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CAPITOL, AUSTIN, TEXAS,  
January 16, 1868.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Buffington moved to suspend the rules to take up the following declaration respecting the Southern Pacific Railroad Company.

### A DECLARATION

For the relief of the Southern Pacific Railroad Company.

WHEREAS, The Southern Pacific Railroad Company is indebted to the special school fund in a sum amounting, on the first day of March, A. D. 1868, principal and interest, to \$202,625; and

WHEREAS, The declaration passed by this Convention on the twenty-fourth day of August, A. D. 1868, providing for the sale of said railroad, has not yet been carried into effect; and

WHEREAS, The present owners of said railroad have recently placed the same in good running order for the use of the public, and are manifesting both the ability and disposition to make said road answer all the purposes of its construction; and

WHEREAS, The rapidly increasing business of said road warrants the belief that it will be able hereafter to pay regularly the interest due on the indebtedness of the company to the school fund, and also the sinking fund provided by the act of August 13, 1856; and

WHEREAS, The said railroad, under its present efficient management, must continue to be an adequate security for the debt due to said school fund; therefore

*Be it declared by the people of Texas in Convention assembled,*  
That the said Southern Pacific Railroad Company shall be and is hereby authorized to issue bonds for the whole amount of principal

and interest due the special school fund on the first day of January, A. D. 1869, payable to the Governor of the State of Texas and his successors in office, to become due twenty years after the said first day of January, A. D. 1869, which said bonds shall bear interest at the rate of seven per centum per annum, which said interest shall be payable in gold or silver coin of the United States, on the first day of January and July of every year, at the treasury, in the city of Austin; and the principal of said bonds shall be paid when the same shall become due, at the treasury, in the city of Austin, in gold or silver coin of the United States; and the said bonds, when duly executed, shall be received by the Governor in lieu of the six per cent. bonds now held by the State for the indebtedness of said railroad company to the State; and upon their delivery to the Governor, the said six per cent. bonds shall be cancelled and returned to said railroad company.

2. The bonds provided for in the foregoing section shall be a lien on the twenty-one miles of the said Southern Pacific Railroad which have been heretofore constructed within the limits of the State of Texas; provided, further, that the State shall have a lien upon all the additional road built by said company.

3. Upon the twenty-one miles of road now constructed in the State of Texas, and upon which the State has a lien by virtue of the six per cent. bonds of said company now held by the State, the said company shall never make or issue any bonds other than those provided in the foregoing section to be issued to the Governor for the indebtedness of the company to the school fund for a larger sum than eight thousand dollars per mile, nor shall said company make or issue any bond other than those provided for in the preceding section, which shall be a lien upon said twenty-one miles of railroad, unless the same, before it is put in circulation or delivered to any person, shall be countersigned by the Governor of the State of Texas, and also by the Comptroller of public accounts. Nor shall any lien held by any person upon said twenty-one miles of said road by virtue of any bond which may be issued by said company, be foreclosed except in a court of competent jurisdiction, and after at least ninety days' notice in writing to the Governor of the State of the suit for foreclosure.

4. The said railroad company shall have the right, if it shall think proper to do so, to change the gauge of said road.

5. The Legislature shall have the power at any time to make

such regulations respecting said road as may be necessary to the security of the bonds held by the State.

Rules suspended.

Mr. Buffington offered the following amendment :

At the end of third section insert, " Provided, further, that the State shall have a lien upon all the additional road built by said company."

The question recurred upon the adoption of the amendment.

It was adopted.

The question recurring upon the final passage of the declaration as amended, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Adams, Armstrong of Lamar, Bell, Board, Bryant of Harris, Buffington, Burnett, Carter, Evans of Titus, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Jordan, Keigwin, Kendal, Kuechler, Leib, Long, McCormick, McWashington, Morse, Mullins, Mundine, Munroe, Newcomb, Pedigo, Ruby, Schuetze, Smith, Stockbridge, Sumner, Varnell, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—43.

Nays—Messrs. President, Armstrong of Jasper, Bellinger, Bledsoe, Butler, Curtis, Evans of McLennan, Hamilton of Bastrop, Hunt, Mackey, Patten, Phillips of San Augustine, Rogers, Scott, Thomas, Vaughan, Whitmore, Williams—18.

So the declaration was adopted.

Mr. Smith, of Galveston, presented a petition from the police court of Galveston, praying that the criminal court of said county be abolished, and asked its reference to the Committee on Judiciary.

It was so ordered.

Mr. Davis, of Nueces, presented a petition from citizens of Refugio county, asking a removal of the county seat, and asked its reference to the Committee on Counties and County Boundaries.

It was so referred.

Also, a declaration in relation to the Corpus Christi Ship Canal, and asked its reference to the Committee on Internal Improvements.

It was so ordered.

Mr. Munroe introduced the following

## DECLARATION.

WHEREAS, On the second day of February, 1865, the court-house of Houston county was destroyed by fire, and said county is without a suitable building in which to hold its courts, and said county is unable to build a court-house without being permitted to levy a special tax for that purpose; therefore,

*Be it ordained by the people of Texas in Convention assembled,* That the police court of Houston county, in said State, be and is hereby authorized to levy a sufficient ad valorem tax on all property situated in said county to build a court-house suitable for said county, to be erected in the town of Crockett, the county seat thereof; said tax to be collected in the same manner as other taxes due counties are now authorized and required by law to be collected, and that the tax may be levied for one, two or three years, at the discretion of said police court of said county; and that this ordinance take effect and be in force from and after its passage.

Mr. Munroe moved that the rules be suspended to take up the declaration.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

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

Rules suspended.

Resolution read a third time and passed.

Mr. Flanagan introduced the following resolution:

*Resolved,* That hereafter thirty-five members shall form a quorum for business.

Mr. Stockbridge introduced a declaration, which was read by caption and referred to the Committee on Internal Improvements.

Mr. Thomas introduced the following:

## DECLARATION.

WHEREAS, The question of a division of the State has consumed much of the time of this Convention; and,

Whereas, It is claimed by the friends of division that a majority of the people of Texas favor the measure; therefore

*Be it resolved by the delegates of the people in Convention assembled,* That the Major General commanding this district be and he is hereby requested to cause polls to be opened at the different county sites throughout the State, on the first Monday in March next, for the purpose of testing the sense of the people on the question of a division of the State, and that the result of the election so held be certified to Congress, in lieu of any action of this Convention or any expression of opinion on its part as to whether the people do or do not desire such division.

Mr. Patten moved to reject the declaration.

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

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wright—37.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Cole, Evans of McLennan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—32.

So the Convention rejected the declaration.

The President announced that the business next in order was the report of the special committee on alteration of rule 55,\* governing the Convention.

Mr. Thomas raised the point of order that the business in order was upon the report of the Committee on Immigration, made the special order for eleven o'clock to-day.

The Chair decided that the hour of eleven o'clock not having arrived, the point of order was not well taken.

Mr. Thomas appealed from the decision of the Chair.

And 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 :

\* See yesterday's proceedings.

Yeas—Messrs. Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Horne, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Long, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—40.

Nays—Messrs. Adams, Armstrong of Jasper, Bell, Bellinger, Bryant of Grayson, Buffington, Cole, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—29.

So the decision of the Chair was sustained.

The President announced that the hour had arrived to take up the special order of the day, fixed for eleven o'clock A. M. to-day, which was the report of the Committee on Immigration, incorporating the Liverpool and Texas Steamship Company, Limited.

On motion, the reading was dispensed with.

The question recurred upon the adoption of the declaration.

Mr. Degener presented the following protest, and asked permission to have it spread on the journal of the Convention :

COMMITTEE ROOM,  
January 16, 1869.

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

SIR: The undersigned, chairman of the Committee on Immigration, most respectfully represents that in his minority report on the "Liverpool and Texas Steamship Company," the reasons why he considers the scheme highly objectionable were not enumerated, because he believed that the document as reported was ample evidence against itself to render further comment unnecessary.

For the purpose, however, of preventing his name being mixed up at any future period with this scheme, in case it should succeed, he herewith solemnly protests against the same, and prays that this, his protest, be spread upon the minutes.

Most respectfully,

E. DEGENER.

The question recurred upon the adoption of the declaration.

The yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Bell, Bryant of Harris, Buffington, Butler, Cole, Curtis, Evans of McLennan, Flanagan, W. Flanagan, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Long, McCormick, McWashington, Morse, Mullins, Mundine, Posey, Ruby, Schuetze, Smith, Stockbridge, Williams, Wilson of Brazoria, Wilson of Milam—29.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Bryant of Grayson, Burnett, Carter, Degener, Downing, Evans of Titus, Fleming, Gaston, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Mackey, Munroe, Newcomb, Patten, Pedigo, Phillips of San Augustine, Rogers, Slaughter, Sorrell, Thomas, Whitmore, Wright—31.

So the Convention refused to adopt the declaration.

Mr. Sumner, on motion, was excused from voting.

The President announced the business in order was the consideration of the report amending rule fifty-five of the Convention.

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

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Cole, W. Flanagan, Fleming, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—30.

Nays—Messrs. President, Adams, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Flanagan, Foster, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Ruby, Scott, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam, Wright—37.

The question recurred upon the adoption of the amendment to rule fifty-five.

Mr. Sumner moved a call of the House.

Call sustained by the following delegates :

Messrs. Bryant of Grayson, Hamilton of Travis, Mackey, Stock-

bridge, Leib, Keigwin, Posey, Watrous, Mundine, Fleming, Kealy, Wilson of Brazoria, Williams, Bell, Phillips of San Augustine, Cole, Bellinger, Schuetze, Harn, Armstrong of Jasper.

The House reported full.

The question recurred upon the adoption of the amendment to rule number fifty-five.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—42.

Nays—Messrs. Armstrong of Jasper, Bellinger, Brown, Cole, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—28.

So the amendment was adopted.

Pending the above vote, a motion to excuse Mr. Bellinger from voting was lost.

Also, a motion to excuse Mr. Bryant of Grayson was lost.

Mr. Bryant of Grayson refused to vote and retired to the lobby.

The President directed the Sergeant-at-Arms to conduct Mr. Bryant to his seat.

Mr. Bryant of Grayson resumed his seat and tendered his resignation.

On motion of Mr. Flanagan, Mr. Bryant's resignation was accepted.

Pending the above call of the yeas and nays, Mr. Cole refused to vote.

Mr. Munroe moved that Mr. Cole be expelled the Convention for contempt of the house, but, by consent, withdrew his motion to expel.

The President then, by order of the Convention, directed the Sergeant-at-Arms to arrest Mr. Cole.

Pending this call of the yeas and nays Mr. Hamilton of Travis also refused to vote.

A motion to excuse Mr. Hamilton from voting was lost.

Mr. Hamilton still refusing to vote, the President, by direction of the House, ordered the Sergeant-at-Arms to take Mr. Hamilton in custody.

Mr. Hamilton, then stating that his arrest would defeat the object that he and his friends had in view, asked to be allowed to vote, and on motion he was released from custody and leave was given him to record his vote.

Pending the announcement of the result, Mr. Cole asked to be released from custody and allowed to vote.

On motion, the request of Mr. Cole was granted.

The President announced that the business before the House was the engrossment of the resolutions reported by the Committee of the Whole on the Condition of the State.

Mr. Hamilton of Bastrop moved the adoption of the resolutions.

Mr. Thomas rose to a point of order, insisting that the vote should be first taken upon the substitute offered by him on yesterday.

The point of order not sustained by the President.

Mr. Sumner moved a call of the House.

Call sustained by the following delegates :

Messrs. Sumner, Hamilton of Travis, Mackey, Stockbridge, Leib, Keigwin, Posey, Watrous, Mundine, Fleming, Wilson of Brazoria, Kealy, Williams, Bell, Phillips of San Augustine, Cole, Bellinger, Schuetze, Harn, Armstrong of Jasper—20.

Mr. McCormick moved that the hall of the Convention be cleared of visitors while the House was under a call.

Carried.

And the hall cleared by the Sergeant-at-Arms.

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

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

Yeas—Messrs. Armstrong of Jasper, Bell, Bellinger, Cole, Evans of McLennan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Leib, Mackey, Morse, Mundine, Pedigo, Phillips of San Augustine, Posey, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria—28.

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

Flanagan, Gray, Hamilton of Bastrop, Harris, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, McCormick, McWashington, Mullins, Munroe, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wilson of Milam, Wright—43.

So the Convention refused to adjourn.

The question recurred upon the adoption of the resolutions reported by the Committee of the Whole on the condition of the State.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wright—38.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Brown, Cole, Evans of McLennan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—33.

So the substitute was adopted.

Mr. Patten moved a suspension of the rules to put resolution on its third reading and final passage.

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

Yeas—Messrs. President, Adams, Armstrong of Lamar, Bledsoe, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Evans of McLennan, Evans of Titus, Fayle, Flanagan, W. Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson of Harrison, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Munroe, Newcomb, Patten, Pedigo, Ruby, Scott, Slaughter, Smith, Varnell, Vaughan, Whitmore, Wright—41.

Nays—Messrs. Armstrong of Jasper, Bell, Bellinger, Cole, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Sumner, Thomas, Watrous, Williams, Wilson of Brazoria, Wilson of Milam—30.

So the Convention refused to suspend the rules.

Mr. Harris gave notice that he moved a reconsideration of the vote by which the Convention refused to adopt the declaration reported by the Committee on Immigration.

Mr. Sumner was arraigned before the Convention for threatened violence to the Assistant Sergeant-at-Arms, and for using disrespectful language to Mr. Evans of Titus.

On motion, Mr. Sumner was excused, he having explained and apologized to the House.

Mr. Varnell moved that the vote accepting the resignation of Mr. Bryant, of Grayson, be rescinded.

Carried.

Mr. Varnell moved that Mr. Bryant, of Grayson, be permitted to withdraw his resignation.

Pending a motion that Mr. Bryant, of Grayson, be required to apologize to the House,

Mr. Carter 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, Adams, Armstrong of Jasper, Armstrong, of Lamar, Bell, Bellinger, Bledsoe, Brown, Buffington, Burnett, Carter, Cole, Downing, Evans of McLennan, Evans of Titus, Flanagan, W. Flanagan, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kuechler, Leib, Mackey, McCormick, McWashington, Morse, Mundine, Munroe, Patten, Phillips of San Augustine, Posey, Rogers, Ruby, Schuetze, Smith, Sorrell, Stockbridge, Sumner, Thomas, Varnell, Vaughan, Watrous, Wilson of Brazoria, Wilson of Milam, Wright—53.

Nays—Messrs. Board, Bryant of Harris, Butler, Curtis, Degen, Flanagan, Jordan, Lippard, Newcomb, Scott, Slaughter, Whitmore—12.

Main question was ordered.

The question recurred upon the agreement to the motion.

It was agreed to.

On motion the Convention adjourned till ten o'clock on Monday morning.