



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](mailto:rarebooks@law.utexas.edu).

If you are uncertain whether you need permission to use these materials, please contact us at [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

CAPITOL, AUSTIN, TEXAS,  
January 11, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

The President announced Messrs. Evans of McLennan, Brown, Mundine, Carter and Ruby as the special committee called for by the motion of Mr. Patten upon declaration introduced on Saturday respecting the Central Railroad Company.

The President directed the following communication to be read:

HEADQUARTERS FIFTH MILITARY DISTRICT,  
State of Texas,  
Austin, Texas, January 8, 1869.

Hon. E. J. DAVIS,

President of the Constitutional Convention, Austin, Texas:

SIR: I have the honor to acknowledge the receipt of your communication of the 4th inst. transmitting a copy of the preamble and resolution passed by the Convention on the 2d, and to request that you will communicate to that body my warmest thanks for the expression of approval and confidence with which it honored me.

Very respectfully, your obedient servant,

E. R. S. CANBY,  
Brevet Major General.

Mr. Flanagan moved a suspension of the rules to take up declaration respecting the Southern Pacific Railroad Company.

Rules suspended.

Mr. Armstrong of Lamar moved the declaration be printed and made the special order of the day for next Monday.

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. Adams, Bell, Board, Brown, Burnett, Carter, Cole, Curtis, Evans of Titus, W. Flanagan, Flanagan, Gaston, Harris, Harn, Johnson of Harrison, Jordan, Kealy, Keig-

win, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Ruby, Smith, Sorrell, Varnell, Watrous, Wilson of Milam, Wright—38.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Degener, Downing, Evans of McLennan, Fleming, Gray, Hamilton of Bastrop, Horne, Lippard, Mullins, Mundine, Rogers, Scott, Slaughter, Stockbridge, Thomas, Vaughan, Whitmore, Williams—27.

So the main question was ordered.

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

Yea—Messrs. Adams, Bell, Board, Brown, Burnett, Carter, Cole, Evans of Titus, Flanagan, W. Flanagan, Gaston, Gray, Harris, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, McCormick, McWashington, Morse, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Ruby, Smith, Sorrell, Stockbridge, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—36.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Degener, Downing, Evans of McLennan, Fleming, Hamilton of Bastrop, Hunt, Lippard, Mullins, Mundine, Rogers, Scott, Slaughter, Thomas, Vaughan, Whitmore, Williams—25.

So the Convention adopted the declaration.

Mr. Flanagan moved a further suspension of the rules to put the declaration on its final passage.

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

Yea—Messrs. President, Adams, Bell, Board, Brown, Burnett, Carter, Cole, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gaston, Harris, Harn, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, McCormick, McWashington, Morse, Munroe, Newcomb, Pedigo, Phillips of San Augustine, Ruby, Smith, Sorrell, Varnell, Wilson of Brazoria, Wilson of Milam, Wright—35.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bledsoe, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Curtis, Downing, Evans of McLennan, Fleming, Gray,

Hamilton of Bastrop, Hunt, Lippard, Mullins, Mundine, Rogers, Scott, Stockbridge, Thomas, Vaughan, Whitmore, Williams—25.

House refused to suspend the rules.

Mr. Whitmore, from the Committee on Finance, reported as follows :

Hon. E. J. DAVIS,

President of the Convention :

SIR : A majority of the Committee on Finance to whom was referred a resolution on the subject of mileage and per diem have had the same under consideration, and a majority of the committee request me to report the same back to the House, and ask that the mileage allowed the members of the June and July session of the Convention, in the year 1868, be the standard of members during this session, and that no mileage is due the officers of this Convention for their services.

Yours respectfully,

G. W. WHITMORE,

Chairman Committee.

Mr. Armstrong, of Lamar, moved to suspend the rules to take up the report.

Rules suspended.

Mr. Armstrong, of Lamar, offered the following amendment :

*Resolved*, That the Comptroller pay to each member of this convention for the number of miles paid the members of the Convention of 1866.

Mr. Smith, of Galveston, offered the following amendment to the amendment :

*Provided*, That the mileage allowed to members shall be fixed at the same rate for all sessions of the Convention as was established at the first session.

Mr. Flanagan moved that the whole matter be referred to a special committee of three.

Carried.

Messrs. Flanagan, Bryant of Grayson, and Armstrong of Lamar, were appointed the special committee by the President.

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

COMMITTEE ROOM,  
January 8, 1869.

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

SIR: Your committee have had before them a declaration presented by delegate Fayle, from Harris county, asking for the incorporation of the Phoenix Transportation Company.

After a careful examination of the same, the committee arrive at the conclusion that it is a laudable enterprise, and I am instructed to report the same back and to recommend the passage of the same.

Respectfully submitted,  
J. W. FLANAGAN,  
Chairman Committee.

AN ACT TO INCORPORATE THE PHOENIX EXPRESS  
AND TRANSPORTATION COMPANY.

SECTION 1. *Be it enacted by the Convention of the State of Texas:*

That a body corporate and politic be and the same is hereby created and established, to consist of stockholders, board of directors, and such officers as may be necessary for a company or association of individuals, under the corporate name of the "Phoenix Express and Transportation Company." Its domicile is hereby established in the city of Houston. The president shall be the proper officer upon whom may be served citations, notices and other legal processes against the corporation. It shall make and use a corporate seal, having for its device a "phoenix" rising from its ashes, and for an inscription the name of the corporation.

SEC. 2. The purposes for which the "Phoenix Express and Transportation Company" is created and incorporated, and the nature of the business to be carried on and conducted in all its various branches and features, the express and transportation business, to establish express and transportation routes, to own steam and other vessels, also its locomotives, cars, wagons and other vehicles used for transportation purposes, to run its own locomotives and cars over all railroads, subject to existing laws; to make exclusive contracts to forward by railroads, steamboats, steamships and other rapid modes of conveyance, by sea or land, bank notes, coin, jewelry, valuables of every description, all kinds of merchandise, stock, animals and all kinds of personal or movable property; to draw bills of exchange, to make collections of money, drafts, notes and all

other species of debts, claims and demands ; and to insure articles of all kinds sent by express and otherwise, and generally to transact all business, direct and incidental, connected in any manner with the express and transportation business. Shippers and owners of goods shipped by this company are not to hold it liable or responsible for any one package shipped by it for an amount exceeding fifty dollars, unless the value is stated at the time of shipment, so that proper charge may be made for the extra risk assumed.

SEC. 3. All the corporate powers of this corporation shall be vested in and exercised by a board of directors and such officers as they may create. The board of directors shall consist of five members of said company, to be elected by ballot on the first Monday in May in each year, at such place in the city of Houston as the acting board may designate, of which election they shall give at least fifteen days' previous notice by advertisement in one newspaper published in the city of Houston, and they shall appoint three stockholders to preside as inspectors at such election. The board thus elected shall take their seats the following Monday, and hold the same until their successors are elected ; those persons receiving a plurality of votes shall be considered and declared elected. The board of directors at their first meeting shall elect a president from among the directors, who shall hold his office until his successor is elected ; he shall preside at all the meetings of the company and of the board of directors, and shall conduct the business of the company generally, under the supervision of the board of directors, and in case of his absence or inability to act, a president *pro tem.* may be appointed by the board of directors. The president shall sign all contracts and other papers, but, when necessary, may act through agents appointed by him. The board shall have the power to fill all vacancies that may occur in their number. The board of directors shall have power to appoint a secretary and treasurer, and all superintendents, agents, clerks, messengers and other employes, and remove them at pleasure, and they may delegate this power to the president, subject to their supervision. They shall fix salaries of all officers and employes of the corporation, and may authorize the president to do so, and may also delegate such powers for the transaction of the ordinary business of the company as they may deem expedient, and shall have full power to do all other acts which may be necessary for carrying into effect the purposes of this corporation.

SEC. 4. The company shall commence business as soon as ten thousand dollars (\$10,000) shall have been subscribed to its capital.

stock, and shall exist for and during the full term of fifty years from the date hereof, unless sooner dissolved in a manner hereinafter provided, during all of which time in its corporate name aforesaid, it shall have and enjoy succession, shall sue and be sued, shall hold, receive and purchase, sell and otherwise convey, under its corporate name, property real and personal, moveable and immovable; it shall make and establish such by-laws, rules and regulations for the proper management of its business and affairs as may be necessary and proper, and shall possess generally all such powers and privileges as are given by law to corporations.

SEC. 5. The following named persons shall constitute the board of directors: T. W. House, J. J. McKeever, R. Van Slyke, William Christian, J. C. Baldwin. They shall open books and receive subscriptions to the capital stock, and are hereby invested with all the rights and powers specified in the preceding articles. They shall hold their office until the first Monday in May, 1869, or until others are elected in their place. A failure from any cause to elect directors or other officers on the day named herein, shall not dissolve this association, but the directors and other officers then in office shall hold over until the election of their successors.

SEC. 6. The capital stock of this company is hereby fixed at the sum of seventy-five (\$75,000) thousand dollars, represented by fifteen hundred shares of fifty (\$50) dollars each, five per cent. of which shall be payable at the time of subscribing, and other installments, not exceeding ten per cent. in any one month, as may be ordered by the Board of Directors. The corporation shall have power to increase its capital stock to any sum not exceeding three millions (\$3,000,000) of dollars. If any stockholder refuse or neglect to pay his installments within thirty days after the specified time of payment, the Board of Directors reserve to themselves the right of causing any share upon which any installments may be due to be sold at public auction after ten days' previous notice thereof through any newspaper published in the city of Houston.

SEC. 7. Books for the registry and transfer of shares of the capital stock shall be opened and subject to such restrictions as may be imposed by the Board of Directors, but not, in any manner, to conflict with any provisions of this act of incorporation. All transfer of shares shall be made in said books and signed by the shareholder or his agent or attorney. The directors may close said books when necessary, but no period longer than fifteen days. Minutes of the proceedings of the Board of Directors shall be kept by the Secre-

tary and verified by the President, and the President and Secretary shall sign all bonds, drafts, notes and checks, and may, with the consent of the Board of Directors, delegate the power to agents to be specially named. It shall be lawful for any stockholder that may desire to transfer his stock previous to full payment, to do so by a substitution of the party purchasing, subject, however, to the approval of the Board of Directors. No stockholder shall be liable or responsible for the contracts or faults of the company in any amount exceeding the unpaid balance due on his stock. No mere informality in organization shall have the effect of rendering this charter null, or of exposing a stockholder to any liability beyond the extent of his stock.

SEC. 8. The stockholders of the company, at a general meeting to be convened for that purpose after thirty days' previous notice in one newspaper published in the city of Houston, shall have the power to dissolve this association with the assent of four-fifths of the stock represented at such meeting. The liquidation of the affairs of the corporation shall be made by three commissioners appointed by the stockholders, at a meeting convened for that purpose, after thirty days' previous notice in two newspapers, one published in San Antonio and the other in Houston, and the commissioners shall have all the power necessary to wind up and close the business of the company.

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

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Patten moved a further suspension of the rules to put the declaration on its final passage.

Rules suspended.

The question recurred upon the final passage of the declaration.

It was read by caption and passed.

Mr. Hamilton of Travis introduced the following resolution :

WHEREAS, The Reverend Bishop Simpson is expected to visit this city the coming week;

*Resolved*, That he be and is hereby tendered the use of this hall, on Sunday, the twenty-fourth instant.

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

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. Armstrong of Lamar introduced the following resolution :

*Resolved*, That on and after Wednesday, the thirteenth instant, the Convention will, immediately after reading the journal, proceed to complete the constitution and form a civil government for the State of Texas, and that the evening session of the Convention shall be devoted to the reception of petitions, reports of committees, resolutions and declarations, and such other business as, in the wisdom of the Convention, shall seem proper and right.

Mr. Mundine introduced a declaration and asked it be read by caption and referred to the Committee on Counties and County Boundaries.

It was so referred.

Mr. W. Flanagan introduced a declaration to incorporate the Texas Mutual Life Insurance Company, and asked that it be read and referred to the Committee on Commerce and Manufactures.

It was so ordered.

Mr. Slaughter introduced the following declaration, and asked its reference to the Committee on Contingent Expenses.

WHEREAS, The Assessor and Collector of Smith county did not receive the order for the collection of the Convention tax until after he had finished the collection of all other taxes, and was at an expense not remunerated by the collection of said Convention tax;

*Resolved*, That he be paid the sum of one hundred dollars out of the sum so collected, and the Comptroller is authorized to issue his warrant upon this resolution.

It was so referred.

Mr. Stockbridge introduced a declaration incorporating the Brenham and Waco Railroad Company, and asked it be read by caption and referred to Committee on Internal Improvements.

It was so ordered.

Mr. Bryant of Grayson asked that Mr. Kirk be indefinitely excused from attendance on the Convention, on account of sickness.

Leave granted.

Mr. Smith introduced a declaration incorporating the Galveston and Velasco Railroad Company, and asked it be read by caption and referred to Committee on Internal Improvements.

It was so ordered.

Mr. Stockbridge introduced the following

### RESOLUTION.

WHEREAS, There are more officers in this Convention than is necessary for the carrying on the business of this body; and

WHEREAS, It is thought to be unnecessary for this body to retain the Postmaster; and

WHEREAS, The Sergeant-at-Arms can attend to the postoffice; therefore,

*Resolved*, That the said Postmaster of this Convention be and he is hereby removed from further service, and that the Sergeant-at-Arms be required to carry on the postoffice for this body.

Mr. Sumner moved a suspension of the rules to consider the resolution.

Rules not suspended.

Mr. Harn introduced the following declaration :

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

That when any note, bill, bond, or other written evidence of debt was placed in the hands of any bailie, agent or attorney at law for collection during the rebellion, and that during said rebellion the same was collected in Confederate money, or bartered, exchanged or otherwise disposed of on a Confederate basis, that said bailie, agent or attorney may discharge the same by paying the current value of said Confederate money on the first day of January, 1865, and that when suit has been instituted for the recovery of the same that such bailie, agent or attorney shall not be liable beyond the amount above specified.

Mr. Patten moved the rejection of the declaration.

The Convention rejected the declaration.

Mr. Evans, of McLennan, introduced a declaration authorizing the building a bridge across the Brazos river, and asked it be read by caption and referred to the Committee on Internal Improvements.

It was so ordered.

Mr. Smith, of Galveston, moved a suspension of the rules to take up a declaration incorporating the Galveston Canal Company.

Rules suspended.

The question recurred upon the adoption of the declaration.

It was adopted.

Mr. Smith, of Galveston, moved a further suspension of the rules to put declaration on its third reading.

Rules suspended.

Declaration read third time and passed.

Mr. Newcomb moved a suspension of the rules to take up a report of the Committee on Public Lands respecting valid land certificates.

Rules suspended.

Mr. Hamilton moved the rejection of the resolution.

The Convention refused to reject.

Mr. Flanagan offered the following amendment:

*Provided*, This resolution shall not validate any land certificate issued for or to any railroad company that has been declared valueless.

The question recurred upon the adoption of the amendment.

It was adopted.

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

It was adopted.

Mr. Newcomb moved a further suspension of the rules to put declaration on its final passage.

Rules suspended.

Declaration read third time and passed.

Mr. Sumner moved to call up the report of the Committee on General Provisions.

Mr. Slaughter moved the Convention adjourn until this evening at seven o'clock.

Carried.

---

#### EVENING SESSION—SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. Armstrong, of Lamar, moved a call of the House.

Call sustained.

Absentees—Bell, Bledsoe, Brown, Cole, Coleman, Constant, Downing, Evans of Titus, Fayle, Fleming, Foster, Gray, Hamilton of Bastrop, Horne, Johnson of Harrison, Johnson of Calhoun, Lippard, McWashington, Mills, Mullins, Mundine, Newcomb, Pedigo, Phillips of Wharton, Ruby, Scott, Stockbridge, Vaughan—28.

Mr. Carter moved a suspension of the call of the House.

Call suspended.

The President announced that the hour had arrived appointed by the Convention to go into committee of the whole upon the report of the Special Committee on the Condition of the State.

Mr. Buffington moved the Convention resolve itself into committee of the whole upon the report.

Carried.

[Mr. Armstrong, of Lamar, in the chair.]

Committee rose, reported progress, and asked leave to sit again to-morrow at 11 o'clock A. M.

Leave granted.

On motion the Convention adjourned till to-morrow morning at 10 o'clock.