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CAPITOL, AUSTIN, TEXAS,

DECEMBER 11, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

The President caused a letter to be read from Hon. D. C. Constant, explaining his absence.

Mr. Ruby asked that Mr. Constant be granted leave of absence for twenty days.

Carried.

Mr. Stockbridge asked that Mr. Leib be excused.

Carried.

Mr. Armstrong, of Lamar, asked leave of absence for Mr. Gray.

Leave granted.

Mr. Patten asked leave of absence for A. J. Evans, of McLennan.

Leave granted.

Mr. Harris asked that Mr. Yarborough be excused from attendance on the Convention.

Carried.

Mr. Burnett asked leave of absence for Mr. Glenn until Monday morning.

Leave granted.

The President announced the committee under Mr. Hamilton's substitute, passed yesterday, to be Messrs. M. C. Hamilton, Thomas, Scott, Wright and Lindsay.

Mr. Smith, of Galveston, presented a petition from Mrs. Julia E. Conner, and asked its reference to the Committee on Judiciary.

It was so referred.

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

### AN ORDINANCE

To authorize the levy and collection of a special tax in Falls and McLennan counties, to aid in the construction of the Waco Tap railroad, and for other purposes.

SECTION 1. *Be it declared by this Convention*, That the county judges respectively of the county of McLennan and the county of

Falls shall cause polls to be opened, and an election to be holden at the town of Waco, in McLennan county, and the town of Marlin, in Falls county, within forty days from the final passage hereof by this Convention, or as soon thereafter as practicable, and shall give public notice of said election for at least twenty days, by publication in newspapers, posters or bills.

SEC. 2. At said election so holden the qualified voters of each county shall determine by ballot whether a special tax shall be assessed and collected upon all the property in their said respective counties taxable under the laws of the State, to aid in the construction of the Waco Tap railroad; and at said election the voters in favor of said special tax shall write or print upon their ballots the words, "For the tax," and those opposed to the special tax shall write or print upon their ballots the words, "Against the tax."

SEC. 3. Said county judges shall, on the day or days respectively designated by them for the election, open the polls at the court houses in their counties, and with the assistance of two clerks, to be appointed by them respectively, shall give to each qualified voter in their respective counties a full and fair opportunity to cast his ballot freely, as he may choose. The poll shall be opened at ten o'clock A. M., and shall be closed at four o'clock P. M., for two successive days. The said county judges, assisted by their clerks, shall count out the ballot, and shall file in the county clerk's office of their respective counties a full statement of said votes.

SEC. 4. Should a majority of the votes cast in either or both counties be for the tax, then the county court of either or both counties thus voting, shall enter an order on the minutes of the said court, declaring that the special tax provided for by this ordinance is imposed and shall be assessed and collected, and shall enter an order that the assessor and collector of the county do proceed to assess and collect the same.

SEC. 5. It shall be the duty of the assessor and collector of the county in obedience to said order to make immediately an assessment of three per cent. ad valorem of all the property in his county taxable under the laws of the State in force, and to collect the same in manner as follows, to wit: One per cent thereof on or before the first day of July, 1869, and one per cent thereof on or before the first day of December, 1869, and the remainder on or before the first day of June, 1870; and in assessing and collecting this tax the assessor and collector shall conform to the several laws in force at the time, so far as the same may be applicable and not inconsistent herewith.

SEC. 6. The deeds of the assessor and collector to the property

sold for taxes assessed by virtue of this ordinance shall be good and effectual to convey the title, and shall be conclusive evidence that all the requisites of the law have been complied with, and shall be subject to be impeached only for fraud. Provided that the owners of property thus sold (if it is real estate) shall be entitled at any time within twelve months after sale to redeem the same, by paying to the purchaser five times the amount paid by him for the land, and five times the amount of taxes that may have been paid by said purchaser on said property since the sale.

SEC. 7. The assessor and collector, before entering upon his duties under this ordinance, shall give bonds, with two or more good and sufficient securities, in the sum of twenty-five thousand dollars, conditioned for the faithful performance of his duties under this ordinance, and payable to the president and directors of the "Waco Tap Railroad Company," and to be approved by them; and said bond to be filed in the office of said company; and suit thereon shall be for breach of any of its conditions, to the full amount thereof, in favor of said company. The assessor and collector shall receive for compensation for duties under this ordinance one-half the amount allowed by general laws for similar duties; and he shall pay over to the treasurer of the Waco Tap Railroad Company the money collected under this ordinance as fast as the same may be collected, and shall take duplicate receipts from the treasurer for the same, one of which shall be filed in the office of the county clerk of his county.

SEC. 8. The assessor and collector shall give to each taxpayer under this ordinance his official receipt for the sum paid or collected, which receipts may be consolidated, and shall, when presented to the president and directors of said Waco Tap Railroad, in sums of fifty dollars, entitle the holder thereof to receive a certificate of paid up stock in said road for one share, and an additional share for each additional fifty dollars of receipts, which certificates shall entitle the holder to all the rights and privileges of stockholders in said railroad company.

SEC. 9. In case of vacancy in the office of county judge or his absence, inability or refusal to act, any one of the county commissioners may discharge his duties under this ordinance. By qualified voters, mentioned in this ordinance, is meant registered voters, who shall vote only in the county in which they are registered.

SEC. 10. If a new constitution for the State of Texas shall go into force and effect before the provisions of this ordinance shall have been executed, and by the provisions of the same, or the laws passed in pursuance thereof, the tribunal or any of the officers charged with the execution of this ordinance shall cease to exist as provided for by existing laws, then the tribunal or tribunals and officer or officers

succeeding under the new constitution and laws to the jurisdiction and duties now held, exercised and discharged by the tribunal and officers named in the preceding sections of this act, shall be required to execute the provisions of this ordinance; and if additional legislation shall be deemed necessary to carry out and effectuate the provisions of this ordinance, the same shall be enacted by the first Legislature convening under the new constitution; and this ordinance shall take effect from and after its passage by this Convention.

It was so referred.

Mr. Newcomb offered the following resolution, and asked its reference to the Committee on Public Lands :

*Be it ordained,* That no rights held by any individual or corporation, by virtue of a valid land certificate, shall be considered forfeited by reason of its failure to have been located or surveyed since the second day of March, 1861, under any laws heretofore passed limiting the time for the location or survey, and the time for the location or survey of all such certificates shall be extended until three months after the adjournment of the next Legislature.

It was so referred.

Mr. Scott offered the following resolution :

In order that a just compensation may be awarded to the members of this body; therefore

*Be it declared,* That no member of this body whose seat is now vacant, and has been since the reassembling of the Convention, shall receive any per diem until said vacancy shall be filled.

*Be it further declared,* That it shall be made the duty of the secretary, in making out certificates, only to allow pay from the time such vacancy is filled, unless in case of sickness or some providential hindrance.

*Be it further declared,* That in case of a call of the House no one will be required to be present but such as have returned and answered to their names.

Laid over under the rules.

Mr. Gaston offered the following resolution :

*Resolved,* That the commanding general, Brevet Major General

J. J. Reynolds, be requested to order an election to fill the vacancy created by the death of Hon. W. H. Mullins, of Cherokee, and Hon. G. W. Smith, of Marion county.

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

Rules suspended.

Mr. Buffington offered the following amendment :

“ And for all such districts whose representatives have resigned their seats.”

The question recurring upon the adoption of the amendment,  
It was adopted.

The question recurring upon the adoption of the resolution as amended,

It was adopted.

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

The Convention refused to suspend the rules, two-thirds not voting in the affirmative.

Mr. Thomas introduced the following resolution :

WHEREAS, The “ Reconstruction Acts ” creating this Convention declare that, when assembled and organized, it shall proceed to frame a Constitution and civil government for the State of Texas ; therefore,

*Resolved*, That we will obey the laws of the United States, and will entertain no business incompatible therewith, or with the duties for which we have been chosen.

Mr. Degener moved its reference to the Committee on Immigration.

It was so ordered.

Mr. Schuetze offered the following resolution :

*Resolved*, That this Convention recommend to the Commanding General the removal from office of any civil officer who, in his official capacity, may disregard the validity of the ordinances, and the repeal of the so-called “ Sunday Laws,” passed by this “ body.”

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

Rules suspended.

The question recurred upon the adoption of the resolution.

Whereupon the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Brown, Buffington, Degener, Downing, Evans of Titus, Flanagan, W. Flanagan, Fleming, Goddin, Johnson of Harrison, Kuechler, Mackey, Munroe, Patten, Schuetze, Slaughter, Smith, Stockbridge, Wilson of Brazoria, Wilson of Milam—22.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Board. Bryant of Grayson, Bryant of Harris, Burnett, Cole, Curtis, Fayle, Gaston, Hamilton of Bastrop, Hamilton of Travis, Harris, Jordan, Kealy, Keigwin, Kendal, Kirk, Lippard, McCormick, McWashington, Morse, Mullins, Newcomb, Phillips of San Augustine, Rogers, Ruby, Scott, Sumner, Thomas, Watrous, Williams—33.

So the resolution was lost.

Mr. Schuetze offered the following resolution :

*Resolved*, That the Commanding General be respectfully requested to declare the so-called Sunday laws, passed by the Legislatures of 1863 and 1866, as repealed in accordance with an act passed to that effect by the Convention.

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

Lost.

The President announced that the business in order was the consideration of the resolution introduced by Mr. Newcomb, of Bexar, on yesterday, repealing a resolution passed at the first session of the Convention, prohibiting the Convention to act upon the subject of the division of the State, except by authority of Congress.

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

Previous question seconded.

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

Call sustained.

Absentees—Messrs. Bell, Boyd, Carter, Coleman, Foster, Grigsby, Horne, Johnson of Calhoun, Mills, Muckleroy, Phillips of Wharton, Posey, Sorrell, Talbot, Vaughan, Whitmore.

Mr. Newcomb moved that the Convention adjourn *sine die*.

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

Yeas—Messrs. Armstrong of Jasper, Bledsoe, Cole, Degener, Gaston, Goddin, Hamilton of Bastrop, Keigwin, Kuechler, Lippard, Newcomb, Patten, Scott—13.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Kendal, Kirk, Lindsay, Long, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Pedigo, Phillips of San Augustine, Rogers, Ruby, Schuetze, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—50.

So the Convention refused to adjourn.

Mr. Thomas moved to adjourn until ten o'clock to-morrow morning.

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

Yeas—Messrs. Hamilton of Bastrop, Hamilton of Travis, Johnson of Harrison, Mackey, Munroe, Schuetze, Slaughter, Stockbridge, Sumner, Thomas, Watrous, Wilson of Milam—12.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Harris, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Pedigo, Phillips of San Augustine, Rogers, Ruby, Slaughter, Smith, Varnell, Williams, Wilson of Brazoria, Wright—49.

So the Convention refused to adjourn.

Mr. McCormick moved to adjourn until three o'clock this afternoon.

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

Yeas—Messrs. Armstrong of Jasper, Burnett, Caldwell, Cole,



Hamilton of Travis, Johnson of Harrison, Jordan, Kealy, Lindsay, Mackay, McCormick, McWashington, Munroe, Pedigo, Phillips of San Augustine, Scott, Stockbridge, Thomas, Watrous, Wilson of Brazoria, Wilson of Milam—21.

Nays—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Bastrop, Harris, Keigwin, Kendal, Kuechler, Kirk, Lippard, Long, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Sumner, Varnell, Williams, Wright—38.

So the Convention refused to adjourn.

Mr. Patten moved the Convention take a recess until the fourth day of January next.

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

Yeas—Messrs. Lippard, Patten—2.

Nays—Messrs. President, Adams, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Cole, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Goddin, Hamilton of Travis, Hamilton of Bastrop, Harris, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Kirk, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Rogers, Ruby, Schuetze, Scott, Slaughter, Smith, Stockbridge, Sumner, Thomas, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—60.

So the Convention refused to take a recess.

Mr. Butler moved that the call of the House be suspended.

Carried.

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

Call sustained.

Absent members—Bell, Boyd, Carter, Coleman, Foster, Grigsby, Horne, Johnson of Calhoun, Mills, Muckleroy, Phillips of Wharton, Posey, Sorrell, Talbot, Vaughan, Whitmore.

Mr. Flanagan moved that the call of the House be suspended.

Call suspended.

Mr. Degener moved that the members that have not occupied seats this session be excused.

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

Call sustained.

Mr. Flanagan rose to a point of order that the motion of Mr. Hamilton was not in order.

The President decided the point of order in the negative.

Mr. Flanagan appealed from the decision of the chair.

Upon the question, "shall the decision of the chair stand as the decision of the House?" the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Caldwell, Cole, Curtis, Downing, Fleming, Gaston, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—42.

Nays—Messrs. Butler, Burnett, Degener, Evans of Titus, Fayle, Flanagan, W. Flanagan, Goddin, Hamilton of Bastrop, Keuchler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith—19.

So the decision of the chair was sustained.

Mr. Thomas moved the Convention adjourn till ten o'clock to-morrow morning.

Lost.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Burnett, Caldwell, Cole, Fleming, Gaston, Johnson of Harrison, Jordan, Kealy, Keigwin, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Milam, Wright—29.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan,

Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Kendal, Kuechler, Kirk, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Wilson of Brazoria—35.

So the Convention refused to adjourn.

Mr. Hamilton of Travis moved to adjourn till ten o'clock to-morrow morning.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Belling, Burnett, Caldwell, Cole, Fleming, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Keuchler, Lindsay, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—31.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Goddin, Hamilton of Bastrop, Harris, Jordan, Kendal, Kirk, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell—33.

So the Convention refused to adjourn.

Mr. Evans of Titus moved that Mr. Grigsby be excused from attendance on the Convention.

Mr. Thomas moved to adjourn till to-morrow morning, at ten o'clock.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Belling, Bryant of Grayson, Burnett, Caldwell, Cole, Fleming, Gaston, Hamilton of Travis, Johnson of Harrison, Kealy, Keigwin, Kendal, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Rogers, Schuetze, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—32.

Nays—Messrs. President, Adams, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Goddin, Hamilton of Bastrop, Harris, Jordan, Keuchler, Kirk, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell—31.

So the Convention was declared adjourned until ten o'clock to-morrow morning.