

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.

If you are uncertain whether you need permission to use these materials, please contact us at rarebooks@law.utexas.edu.

Republic of Texas at the time of the acceptance of this Constitution by the Congress of the United States, shall be deemed a qualified elector. In all succeeding elections, every freeman of the age of twenty-one years, who shall have been a citizen of the Republic of Texas, or shall be a citizen of the United States, and shall have resided twelve months in the State—the last three months thereof in the county or district in which he offers to vote, (Indians not taxed, Africans and descendants of Africans, excepted,) shall be deemed a qualified elector: *provided*, that no officer of the regular army, soldier, seaman, or marine, in the service of the United States, shall be authorized to vote."

On motion of Mr. Mayfield, the Convention adjourned until half-past 8 o'clock, to-morrow morning.

SATURDAY MORNING, Aug. 16, 1845.

The Convention met pursuant to adjournment—prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Howard, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White, Wright and Young.

Quorum present—the journal of the preceding day was read and adopted.

On motion of Mr. Jones, the Convention took five hundred copies additional, of the "New Era," for this week.

On motion of Mr. Van Zandt, Mr. Clark was excused from attendance on the Convention on account of sickness.

On motion of Mr. Burroughs, the Convention took up the

ORDERS OF THE DAY.

Mr. Ochiltree's substitute for the 1st section of the Legislative report, being before the Convention,

On motion of Mr. Cazneau, it was laid on the table for the present.

Mr. Bache's resolution to appoint a committee to wait upon his Excellency the President of the Republic, to consult with him concerning the transfer of the government, &c., offered on yesterday, was taken up.

Mr. Young offered the following, as a substitute for the said resolution :

Resolved, That a committee be appointed to confer with his Excellency, the President, on such subjects connected with the business of the Convention, as he may think proper to communicate, through them."

On motion of Mr. Van Zandt, the resolution and substitute were laid on the table.

Messrs. Hemphill and Hogg were appointed a committee to wait upon his Excellency the President, and invite him to a seat with the President of the Convention.

On motion of Mr. Cazneau, the report of the Legislative Department was again taken up.

The first section and the substitute being before the Convention,

Mr. Horton moved the previous question.

Mr. Evans moved to lay the section and substitutes on the table.

The Chair decided the motion out of order, during the pendency of the previous question.

From which decision Mr. Evans appealed; and

The Chair was sustained.

The question,—shall the main question be now taken? was put.

Upon which the ayes and noes were called, and were as follows:

Ayes—Messrs. Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Cunningham, Cuney, Darnell, Davis, Hicks, Hogg, Horton, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, McGowan, McNeill, Miller, Moore, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, White, Wright and Young—38.

Noes—Messrs. President Rusk, Anderson, Caldwell, Cazneau, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hunter, Love, Lipscomb, Mayfield, Navarro, Power, and Van Zandt—17.

So the motion was carried.

The main question being the adoption of the 1st section, the ayes and noes were called, and were as follows :

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Cazneau, Cunningham, Cuney, Darnell, Davis, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Moore, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Ochiltree, White, Wright and Young—44.

Noes—Messrs. Anderson, Burroughs, Caldwell, Evans, Everts, Forbes, Love, Mayfield, Navarro, Tarrant and Van Zandt—11.
So the section was adopted.

Mr. Caldwell offered the following, as an additional section, to come in as section 2d :

“At the first, and all subsequent elections held under this Constitution, all male emigrants to the Republic of Texas, of the age of twenty-one years at the time of the acceptance of this Constitution by the Congress of the United States, shall be deemed a qualified voter, after a residence of six months.”

Mr. Mayfield offered the following amendment, which was accepted by Mr. Caldwell :

“And entitled to and enjoy all the rights, immunities, and privileges of citizens of this State, under such disabilities as is otherwise provided for in this Constitution and that of the United States.”

Mr. Armstrong of J., offered the following, as a substitute for Mr. Caldwell's additional section :

“Every free male person, of the age of twenty-one years, (Indians not taxed, Africans and descendants of Africans excepted.) who were residents in the Republic of Texas on the 4th day of July, 1845, shall be deemed a qualified elector of this State.”

Mr. Lipscomb moved to amend by striking out “the 4th day of July, 1845,” and insert “acceptance of this Constitution by the people.”

Lost.

The question was then taken on Mr. Armstrong's substitute, and rejected.

Mr. Brown offered the following, as a substitute for Mr. Caldwell's additional section :

“At the first, and all subsequent elections to be held under this Constitution, all free male persons (subject to the exceptions and possessing the other qualifications required by the foregoing sections,) who shall have emigrated to this Republic prior to the ap-

proval of this Constitution by the Congress of the United States, shall be entitled to hold lands and exercise the right of suffrage."

Which was rejected.

The ayes and noes being called on the adoption of Mr. Caldwell's additional section, stood as follows :

Ayes—Messrs. President Rusk, Anderson, Bache, Burroughs, Caldwell, Cazneau, Davis, Evans, Everts, Hemphill, Hunter, Jewett, Love, Lusk, Lipscomb, Mayfield, Miller, Navarro, Power, Van Zandt, and White—21.

Noes—Messrs. Armstrong of J., Armstrong of R., Baylor, Bagby, Brashear, Brown, Cunningham, Cuney, Darnell, Forbes, Gage, Hicks, Hogg, Jones, Latimer of L., Lewis, Lumpkin, McGowan, McNeill, Miller, Moore, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltrie, Wright and Young—32.

So the section was rejected.

Mr. Everts offered the following, as an additional section, to come in after the first section .

"All free male persons over the age of twenty-one years, (Indians not taxed, Africans, and descendants of Africans excepted,) who shall have resided six months in Texas before the acceptance of this Constitution by the Congress of the United States, shall be deemed qualified electors."

Mr. Young moved the previous question.

The question,—shall the main question be now taken? was put and carried.

The main question being the adoption of the additional section offered by Mr. Everts, the ayes and noes were called, and stood as follows :

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Bache, Brown, Burroughs, Caldwell, Cazneau, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hunter, Jewett, Lusk, Lipscomb, McNeill, Moore, Navarro, Power, Runnels, Smyth, Tarrant, Van Zandt, and White—27.

Noes—Messrs. Armstrong of R., Bagby, Baylor, Brashear, Cuney, Darnell, Davis, Hicks, Hogg, Horton, Holland, Irion, Latimer of L., Lewis, Lumpkin, Mayfield, McGowan, Miller, Parker, Rains, Scott, Standefer, Ochiltrie, Wright and Young—25.

So the additional section was adopted.

On motion of Mr. Wright, the article on the Legislative Department was ordered to be engrossed for a third reading.

On motion of Mr. Everts, the Convention adjourned until 4 o'clock, P. M.

4 O'CLOCK, P. M.

The Convention met pursuant to adjournment—roll called—quorum present.

On motion of Mr. Darnell, the Convention took up the Special report of the committee on the Legislative Department, to whom was referred an additional section to come in after the 6th section of the General Provisions.

The question then was upon the adoption of the following proviso, as reported by the committee :

“Provided, that nothing in this section shall be so construed as to affect the claims of persons against the Republic, heretofore existing.”

Which was adopted.

The section as amended was then adopted.

The report of the Judiciary committee on the 18th section of the Judiciary Department, together with the substitute offered by a majority of said committee, in three sections, and the substitute of the minority, in two sections, was then taken up.

The substitute of the minority of the committee being before the Convention,

Mr. Young moved the previous question.

The question,—shall the main question be now taken? was put and carried.

The main question being the adoption of the 18th section of the report on the Judiciary Department,

The ayes and noes were called, and were as follows:

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Baylor, Bache, Bagby, Cazneau, Cuneo, Darnell, Everts, Forbes, Gage, Hicks, Hogg, Horton, Holland, Hunter, Jewett, Jones, Latimer of L., Lumpkin, McGowan, McNeill, Miller, Power, Standefer, Tarrant, Van Zandt, Wright and Young—30.

Noes—Messrs. Anderson, Brashear, Brown, Cunningham, Davis, Hemphill, Henderson, Irion, Latimer of R. R., Lewis, Lusk, Lipscomb, Moore, Rains, Runnels, Scott, Smyth, Ochiltree and White—19.

So the section was adopted.

On motion of Mr. Darnell, the vote just taken was re-considered.

On motion of Mr. Hunter, the vote adopting the previous question was re-considered.

On motion of Mr. Rusk, (Mr. Lewis in the Chair,) the section and substitutes were referred to a special committee.

The President then announced the following special committee: Messrs. Darnell, Davis, Lewis, Hemphill and Runnels. And,

On motion, the President was added to said special committee.

On motion of Mr. Wright, the Convention adjourned until half-past 8 o'clock, on Monday morning.

MONDAY MORNING, August 18, 1845.

The Convention met pursuant to adjournment—prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Howard, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Miller, Moore, Navarro, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White, Wright and Young.

A quorum present—the journal of Saturday was read and adopted.

Messrs. Burroughs and Parker were excused from attendance, in consequence of sickness.

Mr. Gage offered the following resolution:

Resolved, That the members of this Convention shall not be entitled to per diem pay for services performed in this Convention after Thursday, the 21st instant."

Which was laid on the table one day for consideration.

Mr. Lusk offered the following, as an article of the Constitution:

"There shall be appointed annually, by the Treasurer of this State, one Assessor and Tax Collector, for each county, who shall be residents of the county for which they may be appointed, whose duties, obligations, and responsibilities, shall be prescribed by law."

On motion of Mr. Bagby, the Convention took up the

ORDERS OF THE DAY.

The General Provisions being first in order, was taken up.

Mr. Rusk offered the following, as a substitute for the 21st section: