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

CAPITOL, AUSTIN, TEXAS,  
JULY 24, 1868.

Convention met pursuant to adjournment.

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

Mr. Hamilton, of Travis, rose to a privileged question.

In the report of the debate upon the Millican disturbance, instead of the language, "I admit that the colored men were wrong," it should have been, "admit that the colored men were wrong."

The President announced the appointment of Mr. Thomas upon the Committee to proceed to Millican in place of Mr. Curtis, declined.

Mr. Carter, from the Committee on Political or Legislative, made the following report :

COMMITTEE ROOM,  
July 23, 1868.

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

SIR : A resolution offered by Mr. Adams, in reference to the regulation of charters.

A resolution offered by Mr. W. Flanagan, in reference to licensing gaming houses.

Your Committee are of the opinion that these resolutions should have been referred to the Committee on General Provisions.

Returning the same, your Committee respectfully ask to be excused from further consideration of the same, and that they be referred to the Committee on General Provisions.

All of which is respectfully submitted.

CARTER,  
Chairman *pro tem.* Committee on Political or Legislative.

Mr. Smith, of Galveston, offered the following resolution :

*Resolved*, That the Committee to investigate the Millican murders be authorized to employ a clerk.

The Convention refused to suspend rules for consideration of resolution.

Mr. Scott offered the following resolution :

*Therefore, be it declared by the people of Texas in Convention assembled,* That the Police Court of Lamar county be authorized to levy a special tax for the purpose of paying the present indebtedness of said county, and that said tax be collected as heretofore directed by law.

On motion the resolution was referred to the Committee on Finance.

Mr. Watrous offered the following resolution :

*Be it declared by the people of Texas in Convention assembled,* That no person shall be excluded from holding any office of profit or trust in this State on account of race, color or previous condition.

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

Mr. Whitmore, of Smith, offered the following resolution :

*Be it resolved,* That his Excellency Governor E. M. Pease be respectfully requested to report in detail to the Convention :

1. The amount in United States five per cent. indemnity bonds and coupons recovered for the benefit of the State since the inauguration of the Provisional Government, in 1865, with the cost of recovering the same.

2. What compromises, if any, have been made to recover these bonds and coupons.

3. What has been done with the bonds and coupons recovered, or the money derived from compromises, if any have been made.

4. The probability of recovering for the use and benefit of the State any United States bonds issued to the State of Texas, known to be in existence and not cancelled at the national Treasury, with such other information in relation to this subject which he may have, and may be pleased to give.

Mr. Thomas offered the following resolution :

*Resolved,* That the President of this Convention be, and he is hereby authorized to draw from the contingent fund the sum of five hundred dollars, or so much thereof as may be necessary, to be used by him in transmitting dispatches to, and paying for telegrams from our commissioners at Washington.

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

Rules suspended.

The question recurring upon the second reading of the resolution, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bell, Bellinger,

Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Carter. Cole, Coleman, Constant, Curtis, Degener, Downing, Evans, of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Gray, Grigsby, Harris, Harn, Horne, Hunt, Johnson of Harrison, Jordan, Kealy, Kendal, Kuechler, Leib, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Mundine, Munroe, Newcomb, Oaks, Pedigo, Phillips of San Augustine, Phillips, of Wharton, Posey, Rogers, Ruby, Schuetze, Slaughter, Smith, of Marion, Stockbridge, Sumner, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson, of Milam, Wright.—66.

Nays—Messrs. Armstrong of Jasper, Boyd, Glenn, Keigwin—4.

So the resolution was ordered to be engrossed.

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

Rules suspended.

Resolution read a third time and passed.

Mr. McCormick moved that the unfinished business upon the President's table be taken up.

Carried.

The President announced the first business in order was the following resolution of Mr. Patten's, to instruct the Committee on State Affairs to report upon location of Capitol of the State :

*Resolved*, That the Committee on State Affairs be required 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.

The resolution was withdrawn by consent. The President announced that the next business in order was upon the following resolutions of Mr. Lippard, to discontinue newspapers now furnished to the Convention :

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.

2. That the Committee on Printing be and are hereby authorized to contract with the lowest Republican bidder for 1000 copies per day of the journals of the Convention, said copies to be laid on the members' desks by 9 o'clock, A. M., the following day.

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

Yeas—Messrs. President, Adam, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Cole, Coleman, Constant, Downing, Flanagan, Fleming, Foster, Goddin, Gray, Harn, Johnson of Calhoun, Jordan, Kealy, Keuchler, Lindsay, McWashington, Mundine, Munroe, Pedigo, Phillips of San Augustine, Phillips of Wharton, Posey, Ruby, Schuetze, Scott, Slaughter, Smith of Galveston, Smith of Marion, Sumner, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—46.

Nays—Messrs. Armstrong of Jasper, Bell, Boyd, Butler, Curtis, Degener, Evans of McLennan, Fayle, Gaston, Glenn, Grisby, Harris, Horne, Hunt, Keigwin, Kendal, Lippard, Long, Morse, Newcomb, Oaks, Patten, Whitmore, Williams, Wilson of Milam, Yarorough—26.

So the resolution was laid on the table.

The president announced the next business in order was upon Mr. Buffington's resolution, to discharge the clerks of the various committees of the Convention.

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

Yeas—Messrs. President, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Boyd, Brown, Bryant of Harris, Butler, Burnett, Carter, Coleman, Constant, Curtis, Downing, Evans of McLennan, Flanagan, Fleming, Foster, Goddin, Horne, Hunt, Johnson of Harrison, Keuchler, Leib, Munroe, Newcomb, Oaks, Patten, Phillips of San Augustine, Ruby, Schutze, Slaughter, Smith of Marion, Whitmore, Yarborough—36.

Nays—Messrs. Adams, Armstrong of Jasper, Board, Bryant of Grayson, Buffington, Cole, Degener, W. Flanagan, Gaston, Glenn, Gray, Grigsby, Hamilton of Travis, Harris, Harn, Johnson of Calhoun, Kealy, Keigwin, Kendal, Lindsay, Lippard, McCormick, McWashington, Morse, Mundine, Pedigo, Phillips of Wharton, Posey, Rogers, Scott, Smith of Galveston, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—40.

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

The president announced that the hour had arrived to take up the report of the Committee on Internal Improvements, upon the sale of the Buffalo Bayou, Brazos and Colorado Railroad, and other railroads.

Mr. Fayle made the following minority report :

## MINORITY REPORT OF COMMITTEE OF INTERNAL IMPROVEMENTS.

The minority would call the attention of the Convention to the following facts in relation to the Buffalo Bayou, Brazos and Colorado Railroad, and which were not known to a majority of the committee at the time their report was first made and ordered to be printed:

1. The Buffalo Bayou, Brazos and Colorado Railroad was originally built with the moneys and materials furnished principally by non-residents of the State of Texas, and who, in consequence of their non-residence, were unable to preserve and protect their interests during the late unhappy rebellion.

2. Up to the inauguration of that dreadful state of affairs the Buffalo Bayou, Brazos and Colorado Railroad was kept in most excellent condition, was constantly being extended and improved, and not only paid the interest accruing on the school fund, but actually lessened the principal itself by twelve thousand dollars.

3. In consequence of the financial derangements produced by the rebellion, and the wearing out of the rolling stock, machinery and road beds during its continuance, said Buffalo Bayou, Brazos and Colorado Railroad Company became greatly embarrassed at the close of the rebellion, and were left without means, machinery, or rolling stock, and a worn-out road on their hands as the results of the war.

4. Subsequent to the war, however, and up to the fifteenth of June last, these same non-resident creditors, instead of taking advantage of the necessities of the old company for their exclusive benefit, as they might very justly have done, have been generously rendering such assistance as they could to the former company for their resuscitation and establishment; but, as events have proved, unfortunately without success.

5. On the fifteenth of June last, and since this Convention commenced its session, in order to secure their own interests, with the full consent and at the express desire of the former company, the aforesaid non-resident creditors have been induced to take the management of said road into their own hands and subject to their sole control; and, forming a new company, have united themselves with one of your own citizens, identified with every interest of the State, and a prominent and well known railroad man.

6. Carrying out in good faith the programme laid down in their formation as a new company, to make the Buffalo Bayou, Brazos and Colorado Railroad a first-class road, and being fully able to do

so, they have since the fifteenth of June last paid of the floating debt of the old company, \$20,000 to the laborers and workmen previously employed, and in judgment \$50,000 more; leaving the entire floating debt now due not over \$16,000. They have ordered from Calcasieu and along the line of the road a new set of cross ties, and are relaying the roadbed at a probable cost of \$60,000; they have bought and paid for, and it is now on the way, a substantial truss iron bridge to go across the Brazos river at Richmond, and are now building the brick and concrete abutments therefor, and which bridge, when finished by the first of October next, will be at a cost of \$80,000; and in addition to all this there is ordered an entirely new rolling stock, which will swell the cost \$75,000 more; all of which amount, \$255,000, has been or will be expended during the present year.

7. There is now eighty-five miles of road built, which will be put in first class order, as before said, during the present year, with the certainty that as soon as it is practicable it will be extended to the utmost degree; thus making it one of the most valuable railroads in the State, and affording ample security to the school fund in the future.

With these facts in view the minority think it would be unfair, and an act of great injustice to these enterprising men, citizens of our common country, for this Convention to take advantage of the derangements caused by the recent civil strife, and the well meant efforts of the present company to sustain the former one, and now, at so short notice, to foreclose the mortgage of the State upon the road; more particularly as they are just starting out as a new company, with all the difficulties of a recent change, and without any opportunity afforded them of meeting the obligations thus suddenly and in some measure unexpectedly thrown upon them. Such action of this Convention would deprive them of all means of recovering their just dues, after laying out of them some ten or twelve years without any benefit therefrom, and would not increase the certainties of the State realizing the proper advantages of the school fund. The minority conceive that such action on the part of this Convention would greatly affect the credit of the State abroad, and much trammel railroad enterprises within the State of Texas for the future; and would respectfully suggest that a proper and just course would dictate that every reasonable favor and extension should be granted said company; and that this may be done, yet the well prized school fund of the State of Texas be at no unnecessary risks, and the hopes of a broad and wise system of educational interests imperiled; therefore,

## DECLARATION.

*Be it declared,* That the Buffalo Bayou, Brazos and Colorado Railroad Company shall be, and is hereby, required to deposit with the Comptroller of the State of Texas. within sixty days from the passage of this declaration, the sum of one hundred and twenty-five thousand dollars, either in money or United States bonds, as additional security to the bonds now in possession of the State, for the amount due on the School Fund, principal and interest; amounting in all to \$499,800, due March 1, 1868.

2. That the said \$499,800, with so much interest accruing thereto as shall make the sum total \$500,000, shall form a new principal, the interest of which shall be paid by said Buffalo Bayou, Brazos and Colorado Railroad Company on the first day of January next, and semi-annually afterwards, as it becomes due.

3. Said Buffalo Bayou, Brazos and Colorado Railroad Company shall be entitled to draw out of the hands of the Comptroller any portion of said deposit, in sums of not less than twenty thousand dollars at a time, whenever said company can make satisfactory showing to the Governor that they have expended such amount in the permanent improvement or in the actual extension of said road.

4. Should said company not produce to the Governor, within sixty days from the passage of this declaration, the receipt of the Comptroller, showing that the sum of one hundred and twenty-five thousand dollars, in money, or United States bonds, has been deposited for additional security, as required by the first section of this declaration; or should the said company fail to make any payment of interest for sixty days from the time such payment is due, the Governor shall be, and he is hereby, authorized, after giving thirty days' notice in the Austin Republican, San Antonio Express, Flake's Bulletin, National Index, and one leading paper respectively in Boston and New York, to proceed to sell, or to have sold, from the Capitol steps, in the city of Austin, said Buffalo Bayou, Brazos and Colorado Railroad, with its entire rolling stock, together with all the rights, privileges, franchises, immunities and claims that said company may have to the same, to any person or persons who shall bid the whole amount of principal and interest due on the day of sale; payments to be made as follows: one-fourth down, and the remainder in four annual installments, with interest from the day of sale, secured by lien on the road.

The minority would also offer the following modification of the majority report, as it respects the New Orleans and Southern Pacific Railroad:



## 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 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 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 the act of the thirteenth 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 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.

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; one fourth to be paid down in coin, and the balance in four annual installments with interest thereon, 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 one-fourth the price and first class bonds securing the payment of the remainder, principal and interest, 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, etc., etc., set forth in the third section of the act of the thirteenth of August, 1856, concerning the loan of the School Fund.

6. If the parties purchasing any of said road or roads at public sale, shall fail to pay any of the subsequent installments with the interest accruing thereon, for ninety days after such payment is due, said parties shall forfeit all right and claim to said road or roads, and the Governor shall have authority to take possession of said road or roads and appoint a receiver or receivers to manage the same for the State, until a re-sale can be effected or the Legislature may otherwise prescribe; and said parties so forfeiting their rights in the road shall have no recovery for the amounts previously invested.

7. 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 to 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. Evans, of McLennan, moved the following substitute for the whole:

#### DECLARATION

Providing for the sale of such railroads of this State as may be indebted to the School Fund.

**SECTION 1.** *Be it declared by the people of Texas in Convention assembled.* That the railroads within this State which are indebted to the School Fund, to wit: the Buffalo Bayou, Brazos and Colorado Railroad; the Washington county Railroad; the Houston and Texas Central Railroad; the Houston Tap and Bra-

zoria Railroad; the Southern Pacific Railroad; and the Texas and New Orleans Railroad; shall be sold by the Governor of the State, either at public auction or private sale, as he may order, to any company or any individual that will, in the particular case, assume the entire debt that may be due from the railroad sold, to the said School Fund; such sale to be under the following terms and conditions:

The company or individual purchasing any of the railroads sold under this provision, to deposit in the Treasury of the State, at the time of such sale, the one-fourth part of such indebtedness, which said fourth part may be used, under the supervision of the Governor, in putting the railroad sold in good running order, or in extending the same.

That the company or individual purchasing any of said railroads under the provisions thereof, shall have a term of twenty years within which to complete payment of the indebtedness to the School Fund; the payment to be made in equal semi-annual installments, with interest at six per. cent per annum, payable also semi-annually. That, should any company or individual, who may purchase under the provisions hereof, fail to make any of the semi-annual payments, either of the amount of indebtedness to said School Fund, or of interest due, then the whole amount of such indebtedness and interest shall become due, and the railroad in possession of such company or individual shall be again sold by the Governor, under the terms and conditions of this declaration.

*Provided*, That in making the first sale of any of the said railroads, as hereinbefore provided, the Governor shall give a preference to the company or individual at present owning the same.

*Provided further*, That should the Governor not be able to sell any of said railroads, under the terms and conditions of this declaration, then he may sell the same at public auction unconditionally, for such sums as may be offered for the same.

*Provided further*, That in the indebtedness of the said railroads hereinbefore mentioned, it is intended to include the total amount of principal and interest due from said railroads, without regard to any pretended payments made during the late rebellion, when such payments were made in any other currency than gold and silver.

Mr. Boyd moved to adjourn until to morrow morning at nine o'clock.

Mr. Hamilton, of Travis, asked that the motion be withdrawn. Motion withdrawn.

Mr. Hamilton asked leave of absence be given to Messrs. Adams and Gray, for an indefinite period.

Leave granted.

Upon the motion to adjourn the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong, of Jasper, Bledsoe, Boyd, Brown, Butler, Cole, Downing, Evans of McLennan, Fayle, Foster, Gaston, Glenn, Grigsby, Hamilton of Travis, Harris, Hunt, Johnson of Harrison, Keuchler, Lindsay, Lippard, Long, Mackey, McWashington, Mullins, Oaks, Patten, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Slaughter, Smith of Marion, Stockbridge, Sumner, Talbot, Thomas, Watrous, Williams—39.

Nays—Messrs. President, Bell, Bellinger, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Constant, Curtis, Degener, Flanagan, W. Flanagan, Fleming, Goddin, Gray, Harn, Horne, Johnson of Calhoun, Jordan, Kealy, Kendal, Leib, McCormick, Morse, Muckleroy, Mundine, Munroe, Newcomb, Phillips of Wharton, Posey, Ruby, Scott, Smith of Galveston, Varnell, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—41.

So the Convention refused to adjourn.

[Mr. Evans, of McLennan, in the chair.]

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

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CAPITOL, AUSTIN, TEXAS,  
JULY 25, 1868.

Convention met pursuant to adjournment.

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

Mr. Lindsay moved that Mr. Mullins be indefinitely excused from attendance upon the Convention.

Leave granted.

Mr. Constant presented a protest from L. E. Stephenson, and ninety-nine others, against a new county being formed out of Fannin and Lamar counties.

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

COMMITTEE ROOM,  
July 25, 1868.

Hon. E. J. DAVIS,

President of the Convention :

SIR: The Committee on Contingent Expenses, to which was re-committed the resolution originally reported by said committee, in