

TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Journal of the Reconstruction Convention: which met at Austin, Texas. Texas. Constitutional Convention (1868-1869). Austin, TX: Tracy, Siemering & Co., printers, 1870.*

Content downloaded from

Tarlton Constitutions 1824-1876 (<http://tarlton.law.utexas.edu/constitutions/>)

The text of these documents is in the public domain. That is, the original words and content are freely usable.

The images of the documents are copyrighted material; the copyright is held by the Tarlton Law Library. The copyrighted images may be used only with permission. Permission is granted to use the copyrighted materials in the classroom for educational purposes. Downloading, printing, publication, public display or otherwise using any of the copyrighted images, including on the web or in a forum other than a classroom, requires permission from Tarlton. Requests for permission to use these materials should be submitted online to rarebooks@law.utexas.edu.

If you are uncertain whether you need permission to use these materials, please contact us at rarebooks@law.utexas.edu.

So the declaration was adopted.

The question recurred upon the passage of the declaration creating the county of Delta.

It was adopted.

The question recurred upon the passage of the declaration creating the county of Richland.

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

Yeas—Messrs. President, Armstrong of Lamar, Bell, Bledsoe, Bryant of Harris, Caldwell, Carter, Cole, Curtis, Downing, Flanagan, Fleming, Foster, Goddin, Jordan, Kendal, Lippard, Long, Mundine, Munroe, Newcomb, Patten, Phillips of Wharton, Scott, Slaughter, Stockbridge, Vaughan, Watrous, Whitmore, Wilson of Milan, Wright, Yarborough—32.

Nays—Messrs. Armstrong of Jasper, Bellinger, Board, Bryant of Grayson, Burnett, Constant, W. Flanagan, Harris, Harn, Horne, Johnson of Harrison, Kirk, Leib, Lindsay, McWashington, Phillips of San Augustine, Posey, Rogers, Ruby, Smith of Galveston, Sumner, Talbot, Thomas, Varnell—24.

So the declaration was adopted.

Mr. Foster called up the report of the special committee respecting the Memphis and El Paso railroad lands.

Mr. Degener moved to strike out, "subject to genuine land certificates."

Mr. Flanagan moved the previous question.

Previous question seconded.

Mr. Degener moved a call of the House.

Call sustained.

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

CAPITOL, AUSTIN, TEXAS,
August 27, 1868.

Convention met pursuant to adjournment.

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

Mr. Johnson, of Calhoun, moved a suspension of the rules to take up resolution providing for sending Messrs. Hamilton and Caldwell to Washington, and appropriating three thousand dollars for the payment of expenses.

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

Yeas—Messrs. Bellinger, Brown, Buffington, Burnett, Carter, Constant, Fleming, Foster, Johnson of Harrison, Johnson of Calhoun, Jordan, Lindsay, Long, Mundine, Munroe, Phillips of Wharton, Posey, Ruby, Scott, Slaughter, Smith of Galveston, Smith of Marion, Vaughan, Watrous, Wilson of Brazoria—25.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Boyd, Bryant of Grayson, Bryant of Harris, Cole, Curtis, Degener, Flanagan, W. Flanagan, Glenn, Harris, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lippard, Newcomb, Patten, Phillips of San Augustine, Rogers, Thomas, Varnell, Williams, Wilson of Milam, Wright, Yarborough—31.

So the Convention refused to suspend rules.

Mr. Carter moved to suspend the rules to take up the report of the Special Committee on the Memphis and El Paso Railroad Lands.

Rules suspended.

Mr. Degener moved to strike out the words “and subject to the location of all genuine land certificates.”

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, “Shall the main question be now put?”

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

Yeas—Messrs. Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Harris, Caldwell, Carter, Cole, Constant, Downing, Flanagan, W. Flanagan, Foster, Glenn, Hamilton of Travis, Harris, Harn, Johnson of Harrison, Johnson of Calhoun, Keigwin, Kirk, McWashington, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Smith of Galveston, Stockbridge, Talbot, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—35.

Nays—Messrs. President, Armstrong of Lamar, Bledsoe, Buffington, Burnett, Curtis, Degener, Fleming, Jordan, Kealy, Kendal, Kuechler, Lindsay, Lippard, Long, Newcomb, Patten, Rogers, Schuetze, Scott, Slaughter, Smith of Marion, Sumner, Thomas, Vaughan, Whitmore, Williams, Yarborough—28.

So the main question was ordered.

The question recurred, shall the declaration be adopted?

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

Yeas—Messrs. President, Armstrong of Jasper, Bellinger, Board, Bryant of Harris, Caldwell, Carter, Cole, Constant, Curtis, Downing, Flanagan, W. Flanagan, Foster, Glenn, Hamilton of Travis,

Harris, Harn, Johnson of Calhoun, Kealy, Keigwin, Kirk, Mc-Washington, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Scott, Slaughter, Smith of Galveston, Stockbridge, Talbot, Varnell, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—38.

Nays—Messrs. Armstrong of Lamar, Bledsoe, Brown, Bryant of Grayson, Buffington, Burnett, Degener, Fleming, Johnson of Harris, Jordan, Kendal, Keuchler, Lindsay, Lippard, Long, Newcomb, Patten, Rogers, Schuetze, Smith of Marion, Sumner, Thomas, Vaughan, Watrous, Williams, Yarborough—26.

So the declaration passed a second reading.

Mr. Armstrong, of Lamar, moved that the rules be suspended for consideration of the following declaration, introduced by Mr. Hamilton, of Travis :

ARTICLE GRANTING LANDS TO ACTUAL SETTLERS.

Introduced and ordered to be printed.

SECTION 1. There shall be one General Land Office in the State, which shall be at the seat of Government, where all titles which have heretofore emanated or may hereafter emanate from government shall be registered; and the Legislature may establish, from time to time, such subordinate offices as they may deem requisite.

SEC. 2. All certificates for headright claims to land, issued to fictitious persons, or which were forged, and all locations and surveys thereon, are and the same were null and void from the beginning.

SEC. 3. Every head of a family now residing in Texas, who has never received a headright or pre-emption claim from the government of Texas, and who now owns no land in the State, shall have the right to locate and receive a patent from the State for one hundred and sixty acres of land from the vacant public domain, upon paying the expense of survey and patent fees; and all single men now residing in the State, who are twenty-one years of age, who now own no land in the State, and whose parents have never received a headright or pre-emption claim from the government of Texas, shall have the right to locate and receive a patent from the State for eighty acres of land from the vacant public domain, upon paying the expense of survey and patent fees.

SEC. 4. Every immigrant to this State, who will settle, occupy, cultivate and improve any portion of the vacant public domain, shall be entitled to a grant for the same in fee simple, as follows: Each head of a family shall be entitled to a grant of one hundred and sixty acres, and each single adult person shall be entitled to a grant

of eighty acres; Provided, that the grantee shall pay the expense of survey and patent fees.

Rules suspended.

Mr. Burnett moved that the declaration be referred to the Committee on Judiciary.

Withdrawn.

Mr. Lindsay moved that the declaration be printed and made the special order after the action of the Convention on the report of the Committee on Education.

Carried.

The President announced the business in order was the consideration of the report of the Committee on Education.*

Mr. Johnson, of Calhoun, moved that the report be considered by sections.

Carried.

Mr. Buffington offered the following amendment to section one: Strike out all after "schools" in third line.

Mr. Flanagan offered the following substitute to the report:

It shall be the duty of the first Legislature of the State of Texas to pass a law providing for a common school system for the State, which law shall be equal and uniform, giving to the whites and blacks the same benefits arising out of any and all lands and monies that shall be set apart as a general school fund; provisions shall be made in said law to keep the races separate, to avoid prejudice that would otherwise arise.

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

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

Yeas—Messrs. President, Bryant of Harris, Burnett, Caldwell, Carter, Constant, Curtis, Degener, Foster, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Kendal, Keuchler, Lindsay, Lippard, Long, Mackey, McWashington, Mundine, Munroe, Newcomb, Posey, Ruby, Schuetze, Slaughter, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Watrous, Whitmore, Williams, Wilson of Brazoria—36.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellingier, Bledsoe, Board, Boyd, Brown, Bryant of Grayson, Buffington, Cole, Flanagan, W. Flanagan, Fleming, Harris, Grigsby, Harn, Horne, Keigwin, Kirk, Phillips of San Augustine, Phillips of Wharton, Rogers, Scott, Thomas, Varnell, Vaughan, Wilson of Milam, Wright, Yarborough—30.

* For report see p 610.

So the substitute was laid on the table.

Mr. Smith, of Galveston, moved the previous question.

Previous question seconded.

Mr. Buffington moved a call of the House.

Call sustained.

Absentees—Goddin, Hunt and Mackey.

Mr. Degener moved a suspension of the call.

Carried.

The question recurred, "Shall the main question be now put?"

The main question was ordered.

The question recurring upon the adoption of section one of the report, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bell, Bledsoe, Bryant of Harris, Burnett, Caldwell, Carter, Constant, Curtis, Degener, Downing, Fleming, Foster, Hamilton of Travis, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Kendal, Keuchler, Lindsay, Lippard, Long, McWashington, Munroe, Newcomb, Patten, Phillips of Wharton, Rogers, Ruby, Schuetze, Slaughter, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Vaughan, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—44.

Nays—Messrs. Armstrong of Jasper, Bellinger, Board, Brown, Boyd, Bryant of Grayson, Buffington, Cole, Flanagan, Flanagan W., Harris, Harn, Horne, Keigwin, Kirk, Phillips of San Augustine, Posey, Scott, Thomas, Varnell, Wilson of Milam, Yarrow—22.

So section one of the report was adopted.

Mr. Schuetze offered the following as an additional section to be inserted between first and second sections.

It shall be the duty of the Board of Education to establish separate schools for white children and for colored children, and may also provide for the establishment of separate male and female free schools, whenever a sufficient number of scholars should make it necessary or advisable.

[Mr. Phillips, of San Augustine, in the chair.]

Mr. Bryant, of Harris, moved to adjourn until this afternoon at four o'clock.

Lost.

Mr. Schuetze moved to strike out the second clause of the section.

Leave granted and clause withdrawn.

The question recurring upon the acceptance of the proposed section, the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Board, Boyd, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Cole, Constant, Downing, Flanagan, W. Flanagan, Fleming, Grigsby, Hamilton of Travis, Johnson of Calhoun, Jordau, Kealy, Keigwin, Keuchler, Kirk, Lindsay, Lippard, McWashington, Munroe, Mundine, Phillips of San Augustine, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Sumner, Talbot, Thomas, Varnell, Vaughan, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—48.

Nays—Messrs. President, Bryant of Harris, Curtis, Degener, Foster, Johnson of Harrison, Kendal, Long, Newcomb, Patten Ruby, Smith of Marion—12.

So the proposed section was accepted.

Mr. Smith, of Galveston, offered the following *proviso* to the proposed section:

Provided that no one entitled to the right of public education shall be prevented on account of sex or color from attending the public schools that are accessible, when schools suited to sex or color as provided in this section may not be established.

Mr. Hamilton, of Travis, moved to lay the proviso on the table.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bledsoe, Board, Boyd, Bryant of Grayson, Buffington, Burnett, Caldwell, Carter, Cole, Constant, Downing, Flanagan, W. Flanagan, Fleming, Grigsby, Hamilton of Travis, Johnson of Calhoun, Kealy, Keigwin, Kirk, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Rogers, Scott, Slaughter, Stockbridge, Talbot, Thomas, Varnell, Vaughan, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—40.

Nays—Messrs. President, Bryant of Harris, Curtis, Degener, Foster, Johnson of Harrison, Jordan, Kendal, Kuechler Lindsay, Long, McWashington, Newcomb, Patten, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Sumner, Williams—20.

So the proviso was laid on the table.

Mr. Degener moved to strike out the word "shall" and insert "may" after the words "Board of Education."

Mr. W. Flanagan moved to lay the motion on the table."

Upon the motion to lay the substitute upon the table, the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Board, Boyd, Bryant of Grayson, Buffington, Burnett, Caldwell,

Cole, Flanagan, Flanagan W., Fleming, Hamilton of Travis, Johnson of Calhoun, Kealy, Keigwin, Kirk, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Sumner, Talbot, Thomas, Varnell, Vaughan, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—38.

Nays—Messrs. President, Bellinger, Bledsoe, Bryant of Harris, Carter, Constant, Curtis, Degener, Downing, Foster, Johnson of Harrison, Jordan, Kendal, Kuechler, Lindsay, Long, McWashington, Newcomb, Patten, Ruby, Smith of Marion, Williams—22.

So the amendment was laid on the table.

Mr. Lindsay offered the following substitute :

The board of Education shall have power to establish separate free schools for the white and colored children; but under no circumstances shall any children, of either color, be deprived of the benefits and advantages of the public free school system established by the State.

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

Mr. Bryant, of Harris, moved that the Convention adjourn until four o'clock this afternoon.

Carried.

AFTERNOON SESSION—FOUR O'CLOCK.

Convention met pursuant to adjournment.

Roll called. Quorum present.

Mr. Degener rose to a question of privilege, and requested that the following declaration, offered by Mr. Carter, in reference to the Memphis, El Paso and Railroad reservation, be inserted in the journal.

DECLARATION.

Granting land to actual settlers, to purchasers of lands, and location of genuine certificates, within the limits of the Memphis and El Paso railroad reserve.

SECTION 1. *Be it declared by the people of Texas in Convention assembled,* That all heads of families actually settled

on vacant lands lying within the Memphis and El Paso railroad reserve, shall be entitled to and receive from the State of Texas eighty acres of land, including the place occupied, on payment of all expenses of survey and patent.

SEC. 2. *Be it further declared*, That all vacant lands lying within the Memphis and El Paso railroad reserve are hereby declared open and subject to sale to heads of families actually settled on, or who may actually settle in said reserve, at the price of one dollar per acre; and said vacant land within said reserve shall be open to preemption settlers, and subject to the location of all genuine land certificates.

SEC. 3. *Be it further declared*, That on the fourth day of February A. D. 1856, an act, entitled "An Act to incorporate the Memphis, El Paso and Pacific Railroad Company," was approved by the Governor; and on the twenty-fifth day of August, 1856, the nineteenth section of said act was amended and approved by the Governor; and by the said act and amendment aforesaid, a certain quantity of land per mile was granted to said Memphis, El Paso and Pacific Railroad Company, upon the express condition that the said company put in complete order twenty miles of said road; and a large quantity of certificates for lands have been issued by the Commissioner of the General Land Office to said company, and many patents have been issued thereon; and it is believed by this Convention that said patents and certificates have been issued in violation of the express provision of said act;

Therefore be it further declared, That it shall be the duty of the Attorney General of the State of Texas to prosecute suits in any court in this State, having competent jurisdiction, against said company, or any person or persons holding any of said certificates or patents, for the purpose of having the same cancelled.

SEC. 4. *Be it further declared*, That this ordinance take effect from and after its adoption and approval.

It was so ordered.

Mr. Bryant, of Grayson, rose to a question of privilege, and requested the following report from a special committee, and accompanying declaration in reference to Martin D. Hart, be inserted in the journal.

MURDER OF HON. MARTIN D. HART.

Mr. William H. Graham, Sergeant-at-arms of the Texas Constitutional Convention, being duly sworn, says:

Hon. Martin D. Hart, of Hunt county, Texas, Captain of Com-

pany A, First Texas Cavalry, U. S. A., together with Lieutenant Hayes and eight others of the same company, were captured by about three hundred and fifty rebel troops, under command of Lieut. Col. R. P. Crump. Captain Hart and his men surrendered as prisoners of war. Colonel Crump demanded the surrender of Captain Hart and his men, which was at first refused; upon which Colonel Crump said he did not want any blood shed, and that he had men enough to take us any way. (Witness was one of Captain Hart's company captured.) He further said, if we would surrender, we would be treated as prisoners of war, and addressing us said: "Not a hair of any of your heads shall be hurt." After talking among ourselves, and considering the conditions of surrender, we agreed to surrender, and did so. This was on Saturday, the 18th day of January, 1863. On Sunday, the day following, we were taken to Fort Smith, Arkansas. On Monday, a court-martial from Speight's Texas Brigade (as witness understood) was organized. Tuesday, Captain Hart and Lieutenant Hayes were tried before the court-martial, at ten o'clock, A. M., and sentenced to be hanged between one and two o'clock that evening, which sentence was executed at the appointed time. After the sentence of death was read to him, Captain Hart asked permission to see his fellow prisoners, which was refused; but Lieutenant Hayes was permitted to talk with the other prisoners about five minutes. On being conducted to our cell, Lieutenant Hayes said that Captain Hart had been refused permission to talk to us, but he had been permitted to come in and say a few words. He told us that he and Captain Hart were to be hanged between one and two o'clock of that day; that it was a very hard sentence, but he would meet it fearlessly; that they expected the balance of us would be hanged before long, and if so, to meet it fearlessly and show no signs of weakness. At the stated time, Captain Hart and Lieutenant Hayes were executed. Witness saw a crowd gathering to execute the sentence.

Witness further states: That within ten or fifteen minutes after giving up our arms, one Major Burns, of Crump's command, came in the room where we were, with a revolver in his hand, and demanded each prisoner's pocket-book and money, which were given to him. Burns took all the money each prisoner had, placed it in the best pocket-book he could find, put it in his pocket, and said the money would be refunded at the proper time, but was never refunded.

Witness further states: That after Captain Hart and Lieutenant Hayes were hanged, we were marched out, handcuffed with heavy handcuffs, made in a blacksmith shop; afterwards taken to Dardanelle, Arkansas, and chained together, two by two, by the ankles;

thence taken to Little Rock, marched through the streets in derision; lodged in the guard-house for four days; thence taken to the county jail, and placed inside the iron cells. Here we were confined for two months in very cold weather, with no fire and one-fourth rations. We were then marched out to General Holmes' headquarters, and the Adjutant General of General Holmes' staff told us we could take our choice, to volunteer in the Confederate States army, or return to jail, to await a trial before Confederate officers for treason against the Confederate States. We joined the army to save our lives, and in five weeks I escaped to the Federal army, and in time my comrades escaped.

This statement can be fully confirmed by E. H. Vance, Esq., of Little Rock, Arkansas, who was a prisoner with us, and by four or five other citizens of Arkansas, who also were prisoners with me.

WILLIAM H. GRAHAM.

Sworn to and subscribed before me, in Austin, Texas, 21st day of August, 1868.

A. M. BRYANT,
Chairman of Committee.

It was so ordered.

Mr. Varnell moved the rules be suspended to consider the following resolution:

RESOLUTION.

Repealing an act to organize the county courts, and define the powers and jurisdiction thereof, approved October 25, 1866.

Be it declared by the people of Texas in Convention assembled:

That the act passed by the Legislature of 1866, and approved on the twenty-fifth October, 1866, organizing and defining the powers and jurisdiction of the county courts, be, and the same is hereby, declared to be repealed.

And that Brevet Major-General J. J. Reynolds, commanding the Fifth Military District, is hereby requested to give due notice of the passage of this declaration, and respectfully invite his concurrence in the above and foregoing resolution.

Upon the motion to suspend the rules,

The yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Armstrong, of Lamar, Bell, Bellinger, Bledsoe, Bryant of Harris, Buffington, Burnett, Caldwell, Carter,

Cole, Constant, Curtis, Degener, Downing, Flanagan, W. Flanagan, Foster, Goddin, Hunt, Johnson of Calhoun, Kealy, Keigwin, Kendal, Keuchler, Lippard, Mackey, McWashington, Munroe, Newcomb, Patten, Phillips of San Augustine, Schuetze, Slaughter, Varnell, Vaughan, Whitmore—37.

Nays—Messrs. Armstrong of Jasper, Board, Boyd, Bryant of Grayson, Glenn, Hamilton of Travis, Harris, Jordan, Kirk, Mundine, Smith of Galveston, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—18.

So the rules were suspended.

Mr. Thomas moved to refer the resolution to the Committee on Judiciary.

Carried.

Mr. Newcomb introduced the following

RESOLUTION.

WHEREAS, Certain members of this Convention, who are also State officials under the present provisional State government, have drawn their per diem and mileage as delegates to this Convention; also, their pay as State officials.

WHEREAS, This drawing of two pays is contrary to the spirit of our institutions, and an imposition upon an impoverished people; therefore, be it

Resolved, That the Secretary of this Convention is forbidden from issuing further certificates to those delegates drawing a salary from the State as State officials.

Resolved, second. The Comptroller of the State is hereby requested to stop the pay of such delegates until the amount they have drawn as delegates of this Convention is returned to the State treasury.

Mr. Horne moved to reject the resolution.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellingger, Board, Boyd, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Constant, Flanagan, W. Flanagan, Fleming, Foster, Glenn, Goddin, Grigsby, Harris, Harn, Johnson of Harrison, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kirk, Mackey, McWashington, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Posey, Schuetze, Slaughter, Smith of Galveston, Stockbridge, Talbot, Thomas, Varnell, Vaughan, Wilson of Brazoria, Wright—43.

Nays—Messrs. President, Bell, Bledsoe, Bryant of Harris, Curtis, Degener, Downing, Hunt, Kendal, Kuechler, Lippard, Long, Newcomb, Patten, Smith of Marion, Watrous, Whitmore, Williams, Wilson of Milam, Yarborough—20.

So the resolution was rejected.

Mr. Caldwell offered the following resolution :

Resolved, That Messrs. Munroe, Thomas, Varnell and Watrous, members of this Convention, be, and they are hereby appointed a committee as provided for in a resolution of the Convention, to act in conjunction with the President in convening this body at an earlier day than that to which it will stand adjourned from the thirty-first August, if the public interest should require it. And during the recess the Secretary shall safely keep the journals and records of the Convention, together with such declarations, resolutions and reports as may be intrusted to him by the members, and shall act as secretary to the committee created by the resolution.

The Secretary shall receive his per diem during the recess, and all other officers and employes shall be discharged during the recess.

The members of the Convention shall receive no per diem during the recess.

Mr. Hamilton of Travis moved a suspension of the rules to consider the resolution.

Rules suspended.

Mr. Davis offered an amendment that other officers and employes receive no pay during the recess.

Carried.

Resolution read and agreed to.

Mr. Flanagan offered the following amendment :

Provided, That the Secretary shall not receive compensation for a greater amount than has been ordered him for getting up the journals, which is twenty cents per one hundred words, for said labor.

Mr. Sumner moved to lay the amendment upon the table.

Lost.

The question recurring upon the adoption of the amendment,

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Bell, Board, Boyd, Burnett, Carter, Cole, Constant, Flanagan, W. Flanagan, Glenn, Goddin, Harris, Jordan, Keigwin, Kirk, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Slaughter, Smith

of Galveston, Thomas, Whitmore, Wilson of Brazoria, Wilson of Milam, Yarborough—28.

Nays—Messrs. Armstrong of Lamar, Bledsoe, Bryant of Grayson, Bryant of Harris, Caldwell, Curtis, Downing, Fleming, Foster, Grigsby, Hamilton of Travis, Harn, Johnson of Harrison, Johnson of Calhoun, Kealy, Kendal, Kuechler, Lindsay, Lippard, Long, Mackey, McWashington, Mundine, Munroe, Rogers, Schuetze, Scott, Smith of Marion, Stockbridge, Sumner, Varnell, Vaughan, Watrous—33.

So the amendment was not adopted.

Mr. Fleming offered the following amendment :

That the first and second assistant secretaries and clerks shall receive no pay after they have finished the legitimate business for which they were elected by the Convention.

Mr. Johnson of Calhoun moved the previous question.

Previous question seconded.

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

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

Yeas—Messrs. President, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Burnett, Caldwell, Carter, Curtis, Foster, Grigsby, Hamilton of Travis, Harn, Johnson of Harrison, Johnson of Calhoun, Kealy, Kendal, Kuechler, Lindsay, Long, Mackey, McWashington, Mundine, Phillips of Wharton, Rogers, Ruby, Scott, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Vaughan, Wright—34.

Nays—Messrs. Armstrong of Jasper, Bell, Board, Boyd, Cole, Constant, Downing, Flanagan, W. Flanagan, Fleming, Glenn, Goddin, Harris, Hunt, Jordan, Keigwin, Kirk, Lippard, Newcomb, Patten, Phillips of San Augustine, Slaughter, Talbot, Thomas, Whitmore, Wilson of Brazoria, Wilson of Milam, Yarborough—28.

So the main question was ordered.

The question recurred upon the adoption of the declaration as amended.

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

Yeas—Messrs. President, Armstrong of Lamar, Bellinger, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Burnett, Caldwell, Carter, Curtis, Foster, Grigsby, Hamilton of Travis, Harn, Johnson of Harrison, Johnson of Calhoun, Kealy, Kendal, Keuchler, Lindsay, Long, Mackey, McWashington, Mundine, Phillips of Whar-

ton, Rogers, Ruby, Scott, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Vaughan, Wilson of Brazoria, Wright—36.

Nays—Messrs. Armstrong of Jasper, Bell, Boyd, Cole, Constant, Downing, Flanagan, W. Flanagan, Fleming, Glenn, Goddin, Harris, Hunt, Keigwin, Kirk, Lippard, Newcomb, Patten, Phillips of San Augustine, Slaughter, Talbot, Whitmore, Wilson of Milam, Yarborough—24.

So the declaration was adopted.

Mr. Thomas moved a suspension of the rules to take up the report respecting the official reporter of the Convention.

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

Yeas—Messrs. President, Bledsoe, Board, Bryant of Grayson, Bryant of Harris, Burnett, Carter, Constant, Curtis, Fleming, Grigsby, Jordan, Keigwin, Kendal, Keuchler, Lindsay, Lippard, Long, Mackey, Mundine, Munroe, Rogers, Ruby, Scott, Smith of Marion, Sumner, Talbot, Varnell, Vaughan, Whitmore, Wilson of Brazoria, Wilson of Milam—32.

Nays—Messrs. Armstrong of Jasper, Bell, Boyd, Caldwell, Cole, Downing, Flanagan, W. Flanagan, Foster, Harris, Harn, Horne, Hunt, Johnson of Harrison, Johnson of Calhoun, Kealy, Kirk, Phillips of San Augustine, Phillips of Wharton, Slaughter, Smith of Galveston, Stockbridge, Thomas, Wright, Yarborough—25.

So the Convention refused to suspend the rules.

Mr. Whitmore moved to suspend the rules to take up the declaration defining the boundaries between Brazos and Burleson counties.

The Convention refused to suspend the rules.

Mr. Glenn, under the rules, called up the following report of the Committee on Internal Improvements for the relief of the Texas Central Railroad Company :

CITY OF AUSTIN, August 26, 1868.

To the Hon. E. J. DAVIS,

President of the Constitutional Convention :

SIR: Your committee have had before them a declaration for the relief of the Texas Central Railroad, and from the testimony before your committee they find that this road is in better condition than any road in the State, and that it deserves all it asks. I am instructed by a majority of the committee to recommend the passage of the declaration.

J. W. FLANAGAN,
Chairman of the Committee.

DECLARATION

Respecting the Central Railroad Company.

WHEREAS, The Houston and Texas Central Railway Company has become the owner, by purchase, of the Washington County Railroad; and

WHEREAS, The said Houston and Texas Railway Company, and the Washington County Railway Company, were indebted, on the first day of March, A. D. 1868, to the State of Texas, for sums borrowed from the Special School Fund, in the sum of \$539,074.96, and are further indebted for accrued interest since the first day of March, 1868; and

WHEREAS, The said Houston and Texas Central Railway Company is desirous to extend the Washington County Branch to the city of Austin as soon as it can be done, and to build their main trunk to Red river in the shortest time possible and upon the best ground, and to strike said river at such point as will enable said company to form a connection with any railroad that may be built southward from Kansas, or Missouri, to Red river; and

WHEREAS, The ability of said company to build said main trunk and branch roads would be greatly increased by the consent of the State to exchange the six per cent. bonds of said companies for the seven per cent. gold bearing bonds of the said Houston and Texas Central Railway Company; and

WHEREAS, It is believed that such exchange can be made without, in any manner, endangering the security of the School Fund;

Therefore be it declared by the people of Texas in Convention assembled:

That the Washington County Railroad is hereby declared to be a branch of the Houston and Texas Central Railroad, and shall henceforth be known and called the Western Branch of the Houston and Texas Central Railway, and shall be controlled and managed by the said Houston and Texas Central Railway Company; and the said Houston and Texas Central Railway Company shall have the right to extend the said western branch of their road from the town of Brenham, in Washington county, to the city of Austin, by the most eligible route, as near an air-line as may be practicable.

Second. That it is hereby made the duty of the Provisional Governor to accept, from the Houston and Texas Central Railway Company, the seven per cent. land grant, sinking fund, first mortgage, gold-bearing bonds of said company for the whole amount of principal and interest due to the State from the said Houston and Texas Cen-

tral Railway Company and the said Washington County Railway Company, on the first day of July, A. D. 1868; and to cancel the bonds now held by the State against said companies.

Third. The Houston and Texas Central Railway Company is hereby authorized to build its main trunk from its present northern terminus, by the most eligible route, to be selected by the engineer or engineers of the company, to any point on Red river, within thirty miles of the town of Preston, in Grayson county.

Fourth. This declaration shall take effect from and after its passage.

Mr. Patten moved to indefinitely postpone the consideration of the report.

Mr. Caldwell offered the following amendment :

Amend the preamble by striking out in the third line the word "were," and inserting in the place thereof the word "are," and by striking out from the third and fourth lines the words and figures "on the first day of March, A. D. 1868," and by further striking out from the fourth and fifth lines, after the word "fund," in the fourth line, the words and figures "in the sum of \$539,074 96, and are further indebted for accrued interest since the first day of March, 1868."

Amend in section second of the declaration, so that the same shall read as follows :

For the principal sum due to the State by the said Houston and Texas Central Railway Company and the said Washington County Railway Company, together with all interest that was due by said companies on the first day of July, A. D. 1868, except such sums of interest as said companies claim to have paid in State treasury warrants, the Provisional Governor shall accept from the Houston and Texas Central Railway Company the seven per cent., land grant, sinking fund, first mortgaged, gold bearing bonds of said company, and shall, after making the exchange, cancel and deliver to said company the six per cent. bonds of said Houston and Texas Central Railroad Company and of the Washington County Railway Company, now held by the State, for sums borrowed by said companies from the special school fund, and for the whole amount of interest paid by said companies to the State in the treasury warrants or bonds of the State; the Governor shall receive the above described seven per cent. bonds of the Houston and Texas Central Railway Company, from which said bonds the coupons for interest may be

attached before delivery by the company to the Governor, so that interest shall not begin to run on said sum until after the expiration of five years from the passage of this declaration; and the exchange of bonds and settlement herein provided for shall be made at any time between the passage of this declaration and the first day of December, A. D. 1868.

Mr. Degener moved the Convention adjourn until to-morrow morning at 9 o'clock.

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

Yeas—Messrs. President, Armstrong of Jasper, Bell, Bledsoe, Boyd, Bryant of Grayson, Bryant of Harris, Degener, Downing, Foster, Glenn, Grigsby, Hunt, Johnson of Harrison, Kealy, Kendal, Lippard, Long, Mackey, McWashington, Newcomb, Patten, Rogers, Smith of Marion, Talbot, Thomas, Watrous, Whitmore, Williams, Wilson of Milam—30.

Nays—Messrs. Armstrong of Lamar, Buffington, Caldwell, Cole, Constant, Flanagan, W. Flanagan, Fleming, Goddin, Hamilton of Travis, Harris, Harn, Horne, Johnson of Calhoun, Keigwin, Kirk, Lindsay, Mundine, Munroe, Phillips of San Augustine, Phillips of Wharton, Scott, Smith of Galveston, Stockbridge, Sumner, Varnell, Vaughan, Wilson of Brazoria, Wright, Yarborough—30.

So the Convention refused to adjourn.

Mr. Smith, of Galveston, moved the previous question.

Previous question seconded.

Mr. Degener moved a call of the House.

Call sustained.

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