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Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Thomas, Vaughan, Watrous, Whitmore, Williams, Wilson of Milam, Wright, Yarborough—56.

Nays—Messrs. Adams, Armstrong of Jasper, Boyd, Cole, Evans of Titus, Flanagan, W. Flanagan, Gaston, Glenn, Gray, Harris, Harn, Keigwin, Kirk, McCormick, Morse, Muckleroy, Mullins, Pedigo, Varnell, Wilson of Brazoria—21.

So the Convention adopted the resolution as amended.

Mr. Lippard asked leave of absence for Messrs. Patten and Evans, of McLennan.

Leave granted.

Mr. Adams asked leave of absence for Mr. Kirk for twenty-one days.

Leave granted.

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

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CAPITOL, AUSTIN, TEXAS,  
JULY 21, 1868.

Convention met pursuant to adjournment.

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

Mr. Lippard presented a petition from the citizens of Hill, Navarro and Limestone counties, asking the formation of a new county, to be called Maury county.

Referred to the Committee on Counties and County Boundaries.

Mr. Fayle presented a petition for the organization of the Hebrew Benevolent Society of Houston, with accompanying declaration and asked its reference to the Committee on General Provisions.

## ACT OF INCORPORATION

Of the Hebrew Benevolent Society of Houston.

SECTION 1. *Be it known*, That Isaac Coleman, Henry S. Fox, G. Gerson, S. Mayer, Adolph Cramer, M. Jacobs, L. M. Rich, Louis Cohr, Felix Wolf, E. Hyams, J. M. Kaufmheimer, Sam

Stern and B. Morris, and their successors in office forever, are hereby constituted a body corporate in fact and law, under the name and style of the "Hebrew Charitable Society of the city of Houston," and by that name and style shall have succession, and be capable in law of suing and being sued, of defending and being defender, of pleading and being impleaded, of having a common seal, and to acquire, have and hold estate, real, personal and mixed, and the same to buy, exchange, sell, mortgage or transfer, pledge or otherwise encumber or alienate, as said association may deem expedient, and be capable of receiving by donation, bequest, demise, or in any manner or form, from any person or persons, or body corporate, in or out of this State.

2. That said Association shall have power to make a Constitution and such by-laws as may be necessary for its own government.

Referred to the Committee on General Provisions.

Mr. Flanagan from the Committee on Internal Improvements made the following report :

COMMITTEE ROOM,  
Austin, Texas, July 21, 1868.

Hon. E. J. DAVIS,

President of the Convention :

SIR: Your Committee have again, by order of the Convention, had under consideration the declarations concerning the Buffalo, Brazos and Colorado Railroad, the Texas and New Orleans Railroad and the Southern Pacific Railroad, likewise the Houston Tap and Brazoria Railroad, and after mature deliberation, they come to the conclusion that it is the immediate and best interest of the State, for the security of the special School Fund, to adhere strictly to their previous reports, allowing the payments that have been made in State warrants and bonds. Your committee are of opinion that they have no power to declare void said payments, and any litigation would only tend to postpone and perhaps jeopardize the whole debt to a great extent.

The premises considered, your committee instruct me to recommend the adoption of the accompanying declarations, which are

Respectfully submitted,

J. W. FLANAGAN,  
Chairman of the Committee on Internal Improvements.

#### A DECLARATION.

*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.

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 act of the 13th of August, A. D., 1856, concerning the loan of the School Fund.

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 1st 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 \$595,169 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.

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.

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 3d section of the act of 13th of August, 1856, concerning the loan of the School Fund.

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.

7. If the Governor shall not make any resale 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 resell said roads, or such of them as at that time have not been resold 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.

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 resale shall be made, or until the Legislature shall otherwise direct.

9. In the event of a purchase of these roads, or either of them from the Governor, under the provisions of the 6th 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 said purchaser as may be deemed beneficial to the roads or to the public, and conducive to the security of the school fund.

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

#### A DECLARATION.

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.

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.

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.

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 such purchaser a certificate of the sale and purchase, which shall be signed by the Governor officially, 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.

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 that the rules be suspended to allow the consideration of the report.

Rules suspended.

Mr. Flanagan moved the report be made the special order of the day for Friday, at 10 o'clock, July 24, 1868.

Carried.

Mr. Yarborough offered the following resolution:

*Resolved*, That whereas it doth appear that the county of Wood, in the State of Texas, had a strong jail in good repair, and by misfortune said jail has recently been burned down, and the county being very short of funds to push forward the work of building a new jail, of which the county stands in great need; therefore, in order to assist the county court of the county of Wood to have the building of a new jail performed with speed, be it

*Resolved by this Convention*, That the State tax due from said county, for the years 1868 and 1869, be, and the same is hereby returned to the use of the said county of Wood.

Referred to the Committee on Finance.

Mr. Lippard offered the following declaration :

SECTION 1. *Be it declared by this Convention*, The following territory, to wit: Beginning at the northwest corner of Freestone county, Texas; thence running south  $60^{\circ}$  west to eastern boundary of McLennan county; thence north  $30^{\circ}$  west with the northeast line of said McLennan county to the northeast corner thereof; thence on a straight line to the southwest corner of Ellis county; thence north  $60^{\circ}$  east with the southeast line of the same, to a point opposite the place of beginning; thence south  $30^{\circ}$  east to the place of beginning, shall be, and constitute a new county, to be called the county of Richland.

SEC. 2. That the Commanding General of the Fifth Military District is hereby requested to appoint a county judge, county clerk, and all the other officers to which a county in Texas is entitled, in and for said county.

SEC. 3. That the county judge or county commissioner of said county, upon their qualification, shall proceed to select the county site thereof.

SEC. 4. That said county, for the purpose of district court jurisdiction, shall be and remain for the present a part of Hill county, Texas.

Referred to the Committee on Counties and County Boundaries.

Mr. Keigwin offered the following declaration, and asked its reference to the Committee on Judiciary:

### A DECLARATION

Annulling an Act entitled "An Act to organize the County Courts, and to define the powers and jurisdiction thereof," approved October 25th, 1866.

WHEREAS, An Act, entitled "An Act to organize the county courts, and to define the power and jurisdiction thereof," approved October 25th, 1866, has conferred, in addition to the powers and jurisdiction exercised by said county courts, previous to the passage of the above entitled act, extraordinary, original and concurrent jurisdictions of suits against the county allowed by law; also, to hear and determine all suits and prosecutions in the name of the State by presentment, information or indictment, for misdemeanors and offences under the grade of felony; also, of all suits for the

recovery of specific property or its value, torts, trespasses, injuries to person or property, breaches or violations of the revenue laws of the State, and of all suits for the recovery of money on any account, bill, bond, note, or other instrument of writing, in value not less than one hundred dollars, nor more than five hundred dollars, exclusive of interest; and,

WHEREAS, The extraordinary power is conferred upon the judges of said court, by authority of said act, of granting writs of mandamus, injunction, sequestration, attachment, and all other remedial writs and process necessary to enforce the jurisdiction in said act conferred; and,

WHEREAS, Said act authorizes six terms of said court to be held during the period of each year, and requires a jury of twelve persons to be previously drawn, and to be organized at each term thereof; and,

WHEREAS, By authority of said act, unusual, excessive and exorbitant fees are allowed to be taxed and collected by the officers of said court in all suits and proceedings had before them; and,

WHEREAS, Said courts, in the exercise of the jurisdiction conferred upon them by authority of said act, have proven to be a great burden and expense to the respective counties of the State, and onerous perplexing; and a heavy and burdensome tax on the time of the citizens of said counties, and an unnecessary and useless expenditure of the revenue of the several counties; and,

WHEREAS, The entire jurisdiction of all matters, conferred by authority of said act to said county courts, is delegated to and exercised by the several district courts of the State, and to which courts the jurisdiction of all such litigation properly belongs, and is already provided for by law; and,

WHEREAS, There is a general complaint and dissatisfaction expressed by the people of the State at the enactment of said law, and a general desire existing that the same should be blotted out; therefore,

*Be it declared by this Convention,* That the act entitled "An Act to organize the County Courts, and to define the powers and jurisdiction thereof," approved October 25th, 1866, be, and the same is hereby declared null and void, from the date of the passage of this resolution.

*Be it further declared,* That the clerks of the respective county courts in the several counties of this State, shall immediately transmit to the clerk of the district court of their respective counties, all of the original papers in each case, on the docket of their court, not finally disposed of; and they shall also make out and transmit to the district court, with the original papers in each case, all such

orders, judgments and decrees as may have been rendered by the county court during the progress of such suit in said court, together with a taxation of all costs that may have accrued in each case; and the clerks of the district court, to whom the papers and transcript of said cases may be directed, shall docket the cases on the appearance docket of said court, as they appeared in their regular order on the docket of the county court; and all such cases shall stand for trial in their regular order, as other suits in said district courts, and be disposed of in the regular order of business of said court; and in all cases, wherein judgments or decrees have been rendered in said county courts, and which judgments have not been satisfied, and the orders and decrees not complied with, the clerks of said court shall also transmit the papers and transcript of the records in said cases to the clerk of the district court; upon the filing of which, without docketing by the district clerk, it shall be his duty to issue all the writs necessary to enforce the judgment, decrees or orders had in said cases in the county court.

*Be it further declared,* That the jurisdiction of the county courts of this State shall hereafter be only exercised in accordance with the laws now in force, exclusive of the jurisdiction granted by authority of the above recited act, which jurisdiction is limited to the transaction of all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons *non compos mentis*, as is now prescribed by law, and in the exercise and discharge of all the duties authorized and required to be performed by the various laws now in force, prescribing and regulating the duties and powers of police courts.

It was so referred.

Mr. Downing offered the following declaration, and asked its reference to the Committee on State Affairs:

#### RESOLUTION FOR THE OATH OF OFFICE.

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as any officer of the United States, or as a member of any State Legislature, or an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; any person that voted for secession of his own free will and accord, shall not be allowed to vote, or hold any judicial office, or a member of the Legislature of the State of Texas; and I fur-

therefore promise and swear that I never sympathized or gave aid or comfort; and I furthermore promise and swear that I held no office in the Confederacy, or neither sought nor accepted, nor pretended to accept any office in the United States hostile or inimical to the United States of America and the State of Texas; so help me God.

It was so referred.

Mr. Curtis offered the following resolution :

WHEREAS, We have just reason to believe that there exist armed bodies of men in this State, with the avowed purpose of wilfully murdering law-abiding, loyal men, for no reason, except for their devotion to the Union of their fathers; therefore

*Resolved*, That the President of this Convention appoint a Committee, to consist of five members of this Convention, as a committee of safety, whose duty shall be to advise and propose such measures as will protect the lives of the loyal people of Texas; and to present some system of defence against the outrages, murder, and rapine that is committed daily.

*Be it resolved*, That we have reports of from five to ten murders committed daily, and that unless relief is speedily had, that the Union men of Texas will be compelled to leave the State, to avoid assassination and extermination.

Mr. Carter moved that the rules be suspended to allow consideration of resolution.

Rules suspended.

Mr. Burnett moved that the resolution be referred to the Committee on Lawlessness and Crime.

Carried.

Mr. Gray offered the following resolution, and asked its reference to the Committee on Counties and County Boundaries :

WHEREAS, The Police Court of Titus county, A. D. 1867, by an order, authorized Norman Reynolds to construct a bridge over Boggy Bayou, where the Western road, leading from Jefferson, in Marion county, crosses said Bayou in Titus county, near the residence of said Reynolds, and

WHEREAS, Said Reynolds, by virtue of said order, has expended a large sum of money in the construction of said bridge, and has almost completed the same, about nine hundred feet in length; and

WHEREAS, The said bayou, for months in the year, is almost impassable; therefore be it

*Resolved by this Convention*, That the said Reynolds and his heirs and assigns shall have the right to complete said bridge, and receive tolls for crossing the same, in the same amount allowed the Hart's Creek Turnpike Company, in Titus county; and that the

privilege hereby granted shall continue for ten years from the completion thereof; and the order of the county court aforesaid, granting the right, is hereby made valid.

SECTION 2. *Be it further resolved*, That, upon an inspection of said bridge by the judge of the county court and two county commissioners of Titus county, and their certificate that said bridge has been completed in accordance with the order aforesaid, the said Reynolds shall have the privilege of charging and receiving the tolls aforesaid; *provided* said bridge be kept in constant repair, and safe for travel at all hours of the day and night.

SEC. 3. Said Reynolds, his heirs and assigns shall be responsible for all damages sustained by reason of said bridge being out of repair.

It was so referred.

Mr. Whitmore, by leave, asked to introduce a report from the Committee on Finance.

COMMITTEE ROOM,  
AUSTIN, Texas, July —, 1868.

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

SIR: The Committee on Finance beg to return herewith the petition of S. B. Buckley, and beg to be discharged from further consideration of the same.

The evidences which have been produced suggest the untruthfulness of the representations of the petitioner. He was never an officer of the State, but a private employe of Mr. B. P. Scheumard, and Dr. Moore, at the rate of one dollar a day. Nor do the services of petitioner deserve any consideration.

A pamphlet of the Board of Natural Sciences of Philadelphia stamp S. B. Buckley as a common imposter; his achievements in Austin, where he has utterly ruined the collection of minerals, show him to be an ignoramus.

Respectfully,

WHITMORE,  
Chairman.

Mr. Boyd offered the following resolution:

1. *Be it resolved*, That a committee of five be appointed by the President of this convention, to purchase an appropriate monument of fine American marble, to be erected over the remains of the lamented General Sam Houston, the father and statesman of Texas.

2. That the sum of one thousand dollars, or so much thereof as will be necessary, is hereby appropriated to carry into effect the above resolution.

Mr. Butler moved that the rules be suspended to consider the resolution.

Rules suspended.

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

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

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Bryant of Harris, Buffington, Burnett, Coleman, Curtis, Downing, Grigsby, Johnson of Calhoun, Jordan, Kuechler, Morse, Munroe, Newcomb, Oaks, Phillips of San Augustine, Phillips of Wharton, Posey, Ruby, Schuetze, Smith of Galveston, Thomas, Williams, Wilson of Milam—27.

Nays—Mr. President, Bell, Board, Boyd, Brown, Butler, Carter, Evans of Titus, Flanagan, W. Flanagan, Fleming, Foster, Gaston, Glenn, Gray, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Kealy, Keigwin, Kendal, Leib, Lippard, Long, Mackey, McCormick, Mills, Muckleroy, Mullins, Mundine, Pedigo, Rogers, Scott, Slaughter, Stockbridge, Watrous, Whitmore, Wilson of Brazoria, Wright, Yarborough—41.

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

Mr. Buffington offered the following substitute :

*Resolved*, That the Legislature is hereby authorized to appropriate ten thousand dollars for the purpose of erecting a suitable monument to the memory of the late Sam Houston.

The question recurring upon the adoption of the substitute, it was adopted.

Mr. Schuetze offered the following amendment to the substitute :  
“ Said monument to be erected near the Capitol of the State.”

The amendment to the substitute was agreed to.

The question recurring upon the second reading of the resolution as amended, it was read a second time and agreed to.

Mr. Harn offered the following resolution :

SECTION 1. *Be it resolved by the people of Texas in Convention assembled*, That any person or persons having received money contributed for the purpose of erecting a monument on the battlefield of San Jacinto, shall pay the same into the Treasury of the State.

SEC. 2. *And be it further resolved*, That it shall be the duty of the Treasurer to invest all monies paid into the Treasury of the State, for the purpose aforesaid, in the bonds of the United States; and when said funds shall amount to the sum of five hundred thou-

sand dollars, it is hereby made the duty of the Legislature to cause to be erected an appropriate monument on said battle-field.

SEC. 3. Any person having any such funds, shall pay the same into the treasury of the State within ninety days from the passage of this resolution; and, in case of failure to do so, shall pay ten per cent. per month on such money as he may have so received and fails to pay over, until the same shall be collected.

SEC. 4. It shall be the duty of the Comptroller to commence suit in the name of the State of Texas for such monies, and the Attorney General, or any district attorney, shall prosecute such suit or suits in the name of the State; and, in case of recovery, the same shall be paid into the State Treasury for the purposes and for the uses aforesaid.

SEC. 5. The Treasurer shall receive and report to the Comptroller all monies that may be received, contributed or appropriated for the purposes aforesaid; and the same shall be denominated "The San Jacinto Monumental Fund."

Referred to the Committee on State Affairs.

Mr. Bryant, of Harris, offered the following resolution, and asked its reference to the Committee on General Provisions.

*Resolved*, That the following shall form a part of the Constitution:

SECTION —. No person who shall ever have been so unfortunate as to have taken a human life, except in aid or execution of the law, shall ever hold a civil office in this State, until he shall have been relieved by a two-third vote of the Legislature.

It was so referred.

Mr. Smith, of Galveston, introduced the following declaration, and asked its reference to the Committee on Internal Improvements:

## AN ORDINANCE

Incorporating the Northern Texas Railway Company.

*Be it ordained by the Representatives of the people of Texas in Convention assembled:*

SECTION 1. That Tipton Walker, Joseph J. Hendley, O. F. Hunsaker, James W. Allen, Joseph R. Morris, James H. Bell, Edward Degener, Morgan C. Hamilton, A. Bledsoe and E. J. Davis, of Texas; and N. A. Cowdrey, Fred. P. James, L. P. Morton, Joseph Rudd, E. B. Wesley, Horace S. Taylor, and Marcellus Hartley, all of the city of New York, or a majority of them, and their

associates, successors and assigns, be and are hereby created and established a body corporate and politic, under the name of "The Northern Texas Railway Company," and by that name shall have perpetual succession.

SEC. 2. The capital stock of said corporation shall not exceed two hundred thousand shares of one hundred dollars each—but the corporation may be organized upon any less amount of capital stock. The directors of said corporation may issue said capital stock from time to time, at their discretion, and may divide the same into one or more classes of preferred stock, giving such preferences as to dividends and as to voting as shareholders thereon, as in their judgment will best promote the interest of the corporation.

The persons above named shall be the directors of the corporation for the first year, and until others are chosen in their place, and a majority of them shall be a quorum authorized to do any act or thing which this act authorizes. Either five of the directors above mentioned may call the first meeting of the board of directors for the purpose of organizing this corporation. The directors and shareholders may hold their meetings and exercise all their corporate rights under this act, either in the State of Texas or in the city of New York, as shall be most desirable or convenient; but full and accurate records of all their proceedings shall be kept in Texas.

The corporation may receive payment for its capital stock, in whole or in part, the obligations, bonds or shares of any railway or railroad company incorporated by the State of Texas, or by any State of the Union, or by the Republic of Mexico, or any State thereof, with which the railway of this company connects, in extension of their lines of railway.

SEC. 3. This corporation shall have all the powers, privileges and immunities of railroad companies under the laws of Texas; and especially to sue and be sued, to acquire by grant, donation or purchase; to use, occupy and sell, bargain, lease and convey all kinds of property, real and personal, necessary or convenient to operate, use, or maintain its railroad; or the part or the whole of any other railroad hereafter acquired by them. To make any laws for the government and management of the corporation or its officers, not contrary to the laws of Texas, or of the United States; to make, have and use a common seal, and the same to alter and renew at pleasure.

This corporation is hereby authorized to lease, buy, hold, use, sell or operate any line of railroad now existing or hereafter established in this State, and all its property, rights, privileges, franchises and immunities, real and personal.

Also, to construct, maintain, use and operate a railway with a single or double track, commencing at any point in the city of Galves-

ton, or at any point in the city of Houston, or at any intermediate point, and extending in a northerly and westerly direction, via Columbus and San Antonio, to the westerly boundary line of this State, and from thence to the Pacific ocean; with the further privilege of making, owning, maintaining and operating such branches of said railway as they may deem the most expedient, not parallel to any existing line of finished railroad within twenty miles thereof, except at the terminal points. Also, to purchase, lease, buy or sell, join stocks, or consolidate with any railroad connecting with the road of this company, whether in this State or out of it; and whenever it shall have agreed with any company, and acquired the possession of their roadway, then this company shall have and exercise all the powers and privileges which have been or hereafter shall be conferred upon the company so agreed with or acquired, not contrary to the laws of this State.

Also, to build, erect and maintain suitable and convenient station houses, docks, wharves and warehouses, necessary or convenient for the business of the corporation; and also to build and maintain bridges across the rivers, bays or waters of this State in such manner as not to impair commerce or navigation, wherever their line of railway shall cross the same.

Also, to fix, regulate and receive the tolls and charges by them to be received for transportation of persons and property, or for storage or warehousing the property transported, or to be transported, over their road or any part thereof; but their charges, payable in the gold or silver coin of the United States, shall not exceed five cents per mile for passengers and fifty cents per hundred for each hundred miles for freight carried by them, or a currency charge equivalent to that amount payable in gold or silver coin of the United States.

Also, to take, transport, and carry property and persons by railway, by force and power of steam, or of animals, or of any mechanical or other power, or of any combination of them, which said company may choose to apply over any and all lines of railway owned, used or occupied by them, to such points as the company may contract to carry persons or property; also, to buy, and hold or sell, the shares of the capital stock and mortgage bonds, and obligations and evidences of debt made by any company with which this company is authorized as above to purchase, lease or join stocks, or consolidate with; and when purchased by this company, it shall have all the legal and equitable rights that the holders thereof had before their sale to this company.

Also, to support, maintain, hold, use, sell, and convey one or more steam ferry-boats or other steamboats, to be used in Galveston bay or harbor, or on the adjoining bayous or rivers.

Also, to purchase, hold, use, sell and convey, upon its line of railway or elsewhere, any materials, engines, cars, steam ferry-boats, steamboats, or any other property, real or personal, necessary or convenient for this corporation, and for their use in transporting persons and property, or storing or warehousing the same; to purchase, receive, and hold, and to sell and convey such real estate as may be necessary and convenient in accomplishing the object for which this company is incorporated.

This company shall, upon acquiring possession of the roadway of any other railroad or railway company which it is authorized as above to acquire, have all the powers, rights, privileges, and equities, which are or were had by the last named company, to acquire, receive, hold, bargain, sell, and convey lands.

And they shall also have power to purchase, acquire, receive, hold, bargain, grant, sell, and convey all or any part of the lands or the appurtenances thereto, which have been heretofore, or shall hereafter be granted or donated by the State of Texas, or by any municipal authority or by individuals, to aid in the construction of railroads; and also all rights, equities, or things whatsoever pertaining to said lands; and also to have, hold, bargain, and sell all claims, demands, or equities to said lands, against the State of Texas, or against any and all persons or corporations whatsoever.

And they shall also have power to build, construct, purchase or acquire any railway in extension of their line of road through or into the States of Louisiana, Arkansas, and Missouri, and to exercise all their rights, franchises, and privileges in either or all of said States.

And this corporation is hereby invested with all the powers and privileges, immunities and rights which are necessary or convenient to carry into effect the purposes and objects of this corporation, as herein expressed.

SEC. 4. The corporation shall have power to borrow money, and to make and issue bonds, in sums of \$500, \$1000 and \$5000 each, to an amount not exceeding \$20,000 per mile of their railway; said bonds may bear an interest not exceeding eight per centum per annum; the principal and interest may be payable in the city of New York, in gold or currency, at the option of the obligors; the interest semi-annually; the principal not beyond fifty years from date. For the ultimate redemption or payment of said bonds, they may establish a sinking fund, in such manner and form and on such terms as the directors deem expedient. The bonds so issued may be made convertible into either class of the capital stock of the corporation. The payment of the bonds may be secured by one or more mortgages or trust deeds upon this franchise, upon the whole or part

thereof, and upon the whole or any part of the property of this company, real or personal, and upon the property or franchises which may hereafter be acquired by them. And, except as herein expressly provided, the corporation shall have no power or authority to mortgage or otherwise encumber their property, real or personal, unless the assent, in writing, of the majority in interest of the owners and holders of all the capital stock issued by the corporation shall be first had and obtained, authorizing the same.

The said mortgages, or trust deeds, may also contain covenants and agreements authorizing the bondholders to vote in all stockholders' meetings as follows: each one hundred dollars of the principal of the outstanding bonds shall be entitled to one vote; and giving the bondholders the same *pro rata* voice in the management of the company with, and as if they were stockholders to the amount of their bonds.

SEC. 5. The immediate government and direction of the affairs of the company shall be vested in a board of not less than seven nor more than fifteen directors; and after the period for which the present directors are designated expires, said directors shall be chosen by the stockholders of said company by ballot, at their annual meeting in each year, and shall hold their office until the next annual meeting of the company, or until others are duly elected and qualified to take their places as directors. The directors of this company need not be residents or citizens of the State of Texas, but they shall keep either the original or a duplicate copy of their records, containing all their doings, at their principal office in the State of Texas.

The preferred stockholders shall elect the directors until a dividend shall have been earned, declared, and paid on the common stock; and, until then, the common stockholder shall have no vote voice in the election of directors.

The said directors shall elect one of their number president of the board, who shall also, by virtue thereof, be president of the company, and shall also elect a vice president of one of their number. They shall also appoint a secretary, and such other officers or agents as the necessity or convenience of the company requires.

A majority of the directors of the company shall constitute a quorum to do business; a less number may adjourn from time to time.

In all meetings of the stockholders of said company, each share shall entitle the holder thereof to one vote, which vote may be given by said stockholder in person, or by lawful proxy. But this shall not authorize a common stockholder to have a vote for the choice of

directors until a dividend has been paid on the common stock, as above provided.

In case it shall so happen that an election of directors shall not be made on the day appointed for that purpose, said corporation shall not for that cause be dissolved, but said election may be and on any day to which the stockholders shall adjourn, or which shall be appointed by the directors. And said directors shall have power to fill any vacancy which may occur in their board by death, resignation or otherwise. Also, to add to their number so as not to exceed thirteen in all.

The said directors shall have power to make and prescribe such by-laws, rules, and regulations as they shall deem proper and needful, touching the disposition and management of the stock, property, estate, and effects of said company, the transfer of shares, the duties and conduct of their officers, agents, and servants, and all matters whatever which may appertain to the concerns of said company, not contrary to those established by the stockholders, or to this act, or to the laws of the State of Texas, or of the United States.

SEC. 6. Upon the dissolution of this corporation, after the payment of all its debts, the remaining assets shall be divided among the different classes of stockholders, according to their preferences; that is to say, the preferred stock shall be first paid in full, and the balance divided among the common stockholders *pro rata*. But this corporation shall not be dissolved by any act of the company, without an affirmative vote of two-thirds of each class of stockholders.

SEC. 7. Annual meetings of the stockholders for the choice of directors shall be held either in the State of Texas or the city of New York, in the month of March in each year after 1868, which meeting shall be called by the directors, who shall specify the time and place for holding the same. And at least thirty days previous to each annual meeting, the directors shall send through the post-office to each stockholder, to the address as shown by the company's books, a full and specific statement of all the business, acts, and doings of the corporation up to the first day of January preceding, and a notice of the time and place of holding said annual meeting.

SEC. 8. This company shall make all reports to the State of Texas, or to any of the officers of said State, required from other companies in said State, by the general laws thereof, and shall be subject to all general laws, in regard to running over the road of one company by another; they shall also keep at their office, in this State, full and complete accounts of the traffic of the company, and full and complete accounts of the shares and bonds issued by them, and full and complete records of all the doings of the board of

directors; and shall, in the month of January, in each year, prepare and keep in their office, in this State, a full and complete list of their shareholders, as shown by their stock books, on the first day of January in each year.

And either the president or vice-president of the company, and the secretary and treasurer, or assistant secretary and treasurer, shall reside in this State.

It was so referred.

Mr. Schuetze offered the following resolution, and asked its reference to the Committee on Political and Legislative :

*Resolved*, That the legislature shall provide for the organization of an armed cavalry police force, under the chief command of the Governor of the State, and under such inferior officers as the Governor may appoint. Said force shall be stationed, a sufficient number in every county of the State; and it shall be the duty of the same to act as day and night patrols in their respective districts, in order to preserve the peace, prevent the commission of crime, arrest offenders against the public peace, and to deliver such offender to the proper civil authority, to be dealt with according to law.

It was so referred.

Mr. McWashington offered the following resolution, and asked its reference to the Committee on Judiciary :

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

SEC. —. The real and personal property of any female in this State, acquired either before or after marriage, whether by gift, grant, inheritance, devise or otherwise, shall, so long as she may choose, be and remain separate estate and property of such female, and may be devised or bequeathed by her the same as if she were a *femme sole*.

Laws shall be passed providing for registration of the wife's separate property, and when so registered, and so long as it is not entrusted to the management or control of her husband, otherwise than as an agent, it shall not be liable for any of his debts, engagements, or obligation.

It was so referred.

Mr. McCormick moved the rules be suspended to take up report of Committee on Contingent Expenses, respecting the pay of extra mileage to Mr. Grigsby.

Lost.

Mr. Schuetze offered the following resolution :

*Resolved*, That the remarks of Hon. A. J. Hamilton and E. Degener, in support of a resolution introduced on the 20th day of July, by the Hon. R. K. Smith, be ordered to be printed in pamphlet

form, and two thousand copies in the English language, and one thousand copies in the German language be distributed to the members of this Convention.

Mr. Schuetze moved a suspension of the rules to take up resolution.

Lost.

Mr. Schuetze moved its reference to the Committee on Printing. It was so referred.

Mr. Long introduced the following resolution :

*Be it Resolved by the people of Texas in Convention assembled,* That Fred. Slaughter, the carrier of the mail from the post-office to the capitol, and *vice versa*, for the benefit of the members of this body, be allowed four dollars *per diem*, and that the Secretary be authorized to draw upon the Treasurer therefor as he draws for the members.

Laid over one day.

Mr. Armstrong, of Lamar, moved to suspend rules and take up resolution creating the county of Webster.

Lost.

Mr. Bledsoe offered the following resolution :

*Resolved,* That the President appoint a committee of three to inquire into the cause of certain families now in the vicinity of Austin fleeing from their homes.

Mr. Bledsoe moved a suspension of rules to take up resolution.

Rules suspended.

Resolution read and adopted.

The President announced the business in order was the report of the Executive Committee.

Mr. Burnett moved that the provisions of the Executive Department be read by sections and adopted *seriatim*.

Carried.

Mr. Degener moved that the House resolve itself into a committee of the whole upon the Executive Report.

[Mr. Whitmore in the chair.]

Committee rose, reported progress, and asked leave to sit to-morrow morning at ten o'clock.

Leave granted.

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