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CAPITOL, AUSTIN, TEXAS,  
DECEMBER 24, 1868.

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

Mr. Flanagan, from the Committee on Internal Improvements, reported as follows :

COMMITTEE ROOM,  
December 24, 1868.

To the Hon. E. J. DAVIS,  
President of the Constitutional Convention :

Your Committee on Internal Improvement have had before them a declaration for the relief of the Houston and Texas Central Railroad Company.

Your committee have examined the declaration and find that it is clearly the interest of the State to grant the relief asked for ; the ordinance explains itself.

I am instructed by the committee to report it back and recommend that it pass. All of which is respectfully submitted.

J. W. FLANAGAN,  
Chairman of the Committee.

Mr. Fayle moved a suspension of the rules to take up the declaration.

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

Yeas—Messrs. Adams, Armstrong of Lamar, Board, Brown, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Keuchler, Long, McCormick, McWashington, Morse, Mundine, Rogers, Ruby, Smith, Stockbridge, Sumner, Varnell, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—40.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Butler, Hamilton of Bastrop, Lindsay, Lippard, Mullins, Munroe, Newcomb, Patten, Posey, Scott, Sorrell, Thomas, Vaughan—17.

So the rules were suspended.

Mr. Bryant, of Grayson, was excused on account of sickness.

Mr. Evans, of McLennan, offered the following amendment :

Amend as follows by adding after the close of the first proviso :  
 “ And provided further, that said Central Railroad Company shall cross Red River, Texas, at Preston, as provided in their original charter with their road ; and provided further, that they shall within three months from the passage hereof, define the line of their road through Texas to Red River.

The question recurred upon the adoption of the amendment.

It was adopted.

Mr. Johnson, of Harrison, moved to reconsider the vote by which the amendment was adopted.

Mr. Patten moved to lay the motion to reconsider on the table.

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

Yeas—Messrs. President, Armstrong of Jasper, Bledsoe, Board, Butler, Evans of McLennan, Hamilton of Bastrop, Kuechler, Lippard, Mullins, Newcomb, Patten, Scott, Slaughter, Sorrell, Thomas—16.

Nays—Messrs. Adams, Armstrong of Lamar, Bellinger, Brown, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Curtis, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lindsay, McCormick, McWashington, Moise, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Smith, Stockbridge, Sumner, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—48.

So the Convention refused to lay upon the table.

The question recurred upon the motion to reconsider.

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

Yeas—Messrs. Adams, Armstrong of Lamar, Board, Brown,

Buffington, Burnett, Caldwell, Carter, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Harris, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kirk, Lindsay, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Smith, Stockbridge, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Bryant of Grayson, Bryant of Harris, Butler, Cole, Curtis, Downing, Evans of McLennan, Hamilton of Bastrop, Kuechler, Lippard, Mullins, Newcomb, Patten, Scott, Slaughter, Sorrell, Sumner, Thomas—21.

So the Convention agreed to reconsider.

Mr. Patten offered the following substitute :

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

That the Houston and Texas Central Railroad have forfeited their charter for non-compliance with the terms thereof.

Mr. Patten moved that the whole subject be made the special order for January 4, 1869, at eleven o'clock.

Mr. Burnett moved the previous question.

Previous question seconded.

Mr. Patten moved a call of the House.

Call sustained.

Upon the motion of Mr. Patten to take a recess until the sixth day of January, 1869, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Bellinger, Bledsoe, Brown, Butler, Hamilton of Bastrop, Jordan, Kuechler, Lindsay, Long, Mullins, Newcomb, Patten, Ruby, Schuetze, Thomas, Vaughan, Williams—18.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Board, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Cole, Curtis, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kirk, Lippard, McCormick, McWashington, Morse, Mundine, Munroe, Pedigo, Phillips of San Augustine, Posey, Rogers, Scott, Slaughter, Smith, Sorrell, Stock-

bridge, Sumner, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—51.

So the Convention refused to take a recess.

Mr. Patten moved the Convention adjourn until to-morrow morning at ten o'clock.

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

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bledsoe, Brown, Bryant of Harris, Butler, Caldwell, Downing, Evans of Titus, Glenn, Goddin, Hamilton of Bastrop, Hamilton of Travis, Horne, Johnson of Harrison, Jordan, Kealy, Kuechler, Lippard, Mundine, Munroe, Patten, Pedigo, Ruby, Schuetze, Slaughter, Sumner, Thomas, Varnell, Williams, Wilson of Brazoria—31.

Nays—Messrs. President, Adams, Armstrong of Lamar, Board, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Harris, Keigwin, Kendal, Kirk, Lindsay, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Phillips of San Augustine, Posey, Rogers, Scott, Smith, Sorrell, Stockbridge, Vaughan, Watrous, Wilson of Milam, Wright—38.

So the Convention refused to adjourn.

Mr. Evans, of McLennan, introduced the following resolution :

*Resolved*, That this Convention take a recess from twelve o'clock, M., to-day, to reassemble (the General commanding consenting) in the city of Galveston, Texas, on January 4, 1869, eleven o'clock, A. M., and that this body then proceed to frame a constitution and civil government for Texas.

Mr. Sumner moved the rejection of the resolution.

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

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bellinger, Bledsoe, Board, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Curtis, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Kealy, Keigwin, Keuchler, Lindsay, McCormick, McWashington, Morse, Mundine, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Smith,

Sorrell, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

Nays—Messrs. Armstrong of Jasper, Bryant of Harris, Downing, Evans of McLennan, Kendal, Kirk, Lippard, Long, Mullins, Patten, Ruby, Scott, Slaughter—13.

So the resolution was rejected.

Mr. Hamilton, of Travis, moved that the Convention adjourn till ten o'clock on Monday morning.

Mr. Hamilton withdrew the motion and asked leave of absence for Mr. Kirk on account of sickness.

Mr. Newcomb made a minority report from the Committee on the condition of the State, and asked that it be printed.

It was so ordered.

### MINORITY REPORT.

COMMITTEE ROOM,  
Austin, Texas, December 24, 1868.

Hon. E. J. DAVIS,

President of the Convention:

SIR: Being a member of the special committee to inquire into the political condition of the State, I feel compelled to differ from the report made by the majority of said committee in some of its features, and mainly as to the remedy proposed for the evils pointed out.

The evidence produced before the committee was, as is stated in the report of the majority, conclusive as to the bad condition of the State at large, and the impossibility of holding a fair election; but, in my opinion, a statement particularizing the condition of the different sections of so large a territory as embraced in the State of Texas, would have been a fairer and more just representation.

For instance, it was shown conclusively by the evidence, that in all that section of the State east and north of the Colorado river, not more than three or four counties could hold a peaceable election, allowing the colored men to vote, without the presence of troops, and even then it would be doubtful; that the temper of the white people is not such as to guarantee a free, untrammelled exercise of the right of free-speech, free press, and free ballot—in fact, that the predominant disposition is to set at defiance the laws, and ride down all efforts at loyal reconstruction. On the other hand, the section lying west and south of the Colorado river presents, in the main, a different and more favorable state of affairs. The temper of the people is for

peace and good government. The loyal element is in the ascendancy even in localities where the whites are in the majority; the disposition toward the colored people is kind; the presence of troops is not felt needful, but in one or two localities, and but in one or two counties has there been exhibited that rebellious and insurrectionary spirit so prevalent east of the Colorado. The conclusion is inevitable, that the people west of the Colorado, numbering at least one hundred and fifty thousand inhabitants, are prepared to enforce the reconstruction acts and carry on civil government.

The majority of the committee suggest, as a remedy for the evil condition of the State at large, that we ask Congress to clothe this Convention with the powers of a Legislature, and transfer the appointing and removing power from the hands of the Military Commander to the Provisional Governor.

For months together, we have presumed to sit here and legislate, and if we have no authority to legislate it would look as if this were an effort (which I believe far from the intention of the committee) to cure our acts which now stand as invalid, unless sanctioned by the military authority or the United States Congress, and, in my opinion, it is risking too much to offer to run the civil government of this State for the sake of curing the invalidity of a few railroad charters, bridge incorporations, new counties, and school fund legislation. If we are not a Legislature, then let us thank God for it, and not ask Congress to make us one.

The clothing of this Convention with the full power and authority of a Legislature, and the transfer of the control over the civil appointees of the State from the Military Commander to the present Provisional Governor, besides being a complete subversion of the object of the Convention, would be, in my opinion, the greatest misfortune which could befall the State.

The experience made by the present mixture of civil and military government; a civil government subordinate in fact, but assuming precedence to the military, has been conclusive against continuing that form of government, and an undeniable argument against weakening the military authority, and adding perplexity to our present condition by turning this Convention into a Legislature, and tacking it on to the present provisional civil military government. The transferring of the responsibility of keeping the peace and running a civil State government on to the shoulders of this Convention, with the sad failure of the present dual government, and all the facts staring us in the face, would, in my opinion, be an unwarranted presumption on the part of this Convention, sitting here to-day, alive and in safety by the grace of God and the power of the military arm of the government. If the suggestion of the majority of the com-

mittee be carried into effect, it will bring more disorder, if not anarchy itself.

If this State is to remain an entirety, if the people of the west are to be tagged on to the balance of the State, and suffer all the evils and inconveniences of an unreconstructed condition, because of the disaffection in the balance of the State; if there is to be no division of our immense territory into different sections, different in interests and sentiments, so that the good people in each section are cut off from the privilege of concentrating their efforts, and asking the kind of government their circumstances demand, if the case is to be presented as a whole, let us take the naked facts; Texas, as a whole, is not ready for civil State Government; Texas, as a whole, is in a state of outlawry; Texas, as a whole, is a land where murder and persecution of loyal men and disregard of law is the order of the day. Let us take these facts, present them to Congress, throw ourselves upon the mercy of that patriotic body, and ask that martial law be proclaimed from the Sabine to the Rio Grande, or a territorial government established over us. Let us surrender the government into the hands of the Federal authorities, adjourn this Convention and go back to our homes, and wait quietly for time and the strong arm of the government to bring the people to a sense of law and loyalty, before we presume to run a civil State government. Either do this, or ask Congress to divide our vast territory into several States, and treat each State as its condition demands.

In conclusion, I will say, I believe we are all inspired by the same wish, that is, to promote peace, security, and loyal civil government. Wisdom points to the shortest, and, in my opinion, only road to that attainment—a surrender into the hands of the Federal authority of the whole State, or a division of our territory. Holding these views, I beg leave to submit the following resolution:

WHEREAS, It is the opinion of this Convention that no peaceable election can be held in the State at large, that Texas cannot be entrusted, as a whole, with any form of civil State government; that the present form of quasi-military and civil government has proved a sad failure, and only served to expose loyal men in the disaffected sections, to the fury of rebel mobs; further, that it is the opinion of this Convention, if no division of the State occurs, that the United States government should declare Texas a territory, and preserve peace within our borders; therefore be it

*Resolved*, That we dispatch a delegation to Congress to properly represent these facts, and earnestly press upon that body our deplorable condition, and ask for a territorial government; and further,



should Congress so regard our petition, that upon the report of the delegation, this Convention adjourn *sine die*.

Respectfully submitted.

JAMES P. NEWCOMB.

Mr. Burnett offered the following resolution, and asked its reference to the Committee on Contingent Expenses :

*Resolved*, That the proprietors of the Houston Union, a newspaper published at Houston, Texas, be paid the sum of four hundred dollars out of any moneys in the treasury not otherwise appropriated for publishing and distributing five thousand copies of the Constitution, as far as it has been engrossed, and that the Secretary draw his certificate (to be approved by the President) on the Treasurer for said sum in favor of said proprietor.

It was so referred.

Mr. Lindsay offered the following resolution, and asked its reference to the Committee on Contingent Expenses :

WHEREAS, The members of this body have been gratuitously furnished from the commencement of its session to the present time with Flake's Bulletin, a journal in the interest of the public order and the reconstruction of loyal civil government in the State of Texas, and which journal has been acceptably received for the soundness of its general views and its impartial indication of the loyal sentiment of the people of the State, therefore

*Be it declared by the people of Texas in Convention assembled*, That as an act of justice to the publisher of that journal, and as a manifestation of our appreciation of the disinterested patriotism of the publisher in gratuitously furnishing each of the members of this body with a daily copy of his journal, he is hereby authorized to be paid the same amount per copy for his paper so furnished as is now allowed by a declaration of this body to the Austin Republican and San Antonio Express.

*Be it further declared*, That at the close of the Convention the certificate of the Secretary, with the endorsement of the President, shall be a sufficient warrant for the publishers of said paper to draw the money therefor from the Treasurer of the State.

It was so ordered.

Mr. Munroe, from the Committee on Engrossed Provisions, reported as follows :

COMMITTEE ROOM,  
Austin, December 24, 1868.

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

SIR: The Committee on Engrossed Provisions, after giving the enclosed engrossed copies of the legislative department and general provisions as full an examination as they could from the originals before them, instruct me to report the same as correctly engrossed, so far as they have been able to determine, viz :

No. 1, general provisions passed August 21, 1868.

No. 2, legislative department, passed August 25, 1868.

Respectfully submitted,

A. T. MUNROE,  
Chairman Committee.

Mr. Hamilton, of Travis, moved that the Convention adjourn till next Monday week, the fourth day of January, 1869.

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

Yeas—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Brown, Curtis, Hamilton of Bastrop, Hamilton of Travis, Harris, Horne, Johnson of Harrison, Jordan, Keuchler, Lindsay, Lippard, Long, McWashington, Mullins, Munroe, Newcomb, Patten, Posey, Rogers, Ruby, Schuetze, Scott, Thomas, Varnell, Vaughan, Williams—30.

Nays—Messrs. Adams, Armstrong of Lamar, Board, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Cole, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Fleming, Gaston, Glenn, Goddin, Kealy, Kendal, McCormick, Morse, Mundine, Phillips of San Augustine, Slaughter, Smith, Sorrell, Stockbridge, Sumner, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—36.

So the Convention refused to adjourn.

Mr. Bryant, of Grayson, moved that the Convention adjourn till Monday morning at ten o'clock.

Carried.

So the Convention adjourned.

2D SESS.—9