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Kuechler, Lippard, Morse, Muckleroy, Munroe, Newcomb, Oaks, Patten, Rogers, Ruby, Slaughter, Smith, of Galveston, Sumner, Thomas, Whitmore, Williams, Wilson, of Milam, Wright—44.

So the Convention refused to adjourn.

Mr. Armstrong, of Lamar, moved that the Convention adjourn until four o'clock this evening.

Lost.

Mr. Flanagan moved to adjourn until this afternoon at four o'clock.

Lost.

Mr. Hamilton, of Travis, moved that the Convention adjourn until to-morrow morning at nine o'clock.

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

Yeas—Messrs. Bell, Bellinger, Brown, Carter, Cole, Fleming, Foster, Gaston, Goddin, Gray, Grigsby, Hamilton, of Travis, Harn, Hunt, Kealy, Keigwin, Kuechler, Leib, Lindsay, Long, Mackey, McCormick, McWashington, Mills, Muckleroy, Mullins, Mundine, Munroe, Patten, Phillips, of San Augustine, Phillips, of Wharton, Posey, Rogers, Schuetze, Scott, Smith, of Marion, Stockbridge, Sumner, Talbot, Thomas, Vaughan, Watrous, Wilson, of Brazoria, Wilson, of Milam, Wright, Yarborough—46.

Nays—Messrs. President, Adams, Armstrong, of Jasper, Armstrong, of Lamar, Bledsoe, Board, Bryant, of Grayson, Buffington, Burnett, Coleman, Downing, Evans, of McLennan, Evans, of Titus, Fayle, Flanagan, W. Flanagan, Glenn, Harris, Johnson, of Harrison, Jordan, Kendal, Lippard, Morse, Newcomb, Oaks, Ruby, Slaughter, Varnell, Whitmore—29.

So the Convention adjourned until to-morrow morning at nine o'clock.

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CAPITOL, AUSTIN, TEXAS,  
JULY 17, 1868.

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

Mr. Degener asked that Mr. Newcomb be excused from attendance on Convention.

Leave granted.

Mr. Talbot, Chairman of the Committee on Education, made the following report :

COMMITTEE ROOM,  
July 17th, 1868.

Hon. E. J. DAVIS,

President of the Convention:

Your Committee on Education, to whom was referred a resolution offered by J. Schuetze, of Bastrop, bearing date July 13, 1868, and herewith transmitted, have had the same under consideration, and unanimously recommend its adoption by this Convention.

JOSEPH W. TALBOT,  
Chairman.

*Resolved*, That a special committee be appointed and instructed to visit the Blind Asylum and Deaf and Dumb Asylum, with a view of inquiring into the propriety of admitting into either or both of these institutions such number of indigent orphans as could be received therein, for education and maintenance, on the expense of the State, until an Orphan Asylum shall be established.

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

COMMITTEE ROOM,  
July 17, 1868.

Hon. E. J. DAVIS,

President of the Convention :

SIR: I am instructed to report to the Convention the original report as previously presented, and recommend the passage of the accompanying declaration.

Very respectfully,  
J. W. FLANAGAN,

Chairman of the Committee on Internal Improvements.

## DECLARATION

In relation to railroads.

WHEREAS, There is pending before Congress a bill to aid in the construction of the International Pacific Railroad, from Cairo, in Illinois, to the Rio Grande river, to authorize the consolidation of certain railroad companies and to provide homesteads for laborers on said road, which bill contemplates aid by the United States, in the rapid construction of a continuous line of railroad and telegraph from Cairo, in Illinois, through the southeastern portion of Missouri and central districts of Arkansas, Texas and Mexico, to San Blas,

on the Pacific Ocean, and which enterprise, in the opinion of this Convention, ought to be encouraged.

SECTION 1. *Be it therefore ordained by this Convention,* That the Brazos Branch Railroad Company, and the Henderson, Marshall and Jefferson Railroad Company are hereby consolidated into one company, to be known as a corporation with perpetual succession, to be styled the "International Pacific Railroad Company," which shall have the powers and franchises granted by the laws creating said first named railroad companies; and also, the exclusive right to construct and operate a telegraph line along said railroad.

SEC. 2. Said "International Railroad Company" shall have the power to build, equip and maintain a railroad, with a single or double track, commencing at a point on the eastern boundary of the State of Texas, connecting with the International Railroad from Cairo; thence running a southwesterly direction across the State of Texas to a suitable point on the Rio Grande river below Eagle Pass, in the direction of San Blas, on the Pacific Ocean; and also, the exclusive right to construct and operate a telegraph line along said railroad.

SEC. 3. Said "International Pacific Railroad," shall be entitled to all the donations of land contemplated by the laws of Texas, granting lands to aid in the construction of railroads, and to all such aid as shall be granted to other great railroad enterprises in Texas; and shall be authorized to vary the gauge so as to correspond to the gauge from Cairo to the Texas line, without impairing any right under the Texas laws.

SEC. 4. And said company shall have exclusive right, for three years from the time of locating their line, to locate the lands granted by the State, and they shall hold and have the right to dispose of said lands under the laws now in force granting lands to aid in the construction of railroads.

Mr. Patten moved that the report be made the special order of the day for Friday next, the 24th inst.

Lost.

Mr. Flanagan moved that the report be made the special order for Saturday, the 18th inst., at ten o'clock.

Carried.

Mr. McWashington offered the following resolution:

*Resolved,* That the following shall be a section of the Constitution:

SECTION — No person shall be imprisoned for debt in this State; but this shall not prevent the General Assembly from providing for imprisonment or holding to bail persons charged with fraud in con-

tracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of debt or liabilities.

On motion, the resolution was referred to the Committee on Contingent Expenses.

Mr. Jordan offered the following declaration :

*Be it declared by this Convention,* That the following form a part of the Bill of Rights :

SECTION —. The liberty of the press to publish truth shall forever remain inviolate.

SEC. —. All citizens may freely speak, write or print their sentiments on all subjects, being responsible for the abuse of such liberty.

SEC. —. To misrepresent or misconstrue the acts, language or opinions of any person or party, to apply false epithets, or in any way, either verbal, written or printed, attempt to injure the reputation or hinder the success of any such person or party by such misrepresentation, shall be an offence against the State.

SEC. —. In all prosecution for such offences, the accused shall be brought to trial in the county where complainant resides.

SEC. —. The guilt of such offenders being ascertained by law, the punishment shall not be less than fine and confinement and labor in the penitentiary, or elsewhere, as the law may direct.

SEC. —. Any person having been duly convicted of any of the above specified offences, shall be disfranchised, and shall never, either by himself or others, be permitted to print or publish any book, pamphlet or newspaper in this State thereafter.

SEC. —. The Governor of this State may demand of the Governor of another State the surrender of such offender, as the law may direct.

• Mr. Evans, of McLennan, moved the rejection of the resolution.  
Lost.

Upon motion the resolution was referred to the Committee on General Provisions.

Mr. Buffington introduced the following resolution :

*Resolved,* That the Sergeant-at-Arms be and he is hereby authorized to discharge three or more of the pages of this Convention.

Mr. Buffington introduced the following resolution :

*Resolved,* That the different committees, except the Committee on Lawlessness and Crime, be and are hereby requested to discharge the clerks now in their employ.

Mr. Sumner moved the rejection of the resolution.

Motion withdrawn.

Mr. Lippard offered the following resolution :

WHEREAS, It is our duty to our constituents, in view of the

probable long session of this Convention, and the limited means to pay its expenses, to exercise all proper economy; and

Whereas, It is not the province of this Convention to disseminate party creeds, or to support newspapers as heralds of particular factions, and supporters of particular men; therefore, be it

*Resolved*, 1. That all newspapers taken by the Convention be and the same are hereby discontinued.

*Resolved*, 2. That the Committee on Printing be and they are hereby authorized to contract with the lowest Republican bidder for one thousand copies per day of the journals of this Convention, said copies to be laid on the members' desks by 9 o'clock, A. M., the following day.

Laid over one day under the rules.

Mr. Bryant, of Harris, offered the following declaration:

*Be it ordained by the people of Texas in Convention assembled*, That the provisions of article 3427 of Paschal's Digest, being section 10 of an act to amend the third section of an act entitled "An Act to Regulate the Descent and Distribution of Intestates' Estates," approved March 18, 1848, shall apply as well to colored people as to whites, and which is as follows:

"Where a man having by a woman a child, or children, shall afterwards intermarry with such woman, such child, or children, if recognized by him, shall thereby be legitimated, and made capable of inheriting his estate. The issue also in marriage deemed null in law shall, nevertheless, be legitimate."

SEC. 2. In case of escheated estates the widow, as well as the issue of the marriages null in law, shall be entitled to the same rights as if the same were legitimate, and especially where any such marriage shall have been interdicted by the statute law of the State on account of race or color, but where the same shall, nevertheless, have existed in fact by a species of cohabitation.

On motion the declaration was referred to the Committee on General Provisions.

Mr. Patten offered the following resolution:

*Resolved*, That the Committee on State Affairs be required forthwith to report back to the Convention the section of the new Constitution, introduced by the Hon. A. J. Evans, to locate the Capitol and State universities.

Mr. Harn introduced the following declaration:

*Be it ordained, by the people of Texas in Convention assembled*, That the following shall be a section of the Constitution.

#### ARTICLE —.

SECTION —. The homestead of the family, after the death of

either husband or wife, shall rest absolutely in the survivor, and the children of the marriage, if there be any, and shall not be subject to administration; nor shall the said homestead, nor the rents or profits derived from the same, be subject to any debt contracted after the adoption of this Constitution, except in cases of mechanics' lien.

On motion the declaration was referred to the Committee on General Provisions.

Mr. McWashington offered the following declaration :

*Resolved*, That the following be a section of the Constitution :

Any person who shall, after the adoption of this Constitution, fight a duel, or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, either within this State or elsewhere, shall thereby be deprived of the right of holding any office of honor or profit in this State, and shall be forever disqualified from voting at any election, and shall be punished otherwise in such manner as may be prescribed by law.

On motion the declaration was referred to the Committee on Political or Legislative.

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

WHEREAS, The time within which petitions in voluntary bankruptcy, under the Bankrupt Act of the Congress of the United States, of date March 2, 1867, has transpired; and

Whereas, There are many parties in the State of Texas who, from unavoidable circumstances, have been unable to avail themselves of its benefits, but who desire so to do,

*Be it, therefore, declared by this Convention*, That the Congress of the United States of America be respectfully memorialized to extend for a period of one year the time in which persons can avail themselves of the benefit of voluntary bankruptcy under said act.

Mr. Evans, of McLennan, moved the rules be suspended to allow consideration of declaration.

Rules suspended.

Mr. Evans, of McLennan, moved the memorial be read a second time and engrossed.

It was agreed to.

Mr. Evans of McLennan, moved a further suspension of rules to put memorial upon its final reading, upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong, of Lamar, Bell, Bellinger, Bledsoe, Board, Buffington, Burnett, Carter, Downing, Evans of McLennan, Flanagan, W. Flanagan, Fleming, Gray, Grigsby, Hunt, Jordan, Keuchler, Lippard, Long, Morse, Muckleroy, Mundine, Munroe, Patten, Pedigo, Phillips of Wharton, Ruby,

Schuetze, Slaughter, Smith of Galveston, Stockbridge, Talbot, Varnell, Whitmore, Wilson of Brazoria, Yarborough—39.

Nays—Messrs. Armstrong of Jasper, Brown, Bryant of Grayson, Bryant of Harris, Cole, Coleman, Curtis, Foster, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Lindsay, Mackey, McCormick, McWashington, Mills, Mullins, Oaks, Phillips of San Augustine, Posey, Rogers, Scott, Smith of Marion, Sumner, Thomas, Vaughan, Watrous, Williams, Wright—33.

So the Convention refused to suspend the rules.

Mr. Armstrong of Lamar, offered the following declaration, and asked its reference to the Committee on Internal Improvements.

WHEREAS, on the fourth day of February, 1856, an act entitled An Act to incorporate the Memphis, El Paso and Pacific Railroad Company was approved by the Governor; and

WHEREAS, on the 25th day of August, 1856, the 17th section of said act was amended and approved by the Governor; and

WHEREAS, by said act and amendment aforesaid, a certain quantity of land per mile was to be granted to said Memphis, El Paso and Pacific Railroad Company, upon putting in complete running order twenty miles of said road; and

WHEREAS, a large quantity of certificates have been issued to said company, and many patents have been issued thereon, contrary to the express provisions of said act; therefore,

SECTION 1. *Be it declared by the people of Texas in Convention assembled:*

That all certificates or patents issued by said Memphis, El Paso and Pacific Railroad Company are hereby declared null and void.

SECTION 2. *Be it further declared,* That all unappropriated lands lying within the Memphis, El Paso and Pacific railroad reservation, are hereby declared to be the property of the State of Texas, and that the same shall be subject alone to preemption.

SECTION 3. Any person may have surveyed not less than forty acres, nor more than one hundred acres in said reservation, and the Commissioner of the General Land Office is hereby directed to issue to said occupant, a patent for the same, upon the production of testimony which will satisfy said Commissioner that said occupant has had said land surveyed and has occupied the same continuously for three years, and has paid taxes upon the same, and said occupant shall pay for the surveying and patenting the said land.

It was so referred.

Mr. Evans of McLennan, offered the following resolution:

*Resolved,* That the Constitutional Convention of the State of Texas, the Commanding General of the Fifth Military District



assenting thereto, do stand adjourned from Saturday, July 18th, 1868, until the first Monday in December, 1868.

Laid over under rules one day.

The President announced the business in order was upon the resolution of Mr. Smith of Galveston, instructing the Committee on Contingent Expenses to inquire into the propriety of granting extra mileage to members who had to travel circuitous routes to reach Austin.

Referred to Committee on Contingent Expenses.

Mr. Harris moved that Mr. Mundine be added to the Committee on State affairs.

Carried.

Mr. Varnell moved that Mr. Degener be added to the Committee on Apportionment.

Carried.

The President announced the next business in order was the report of the Committee on Finance, respecting the official reporter of the Convention.

Mr. McCormick moved the report and accompanying resolution of the Committee on Contingent Expenses be substituted for the report of the Committee on Finance.

Mr. Flanagan moved to lay the whole matter upon the table, upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Board, Buffington, Burnett, Carter, Coleman, Constant, Evans of Titus, Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Johnson of Calhoun, Jordan, Keigwin, Lindsay, Mackey, Mills, Munroe, Pedigo, Phillips of Wharton, Posey, Rogers, Ruby, Scott, Smith of Marion, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Wright—35.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Cole, Curtis, Degener, Downing, Evans of McLennan, Fayle, W. Flanagan, Foster, Glenn, Goddin, Grigsby, Hunt, Kealy, Kendal, Keuchler, Lippard, Long, McCormick, McWashington, Morse, Muckleroy, Mundine, Oaks, Patten, Phillips of San Augustine, Schuetze, Smith of Galveston, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam—41.

So the Convention refused to lay the subject upon the table.

The question recurring "shall the report and resolution of the Committee on Contingent Expenses be adopted as a substitute to the report of the Committee on Finance."

It was adopted.

Mr. Munroe offered the following resolution:

*Resolved*, That the reporter be retained on condition that he writes out the debates ready for publication, for which he shall receive the same per diem pay as he now receives; provided, he shall perform such additional labor within ninety days after the adjournment of the Convention.

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

Carried.

Mr. Ruby offered the following amendment :

That said official reporter shall be allowed an assistant, who shall transcribe the short hand by dictation of reporter for daily publication in the official journals of the Convention, at a per diem of — dollars.

Mr. Munroe moved the adoption of the amendment.

Lost.

The question recurring upon the second reading of the substitute, It was read second time and agreed to.

Mr. McCormick moved a suspension of rules, to put the substitute upon its final passage, upon which the yeas and nays were demanded.

Mr. McCormick asked leave to withdraw the motion. Leave granted.

The President announced the business next in order was upon Mr. Ruby's resolution, instructing the Sergeant-at-Arms to keep the various committee rooms in a fit condition for occupation.

Resolution adopted.

The President announced the business next in order was Mr. Slaughter's resolution, providing for the printing of the names of persons recommended for relief by Committee on Political Disabilities.

Resolution adopted.

The President announced that the next business in order was the substitute of Mr. Lindsay, offered to the report of the Committee on Internal Improvements respecting the "International Pacific Railroad Company."

Mr. Bledsoe moved to lay the substitute on the table.

Carried.

The question recurring upon the original report of the Committee on Internal Improvements respecting the "International Pacific Railroad Company,"

Mr. Degener moved to lay the report upon the table, upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Bellingier, Bledsoe, Board, Brown, Bryant of Harris, Burnett, Curtis, Degener, Downing, Fayle, Glenn, Grigsby, Hunt, Johnson of Harrison, Johnson of

Callhoun, Kendal, Keuchler, Lippard, Mullins, Munroe, Oaks, Patten, Smith of Galveston, Smith of Marion, Thomas, Varnell, Whitmore—28.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bell, Bryant of Grayson, Buffington, Carter, Cole, Coleman, Constant, Evans of McLennan, Evans of Titus, Flanagan, W. Flanagan, Fleming, Foster, Gaston, Goddin, Gray, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Kirk, Long, Mackey, McCormick, McWashington, Mills, Morse, Muckleroy, Mundine, Pedigo, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Scott, Stockbridge, Sumner, Talbot, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—49.

So the Convention refused to lay the report upon the table.

Mr. Degener moved to recommit the subject to the Committee on Internal Improvements.

Motion withdrawn.

[Mr. Evans of McLennan in the chair.]

Mr. Davis, of Nueces, offered the following substitute, and asked that the whole matter be referred to the Committee on Internal Improvements.

SEC. 1. *Be it therefore resolved by this Convention*, That the Congress of the United States be requested to pass a bill incorporating a company or companies for the construction of the railroad above mentioned, and granting such company or companies the aid in money, which is proposed in said bill.

SEC. 2. That each company or companies, if incorporated by Congress, as hereinbefore requested, shall have the right to construct a telegraph along said railroad; and shall have, and be entitled to right of way and all privileges, immunities and franchises, and grants of land within this State, as are now or may hereafter be conceded to railroads under any general law of this State.

Mr. Flanagan moved the previous question upon the passage of the report.

Previous question seconded.

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

Main question lost.

Mr. Patten moved to adjourn until 9 o'clock to-morrow morning.

Motion withdrawn.

Mr. Hamilton, of Travis, asked leave to introduce the following declaration and memorial from citizens of Fayette, Bastrop, Caldwell, Gonzales and Lavaca counties, asking the foundation of a new county out of the territory of said counties, and asked its reference to the Committee on State Affairs.

## DECLARATION

## Creating the County of Oakland.

SEC. 1. That all the territory, comprised within the following lines, shall be a new county, to be called the County of Oakland, viz: Beginning at the point where Denton Creek unites with Peach Creek, in Gonzales county; thence north forty-one degrees, west twenty-four miles; thence north thirty-seven degrees, east sixteen and three-fourth miles; thence south seventy-five and a half degrees, east fourteen and three-fourth miles; thence south thirty-three degrees, east seventeen and three-fourth miles; thence in a direct line to the place of beginning.

SEC. 2. That the town of Hopkinsville, in the present county of Gonzales, shall be the county seat of said county of Oakland.

SEC. 3. That at the first general election, hereafter held for county officers, the said county of Oakland shall be organized by the election of such officers as other counties have, under the laws of this State; and that William J. Stenberry, N. F. Miller, and K. L. Fry, be, and they are hereby appointed, commissioners with full power and authority to superintend and conduct said election, and give certificates to the persons elected.

It was so referred.

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

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CAPITOL, AUSTIN, TEXAS,  
July 18th, 1868.

Convention met pursuant to adjournment.

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

Mr. McCormick, from the Committee on Contingent Expenses, made the following reports:

COMMITTEE ROOM,  
July 18th, 1868.

Hon. E. J. DAVIS,

President of the Convention:

SIR: The Committee on Contingent Expenses, who were instructed to consider the claims of members who were induced to