purchaser, with all the rights and privileges accorded by the charter of said road, by the laws of the State, and by this declaration.

SEC. 5. No bid for a less sum than twenty-five thousand dollars in coin for said road shall be considered by the Governor; and if there be no sale made of the road aforesaid, then it shall be the duty of the Legislature, at its first session, to make such disposition of said road as may be deemed necessary and proper.

Mr. Flanagan moved a suspension of rules for consideration of report.

Rules suspended.

Mr. Flanagan moved that two hundred copies of the report be printed, and that it be made the special order for next Thursday, July 16, 1868, at ten o'clock.

Carried.

Mr. Bledsoe offered the following declaration :

#### DECLARATION

Authorizing the Police Court of Dallas county to levy a special tax, etc

WHEREAS, Several citizens of the county of Dallas have memorialized this Convention to pass an ordinance authorizing the Police Court of said county to levy and collect a tax of five thousand dollars in specie, to be expended under the direction of said court in removing obstructions in the Trinity river, between the town of Dallas and the mouth of East Fork; and

WHEREAS, The citizens of the town of Dallas have signified their willingness that one-third of said tax shall be paid by those owning property within the corporate limits of said town; and

WHEREAS, The enterprise is of great importance to the citizens of the town and county of Dallas, and should be encouraged; therefore,

*Be it declared by the delegates of the people of Texas, in Convention assembled,* That the Police Court of the county of Dallas be and is hereby authorized to levy and collect a tax of five thousand dollars in specie upon all property in Dallas county subject to *ad valorem* taxation; the said tax to be assessed upon the schedule or lists rendered to the Assessor for the year 1868; said money to be

expended under the direction of the Police Court in removing obstructions in the Trinity river between the town of Dallas and the mouth of East Fork: Provided, that one-third of the amount shall be collected from the property situated within the corporate limits of the town of Dallas: And provided further, that the tax levied shall not be more than twenty cents on each hundred dollars, except on property within the corporate limits of the town of Dallas, which may be taxed as high as sixty cents for each hundred dollars.

*Be it further declared,* That a certified copy of this declaration, signed by the President and countersigned by the Secretary, be forwarded to the said Police Court, and that this declaration take effect from and after its passage.

On motion, the declaration was referred to the Committee on Internal Improvements.

Mr. Bledsoe presented a memorial from Dallas county, respecting the navigation of the Trinity river, and asked its reference to the Committee on Internal Improvements:

#### MEMORIAL.

To the Honorable President and Members of the Constitutional Convention, now in session at the city of Austin:

Your memorialists, citizens of the county of Dallas, respectfully represent unto your honorable body that the recent arrival of the steamboat Job Boat No. 1, Captain J. H. McGarvey, master, at the town of Dallas, establishes the fact that the Trinity river can be successfully navigated from the city of Galveston to the town of Dallas for six months annually, by the expenditure of a small sum of money in removing snags, leaning timber, and other obstructions between the town of Dallas and the mouth of East Fork. An experienced steamboatman of twenty years' practice has proposed to the citizens of Dallas county to remove all the obstructions in the river between the above designated points, so that boats of sufficient capacity to carry five hundred bales of cotton can run the river to Dallas for four months of the year, for the sum of five thousand dollars in specie. A project promising advantages so great to every department of industry and enterprise should demand the especial attention, not only of the people of Dallas county, but of the whole State. The benefits flowing to the people of Dallas county from the success of such an enterprise are not to be measured or estimated by the small sum proposed to be expended; in fact they are beyond enumeration. To the State, of opening up to successful navigation a

stream penetrating her interior a distance of seven hundred miles from her seaboard, securing the rapid settlement of millions of acres of rich and fertile lands by thrifty and enterprising emigrants, which are now lying idle and yielding but little revenue to the State, and none to the owner. The saving in the single item of pine lumber in one year will fourfold restore the amount expended, beside the advantage of the great reduction of prices in the items of salt, sugar, iron and other articles of necessary consumption. The immense pineries of the counties of Anderson, Houston and Walker, almost valueless in their present condition, remain standing because of the slow and expensive means of transportation to the prairies, where every description of pine lumber is in constant demand. Navigation to Dallas three months annually would reduce the price of pine lumber one-half, thereby bringing it within the reach of every farmer to supply himself for the improvement of his farm and home.

To raise this money by private contribution would naturally become onerous upon those who are determined on the success of the enterprise, while those, for reasons whether selfish or otherwise, refusing to contribute, would reap an equal benefit. Therefore your memorialists are impressed that a more proper and just course would be to levy a sufficient tax upon the property in Dallas county to raise the sum of five thousand dollars in specie, and as the citizens in the town of Dallas have signified their willingness, let the tax be so levied that one-third of the whole amount shall be paid by those owning property within the corporate limits of said town.

Your memorialists are aware that more properly this petition should be presented to the Legislature when it assembles, but the delay of such a course would compel the loss of the advantages of at least one season, and perhaps more, the importance of which needs only to be mentioned to command its reason. Feeling that you will not hesitate to act in a public enterprise of so much magnitude, and especially when those to be burthened are asking the action, we therefore ask your honorable body to pass an ordinance authorizing the Police Court of Dallas county to levy and collect a tax of five thousand dollars in specie upon all property in Dallas county subject to *ad valorem* taxation, the said tax to be assessed upon the schedule or lists rendered to the Assessor for the year 1868; said money to be expended under the direction of the Police Court in removing the obstructions in the Trinity river between the town of Dallas and the mouth of East Fork. Provided, that one-third of the amount shall be collected from the property situated within the corporate limits of the town of Dallas; and provided further, that the tax levied shall not be more than twenty cents on each hundred dollars, except on

property within the corporate limits of the town of Dallas, which may be taxed as high as sixty cents for each hundred dollars.

Dallas, Texas, June 4, 1868.

Ben. Long, Clerk District Court; M. Therenet, Deputy District Clerk; J. A. Freeman, John Davis, Henry Notzli, Jacob Vogel, Henry Brannon, Wesley Brannon, John Poindexter, J. Pinckney Thomas, Henry Ball, John Ball, John F. Barbier, Wm. A. Hartze, Joshua Addington, John L. Pyles, H. C. Caldwell, D. J. Capps, Thomas J. Brown, W. W. Peak, T. A. Wilson, J. J. Applin, L. Vengeiriderbeek, Ed. C. Browder, J. B. Louchre, J. H. Wilson, J. W. Galbreath, M. G. Pitts, T. J. Pitts, Howard Mercer, R. D. Jones, F. F. Green, Thos. S. Moore, R. N. Daniel, B. B. Howell, Daniel Cornwell, Thos. H. Nance, John King, Sam. King, J. Beak, Jas. Galbreath, A. J. Goriffe, Otto Frick, F. L. Behng, L. P. Hausser, Jacob Vogel, Julien Preverchon, Wm. Jackson, Jacob Tiler, James C. Miller, S. H. Beeman, F. L. Churignon, J. D. Keaton, N. T. Johnson, W. A. Harwood, J. M. Braun, E. W. Field, A. L. Carnett, Martin Rigg, Wm. Irwin, Wm. B. Cole, S. Mayer, Wm. A. Riggs, W. H. Saunders, F. Davis, Wm. D. Watters, E. T. Myers, R. L. Sears, Frank M. Cox, Newton Hutchen, W. VonGronderbeek, Alexius Barbier, F. Priot, G. Poitevin, J. Nussbaum, M. Livy, J. McCommas, Chas. O. Virgard, Allen Collins, N. B. Owen, R. B. Gannaway, Jas. Winters, E. G. Bowen, J. K. P. Record, Nat. M. Burford, T. G. T. Kendall, H. W. Ragsdale, J. M. Richards, Jonathan Petty, J. W. Bumpass, A. Pemberton, W. L. Hall, J. W. Everett, Jas. O. Thomas, John D. Kerfoot, W. Mays, John Chenault, J. T. Coin, J. W. Cobb, T. B. Scott, H. L. Hicks, S. S. Jones, Sam. Dunaway, Isaac Jones, Enoch Strait, J. M. Martin, Isaac B. Webb, W. D. Chapman, Daniel Bates, Joseph Bigler, Raleigh C. Martin, R. D. Caughaman, Jas. H. Field, J. C. Drake, jr., W. F. Flewellen, D. J. Ellis, J. M. White, Chas. R. Pryor, E. E. Russell, John P. Isbell, S. B. Stone, J. J. Beeman, J. M. Pruitt, J. W. Miller, H. C. Smidt, Amos McCommas, W. J. Pruitt, F. N. Humphreys, J. P. Beeman, L. B. Sands, F. F. Ball, Tom Johnson, Jim McCommas, Andrew Pruitt, John Chenault, J. H. Smith, T. J. Jackson, J. Jeffries, Lewis Pyles, G. L. Blewett, J. T. Corcoran, J. R. Fandren, J. B. Lowry, Geo. White, W. T. Gill, G. W. Hatter, Sam Uhl, A. S. Clark, N. R. Fondren, George Masier, W. Cotton, John Caudle, R. S. Grey, Wm. Waters, John Harvey, Jerry Snow.

The President announced the hour had arrived to take up the report of the Committee on Federal Relations upon the motion of Mr. Mills to cede the county of El Paso to the United States.

Mr. Degener moved to refer the subject to the Committee on the Division of the State.

Mr. Thomas moved that the whole matter under consideration be postponed and made the special order of the day for the first day of October, 1868, at ten o'clock.

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

Yeas—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Board, Bryant of Grayson, Carter, Coleman, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Glenn, Hunt, Keigwin, Kuechler, Leib, Lippard, Long, Morse, Mullins, Newcomb, Patten, Rogers, Smith of Galveston, Thomas, Wilson of Milam—31.

Nays—Messrs. Brown, Burnett, Cole, Constant, Flanagan, W. Flanagan, Fleming, Foster, Gaston, Gray, Grigsby, Hamilton of Travis, Harris, Harne, Johnson of Calhoun, Johnson of Harrison, Jordan, Kealy, Kendal, Kirk, Lindsay, McWashington, Mills, Muckleroy, Mundine, Munroe, Pedigo, Phillips of San Augustine, Phillips of Wharton, Posey, Ruby, Schuetze, Scott, Slaughter, Smith of Marion, Stockbridge, Varnell, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright, Yarborough—44.

So the Convention refused to postpone.

On motion of Mr. Armstrong, of Jasper, Mr. Kirk was indefinitely excused from attendance upon the Convention.

The question recurring upon Mr. Degener's motion to commit the subject to the Committee on Division of the State,

The Convention agreed to the motion.

The President announced the business in order was upon the motion of Mr. Mills to reconsider the vote postponing indefinitely the consideration of the report of the Committee on Division of the State.

Mr. Degener moved a call of the House.

Seconded.

Mr. Degener moved a suspension of the call.

Carried.

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

Seconded.

Mr. Evans, of McLennan, raised a point of order, viz: that a majority of the Convention cannot suspend the call of the House.

The President decided that a call of the House could be suspended by a majority thereof. From which decision Mr. Evans, of McLennan, appealed. And upon the question being put, "Shall the decision of the President stand as the decision of the House," the Convention sustained the decision of the President.

Mr. Sumner moved a call of the House.

Seconded.

Mr. Hamilton, of Travis, moved an adjournment till Monday morning, at nine o'clock, upon which the yeas and nays were called and resulted thus :

Yeas—Messrs. Armstrong, of Jasper, Bell, Bellinger, Carter, Cole, Coleman, Fleming, Glenn, Gray, Grigsby, Hamilton of Travis, Harne, Johnson, of Calhoun, Long, McCormick, Morse, Muckleroy, Mundine, Rogers, Scott, Smith of Marion, Stockbridge, Vaughan, Williams, Wilson, of Brazoria.—25.

Nays—Messrs. President, Adams, Armstrong, of Lamar, Bledsoe, Board, Brown, Bryant, of Grayson, Buffington, Burnett, Constant, Curtis, Degener, Downing, Evans, of McLennan, Evans, of Titus, Fayle, Flanagan, W. Flanagan, Foster, Gaston, Harris, Hunt, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lindsay, Lippard, McWashington, Mills, Mullins, Munroe, Newcomb, Oaks, Patten, Pedigo, Phillips, of San Augustine, Phillips of Wharton, Posey, Ruby, Schuetze, Slaughter, Smith, of Galveston, Sumner, Talbot, Thomas, Varnell, Watrous, Whitmore, Wilson of Milam, Wright, Yarborough.—54.

So the motion to adjourn was lost.

Mr. Mullins moved the call of the House be suspended, upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Armstrong, of Jasper, Armstrong, of Lamar, Brown, Buffington, Burnett, Carter, Constant, Curtis, Degener, Downing, Evans, of McLennan, Evans, of Titus, Fayle, Flanagan, Foster, Gaston, Glenn, Harris, Hunt, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Mills, Muckleroy, Mullins, Mundine, Munroe, Newcomb, Oaks, Patten, Pedigo, Phillips, of Wharton, Rogers, Ruby, Schuetze, Slaughter, Smith, of Galveston, Sumner, Varnell, Vaughan, Watrous, Whitmore, Williams, Wright, Yarborough.—51.

Nays—Messrs. Adams, Bell, Bellinger, Bledsoe, Board, Bryant, of Grayson, Cole, Coleman, W. Flanagan, Fleming, Gray, Grigsby, Hamilton, of Travis, Harne, Kealy, Keigwin, Lindsay, Morse, Phillips, of San Augustine, Posey, Scott, Smith, of Marion, Stockbridge, Talbot, Thomas, Wilson, of Brazoria, Wilson, of Milam.—27.

So the call of the House was suspended.

The question recurring : " Shall the vote indefinitely postponing the consideration of the report of the Committee on Division of the State be considered ? " the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Buffington, Burnett, Carter, Constant, Curtis, Degener, Downing, Evans, of McLennan, Evans, of Titus, Fayle, Flanagan, W. Flanagan, Foster, Harris, Hunt, Johnson, of Calhoun, Jordan, Kealy, Kendall, Kuechler, Leib, Lippard, Long, McWashington, Mullins, Munroe, Newcomb, Oaks, Patten, Pedigo, Phillips, of Wharton, Ruby, Schuetze, Slaughter, Smith, of Galveston, Smith, of Marion, Varnell, Vaughan, Whitmore, Williams, Yarborough—47.

Nays—Messrs. Armstrong, of Jasper, Bell, Bellinger, Bryant, of Grayson, Cole, Coleman, Fleming, Gaston, Glenn, Gray, Grigsby, Hamilton of Travis, Harne, Keigwin, Lindsay, McCormick, Mills, Morse, Mundine, Phillips, of San Augustine, Posey, Rogers, Scott, Stockbridge, Sumner, Talbot, Thomas, Watrous, Wilson, of Brazoria, Wilson, of Milam, Wright—31.

So the vote was reconsidered.

Mr. Pedigo moved the subject be made the special order for Wednesday, July 13, at ten o'clock.

Lost.

Mr. Degener moved to make it the special order for Monday, at ten o'clock, upon which the yeas and nays were called.

Pending the vote, the Convention under the rules adjourned till Monday morning, at nine o'clock.

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CAPITOL, AUSTIN, TEXAS,  
JULY 13, 1868.

Convention met pursuant to adjournment.

Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Smith, of Galveston, presented a petition from H. Rodefled, and asked its reference to the Committee on General Provisions.

To the Honorable Convention of the State of Texas,  
Now in Session at the City of Austin.

The petition of Henry Rodefled, a resident citizen of the county of Galveston, and State of Texas, respectfully represents :

That your petitioner, on the . . . . . day of . . . . . 1861, a the city of Galveston, in said State, intermarried with one Catherine Cordes ; that said Catherine lived with your petitioner for about three months, and then left his home, being impelled thereto by an aberration of intellect, amounting to insanity ; that as her husband and protector, your petitioner sought her out and compelled her to