

# TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Journals of the Convention of the Free, Sovereign, and Independent People of Texas, in General Convention, Assembled. H.P.H. Gammel, The Laws of Texas, 1822-1897, Volume 1. Austin: The Gammel Book Company, 1898, pp. 821-904.*

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).

And the question being taken thereon, it was decided in the affirmative.

On motion of Mr. Hardeman, the house adjourned until ten o'clock to-morrow morning.

---

SATURDAY MARCH 11, 1836.

The convention met, pursuant to adjournment.

Mr. Collinsworth, chairman of the committee on military affairs, made the following report; to wit:

CONVENTION HALL, MARCH 12, 1836.

*To Captain Joseph L. Bennett.*—SIR,—You will proceed immediately to the head quarters of the commander-in-chief, and report yourself to him: upon which, and being mustered into service, he will forward to the proper authority the necessary certificate; and commissions for yourself and inferior company officers will be regularly issued. On your way to head quarters, you will be authorized to purchase, on the credit of the government, such provisions as may be necessary for the use of your company, enjoining on you strict economy. And when you cannot otherwise obtain provisions, you are authorized to press such as may be absolutely necessary: but in doing this, you will act with the greatest forbearance, and in such manner as to avoid, as far as possible, all individual distress: and should it be necessary for you to kill any stock, you will keep an account of the marks and brands, so that their proper owners may be compensated: and when you purchase provisions on the faith of the government, you will give the owners certificates therefor.

JAS. COLLINSWORTH,  
*Chairman of committee on  
military affairs.*

Which, on motion, was received and concurred in.

Mr. Rusk, chairman of the select committee to whom was referred the memorial of James Morgan made and submitted the following report thereupon, towit:

“The com. to whom was referred the petition of J. Morgan Esq. beg leave to make the following report:—That they have had the said petition under consideration and are of opinion, that the provisional government had no authority vested in them to lay impost duties; and therefore propose the following resolution:

*Resolved* that the act laying imposts, passed by the provisional government is null, void and of no effect; and therefore

Resolved that the said J. Morgan as well as all others, of whom duties may have been demanded under the provisions of that act, be released therefrom.

Be it further Resolved, that should any monies have been collected by any officers under said law, it shall be refunded to the persons by whom it has been so paid over:

Which was received, and on motion concurred in by the convention.

Mr. Rusk, chairman of the select committee, to whom was referred the petition of John M. Smith and Wm. M. Smith praying a pardon from the sentence of death for murder, have had the same under consideration, and are of opinion, that the case is one having merits, which the time of this convention will not permit them properly to investigate; and in order to give the applicants an opportunity of presenting their petition to the executive hereafter to be appointed, they therefore propose the following resolution.

Resolved, That the execution of the sentence pronounced against Jno. M. Smith and William M. Smith be suspended until the first day of May next.

Which was on motion received and concurred in.

The secretary of this convention who was required by a resolution of the body to call on the late officers of the provisional government, for the papers connected therewith—which was received and on motion laid on the table.

On motion of Mr. Rusk, the rule of the house was suspended, and the ordinance, to organize the Physical Forces reported by the committee charged with that duty, was read.—

On motion of Mr. Potter the house resolved itself into a committee of the whole, upon the ordinance reported as aforesaid.

Mr. Potter in the chair, and taken up section by section.

On motion of Mr. Gazley the com. of the whole rose, and reported the bill with sundry amendments.

The President resumed his seat.

On motion of Mr. Gazley the ordinance so reported by the com. of the whole, was laid on the table until two o'clock; and on motion the house adjourned until that hour.

TWO O'CLOCK, P. M.

The Convention met pursuant to adjournment.

Mr. Collinsworth submitted sundry public documents from Messrs. McKinney & Williams, which were on motion referred to the committee on finance.

Mr. Barnett of Washington introduced the following preamble and resolutions:

Whereas Capt. John W. Peacock, a citizen of Perry county, in the State of Tennessee, and U. S. of America, animated by a noble and generous sympathy for the people of Texas in their hour of need,

gave up the comforts and security of his home to bring to their aid a gallant band of his countrymen; and whilst courageously engaged among the storming columns that led the attack on San Antonio received a musket ball in his body, of which he is since dead.

Resolved, That the memory of Capt. John W. Peacock deserves to be held in sacred remembrance by the people of Texas, and while they deplore his lamented death, they are not insensible to the obligation of making provision for his family; therefore, Be it resolved by the delegates of the people of Texas in general convention assembled and it is hereby ordered by authority of the same, That the wife and children of said John W. Peacock or their agent be and is hereby authorized to locate a league and labor of land, on any vacant lands of the Republic of Texas, to be held and divided by and between his wife and children, according to the laws of descent of the State of Tennessee: and

Be it further resolved by the authority aforesaid That—David Murphy be and is hereby appointed agent for & in behalf of the widow & children of said Capt Jno. W. Peacock with full power and authority to take possession of the papers, property, money and effects left by him the said Peacock in Texas, and preserve the same for the benefit of his family.”

Which on motion was adopted.

On motion of Mr. Barnett this resolution was directed to be printed in the public papers of Texas, and the town of Shelbyville in the State of Tennessee of the U. S. of A.

On motion of Mr. Rusk the rule of the house was suspended to take up the ordinance as reported by the com. of the whole, to organize the physical forces.

The ordinance was taken up, and on motion of Mr. Potter the words “free persons of color” were stricken out of the exception in Section 1.

Mr. Potter introduced a resolution to amend the 2nd section as follows by adding the words “making in separate columns the names of Mexicans, and those of other persons within the municipalities of Nacogdoches, Bexar, Refugio, and San Patricio,” and on the question being taken, it was decided in the negative.

Mr. Potter introduced the following as an amendment to section 2nd to-wit: “Provided that whenever the militia of any municipality may be embodied for the public service, the white men shall be organized in separate companies and have the entire control of the election of their officers.”

Mr. Rusk offered the following in lieu of Mr. Potter’s amendment which was accepted by him, towit: “Provided that in the municipality of Nacogdoches there shall be one additional individual appointed, whose duty it shall be to make out separate, the names of all natives therein liable to serve, and that they when

drafted or ordered out, shall be organized in separate corps," whereupon, the question being taken was decided in the affirmative.

Mr. Pennington dissenting, presented the following as his protest:

"That no minor shall be disfranchised in consequence of failing to muster into service agreeably to this article."

S. O. PENNINGTON.

Mr. Powers introduced the following amendment: "and any person coming into any municipality, and remaining there ten days without reporting himself for military duty shall be liable to serve before all other persons."

Mr. Carson introduced the following section as an amendment.

Section 18. Be it ordained by the authority aforesaid That this ordinance remain in full force for and during the term of twelve months from the day of its passage and no longer, unless sooner repealed by a Congress of the republic," which was on motion accepted.

On motion of Mr. Rusk, the rule of the house was suspended, and the ordinance to organize the militia taken up and put upon its last reading. Whereupon, the question being taken upon the passage of the ordinance, the same was decided in the affirmative and ordered to be enrolled.

On motion of Mr. Rusk the chair appointed Messrs. Rusk, Thomas, and Childress a Com. to inspect the enrolment of the ordinance bills.

Mr. Gazley introduced the following resolution:

Resolved that six hundred copies of the militia laws be printed in hand bill form: and that twenty of said Copies be immediately forwarded to the first judge of each municipality in Texas, who are hereby required to distribute the same among the people.

Resolved that the said law be inserted in the Telegraph and Texas Register, printed at San Felipe de Austin.

Resolved That a Com. of three be appointed to carry the foregoing resolutions into effect: which on motion was adopted. Whereupon the chair appointed Messrs. Gazley, Brigham, and Everett a committee.

On motion of Mr. Scates, the Rainbow and star of five points above the western horizon; and the star of six points sinking below, was added to the flag of Mr. Zavala accepted on Friday last.

Mr. Taylor introduced the following resolution: Resolved that the word "Texas" be placed, one letter between each point of the star on the national flag.

Mr. Waller introduced the following resolution: Resolved that Peter Bertrand of the municipality of Brazoria be appointed to organize and draft the militia agreeably to an ordinance made by this convention: which was adopted.

Mr. Bunton introduced the following resolution:—Resolved that the Com: on Military affairs be instructed to report a plan to this house, by which supplies, arms, munitions &c. may be immediately despatched to the seat of war: which was adopted.

On motion of Mr. Rusk. Resolved that Mr. Goodrich be appointed a committee to procure a suitable room in which to deposit the public archives.

Mr. Childress introduced the following resolution: Resolved that a single star of five points, either of gold or silver, be adopted as the peculiar emblem of this republic: & that every officer & soldier of the army and members of this convention, and all friends of Texas, be requested to wear it on their hats or bosoms: which was adopted.

On motion of Mr. Gazley, the house adjourned till tomorrow, 9. o'clock.

---

SUNDAY, 9 O'CLOCK, A. M.

The convention met pursuant to adjournment.

The communication of Mr. Moody auditor of public accounts of the late provisional government was received and laid on the table.

Mr. Goodrich, chairman of the Com. appointed to procure a suitable room for depositing the archives of the late provisional government, made a report which was received and concurred in.

On motion the chairman appointed Messrs. Carson and Fisher of Matagorda a Com. to forward commissions &c. to our naval commanders.

Mr. Pennington introduced the following resolution: Resolved that a Com. of three be appointed to receive, examine and receipt for [certain accounts not found herein].

Messrs. Pennington, Barnett of W. and Stewart were appointed by the President the committee.

Mr. Turner introduced the following preamble and resolutions, "Whereas several families from the neighborhood of San Patricio, San Antonio & Refugio, whose husbands and fathers are in the field have been driven by the enemy from their homes, and are now in the colonies without homes or means of support: Be it therefore Resolved That the agents, contractors and quartermasters be instructed and required to furnish such families with the necessary rations for their support and sustenance, while their husbands and fathers are in the field:"—which was laid on the table till tomorrow.

Mr. Rusk introduced the following resolutions:

Resolved that a standing Com. on the state of the Republic be appointed by the President: which was laid on the table, under the rule, till tomorrow.