

# 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](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).

## APPENDIX I.

ADDRESS TO THE PEOPLE OF TEXAS.<sup>1</sup>

Austin, March 30th, 1861.

*Fellow Citizens:*

The undersigned are a committee of the Convention to prepare a brief exposition of its proceedings, with the reasons therefor, as an address to the people for general information.

The political crisis arose from an irreconcilable diversity of opinion between the Northern and Southern portions of the United States of America as to relative rights. Separation of Southern from Northern States was the leading object of the popular movement, with a view to a consequent confederacy of seceded States, as the best means if not the only mode of securing essential and inalienable rights. In this State, the public mind was exercised by the question of our final separation from all other States; but the idea of such a result had no favor; and the apprehension of it was used as an argument against secession, while the objection was met by the assured policy of a seceded confederacy. Hence, with rare exceptions, the advocates and opponents of immediate and separate secession of this State commenced and prosecuted the canvass, differing on the leading proposition of

<sup>1</sup>On March 23rd, the Convention adopted following resolution offered by Mr. Lea: "Resolved that a committee of three be appointed by the President of this Convention to prepare a brief exposition of its proceedings with reasons therefor as an address to the people for general information; that 10,000 copies be published for circulation by members of the Convention; that the permanent constitution of the Confederate States of America be published as a part of said address; and that one-fifth of the whole number be in the German and Spanish languages, half in each language."

Messrs. Lea, Brown and Stell were appointed the committee.

The address was not published till after the adjournment of the Convention. It bears date of March 30th, but was not printed in the *State Gazette*, whose office had the contract for public printing, until April 13th, about which time, too, the pamphlet edition appeared, entitled, "The Constitution of the State of Texas, as amended in 1861. The Constitution of the Confederate States of America. The Ordinances of the Texas Convention; and an Address to the People of Texas. Printed by order of the Convention and the Senate."

It will be noticed that more is included in the pamphlet than the instructions of the Convention called for. In a note, on page 13 of the pamphlet, Mr. Brown, who superintended the printing, explains this; he says, "the State Senate subsequently [to the adjournment of the Convention] directed that the Ordinances of the Convention and the State Constitution, as amended, should be printed therewith."

The address is appended to the Journal because of the reasons it embodied, which the committee was instructed to set forth, for the proceedings of the Convention.

secession but uniting in opinion that consummated secession should result in confederation as an incident. So the decisive issue was on secession.

Early in the canvass, public sentiment was entitled to prompt facility for its authoritative expression, and a call of the legislature was earnestly claimed as the ordinary means. It is needless to recite any of the known particulars of the executive opposition to the secession movement; but the substance of that opposition must be always in mind in order to understand the popular action of this State. As a remedy against executive dictation in our State government and against a ruinous administration of the federal government, the people had but one mode of action; that was prescribed by, and for themselves, in the declaration of rights in our State constitution, as follows:

Section 1. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and they have at all times the inalienable right to alter, reform or abolish their form of government in such manner as they may think expedient.

To attain the objects, and under the necessity before stated, the people rose in their sovereignty and constituted a Convention to be the representation and instrumentality of their will. At the election of delegates, although held under utmost disadvantages, the aggregate of votes for secession candidates, according to the best information, was over thirty-two thousand. The proceeding was extraordinary and returns were irregular and incomplete, of necessity, from such an election; but reliable information showed for secession over 32,000, more than half of the largest poll ever given at an election in this State. In opposition there were comparatively few votes. And many other circumstances concurred in establishing the certainty that the secession sentiment was far in the ascendency.

Thus elected and for such purposes the delegates assembled in Convention at Austin, on the twenty-eighth of January. Although at the time of the election, South Carolina was the only State that had completed secession and many persons were deterred from voting by apprehension that she might not be sufficiently imitated, yet the secession voters expected co-operation. Before the meeting of the Convention, Florida, Georgia, Alabama, Mississippi and Louisiana had seceded, and Texas was the only exception among all the Gulf States. Encouraged by such examples, Texas felt sustained in her convictions of the propriety of secession before the commencement of the Abolition administration of the general government. Admonished by the same circumstances of her peculiar dangers to arise out of, even, delay in co-operation with those States, Texas had just fears as well

as natural sympathies to prompt the earliest practicable association with the seceded States. They had appointed delegates to meet at Montgomery, Alabama, on the fourth of February, to form a provisional government, as a first necessity, and afterwards to prepare and submit a constitution for the government of a permanent confederacy. It would be out of place and time in this address to recite the causes justifying secession. They have been heretofore published by the Convention.<sup>2</sup> But they must ever be most prominent in considering the current of causes and effects.

Under such circumstances, the Convention was not recreant to its mission. On the first day of February, the fourth after its meeting, the Convention by a vote of one hundred and sixty-six affirmatives to eight negatives adopted an ordinance for withdrawing this State from the Union, to take effect on the second of March, unless rejected by the people at an election to be held on the twenty-third of February. The legislature and the executive had previously recognized the Convention as a representation of the people and were in a formal attendance, on invitation, at the adoption of the ordinance. Such recognition was gratifying to the public in general and relieved some persons from doubts of the legality of the Convention; but it always claimed, by express avowals, to have its authority and instructions directly from the people. The ordinance of separation might have been made immediately final, if necessity had required it; but there was time before the fourth of March to obtain a more formal and unquestionable expression of public sentiment, and the anniversary of Texas independence, the second of March, was selected as the day of final separation, subject to express rejection at a general election for which provision was made. While that election was to be decisive on the question of separation, it was in its nature to be conclusive on the question of confederation, unless some unexpected event should occur to require another direct and formal expression of the public will. If the Convention could have trifled with itself, it had too much respect for the intelligence of its constituents to suppose that they intended to have such an agency constituted simply to prepare and propose a secession ordinance for their ratification or rejection, and then to retire although the public necessities which caused the convention demanded its continuance for immediate and essential action. Even willing legislative and executive functionaries could not do what was necessary, in many respects, for want of authority; and another convention could not be constituted in time for emergencies which did not admit of delay. The Convention, as the authorized

<sup>2</sup>See pages 61-65 above.

agency of intelligent public will, proceeded to do whatever the occasion required, but no more. The ordinance of secession involved the public safety which could not be secured by means of the ordinary government, and a committee of safety was constituted with adequate powers to provide means and to control the U. S. military force, with its incidents, within this State, and to substitute indispensable temporary protection. Further, to secure the public safety and to obtain other inestimable advantages from immediate connection with the States which had finally seceded and were then in convention at Montgomery, Alabama, delegates to that convention were elected, to be advisory as to the interests of this State until the consummation of its separation, and then to participate on terms of equality in administration of a provisional government and in preparation of a constitution for a permanent confederacy. Moreover, to promote security and other manifest benefits from the contemplated confederacy, commissioners were delegated to Arizona and New Mexico to procure their co-operation, and other commissioners were sent to the Choctaw, Chickasaw, Creek and Cherokee nations to aid in preparing them for alliance with such confederacy. Also other corresponding measures of minor importance were adopted. Having made such arrangements for parts of the great popular enterprise, the Convention adjourned on the fifth of February to meet again on the second of March, as a continued agency to execute the public will.

On the day for ratification or rejection of the ordinance for separation the whole subject was before the voters: the state of the general crisis; what the Convention itself had done; what the committee of safety was doing during the recess; what commissioners were to do; and what was the incipient relation and prospect of permanent connection of this State with the Confederacy. The Convention acted and proposed to act as the authorized agent of the people, and they had an opportunity to affirm or disaffirm such agency by ratifying or rejecting its principal act. The result of the election on the secession ordinance shows more than three in favor of it to one against it, and an aggregate of over sixty thousand votes—some additions to the regular announcements being made by subsequent official returns—and the returns of one hundred and twenty counties being included, while only three small counties are not included, of all that have been organized.

The Convention reassembled on the second of March and soon found that the election had reindorsed it as the public agency for the political reformation which was in progress.

During the recess the committee of safety, by its agents, with the spontaneous and patriotic co-operation of citizen soldiery had made ar-

rangements for removing from Texas by the safe coast route the whole military force within Texas pertaining to the Union, and for the surrender of all property and possessions (with small, honorary exceptions,) held in Texas by the federal government. The execution of such arrangements has progressed nearly to completion, and so as to leave no doubt of full accomplishment at an early date, without any violent collision, although the just apprehension of it caused indispensable preparation. The troops thus called into the field, and some others have supplied the place of those sent away, as well as circumstances would allow, and will continue to do so until superseded by regular forces. Details of the proceedings of the committee of safety can not be here admitted, but they are otherwise published, and they do honor to the committee and their agents while sustaining the Convention for constituting such power as a temporary necessity.

The Convention found that the constitution for the provisional government of the Confederacy was well adapted to the emergency, without departing from any essential principle of the Union constitution, and the measures of the provisional government appeared to be well adapted to circumstances. The selection of persons for the presidency and vice-presidency seemed to be entirely appropriate. The Convention had no hesitation in expressing a formal approval of the constitution and administration of the provisional government, which was not to continue longer than one year and was to be superseded within that time by a permanent government.

It would be out of place here to state what the provisional government has done, unless in connection with some action of the Convention. But is proper to say that the measures of that government have superseded the action of this State on postal affairs and on revenue by customs. Under that temporary government, also, judicial jurisdiction is similar to that of the federal government, but with one judge to each State. As to military and naval affairs, the provisional government has provided so that the Convention did not deem its action necessary, except as before stated, and to raise one regiment of mounted volunteers to serve twelve months, unless sooner discharged. That government is raising in Texas another similar regiment and will doubtless accept the former. A law of the last session of the present legislature provided another mode of defense by small companies of citizens as minute men, along the whole line of frontier from the Rio Grande to Red River. All these forces are considered more available for protection against Indians and other marauders than any previous forces in Texas since its annexation to the Union government. But there is a deficiency in artillery, infantry and engineering forces for which the provisional government is making provision. So there

is a better prospect and assurance of protection than has been heretofore given with reference to the interior frontier, and the change of circumstances must superinduce better preparation for defence along the coast. Moreover, the legislature is in session and has power to provide further against insurrections or invasions, if occasion should require.

Secession from the Union and connection with the Confederacy caused a necessity for a change in the State constitution, so that the oath of office should have "The Confederate States of America" substituted for "The United States of America." One ordinance made this change, and another prescribed the times and modes for taking the oath by all present and future officers of the State, declaring a vacancy in case of any failure to take the oath as required. The manner of requirement followed the examples of other States, where willing officials were not captious. The lieutenant-governor, commissioner of the general land office, (who was opposed to secession,) comptroller, state treasurer, attorney general, all of the supreme and district judges who were in Austin, every member of the State senate, every member of the house of representatives, except one, and many county officers who were in Austin promptly took the oath prescribed by the amended constitution. Of those who thus took the oath a considerable portion had opposed secession. But the governor and secretary of state declined to take the oath when notified according to the ordinance therefor. Thereupon the Convention by another ordinance declared as consequences that each office was vacant and that the executive powers devolved on the lieutenant-governor. The original State constitution provided that the lieutenant-governor should so act in case of any vacancy in the office of governor. And so the lieutenant-governor is performing the executive duties without consent but without resistance by the late governor, who still claims to be legally in office. In this and other instances he has "sought out many inventions" to array the functionaries of the State government against the Convention, which has been obliged to control such official opposition in pursuing the even tenor of the way to render effectual the known public desire for thorough work, to give early security, peace and quietude. The will of the late governor has been against that of the people as to their political destiny, and the one or the other had to yield. The people could not.

At length the "Constitution of the Confederate States of America," for the permanent government was received. The Convention had previously declared in its ordinance directing the delegates from this State to participate in forming such a constitution that it should "not become obligatory on this State till approved by the people in such

Property of Tarlton Law Library, Jamail Center for Legal Research, The University of Texas School of Law

way as should be determined upon." That the people might approve by the existing Convention, or that it might provide for another popular election, remained for determination on the arrival of the constitution. Had it contained any unexpected principle, so as to make a new case in substance on which the public mind had not been ascertained, the importance of prompt ratification could have yielded to the paramount necessity for another election. But no such necessity appeared in any part of the constitution, which did not depart from the general expectation unless it did so in the excellence of its conformity with the best hope of the people. Former elections with attending circumstances left no doubt of the public wish and the corresponding authority of the Convention for immediate and final ratification of the of the constitution. If the power existed the expediency of such a course was commanding for various reasons. The people could not desire to be troubled by another general election without necessity, and they felt the importance of early relief from strife within this State as to its political position. Prompt certainty, of course, would justify the Confederate government in adopting more expensive, effective and permanent measures for the defence of this State, especially its desolated frontier, than could be expected before a finality. In connection with the defence of Texas, the appearance of uncertainty as to its political position would embarrass the pending arrangements for an alliance between the Confederacy, as one party, and the Choctaw, Chickasaw, Creek and Cherokee nations, in concert, as the other party. Such hesitation on the part of Texas would tend to produce similar hesitation in Arizona and New Mexico as to their connection with the Confederacy. Such procrastination would operate unfavorably on the neighboring government and people of Mexico, as to desirable negotiations and intercourse. Any appearance of doubt that Texas was to be sustained by connection with the Confederacy would stimulate marauding and incendiary efforts, while it would be fuel for faction. During such suspense the postal arrangements of Texas would be embarrassed and retarded; and so as to the judiciary and revenue. Delay would prostrate trade and commerce. A final connection of this State with the Confederacy, without delay, would give to it additional strength, and promote early success in its negotiations as to peace with the old government—as to the procurement of money—as to recognition by other nations—and as to commercial relations. Moreover, the prompt and permanent connection of Texas with the Confederacy could not fail to have a favorable influence on the border States, as inducement for them to abandon their equivocal positions and connect themselves with their more Southern sisters and natural associations. A like influence



would materially affect immigration from those States, conducing to the advantage of the immigrants and to the growth of this State. In view of such considerations, the Convention promptly and finally, on the twenty-third of March, ratified, accepted and adopted the constitution by a vote of one hundred and twenty-eight affirmatives, to two negatives. A copy of this guaranty for our future liberty is annexed to this address as part of it, so that the public may have a connected view of the progress and result of the recent wonderful political enterprise of the people of this State.

The people will see that the constitution of the Confederate States of America is copied almost entirely from the constitution of the United States. The few changes made are admitted by all to be improvements. Let every man compare the new with the old and see for himself that we still cling to the old constitution made by our fathers.

But the connection of Texas with the Confederacy involved a necessity for modifications of our State constitution, so that it should be in conformity with our new relation, and another consequent necessity required that the legislature should have some extension of power to raise funds within bounds and on terms that would be safe and beneficial to the State. Such modifications were made. The Convention realized that other changes of the State constitution were desirable, but its amendments were confined to particulars which were considered to be necessary parts of the great political change.

Many other interesting incidents might be stated, but they would cause this address to be tedious, and the foregoing outline may enable the people to take a connected and orderly view of the substance of the proceedings by which there has been accomplished a political reformation which has no parallel, considering the opposing circumstances and the triumphant success. The people of Texas have asserted their sovereignty. They have dissolved their connection with a government whose administrative power had been augmented and directed so that it would procure their ruin. They have connected themselves with another government whose foundations give the most hopeful assurance of permanent constitutional liberty. By two general elections and two meetings of the Convention, in a State of vast area, within seventy-eight days, the whole change of government has been completed. The popular demonstrations have overcome thousands of the regular army of the old government and an opposing minority of citizens, without bloodshed. Every citizen, if he will, may look with patriotic pride on the consummated reformation whose progress caused no vital interruption in public or private business and whose result is an assurance of the best security and enjoyment which human government can afford. When permanently successful, such a

remodeling of government, embracing our complicated system of reserved State rights and delegated Confederate authority, may give a better guaranty than all history that our people at least are capable of instituting and maintaining free government.

The Convention having finished its work in harmony with the legislature confides in that body and the present executive and the judiciary to conduct the State government according to the will and interests of their constituents.

The Convention congratulates the people on the prompt and thorough accomplishment of their wishes. But some citizens are not satisfied: a large portion of those who did not favor secession have subsequently acquiesced and many of them have become identified with it by candid co-operation. But in various parts of the State there are some persons who continue pertinacious in their opposition. It is not the province of this address to comment on their conduct. Their rights as citizens are not questioned, but their *duties* are equally unquestionable; and it is proper merely to state their position. Their platform denounces the Convention as an usurpation, and tolerates it only as a partial instrument of the legislature in submitting the ordinance for secession to a popular election, and declares all its other acts to be without authority and void, notwithstanding 46,000 voters endorsed it. Their platform assumes the superiority of the ordinary government over the sovereignty of the people as represented by the Convention, and repudiates its acts with singular inconsistency, inasmuch as the legislature itself in various modes has recognized and approved the Convention and co-operated with it as a lawful representation of the people, even asking and obtaining from it, for the public good, a certain extension of legislative power. Their platform claims a pretended right to use force against the Convention and its acts, but for the present defers the exercise of such monstrous power. Time must show whether it is to be asserted by violent action, under other circumstances. Their platform appeals to the people against the alleged usurpations by encouraging reaction and disorganization, thereby encouraging discord and strife; to which ends, among other means, it stimulates jealousies and hostilities among various classes of the community.

In any practical view of the great crisis, there are but two positions for citizens to take—either with the combined policy of separation from the old Union and connection with the Confederate States, or with the contrary. The former is an existing reality, the latter is in opposition to the constituted authority and the public will of Texas. Minor considerations of form must yield to substance. The

sovereign will of the people must be sustained. The Convention would fain hope for speedy and universal harmony in devoted patriotism.

The coming elections of this year, for both State and Confederate officers, will deserve peculiar attention by the people so that they may have the best possible guarantees for accomplishing the great objects of our political reformation.

It has not been deemed necessary to speak particularly of the question of peace or war. The Convention acted with a view to either alternative. The people will be gratified to know that the members of the Convention have acted with such mutual courtesy that there has not been a single instance of personality in its deliberations.

Having finished its business about noon of the 25th March, the Convention, in an orderly manner, adjourned *sine die*. Its proceedings affecting military movements were necessarily secret for the moment, but the injunction of secrecy was removed almost immediately, and the world knows now every transaction. The Convention will be tried by its works, and it feels no apprehension of the freemen of Texas. Invoking the blessings of Heaven on whatever has been properly done by the Convention, its members, except the few who have been called to public stations in the Confederacy, return to their ordinary pursuits in society to share for weal or woe what has been done in common with their fellow-citizens.

For the Convention, by its committee,

Pryor Lea, of Goliad,

John Henry Brown, of Bell,

John D. Stell, of Leon.