

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

Citation: *Journals of the Convention, assembled at the city of Austin on the Fourth of July, 1845, for the purpose of framing a constitution for the State of Texas. Austin: Miner & Cruger, printers to the Convention, 1845.*

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).

JOURNALS  
OF THE  
CONVENTION.

---

FRIDAY, July 4, 1845.

'This being the day recommended by the President of the Republic of Texas, in his Proclamation bearing date May 5th, 1845, for the assembling of Delegates in convention, for the purpose of forming a State Constitution for the State of Texas, preparatory to her admission as one of the United States of America,—the Convention met accordingly in the city of Austin, in the county of Travis, Republic of Texas.

On motion of Mr. Isaac Parker, a delegate from Houston county, Mr. Abner S. Lipscomb, a delegate from Washington county, was called to the chair, as President *pro tem*.

On motion of Mr. John Hemphill, a delegate from Washington county, Mr. James H. Raymond was appointed Secretary *pro tem*.

On motion of Mr. Hemphill, it was *resolved*, that the call of Deputies be made by counties, and that the Deputies present, provided with their credentials, be required to deliver them to the Secretary *pro tem*.

The counties being called alphabetically, the following Delegates presented their credentials:

From Austin county—Philip M. Cuney.

Brazoria—H. G. Runnels, Robert M. Forbes.

Brazos—Sam. Lusk.

Bastrop—John Caldwell.

Bexar—José Antonio Navarro.

Colorado—Geo. Wm. Brown.

Fannin—Gustavus A. Everts, Lemuel Dale Evans.

Fort Bend—J. B. Miller.

From Fayette county—R. E. B. Baylor, James S. Mayfield.  
 Galveston—R. Bache, James Love.  
 Goliad—Wm. L. Hunter.  
 Gonzales—John D. Anderson.  
 Houston—Isaac Parker, P. O. Lumpkin.  
 Harris—Francis Moore, jr., J. W. Brashear, A. McGowan.  
 Harrison—Isaac Van Zandt, S. Holland, E. Clark.  
 Jasper—Geo. W. Smyth.  
 Jefferson—James Armstrong,  
 Jackson—Francis M. White.  
 Liberty—James Davis, Geo. T. Wood.  
 Lamar—Geo. W. Wright, H. R. Latimer.  
 Montgomery—John M. Lewis, Jas. Scott, A. McNeill.  
 Matagorda—A. C. Horton.  
 Milam—Israel Standefer.  
 Nacogdoches—T. J. Rusk, Jos. L. Hogg, Chas. S. Taylor  
 Rusk—David Gage.  
 Robertson—Henry J. Jewett, Cavitt Armstrong.  
 Refugio—James Power.  
 Red River—Albert H. Latimer, Wm. C. Young.  
 San Augustine—J. Pinckney Henderson, N. H. Darnell.  
 Shelby—Emery Rains, A. W. O. Hicks.  
 Sabine—James M. Burroughs.  
 San Patricio—H. L. Kinney.  
 Travis—William L. Cazneau.  
 Victoria—A. S. Cunningham.  
 Washington—Abner S. Lipscomb, John Hemphill, Van  
 R. Irion.

On motion of Mr. Hemphill, it was ordered that the roll be called and the Delegates answer to their names, when the following members were found to be present :

Messrs. Anderson, Armstrong of Jefferson, Armstrong of Robertson, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Kinney, Latimer of Red River, Latimer of Lamar, Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, M'Gowan, M'Neill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Taylor, Van Zandt, White, Wood, Wright and Young.

On motion of Mr. Mayfield, it was ordered, that the Convention do now proceed to the election of a President of the Convention.

Mr. Runnels put in nomination Thos. J. Rusk. There being

no other nominee, Mr. Rusk was declared duly and unanimously elected President of the Convention.

The President elect being conducted to the chair, he addressed the Convention as follows:

*Gentlemen of the Convention,—*

Language would fail me, were I to attempt an expression of my feelings, in being thus, unsought by me, elevated to the position which I now occupy as the President of this Honorable Convention, to whose hands are confided the dearest interests of the people of Texas, and whose action upon this occasion, I am satisfied, will not disappoint the just expectations of the friends of republican government.

My pursuits in life have not thrown me into situations to become acquainted with the rules of proceedings acted upon by bodies of this kind, and I must, in advance, ask the indulgence of the Convention towards the errors and mistakes which I have no doubt I shall unintentionally fall into. The object for which we have assembled, deeply interests the people of Texas. We have the hopes of our present population, as well as the millions who may come after us, in our hands; the eyes of the civilized world are upon us; we present this day a bright spectacle to all lovers of freedom and republican government. The history of the world may be searched in vain for a parallel to the present instance of two Governments amalgamating themselves into one, from a pure devotion to that great principle, that man, by enlightening his intellect, and cultivating those moral sentiments with which his God has impressed him, is capable of self-government.

The terms of annexation are alike honorable to the United States and to Texas, and as a Texian, acting for myself and my posterity, I would not, were it practicable without in the slightest degree endangering the great question involved, seek to alter the terms proposed to us by the Government of the United States. Texas, animated by the same spirit, and following the bright example of the fathers of the American Revolution, has acquired, at the cost of blood, her freedom and independence from those who would have enslaved her people. She now, with a unanimity unparalleled, enters that great confederacy to whose keeping the bright jewel of human liberty is confided, content to bear the burthens and share the benefits which republican government carries in her train.

Our duties here, although important, are plain and easy of performance. The formation of a State Constitution upon re-

A\*

publican principles, is the only act to be performed to incorporate us into the American Union. While we insert those great principles which have been sanctioned by time and experience, we should be careful to avoid the introduction of new and untried theories,—we should leave those who are to follow us, free to adopt such amendments to the system, as their experience and intelligence shall suggest, and their circumstances render necessary.

We have one grand object in view, and that is to enter the great confederacy with becoming dignity and self-respect. Let us then lay aside all minor considerations, and avoid all subjects calculated to divide us in opinion, and march boldly and confidently up to the formation of a Constitution which, while it secures our own rights, shall satisfy our friends abroad, and meet the sanction of that God to whose bountiful providence Texas is already so much indebted.

On motion of Mr. Baylor, the Rev. Chauncey Richardson was invited, came forward, and made a fervent and appropriate prayer.

On motion of Mr. Van Zandt, it was ordered that the Convention do now proceed to the election of a Secretary to the Convention.

Mr. Van Zandt put in nomination Mr. Jas. H. Raymond.

Mr. Lipscomb put in nomination Mr. Joseph Waples.

Mr. Davis moved that the election be had by *viva voce*. Lost.

On motion of Mr. Lewis, the President appointed Messrs. Lewis, Baylor, and Latimer of Red River, tellers.

The Convention then proceeded to vote by ballot. The votes being counted, it appeared that

Jas. H. Raymond had received 33 votes.

Joseph Waples                   “           23   “

Mr. Raymond having received a majority of the votes, was declared by the President to be duly elected Secretary of the Convention.

The Convention being duly organized, proceeded to business.

On motion of Mr. Cazneau, Mr. Navarro was granted permission by the Convention, to engage the services of an interpreter, and report on Monday next whom he shall have engaged.

Mr. Lipscomb offered the following resolution:

*Resolved*, That a committee of fifteen be appointed for the purpose of reporting an Ordinance expressing the assent of this Convention to the propositions made by the President of the United States for the admission of Texas as a State into the federal Union. Read and laid on the table.

The President informed the Convention, that a communication from the President of the Republic of Texas, directed to the President of the Convention, had been placed upon his table.

On motion of Mr. Van Zandt, the communication of his Excellency the President, was taken up and read as follows:

EXECUTIVE DEPARTMENT, }  
Washington, June 28, 1845. }

To the President and Members of the Convention, to assemble at Austin on the 4th of July next.

*Gentlemen,*—

In compliance with one of the provisions of a Joint Resolution of the present Congress, entitled “a Joint Resolution giving the consent of the existing Government to the annexation of Texas to the United States,” approved on the 3d inst., I now have the honor to transmit a copy of the said Joint Resolution, properly authenticated at the State Department.

Believing the Convention might have use for them, I also transmit herewith, copies similarly authenticated, of the following official documents:

1st. Joint Resolution for annexing Texas to the United States, approved March 1st, 1845.

2d. A Proclamation recommending the election of Deputies to the Convention, issued by me on the 5th of May last.

3d. A Proclamation declaring to the people of Texas the actual situation of their affairs with respect to Mexico, and a cessation of hostilities between the two countries, issued by me on the 4th instant.

4th. Conditions preliminary to a Treaty of Peace between Mexico and Texas, signed on the part of the former, at the city of Mexico, on the 19th of May last, and since rejected by the Senate of Texas, together with the correspondence relating to the same.

5th. A communication under date of the 26th inst., from the Hon. E. Allen, Attorney General of the Republic of Texas, charged ad interim with the direction of the Department of State, to the Hon. A. J. Donelson, Charge d’Affaires of the U. States, on the subject of a probable renewal of hostilities by Mexico, and the consequent introduction of the United States troops for the defence of the country.

6th. Copies of two communications from the State Department, to Mr. Ashbel Smith, dated 10th of May and 26th June, 1845.

7th. Joint Resolution relative to the introduction of United States troops into Texas, and for other purposes.

I have the honor to be, gentlemen,

With the highest respect, your most obedient servant,

ANSON JONES.

On motion of Mr. Mayfield, the Convention dispensed with the reading of the accompanying documents, with the exception of the Joint Resolution for annexing Texas to the United States, and the communication and documents were laid on the table for the present.

On motion of Mr. Gage, the Resolution offered by Mr. Lipscomb, for the appointment of a committee of fifteen, was taken from the table, read and adopted.

Whereupon, the President appointed the following members to compose the committee: Messrs. Lipscomb, Moore, Caldwell, Everts, Love, Van Zandt, Henderson, Cazneau, Evans, Runnels, Hemphill, Lewis, Baylor, Davis and Smyth.

On motion of Mr. Mayfield, the communication of his Excellency the President, together with the documents accompanying, were referred to the above appointed committee.

The special committee, after an absence of some time, returned, and through their chairman made the following report:

COMMITTEE ROOM, July 4, 1845.

To the Hon. THOS. J. RUSK,

*President of the Convention :*

The committee to whom was referred the communication of his Excellency the President of the Republic, together with the accompanying documents, have had the same under consideration, and have instructed me to report the following Ordinance, and recommend its adoption by the Convention.

ABNER S. LIPSCOMB, Chairman.

#### AN ORDINANCE.

WHEREAS, the Congress of the United States of America has passed resolutions providing for the annexation of Texas to that Union, which resolutions were offered by the President of the United States on the first day of March, 1845; and

Whereas, the President of the U. States has submitted to Texas the first and second sections of the said Resolution, as the basis upon which Texas may be admitted as one of the States of the said Union; and

Whereas, the existing Government of the Republic of Texas has assented to the proposals thus made,—the terms and conditions of which are as follow :

JOINT RESOLUTION FOR ANNEXING TEXAS TO  
THE UNITED STATES.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Congress doth consent, that the territory properly included within and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government adopted by the people of said Republic, by deputies in convention assembled; with the consent of the existing Government, in order that the same may be admitted as one of the States of this Union.

2. *And be it further resolved,* That the foregoing consent of Congress is given upon the following conditions, to wit: *First*, said State to be formed, subject to the adjustment by this Government of all questions of boundary that may arise with other governments,—and the Constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, 1846. *Second*,—said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines and armaments, and all other means pertaining to the public defence, belonging to the said Republic of Texas, shall retain all the public funds, debts, taxes and dues of every kind which may belong to, or be due and owing to the said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the U. States. *Third*—New States of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution; and such states as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri Compromise Line, shall be admitted into the Union, with or without slavery, as the people of each State, asking admission, may desire; and in such State or States as shall be formed out of said



territory, north of said Missouri Compromise Line, slavery, or involuntary servitude (except for crime) shall be prohibited."

Now, in order to manifest the assent of the people of this Republic, as required in the above recited portions of said resolutions, we, the deputies of the people of Texas, in convention assembled, in their name and by their authority, do ordain and declare, that we assent to and accept the proposal, conditions and guarantees contained in the first and second sections of the Resolution of the Congress of the United States aforesaid.

In testimony whereof, we have hereunto subscribed our names.

Attest,  
 THOS. J. RUSK, President.  
 JAS. H. RAYMOND, Secretary.

PHILIP M. CUNNEY,  
 H. G. RUNNELS,  
 ROBERT M. FORBES,  
 SAM. LUSK,  
 JOHN CALDWELL,  
 JOSÉ ANTONIO NAVARRO,  
 GEO. WM. BROWN,  
 GUSTAVUS A. EVERTS,  
 LEMUEL DALE EVANS,  
 J. B. MILLER,  
 R. E. B. BAYLOR,  
 JAMES S. MAYFIELD,  
 R. BACHE,  
 JAMES LOVE,  
 WM. L. HUNTER,  
 JOHN D. ANDERSON,  
 ISAAC PARKER,  
 P. O. LUMPKIN,  
 FRANCIS MOORE, JR.,  
 J. W. BRASHEAR,  
 ALEX. MCGOWAN,  
 ISAAC VAN ZANDT,  
 S. HOLLAND,  
 EDW. CLARK,  
 GEO. W. SMYTH,  
 JAMES ARMSTRONG,  
 FRANCIS M. WHITE,  
 JAMES DAVIS,  
 GEO. T. WOOD,  
 GEO. W. WRIGHT,  
 H. R. LATIMER,

JOHN M. LEWIS,  
 JAMES SCOTT,  
 ARCHIBALD McNEILL,  
 A. C. HORTON,  
 ISRAEL STANDEFER,  
 JOS. L. HOGG,  
 CHAS. S. TAYLOR,  
 DAVID GAGE,  
 HENRY J. JEWETT,  
 CAVITT ARMSTRONG,  
 JAMES POWER,  
 ALBERT H. LATIMER,  
 WM. C. YOUNG,  
 J. PINCKNEY HENDERSON,  
 NICHOLAS H. DARNELL,  
 EMERY RAINS,  
 A. W. O. HICKS,  
 JAMES M. BURROUGHS,  
 H. L. KINNEY,  
 WM. L. CAZNEAU,  
 A. S. CUNNINGHAM,  
 ABNER S. LIPSCOMB,  
 JOHN HEMPHILL,  
 VAN R. IRION,  
 E. H. TARRANT,  
 V. E. HOWARD,  
 WM. B. OCHILTREE,  
 OLIVER JONES,  
 B. C. BAGBY,  
 CHAS. B. STEWART.

Mr. Mayfield moved the adoption of the Ordinance.

Upon which question the ayes and noes were called and stood as follows.

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Baylor, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Kinney, Latimer of R. R., Latimer of L., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, M'Gowan, M'Neill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Taylor, Van Zandt, White, Wood, Wright and Young—55.

No—Mr. Bache—1.

So the Ordinance was adopted.

On motion of Mr. Mayfield, it was ordered that the Ordinance be signed by the President and members of the Convention, and attested by the Secretary.

Mr. Jewett offered the following resolution:

*Resolved*, That a committee of five be appointed to prepare standing rules for conducting the business of the Convention.

Adopted.

Whereupon, the President appointed Messrs. Jewett, Darnell, Van Zandt, Latimer and Caldwell, as said committee.

Mr. Jewett offered the following resolution:

*Resolved*, That the rules of the House of Representatives, for the government of said House at the 9th Congress, shall be adopted, and govern the deliberations of this Convention, so far as applicable, until such time as the committee appointed to draft rules may report the same.

Adopted.

On motion of Mr. Davis, it was ordered, that copies of the Ordinance adopted by this Convention, giving its assent to the annexation of Texas to the Government of the United States, be, by the President of this Convention, transmitted to the President of this Republic, and that he be requested to transmit an authenticated copy of the same to the President of the United States;—also, the President of the Convention to transmit to Major A. J. Donelson, Chargé of the United States near this Republic, a copy of the same, to be by him communicated to his Government.

Mr. Love offered the following resolution:

*Resolved*, That the members of this Convention, wear **cr**ape on their left arm for one month, as a testimony of their regret for the decease of **GEN. ANDREW JACKSON**.

*Unanimously adopted* by the Convention.

On motion of Mr. Van Zandt, it was ordered that a copy of the above resolution, signed by the President and Secretary of the Convention, be transmitted to the family of General Andrew Jackson, deceased.

On motion of Mr. Hemphill, the Convention adjourned until to-morrow morning 10 o'clock.

---

SATURDAY, July 5, 1845.

The Convention met pursuant to adjournment; prayer by the Rev. Chauncey Richardson.

The roll being called, the following delegates answered to their names:

Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Horton, Hogg, Holland, Hunter, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, M'Gowan, M'Neil, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Taylor, Van Zandt, White, Wood, Wright and Young—56.

The journal of the preceding day was read and adopted.

The President appointed Messrs. Mayfield and Runnels to invite within the bar of the House, Generals Besancon and Thomas, and Judge W. K. Baylor.

Mr. Caldwell offered the following Ordinance:

#### AN ORDINANCE,

Relative to the introduction of the United States Troops into Texas.

Whereas, the Government of the United States, having passed resolutions by which Texas may be annexed and incorporated into the American Union; and whereas, the delegates of the people in Convention assembled, having acceded to the proposals submitted by the President of the United States, to the Government of Texas, and by said Government submitted to the people thereof, and to this Convention; and whereas, there are many tribes of Indians, belonging to the United States of America, located within and adjacent to the territory of Texas: Therefore, for the security and tranquillity of our frontier—