

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.

City of Austin Texas, Friday, March 22, 1861.

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

The Journal of yesterday was read and adopted.

Mr. Moore of Fayette offered the following resolution, which was adopted unanimously:

“Resolved that the Secretary, R. T. Brownrigg, be allowed out of any fund to be appropriated, or already appropriated for the payment of this Convention, the sum of five dollars per day, additional per diem pay, to the amount proposed to be allowed him by act of the legislature, provided his pay does not exceed in said legislative enactment the sum of five dollars per day, so that his per diem pay shall be ten dollars a day.[”]

The President submitted the following communication.

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

The undersigned hereby respectfully tenders to you, and through you to the Convention of which you are President, his resignation of the office of Sergeant at Arms of said Convention, to take effect instantler. His desire to enter the public service in another capacity has prompted him to this course.

On taking his leave he desires to express to the Convention his thanks for the honor which it has seen proper to confer upon him.

March 21st 1861.

B. F. Durham.

Mr. Devine, from the committee on Citizenship, reported a substitute for the ordinance to amend the 1st and 2nd Sections of Art. 3rd of the constitution of the State of Texas.

On motion of Mr. Portis the rule was suspended, the report taken up, the ordinance read a 2nd time and ordered to be engrossed.

On motion of Mr. Devine the rule was further suspended, the ordinance read a 3rd time and adopted.

Mr. Stewart of Gonzales from the committee on Enrollment reported as correctly and duly enrolled, and signed by the President and Secretary of the Convention, and deposited in the office of the Secretary of State

“An ordinance to dissolve the Union between the State of Texas and the other States under the compact styled ‘the Constitution of the United States of America;’[”] also

“An ordinance in relation to custom house officers and customs revenue;” also

“An ordinance to authorize the purchase of arms for the use of the State:[”] also

“An ordinance to provide for the enrollment, publication and preservation of the ordinances of the Convention;[’] also,

“An ordinance in relation to a Union of the State of Texas with the Confederate State of America;” also,

“An ordinance respecting public property;[’] also,

“An ordinance relating to the removal of the United States troops from the limits of the State of Texas;[’] also,

“An ordinance to secure the friendship and co-operation of the people of the Territories of Arizona and New Mexico, and also of the Choctaw, Chickasaw, Cherokee, Creek and Seminole nations of Indians:[’] also

“An ordinance pre-cribing the mode of election to be held for the rejection or ratification of the ordinance of separation of the State of Texas from the United States of America:[’] also

“An ordinance to amend the 1st section of the 7th Art. (general provisions) of the constitution of the State of Texas;[’] also

“An ordinance in furtherance of an ordinance to provide for the continuance of the existing State Government;[’] also

“An ordinance to provide for the continuance of the existing State Government:[’] also

“An ordinance concerning the arms, quartermaster’s, ordnance and commissary’s stores recently surrendered to the State of Texas by the stipulations between the commissioners of the State and brev. Maj. Genl. David E. Twiggs[’] and a

“Resolution to provide for the election of seven delegates to represent the State of Texas in a convention of the slave-holding States at Montgomery, Alabama;[’] and also

“An ordinance to provide in part for the military defense of the State of Texas.[’]”

The President submitted the following communication.

House of Representatives, March 21, 1861.

Hon. O. M. Roberts

Presdt. of the Convention.

I herewith, by order of the Speaker of the House of Representatives, transmit to the convention a resolution passed by the House to day calling for action by the convention

Yours etc.

W. L. Chalmers
Chf. Clk. H. of Reps.

House of Representatives March 21/61.

“Resolved that the convention be requested to pass an organic act authorizing the Legislature to borrow \$800,000.00, and that said body

incorporate in the ordinance a provision setting apart one-fifth of the annual revenues as a fund beyond legislative control for the payment of the principal and interest of the loan.['']

M. D. K. Taylor

Speaker of the H. of R.

Attest.

W. L. Chalmers, Chf. Clk. H. of R.

Mr. Davidson from the committee on Constitution made the following report:

The committee on the Constitution, to whom was referred an ordinance entitled an ordinance to define and punish certain offences against the State of Texas, beg leave to report that they have considered and approve the same; but, believing that the matters therein contained are peculiarly within the province of legislative enactment, and the State legislature being now in session, the committee respectfully recommend that said ordinance, with this report, be submitted to both houses of the legislature now in session, and their early attention thereto respectfully invited.

All of which is respectfully submitted.

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

Mr. Robertson of Smith, chairman of the committee on Public Safety, made a report.⁸¹

On motion of Mr. Terry of Tarrant 500 copies of the report were ordered to be printed.

The committee recommended the adoption of the following resolution

“Resolved that the chairman of the committee on Public Safety be required to pay over the balance in his hands, to wit: the sum of \$2,258.50 to Genl. E. B. Nichols, financial agent of the State of Texas, to be placed by him as a credit on his a/c against the State of Texas.”

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

Mr. Lea chairman of the committee on Foreign Relations made the following report.

“The committee on Foreign Relations has heretofore reported in part, and now begs leave to report finally on the resolution which was referred to its consideration, on the subjects of extradition from service and from justice. Considering the circumstances of this Convention and that the legislature is in session, the committee now deems it expedient to commend the subjects of the resolution, as to both fugi-

⁸¹Perhaps, Report No. 5, page 364.

tives from service and from justice, to the consideration of that honorable body, and a corresponding resolution is herewith reported.

“Resolved by the people of the State of Texas, assembled by delegates in Convention, that the policy of providing by state legislation for extradition from this State to any other State of the Confederate States of America and to any foreign country of fugitives from service or labor and of fugitives from justice be commended to the consideration of the honorable, the legislature of this State, in connection with its new political condition.”

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

On motion of Mr. Cleveland the ordinance amending the constitution of the State of Texas, so as to adapt the same to the present political condition and relations of said State was taken up and read.

On motion of Mr. Henderson the Convention went into a committee of the whole.

Mr. Henderson in the chair.

The committee rose, reported through its chairman the ordinance back to the Convention, with various amendments and recommended its adoption.

On motion of Mr. Chilton the ordinance was ordered to be engrossed and read a 3rd time.

Mr. Portis moved reconsideration of the vote just taken.

On motion of Mr. Montgomery, that motion was laid on the table.

Mr. Brown offered the following resolution which was adopted.

“Resolved that the Secretary of the Convention shall be allowed the usual compensation for such services (15 cts. pr. 100 words) for recording the journals of the Convention as required by ordinance to provide for the enrollment, publication and preservation of the ordinances of this convention; and in addition thereto he shall be required to index the same, for which he shall be allowed the same amount as was allowed to the chief clerk of the house of representatives for similar services: that the work shall be subject to the inspection of the comptroller of public accounts, and to be paid for as it progresses out of any fund which may be appropriated by the legislature or otherwise for the payment of this Convention[”]

On motion of Mr. Jones the rule was suspended and the “ordinance to amend the constitution of the State of Texas, so as to adapt the same to the political condition and relations of said State,” was taken up and read a 3rd time.

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

Friday, March 22/61. 7 ½ o'clock, P. M.

The Convention met. roll called. quorum present.

The ordinance amending the constitution of the State of Texas, so as to adapt the same to the present political condition and relations of said State, being under consideration when the Convention adjourned, was taken up and read.

On motion of Mr. Smith of Fannin, Sec. 11, Art. 3, was amended by inserting after the word "appropriated" in the 20th line the words "or set apart for."

Mr. Rainey offered the following amendment:

"That the 2nd Section of Article 10 of the constitution shall be so construed as to require the distribution of the whole amount of said fund annually for common school purposes, as contemplated by said section.["]

On motion of Mr. Henderson laid on the table.

Mr. Runnels offered the following amendment.

"The legislature shall not have the power to relieve any corporation from the payment of any money loaned by the State to such corporation, nor extend the time for the payment of the same, nor shall it relieve any corporation from the payment of any money either of principal or interest accruing to the State from such corporation for a valuable consideration."

Mr. Henderson moved the previous question upon the adoption of the ordinance. Lost by the following vote.

Yeas, Messrs. Broaddus, Coke, Dancy, Feeney, Henderson, Jones, Lester, Moore of Fayette, Palmer, Robertson of Washington, Russell and Stewart of Gonzales, 11.

Nays, Messrs. President, Adams, Allen, Anderson of Colorado, Armstrong, Bagby, Baxter, Batte, Beazley, Box, Black, Brown, Campbell, Wm. Chambers, T. J. Chambers, Chambers of Titus, Chilton, Chisum, Clark, Clayton, Cleveland, Clopton, Cox, Davenport, Davidson, Dean, Devine, Dunham, Edward, Earley, Fall, Ford of Caldwell, Graham of Rusk, Gray, Hall, Harrison, Hays, Henry, Hicks, Hill, Hogg, Holland, Hooker, Howard, Hoyle, Hunt, Ireland, Jennings, Kelly, Lesueur, Lea, Locke, Lubbock, Mason, McCraw, Miller, Montgomery, Moore of Burnet, Nash of Dallas, Nash of Kaufman, Nauendorf, Neel, Newsome, Nichols, Nicholson of Fannin, Norris, Obenchain, Payne of Hopkins, Poag, Portis, Prendergast, Preston, Rainey, Rhome, Robertson of Bell, Robertson of Smith, Rogers of Marion, Ross, Rugeley, Runnels, Scarborough, Scott, Shuford, Scurry, Shepard, Smith of Bexar, Smith of Fannin, Stell, Stewart of Anderson, Stockdale, Terry of Tarrant, Thompson, Todd, Waller, Walworth, Watkins, Wharton, Wier, Wilcox of Bexar, Wilcox of Denton, Wiley, Wilson of Hunt, Wilson of Tyler and Word, 104.

Mr. Scott moved to amend by adding at the end of the amendment the following: "Unless by a vote of four-fifths of both branches of the legislature."

On motion of Mr. Rainey laid on the table.

Mr. Todd offered the following amendment: "Provided such relief shall not extend beyond a period of six months, and that by a vote of two-thirds of each branch of the legislature."

Mr. Stell moved to lay the amendment on the table. Lost; and
The amendment was adopted.

Mr. Davidson offered the following amendment to come in before the word "provided," which was adopted: "Nor shall the legislature be allowed to release or in any manner change the security given by such corporation for the payment of such loans, nor shall they release any debt due to the State for University or pre-emption lands sold by the State, nor release or change any security given therefor."

Mr. Terry of Tarrant moved to amend by adding the following: "Nor shall the legislature relieve railroad companies from the forfeiture of the land bonus granted them by reason of the failure to finish and complete their sections of road."

On motion of Mr. Hall, laid on the table by the following vote:

Yeas, Mesrs. President, Adams, Anderson of Colorado, Armstrong, Bagby, Baxter, Batte, Beazley, Beebe, Box, Black, Brahan, Campbell, Wm. Chambers, Chambers of Titus, Chilton, Chisum, Clayton, Cleveland, Clopton, Davenport, Davidson, Dean, Devine, Edwards, Earley, Fall, Ganahl, Graham of Rusk, Hall, Harrison, Hicks, Hill, Hogg, Holland, Hooker, Howard, Hoyle, Hunt, Ireland, Jennings, Kelly, Lea, Lester, Locke, McCraw, Miller, Moore of Burnet, Montel, Nash of Dallas, Nash of Kaufman, Nauendorf, Neel, Newsome, Nicholson of Fannin, Norris, Obenchain, Poag, Prendergast, Preston, Rainey, Rhome, Rogers of Marion, Ross, Rugeley, Runnels, Scarborough, Scott, Scurry, Shepard, Smith of Fannin, Smith of Bexar, Stell, Stewart of Anderson, Thompson, Todd, Watkins, Wier, Wilcox of Bexar, Wilcox of Denton, Wilson of Hunt, Wilson of Tyler and Word, 80.

Nays, Mesrs. Allen, Broaddus, Brown, T. J. Chambers, Clark, Coke, Dancy, Dunham, Feeney, Ford of Caldwell, Gray, Henderson, Henry, Jones, Lesueur, Lubbock, Mason, Montgomery, Moore of Fayette, Palmer, Payne of Hopkins, Portis, Robertson of Bell, Robertson of Washington, Russell, Stewart of Gonzales, Stockdale, Terry of Tarrant, Waller, Wharton and Wiley, 31.

Mr. Stockdale moved the previous question. Lost by the following vote:

Yeas, Mesrs. President, Box, Broaddus, Brown, T. J. Chambers, Chambers of Titus, Clayton, Coke, Cox, Dancy, Dunham, Edwards,

Fall, Feeney, Graham of Rusk, Gray, Henderson, Henry, Hill, Jones, Kelly, Lesueur, Lester, Lubbock, Mason, Montgomery, Moore of Fayette, Palmer, Portis, Prendergast, Robertson of Washington, Rugeley, Russell, Shuford, Shepard, Stewart of Gonzales, Stockdale, Wharton, Wilcox of Denton and Word, 41.

Nays, Mesrs. Adams, Allen, Anderson of Colorado, Armstrong, Bagby, Baxter, Batte, Beazley, Beebe, Black, Brahan, Campbell, Wm. Chambers, Chilton, Chisum, Clarke, Clopton, Davidson, Dean, Devine, Earley, Ford of Caldwell, Hall, Harrison, Hays, Hicks, Hogg, Holland, Hooker, Howard, Hoyle, Hunt, Ireland, Jennings, Lea, Locke, McCraw, Miller, Moore of Burnet, Nash of Dallas, Nash of Kaufman, Nauendorf, Neel, Newsome, Nicholson of Fannin, Norris, Obenchain, Payne of Hopkins, Poag, Preston, Rainey, Rhome, Robertson of Bell, Rogers of Marion, Runnels, Scarborough, Scott, Scurry, Smith of Bexar, Smith of Fannin, Stell, Stewart of Anderson, Terry of Tarrant, Thompson, Todd, Waller, Watkins, Wier, Wilcox of Bexar, Wilson of Hunt and Wilson of Tyler, 71.

Mr. Ford of Caldwell moved to refer the amendment as amended to the committee on the Constitution, with instructions to report at 9 o'clock, to morrow. Carried.

Mr. Wharton moved to reconsider the vote just taken.

On motion of Mr. Dancy that motion was laid on the table

On motion of Mr. Hicks, the ordinance was amended by inserting at the end of the 5th line, in the 1st section, the words "previously given"

The ordinance was then adopted by the following vote:

Yeas, Mesrs. President, Adams, Allen, Anderson of Colorado, Bagby, Baxter, Beazley, Box, Black, Broaddus, Brown, Campbell, Wm. Chambers, T. J. Chambers, Chilton, Clark, Clayton, Cleveland, Coke, Cox, Dancy, Davidson, Dean, Dunham, Earley, Fall, Feeney, Ford of Caldwell, Graham of Rusk, Gray, Green, Hall, Harrison, Hays, Henderson, Hicks, Hill, Hogg, Holland, Hooker, Howard, Hoyle, Hunt, Ireland, Jennings, Jones, Kelly, Lea, Lester, Locke, Lubbock, Mason, McCraw, Miller, Montgomery, Moore of Burnet, Moore of Fayette, Montel, Nash of Dallas, Nash of Kaufman, Nauendorf, Neel, Newsome, Nicholson of Fannin, Norris, Obenchain, Palmer, Payne of Hopkins, Poag, Portis, Prendergast, Preston, Rainey, Robertson of Bell, Rhome, Robertson of Washington, Rogers of Marion, Ross, Rugeley, Runnels, Russell, Scarborough, Scott, Scurry, Shepard, Smith of Bexar, Smith of Fannin, Stewart of Anderson, Stewart of Gonzales, Stockdale, Terry of Tarrant, Thompson, Throckmorton, Todd, Waller, Watkins, Wharton, Wier, Wiley and Word, 99.

Nays, Mesrs. Beebe, Brahan, Devine, Henry, Shuford, Stell, Wilcox of Bexar and Wilson of Tyler, 8.

Mr. Scott moved a reconsideration of the vote taken on yesterday upon a resolution proposing to adjourn "sine die" on Saturday night, the 23rd inst.

On motion of Mr. Scott that motion was postponed until tomorrow.

Mr. Dancy moved to reconsider the vote adopting the ordinance amending the constitution of the State of Texas, so as to adapt the same to the present political condition and relations of said State.

Mr. Dancy moved to lay that motion on the table.

On motion of Mr. Henderson the Convention adjourned until 8 o'clock, A. M. on tomorrow.

City of Austin Texas, Saturday, March 23rd 1861.

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

The Journal of yesterday was read and adopted.

On motion of Mr. Ireland the rules were suspended and the Convention proceeded to the consideration of the permanent constitution of the Confederate States of America.

Mr. Cleveland introduced the following ordinance

"An ordinance ratifying the constitution of the Confederate States of America."

Sec. 1. Be it ordained by the people of the State of Texas in convention assembled that the State of Texas hereby ratifies the constitution of the Confederate States of America, adopted on the 11th day of March 1861, by the congress of the Confederate States of America.

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

Mr. Lea offered the following as a substitute.

An ordinance to ratify the constitution of the Confederate States of America.

The people of the State of Texas, assembled by delegates in convention, ordain that the constitution of the Confederate States of America, adopted March 11th, 1861, by the congress of the provisional government of said Confederacy for the permanent government thereof, subject to ratification by the several States, is hereby ratified, accepted and adopted, for the purposes therein expressed, on the part of this State acting in its sovereign and independent character.

On motion of Mr. Henderson the Convention went into committee of the whole on the ordinance: Mr. Henderson in the chair.

The committee rose, reported, through its chairman, the substitute offered by Mr. Lea, as a substitute for the ordinance, recommended