

TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Journal of the Secession Convention of Texas 1861. Edited from the original in the department of state by Ernest William Winkler, State Librarian. Texas Library and Historical Commission, the State Library. Austin]: Austin Print. Co., 1912. Originally published serially in newspapers.*

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.

the 3rd and 4th sections.

Mr. Broaddus moved to lay the ordinance on the table. Lost by the following vote.

Yeas, Mesrs. President, Adams, Allen, Beebe, Broaddus, T. J. Chambers, Chambers of Titus, Chisum, Coke, Daney, Davenport, Dunham, Feeney, Ford of Caldwell, Gray, Green, Hays, Henry, Hogg, Johnson of Lamar, Jones, Kelly, Lester, Locke, Mason, McCraw, Miller, Montgomery, Moore of Fayette, Nash of Dallas, Palmer, Poag, Prendergast, Preston, Rainey, Rhome, Robertson of Washington, Rogers of Marion, Shuford, Shepard, Stapp, Stockdale, Throckmorton, Wilcox of Denton, Wiley, Wilson of Tyler and Word, 47.

Nays, Mesrs. Anderson of Colorado, Armstrong, Bagby, Baxter, Batte, Beazley, Black, Brahan, Campbell, Wm. Chambers, Clayton, Cleveland, Clopton, Cox, Davidson, Dean, Earley, Ganahl, Gould, Hicks, Harrison, Hobby, Holland, Hooker, Howard, Hoyle, Hunt, Ireland, Jennings, Koester, Lea, Lubbock, Maltby, McCall, Moore of Burnet, Moore of Henderson, Montel, Nash of Kaufman, Nauendorf, Neel, Newsome, Nicholson of Fannin, Norris, Obenchain, Payne of Hopkins, Portis, Robertson of Smith, Ross, Runnels, Scott, Scurry, Smith of Fannin, Stell, Stewart of Anderson, Terry of Tarrant, Thompson, Waller, Warren, Watkins, Wharton, Wier and Wilson of Hunt, 64.

On motion of Mr. Jennings the Convention adjourned until tomorrow at 2 o'clock, P. M.

City of Austin Texas, Thursday, March 21 1861.

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

The Journal of yesterday was read and adopted.

By leave Mr. Feeney was allowed to record his vote in favor of the adoption of the "Ordinance to provide for a union of the State of Texas with the Confederate States of America."

Mr. Robertson of Smith chairman of the committee on Public Safety made a report.⁷⁸

On motion of Mr. Montgomery 500 copies of the report, and 500 copies of the report submitted on the 18th inst. from the same committee, were ordered to be printed⁷⁹.

"An ordinance to provide for the settlement of the debts and lia-

⁷⁸Perhaps, Report No. 9 of the Committee on Public Safety, page 398.

⁷⁹In the MS. Journal this paragraph follows the caption of the ordinance printed in the paragraph next below.

bilities contracted by authority of the Convention in the cause of secession." Read 1st time.

Mr. Campbell, chairman of the committee on Finance, made the following report:

The committee on Finance, to whom was referred the report of the Hon. President of the Convention in relation to his course as agent to raise means to aid in securing the safety of the State, have had the same under consideration, and has authorized me to report the accompanying resolution and move its adoption, all of which is respectfully submitted:

"Resolved that the Hon. O. M. Roberts, President of this Convention, and to whom was intrusted the power to pledge the faith of the State in order that means might be provided in aid of the public safety, and who appointed as negotiator and disbursing officer E. B. Nichols, Esq., acted with becoming prudence, and is entitled to and hereby receives the approval of this Convention."

On motion of Mr. Campbell the rule was suspended, report and resolution taken up and adopted.

Mr. Campbell, from the committee on Commerce and Navigation, reported back the following resolution and recommended its adoption:

Resolved that the representatives of this State in the congress of the Confederate States of America be instructed to use their exertions to procure such provisions as will place the principal entrances into bays of Texas on terms of legal equality as to ports of entry and collection districts, with a common privilege of transit from any district through any other district for exportation of bonded goods, so that merchants may have opportunities without legal embarrassments and with best facilities to use the most eligible routes of transit.

On motion of Mr. Lea the rule was suspended the report and resolution taken up and adopted.

Mr. Scott, chairman of the committee on Credentials, made the following report:

The committee on Credentials to whom was referred the subject of membership of the delegate, Hon. J. L. L. McCall, of the district of the counties of Brown, Coryell, Hamilton, Comanche, Erath and Palo Pinto, have considered the same and from the certificates of election and statements of members of the Convention the committee are of the opinion that the said J. L. L. McCall has been legally elected a delegate to this Convention from said district, and that he is entitled to his privileges as such. All of which is respectfully submitted.

On motion of Mr. Norris the report was taken up, read and adopted.

Mr. Lea, chairman of the committee on Foreign Relations, submitted the following report:

To the Hon. O. M. Roberts, President, etc.

The Committee on Foreign Relations respectfully reports on the following resolution referred to its consideration,

“Resolution concerning the Cherokee, Chickasaw, Choctaw and Creek nations.

“Resolved that a most liberal policy towards the Cherokee, Chickasaw, Choctaw and Creek nations should be pursued by the government of the Confederate States of America, and by the government of Texas in co-operation; particularly that those nations should be aided in forming a confederacy among themselves; that they should be favored by an extension of territory westward; that they should be assured of their independence and permanency; and that the acquisition of perfect private titles to land should be promoted.”

These nations must soon be fixed in permanent relations of friendship or of hostility to Texas in particular and to the Confederate States in general, and they must be among the best of friends or the worst of foes. Their geographical position is peculiarly significant in connection with their institution of slavery. Surrounded by Texas, Arkansas, Missouri, Kansas and New Mexico, they are subject to conflicting influences, which have caused them much trouble, resulting in the expulsion of some abolitionists, and in the present ascendancy of the slave-holding sentiment. Existing circumstances are favorable for establishing that sentiment among them. They cannot be neutral, but must be decisively on the northern or on the southern side of the slavery question. If compelled to take the northern side, the consequent abolitionism would be attended by incalculable evils in its progress among them, while it would prepare them for most effective and injurious aggression on the institution of slavery within the Confederacy, especially as they would be instruments, in peace or war, of their northern allies. To them the result would be absolutely ruinous, inasmuch as their extermination would become a necessity imposed on the Confederacy. On the other hand if they should be on the southern side their security would be identified with that of the Confederacy both in peace and in war.

To promote such mutual security these nations should be magnified in importance and rendered as effective as possible. With such view the following suggestions are respectfully submitted.

First, the facility and efficiency of co-operation between them and the Confederacy would be greatly increased, if they would form an association among themselves to be represented by a common council.

Second, the strongest possible assurance of their independence and permanency naturally occurs as a foundation for their stability and consequence, and such assurance should consist rather of practical arrangements than of verbal professions.

Third, an extension of boundary westward for these nations, so as to give them on stipulated terms the use of more territory in that direction, would expand their views, enlarge their interests, and augment their importance, especially in connection with the most eligible localities for permanent defences on the northern frontier of Texas. For such defences across the Staked Plain the valley of the Canadian river is well understood to be not only the best line but the only one capable of thorough connection with other corresponding defences on the upper portions of the Pecos and of the Rio Grande; while the valley of the Rio Grande, from its mouth to the mouth of the Pecos, and the whole extent of the latter constitutes another most important transverse line for defences, so that these two lines, in connection with another across New Mexico along a valley lately explored and reported as the best in that country for habitation, westward from Santa Fe to and down the Rio Colorado to the Gulf of California, would complete a system.

The best valleys are found in suitable positions and present the only eligible localities for such a system, which is indispensable in the pending contest for territory and power between the pro-slavery and anti-slavery parties. The thorough establishment and maintenance of this system would leave but little to be done in any other way for complete protection of the Choctaw, Chickasaw, Creek and Cherokee nations, and of the whole interior of Texas, New Mexico and Arizona, and of all the proximate portions of Mexico, embracing half of the area of that nation. Such complete protection would eminently conduce in all of these countries to expansion of settlements, which would be able, thus sustained, to reciprocate the inestimable favor of perfect security by domestic supplies of every necessary for subsistence of the protecting forces, superseding the comparatively great expense and uncertainty of obtaining foreign or distant supplies, either entirely by land or by water and land. These will be an ultimate necessity, at any cost, to complete such a system, and the greatest expedition in doing it may be the most effective and economical mode of obtaining the necessary current security of all these countries against both savagism and abolitionism. The same forces which are immediately necessary to protect the present frontier could best give protection to the working forces that might be engaged in constructing the first fortifications, which should be commenced without delay as part of the means for early protection of existing settlements, and should be prosecuted with a determination to make each fortification capable of withstanding any assaillment until relief might come. Such mode of present and permanent defence might be the most economical almost from the beginning and it would soon become so, beyond all doubt, if vigorously prosecuted. But the decisive con-

sideration is that no other mode of defence may be available, at any reasonable cost, to accomplish the indispensable security.

One of the best movements towards the establishment of such a system of defenses would be to identify with it our coterminous neighbors on the North by giving them some use of part of the territory of this State, embracing a section of the line of defenses, but reserving all localities most suitable for the fortifications.

Fourth, while the extension of territory would somewhat favor a migrating spirit which is desirable for the early occupation of the line of the contemplated defenses, yet civilization, efficiency and general prosperity certainly would be promoted by encouraging and facilitating the acquisition of perfect private titles to lands.

The committee would not tax the Convention with unnecessary details, but it earnestly solicits thorough investigation.

As to the means of attaining such desirable objects it is further suggested that there is a manifest necessity for co-operation among the respective governments of the Confederacy and Texas, and the Choctaw, Chickasaw, Creek and Cherokee nations. The importance of expedition and certainty indicates the propriety of most prompt and effective action on the part of this State, and a commission of three persons from this State should be constantly employed in making preparation of these Indians by giving to them suitable presentations of the subject, and such commission would be the proper agency for the co-operation of this State in the necessary contract. With the same view to expedition and certainty, another commissioner bearing dispatches might be eminently useful in going without delay to the delegation of Texas in the congress at Montgomery, Alabama, thence to the governor of Mississippi, thence to the governor of Arkansas, and thence to the commission to said nations.

The Convention may respectfully request the necessary action of the government of the Confederacy without any doubt of its concurrence by a proper commission for making a treaty as proposed.

Contemplating a necessary cession by Texas of usufructuary interests in lands, it is deemed indispensable that this Convention should define the extent to which such cession may be made, considering the uninhabitable character of nearly all of the most northern part of Texas, and the exceptional character of the Canadian valley; also, that parts of this region have been appropriated to private rights; also, that the remainder of this region, not thus appropriated, would be of less value for any other than the indicated purposes; also, that the prices of other lands would be enhanced, and all other interests promoted: the following terms may be found acceptable and advantageous to all parties.

On the making of a treaty between the Confederate States of

America, as one party, and the Choctaw, Chickasaw, Creek and Cherokee nations, by the separate or associate action of these nations, as the other party, for permanent alliance and mutual protection against all enemies, the three commissioners who may be co-operating for this State, or any two of them, may convey to the government of the Confederate States of America all that territory of Texas situated north of the latitude thirty-five degrees north, except such parts as shall have been appropriated to private right at the date of the ordinance, in trust for the following purposes: to promote the common safety and prosperity of all the parties in interest by the following means; first, establishing and maintaining in the valley of the Canadian river, in this State, strong and permanent fortifications, suitable for defence against any enemy; for which the government of the Confederate States, within a reasonable time, may select, by well marked bounds, such parts of said territory as that government may desire for such fortifications, and their incidental lands, which selected parts shall be so held for such uses while the territory of this State shall constitute part of the Confederate States; second, giving to the citizens of the nations aforesaid the use of said ceded territory with the foregoing exceptions of private and public rights for hunting grounds and for settlements, which shall continue while said nations shall be in alliance and at peace with the Confederate States and while the territory of this State shall constitute part of said Confederacy.

It is contemplated, of course, that there shall be a permanent and thorough alliance between the government of the Confederacy and these nations as a necessary exception to the general rule against entangling alliances with foreign powers. The whole arrangement must look to the certainty that the "irrepressible conflict" will have to be thoroughly tested on the indicated line of fortifications, near to the thirty-fifth parallel of latitude, and statesmanship may find the greatest danger in partial concessions by the present administration of the government of the United States. The reasons for this opinion need not be stated in this report, which merely suggests some facts and considerations as sufficient to require the most prompt and energetic action.

For the co-operation of this State, the committee respectfully submits the draft of an ordinance and recommends its adoption.

An ordinance to aid in obtaining a treaty between the Confederate States of America and the Choctaw, Chickasaw, Creek and Cherokee nations.⁸⁰

The people of Texas assembled by delegates in Convention ordain as follows,

⁸⁰MS. in Miscellaneous Papers of the Secession Convention.

Section 1. On the making of a treaty between the Confederate States of America, as one party, and the Choctaw, Chickasaw, Creek and Cherokee nations, by the separate or associate action of these nations, as the other party, for permanent alliance and mutual protection against all enemies, the three Commissioners, who may be co-operating for this State, or any two of them, may convey to the government of the Confederate States of America all that territory of Texas situated north of the latitude of thirty-five degrees north, except such parts as shall have been appropriated to private right at the date of this ordinance, in trust for the following purposes: to promote the common safety and prosperity of all the parties in interest by the following means; first, establishing and maintaining in the valley of the Canadian river, within this State, strong and permanent fortifications, suitable for defence against any enemy; for which the government of the Confederate States, within a reasonable time, may select by well marked bounds such parts of said territory as that government may desire for such fortifications and their incidental lands; which selected parts shall be so held for such uses while the territory of this State shall constitute part of the Confederate States; second, giving to the citizens of the nations aforesaid the use of said ceded territory, with the foregoing exceptions of private and public rights, for hunting grounds and for settlements, which shall continue while said nations shall be in alliance and at peace with the Confederate States, and while the territory of this State shall constitute part of said Confederacy.

Section 2. James E. Harrison, Charles A. Hamilton and James Borland, who are now engaged under authority of this Convention as Commissioners to the Choctaw, Chickasaw, Creek, and Cherokee nations in making to them suitable presentations of said subject, shall be a Commission to continue such business until otherwise directed by the Governor of this State, or until the execution and ratification of a treaty as aforesaid; and thereon said Commission, by all or any two of its members, shall execute a conveyance as aforesaid; and if in the meantime a vacancy should occur in said Commission from death or resignation such vacancy may be filled by appointment of said Governor; but the survivors until joined by the successor so appointed and the Commission so constituted subsequently shall have power as aforesaid; and, if occasion require, such proceeding may be repeated with like powers. Moreover, the Commission shall appoint its Secretary, and have power to remove and appoint at pleasure; and any person so employed heretofore shall be recognized as Secretary during such employment. The Commission shall report currently and finally to the Governor of this State, and shall forward a copy of each report

to the delegation of this State in the Congress at Montgomery, Alabama.

Section 3. shall be a Commissioner to bear dispatches without delay to the delegation of Texas in the Congress at Montgomery, Alabama, thence to the Governor of Mississippi, thence to the Governor of Arkansas if that State shall have joined the Confederate States, and to this State's Commission to said nations, and finally to the Governor of this State.

Section 4. Actions of the respective governments of the Confederacy, Mississippi, and Arkansas on conditions as aforesaid, are respectfully and earnestly solicited, in co-operation with this State, according with the views indicated by the action of this Convention concerning the proposed alliance aforesaid; and that the President prepare and forward corresponding dispatches, to embrace this ordinance and the explanatory report of the Committee on Foreign Relations on the same subject.

Section 5. Each of the four Commissioners and the Secretary aforesaid shall be entitled to compensation at the following rates: for every day for actual service dollars, for every twenty miles of traveling from and to their respective homes, estimated by the most expeditious routes between designated points, and not including local departures within the nations aforesaid dollars, which shall be in full for such particulars, including all expenses.

“An ordinance to aid in obtaining a treaty between the Confederate States of America and the Choctaw, Chickasaw, Creek and Cherokee nations.[’]” Read 1st time.

On motion of Mr. Terry of Tarrant the rule was suspended, ordinance taken up, read 2nd time, and

On motion of Mr. Robertson of Washington laid on the table for the present.

Mr. Chilton introduced an ordinance to amend the constitution of the State of Texas, read 1st and 2nd times and referred to the committee on Constitution.

Mr. Brown offered the following resolution which was adopted.

“Resolved that the committee on Public Safety be instructed to hand over to Governor Clark all papers etc. in their possession, tendering to the State the services of individuals or companies, for his information, and to be preserved under his direction in the proper office.”

Mr. Flournoy offered the following resolution

“Resolved that the Convention authorize the chairman of the com-

mittee of Public Safety to pay C. A. Hopkins the sum of forty five dollars for riding express to Camp Colorado for said committee.['']
Adopted.

On motion of Mr. Jennings the Convention adjourned until 7 ½ o'clock, P. M.

Thursday, March 21, 1861, 7 ½ o'clock, P. M.

The Convention met. Roll called. Quorum present.

Mr. Campbell introduced the following resolution.

“Resolved that no new business shall be introduced, nor shall any speech exceed five minutes in duration, and that the Convention when it adjourns on Saturday night will adjourn *sine die*.['']

On motion of Mr. Campbell the rule was suspended and the resolution taken up for action.

Mr. Terry of Tarrant moved to lay the resolution on the table. Lost and

The resolution was adopted by the following vote.

Yeas, Mesrs. President, Allen, Anderson of Colorado, Baxter, Beazley, Beebe, Box, Black, Brahan, Broaddus, Brown, Campbell, Wm. Chambers, Chambers of Titus, Chisum, Dancy, Davenport, Maltby, McCall, McCraw, Miller, Montgomery, Moore of Burnet, Moore of Fayette, Nash of Dallas, Nash of Kaufman, Neel, Nicholson of Fannin, Norris, Portis, Prendergast, Preston, Rhome, Robertson of Washington, Runnels, Scott, Shuford, Scurry, Smith of Fannin, Stapp, Stell, Stewart of Anderson, Stewart of Gonzales, Taylor, Thompson, Throckmorton, Watkins and Wilcox of Denton, 67.

Nays, Mesrs. Armstrong, T. J. Chambers, Clark, Cleveland, Coke, Cook, Cox, Davidson, Dean, Devine, Dunham, Ford of Caldwell, Gray, Green, Hall, Hicks, Holland, Howard, Jennings, Lea, Lubbock, Mason, Palmer, Poag, Rainey, Rogers of Marion, Ross, Russell, Scarborough, Shepard, Smith of Bexar, Stockdale, Terry of Tarrant, Waller, Wharton, Wier, Wilcox of Bexar, Wiley, Wilson of Hunt, Wilson of Tyler and Word, 41.

The Convention then proceeded to the consideration of the “ordinance concerning citizenship and suffrage”

Mr. Chilton offered a substitute for the ordinance

On motion of Mr. Wiley, laid on the table.

Mr. Wiley moved to amend by striking out all between the word “State” in the 8th line down to the word “shall” in the 12th line

Mr. Jennings moved to lay the amendment on the table. Lost by the following vote.

Yeas, Mesrs. Adams, Allen, Beazley, Beebe, Black, Brahan, Wm. Chambers, T. J. Chambers, Chambers of Titus, Chilton, Clark, Coke, Cox, Davidson, Dean, Hardeman, Henry, Hicks, Hobby, Hogg, How-

ard, Hoyle, Hunt, Jennings, Jones, Koester, Lesueur, Lea, McCall, McCraw, Moore of Burnet, Nash of Dallas, Nash of Kaufman, Neel, Obenchain, Payne of Hopkins, Rhome, Ress, Russell, Scurry, Shepard, Stapp, Stewart of Anderson, Stewart of Gonzales, Terry of Tarrant, Throckmorton, Watkins, Wilcox of Denton, Wilson of Hunt, and Wilson of Tyler, 50.

Nays, Mesrs. President, Anderson of Colorado, Armstrong, Baxter, Box, Broaddus, Brown, Campbell, Chisum, Cleveland, Clopton, Cook, Dancy, Davenport, Devine, Dunham, Earley, Feeney, Ford of Caldwell, Graham of Rusk, Gray, Green, Hall, Hays, Henderson, Hill, Hooker, Ireland, Johnson of Lamar, Kelly, Lester, Locke, Lubbock, Mason, Maltby, Miller, Montgomery, Moore of Fayette, Nauendorf, Nicholson of Fannin, Norris, Palmer, Poag, Portis, Prendergast, Preston, Rainey, Robertson of Smith, Robertson of Washington, Rogers of Marion, Scarborough, Scott, Shuford, Smith of Bexar, Smith of Fannin, Stell, Stockdale, Taylor, Thompson, Waller, Wharton, Wier, Wilcox of Bexar, Wiley and Word, 65.

The amendment was then adopted.

On motion of Mr. Shepard the 2nd section was amended by inserting after the word "vote" in the 3rd line the following: "Indians not taxed, negroes and their descendants excepted."

On motion of Mr. Shepard the 2nd section was further amended by striking out the word "citizens," in the 1st line, and inserting the word "persons"

Mr. Dancy offered a substitute for the ordinance as amended.

On motion of Mr. Cleveland the previous question was ordered.

And the ordinance ordered to be engrossed.

Mr. Portis moved a suspension of the rule in order to place the ordinance on its 3rd reading. Carried.

Mr. Henderson moved to recommit the ordinance to the committee on Citizenship. Lost.

Mr. Kelly moved to adjourn until 9 o'clock tomorrow. Lost.

Mr. Chambers of Titus moved to adjourn until 2 o'clock, P. M. tomorrow. Lost.

On motion of Mr. Shepard the 1st section of the ordinance was amended so as to make the word "parent" read "parents"

On motion of Mr. Wharton the ordinance was recommitted to the committee on Citizenship with instructions to report to morrow evening.

On motion of Mr. Lubbock the Convention adjourned until 2 o'clock, P. M. on to morrow.