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district in the State be appointed to take into consideration the constitution of the Confederate States of America, and to report such changes, alterations and amendments as they may think desirable to be incorporated into the permanent constitution of the Confederate States of America."

Mr. Stewart of Gonzales offered the following resolution which was adopted.

"Resolved that a special committee of five be appointed by the President on Frontier Protection, which committee shall consist of the delegates who represent the frontier counties, and that said committee be instructed to draft and report an ordinance for the protection of the frontier against the Indian depredations, and that the said committee report upon the ordinance for the sale of the horses, mules, wagons etc introduced this morning.[""]

Mr. Chilton introduced "an ordinance reserving to the State of Texas the exclusive control of her public domain"²⁰ Read 1st and 2nd times and referred to the committee on Constitution.

On motion of Mr. Norris, Mr. Rainey was added to the committee on Finance.

Orders of the Day.

The resolution offered by Mr. Terry of Tarrant, proposing to send commissioners to the border States, being next in order, was taken up, read, and on motion of Mr. Jennings, laid on the table.

The resolution offered by Mr. Gregg, declaring it to be the sense of this Convention, that as few changes should be made in the State constitution as were necessary to adapt the same to our separation from the United States government was taken up and read.

On motion of Mr. Anderson of Colorado the resolution was amended by adding "and connection with the Confederate States of America."

On motion of Mr. Chilton the resolution was laid on the table for the present.

The ordinance to provide for the continuance of the existing State government, upon the officers thereof taking a new oath of office, being next in order, was taken up, read and on motion referred to the committee on Constitution.

On motion of Mr. Jennings the Convention adjourned until tomorrow at 10 o'clock, A. M.

City of Austin Texas, Thursday, March 7th/61.

The Convention met pursuant to adjournment. Roll called. Quorum present. Prayer by the chaplain.

²⁰The original draft of this resolution has not been found.

The Journals of the preceding sessions, not heretofore acted upon, were read, amended and adopted.

The President announced the following as the committee on Contingent Expenses, viz: Mesrs. Lesueur, Burditt, Bagby, Moore of Fayette and Ford of Caldwell.

Also the following as the committee on Citizenship, viz: Mesrs. Brahan, Chilton, Howard, Wilcox of Bexar, Maxey, Hughes and Nicholson of Dallas.

The President submitted a communication of the Rev. B. F. Perry, accepting the appointment of chaplain to the Convention.

Mr. Rugeley presented the petition of Henry Kyle and others referred to the committee on Public Safety.²¹

Mr. Wharton, chairman of the select committee to define treason against the State of Texas, made the following report.

The select committee of seven, to whom was assigned the duty of reporting an ordinance to define and punish treason, respectfully report that after a careful and critical examination of the definition of treason, embodied in the constitution of Texas, which is as follows, "Treason against this State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort, and no person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court." There exists no necessity to change that which experience has sanctioned and approved: believing that a departure from settled usages without an adequate necessity would prove both unwise and inexpedient.

Whilst the committee is of opinion that no change should be made in the constitutional definition of treason, yet they think that the power lodged by the Penal Code in a jury, which leaves it discretionary with the jury to punish treason, either by death or confinement for life in the penitentiary, is unwise and improper; and believing further that the only penalty for treason should be death, they report the following ordinance and recommend its adoption.

Jno A Wharton
Tignal W. Jones
Jno Ireland
Jno. Rugeley
Pryor Lea
J. W. Hutcheson
Robert S Gould

²¹Henry Kyle, Smith Darnell and Geo. A. Feris wrote from Richmond, March 5th, that they had been appointed a committee to ascertain whether there were arms of any kind in the State of which they could get one hundred stand. (L. S. in Miscellaneous Papers of the Secession Convention.)

An Ordinance to Punish Treason

We the people of the State of Texas in Convention assembled, do declare and ordain, and it is hereby declared and ordained, That the penalty for treason shall be death.

Read 1st time.

Mr. Campbell offered the following resolution which was adopted.

“Resolved that there be raised a standing committee of three to be denominated a committee on enrollment.”

The President appointed on that committee Mesrs. Stell, Stewart of Anderson and Shepard; Mr. Campbell asking to be excused.

By leave, Mesrs. Robertson of Washington and Montgomery were allowed to have the following protest spread upon the Journals and their votes changed accordingly.

“The undersigned delegates from Washington county ask leave to change their votes on the ordinance passed on the 5th inst., uniting the State of Texas with the Confederate States of America. The undersigned objected to and now protest against the 2nd section of said ordinance, so far as the same relates to a formation by our delegates to the congress of the Confederate States of a constitution for a permanent government for said States, deeming it neither expedient or right to clothe said delegates with such unlimited powers as we conceive them to be clothed with by the said 2nd section. By the operation of the previous question we were precluded from raising, at the time of its passage, our objections thereto. We therefore ask the permission of the Convention to spread this protest upon the Journals of the Convention, and that we be allowed with this protest to vote Aye.”

Mr. Campbell introduced an ordinance concerning the jurisdiction and property of the United States of America in the State of Texas.²² Read 1st and 2nd times and referred to the committee on Frontier Protection.

Mr. Ireland introduced “an ordinance declaring the sense of the Convention on the subject of negro slavery.[’]”

An Ordinance declaring the sense of this Convention on the subject of negro slavery²³

Whereas, the State of Texas is about forming a connection with a Government called the “Confederate States of America” And whereas it is of the utmost importance that the true position of Texas should be clearly understood on the subject of negro slavery, therefore be it ordained and declared by the people of Texas in Convention assembled

²²The original draft of this ordinance has not been found.

²³A. D. S. in Miscellaneous Papers of the Secession Convention.

That the constitution of the "Confederate States of America" should contain, in substance, the following provisions

1st That no State should be admitted a member of said Confederacy that does not have established and recognized the institution of negro slavery

2nd That no State a member of said Confederacy shall ever abolish the institution of negro slavery, and remain a member of said Confederacy without the unanimous consent of all the States.

3rd. That the institution of negro slavery shall be recognized in any Territories, that may now belong to or that may be hereafter acquired and that the citizens of all the States shall be at liberty to take to any such Territories, and shall be protected in the full enjoyment of any property they may take with them, including slaves.

Jno. Ireland.

Read 1st and 2nd times and referred to the committee on Constitution of the Confederate States.

Mr. Maxey introduced an ordinance concerning citizenship. Read 1st and 2nd times and referred to the committee on Citizenship.

Mr. Rogers of Marion introduced an ordinance in relation to the officers and soldiers of the United States army in Texas.

An Ordinance in relation to the Officers and Soldiers of the Army of the United States in Texas²⁴

1st. Be it ordained and declared that all now Commissioned Officers and Soldiers of the Army of the United States of America, who were resident in Texas on the 2d day of March 1861, and who have or may hereafter offer their services for that purpose, shall be received into the service of the State, and the same rank secured to them which they held in the service of the United States

2d. Be it further ordained that all Officers and Soldiers who have or may offer their services to this State according to the foregoing sections, are hereby absolved from all obligations whatever to the government of the United States, and are declared to be under and entitled to the protection of the government of the State.

J. H. Rogers.

Read 1st and 2nd times and referred to the committee on Foreign Relations.

Mr. Lea introduced a resolution concerning the Cherokee, Chickasaw, Choctaw and Creek nations, which was referred to the committee on Foreign Relations.

On motion of Mr. Terry of Tarrant, Mr. Johnson of Lamar was added to the committee on Constitution.

²⁴A. D. S. in Miscellaneous Papers of the Secession Convention.

Mr. Stewart of Gonzales introduced an ordinance relating to the construction of a rail road from San Antonio to the Pacific. Read 1st and 2nd times and referred to the committee on Federal Relations.

Mr. Lea introduced a resolution concerning fugitives from service and from justice. Referred to the committee on Foreign Relations.

On motion of Mr. Nicholson of Fannin, Mr. Todd was added to the committee on Constitution.

On motion of Mr. Cox, Mr. Devine was added to the committee on Citizenship.

On motion of Mr. Anderson of Colorado, Mr. Baxter was added to the committees on Finance and Foreign Relations.

On motion of Mr. Rogers of Harris, Mr. Wilcox was added to the committee on Foreign Relations.

On motion of Mr. Flournoy, Mr. Hall was added to the committee on Constitution.

Mr. Throckmorton presented the credentials of J. H. Wilcox delegate elect from Denton county. Referred to the committee on Credentials and the secretary ordered to enroll his name.

On motion of Mr. Rogers of Harris the Convention went into
Secret Session.

Mr. Rogers of Harris submitted the following report.²⁵

“The undersigned appointed a committee to wait on the Governor under a resolution of this Convention, respectfully report that in discharge of the duty assigned them they called upon the Governor in person and handed him a copy of the accompanying letter, together with a copy of the resolution of this body authorizing said appointment. In response your committee have received the accompanying letter from the Governor. All of which is respectfully submitted. [”]

Austin, Texas.
March 5th 1861.²⁶

To His Excellency,

Sam. Houston, Governor etc.

Dear Sir:

The undersigned have been appointed a Committee by the Convention of the people of Texas, now in session, to present to your Excellency the accompanying Resolution, passed this day by that body. This duty we now most respectfully perform, and will with pleasure be the bearers of any communication your Excellency may wish to make to the Convention in reply.

²⁵This report and the letters following have been compared with the originals in Miscellaneous Papers of the Secession Convention.

²⁶L. S.

With sentiments of esteem and regard, we remain, Your Excellency's obedient servants,

Wm. P. Rogers,
Thos. J. Jennings.
A. S. Broaddus,
J. B. Robertson,
W. A. Montgomery.

Resolved, That a committee of five be appointed to wait upon his Excellency the Governor and inform him that the Convention has re-assembled, and that the ordinance of secession has been ratified by the people, and that the State of Texas is and has been, from the 2d of this current month, a free, sovereign and independent State.

Executive Department
Austin Texas March 6/61²⁷

Messrs. W. P. Rogers, T. J. Jennings, A. S. Broaddus, J. B. Robertson,
and W. A. Montgomery, Committee.

Gentlemen

In reply to your communication of the 5th I can only say, when the Legislature authorized the Convention to submit the proposition to the people of Texas on the subject of Secession from the Federal Government of the United States, it was understood that the performance of that act, when done, would terminate the existence of the Convention. The Executive approved the same with a protest against the shortness of the time allowed, owing to the great limits of our State.

By a subsequent act of the Legislature, it was required that the returns of the votes should be made to the Office of the Secretary of State and counted in the presence of the Governor and Attorney General. The votes were counted and the result declared by Proclamation, that a majority of the votes cast was in favor of Secession.

By an act of the Legislature the Convention was empowered only to submit the question of Secession to a vote of the people. The Convention performed the functions assigned it by the Legislature and in the opinion of the Executive its powers were then exhausted.

The Executive will recommend to the Legislature which is to re-assemble on the 18th inst to take into consideration the important issues arising out of the severance of our connection with the United States with such recommendations and suggestions as he may think proper in the discharge of this duty. It will then be within the province of the Legislature to take such action on the subject as it

²⁷L. S.

may think proper; and also to call a Convention directly from the people, who will fairly represent their wishes and opinions, and who will have authority to make such changes in the Constitution of the State as her present and future relations to the world at large may require.

Until then, it will be the duty of the Executive, as well as all State Officers, to continue in the lawful discharge of their functions, confining their action to the sphere of Texas only.

The Executive tenders his respects to the gentlemen of the Convention, and assures you, gentlemen, individually, of his esteem

Sam Houston.

Mr. Graham moved to refer the report to a select committee of ten.

Mr. Stewart of Gonzales offered the following substitute

“Whereas the Convention, having received a communication from his Excellency, Sam Houston, of the 6th inst. through the committee of this body appointed to wait upon and communicate with him, deem it proper to express their dissent from the statements of said communication as to the powers of the Convention, and takes this occasion to declare that this body is the representative of the people in their sovereign capacity, being elected by the sovereign people in accordance with the Bill of Rights, which declares that all power is inherent in the people, and they have an inalienable right to change, abolish, alter or modify their form of Government in such manner as they deem expedient; and the people having duly elected this Convention, and the Legislature having accepted and adopted it, and the people having again responded to its action by a ratification of the ordinance of secession by an unprecedented majority, this Convention will not shirk from the responsibility devolving upon it as a Convention of the sovereign people of this State, clothed with all the power that the people could confer. The Convention regrets the conflict between the Governor and the people, but as in all conflicts between the people and individuals the latter must yield and bow to the sovereignty of the people, and the Convention will accordingly prepare an ordinance suited to the emergency, of which the Governor will be duly notified as soon as the necessary ordinances can be prepared; therefore,

“Resolved further that said communication be laid upon the table and the committee on the Constitution be instructed to prepare and report an ordinance suited to vindicate the majesty of the people.[”]

On motion of Mr. Wharton the substitute was laid on the table.

On motion of Mr. Chilton the injunction of secrecy was removed.

On motion of Mr. Daney the Convention adjourned until tomorrow morning at 10 o'clock.