

TEXAS | **Tarlton Law Library**
LAW | Jamail Center for Legal Research

Citation: *Journal of the Texas State Convention: Assembled at Austin, Feb. 7, 1866. Adjourned April 2, 1866. [Austin, TX.]: Printed at the Southern Intelligencer Office, 1866.*

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.

Read first and second times, and referred to committee on Condition of the State.

Mr. Wilson also offered the following :

Resolved, That the Committee on Education be requested to direct their attention to Section 2, Art. X, of the Constitution, and determine as to whether the same should not be stricken out, or amended, and report their action in the matter.

Pending which, on motion, the House adjourned until 10 o'clock to-morrow morning.

FRIDAY, February 16th, 1866.

Convention met pursuant to adjournment ; roll called ; quorum present ; journal of yesterday read and adopted.

Communication from Hon. F. M. White, Commissioner of General Land Office, was received and read, and on motion of Mr. Jones of Bexar was referred to the Committees on Education and Public Lands, with instructions to print five hundred copies.

Reports of Committees being in order, Mr. Hancock, Chairman of Committee on General Provisions of Constitution, made the following report :

COMMITTEE ROOM, February 15th, 1866.

Hon. J. W. Throckmorton, President of Convention :

The Committee on General Provisions of Constitution, to whom was referred a resolution with reference to the intermarrying of white and African races, have had the same under consideration, and unanimously direct me to report the same back to the Convention, with the suggestion that this is a subject within legislative cognizance, and that the laws now in force prohibit such intermarriages, and that it is not apprehended that the moral sentiment of the country will allow a repeal of these laws.

Report received, to come up in order.

Mr. Mabry offered the following resolution :

Resolved, That a Committee on Apportionment be raised by the President, whose duty it shall be to apportion the State in Congressional Districts, and Districts for the members of both branches of the State Legislature.

Laid over one day for consideration.

Mr. Lindsey offered a resolution requiring the Committee on Indian Affairs to inquire of Gov. Hamilton, and the military authorities, what steps have been taken for affording immediate protection to the frontier, and if none can be afforded immedi-

ately by the General Government, to inquire into the propriety of raising a voluntary force for said protection.

Adopted.

Mr. Flanagan offered the following resolution :

Resolved, That the Committee on General Provisions of the Constitution be requested to direct their attention to Section 30, Article VII, of the Constitution, and determine as to the propriety of striking out said section.

Adopted.

Mr. Wilson offered the following resolution :

Resolved, That the Committee on the Legislative Department be requested to direct their attention to Section 27, Article III, of the Constitution, and report upon the propriety of striking out said section.

Referred to said Committee.

Mr. Saufley offered the following resolution :

Resolved, That this Convention pass no measures for the delay or postponement of the collection of debts, but authorize the first Legislature to pass such relief measures as the people, through their representatives, in their wisdom, think the exigencies of the times demand. And that the Committee on the Legislative Department be required to draft such ordinance for the action of this Convention.

Laid over, to come up in order.

Mr. Halbert offered the following resolution :

Resolved, That the Committee on the Executive Department be instructed to inquire into the propriety of so amending the Constitution of the State of Texas as to extend the term of office of Sheriff, and other county officers, to four years, and report by ordinance or otherwise.

Adopted.

Mr. Walker offered the following :

Be it ordained, That the right heretofore claimed by the State of Texas, and declared in the ordinance of secession, to secede from the Federal Union, has been decided, by the late war, not to exist. It is therefore renounced by this State, and the ordinance aforesaid is repealed hereby.

Read first time.

Mr. Stuart offered a preamble and resolution asking the aid of the General Government in constructing a south branch to the Union Pacific railroad, through the Indian Territory.

Read first and second times, and referred to the Committee on Internal Improvements.

Mr. Bradshaw introduced an ordinance providing for the

appointing of Supreme and District Judges, and fixing their terms of office.

Read first and second times, and referred to Judiciary Committee.

Mr. Armstrong offered the following amendment to Section 5 of Article III of the Constitution :

That the members of the House of Representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of the general election ; and the sessions of the Legislature shall be biennial, and not to exceed sixty days in length, at such times as shall be prescribed by law.

Also, offered amendments to Section 24 of Article III of the Constitution, providing for the election of Speakers of the Senate and House of Representatives, and that no member of either branch of the Legislature shall be eligible to the offices of United States Senator, or Judge of the Supreme or District Courts, during the term for which he may have been elected a Senator or Representative.

Both amendments were referred to the Committee on Legislative Department.

Mr. Saunders offered the following resolution :

Resolved, That the Comptroller of the State be required to furnish this Convention with such data as may be in his possession as to the amount and character of funds paid for school lands during the existence of the rebellion.

Laid over, to come up in order.

Mr. Burke offered a resolution instructing the Committee on Judiciary to inquire into the propriety of amending the Constitution, as regards the election and salaries of the Supreme and District Judges.

Referred to Committee on Judiciary.

Mr. Mabry's resolution, apportioning the State, was taken up, and that part referring to the districts for the members of both branches of the Legislature was withdrawn.

The resolution was referred to the Committee on General Provisions of the Constitution.

Mr. Henderson moved to proceed to the orders of the day ; but on motion of Mr. Frazier, the rules were suspended, when Mr. Frazier offered the following resolution :

Resolved, That the present relations of the inhabitants of Texas to the Government of the United States are, and of right should be, governed by the laws of war, the laws of nations, and the practice of nations since the dawn of modern civilization, and that by these the Government of the United States is

restrained, and that to these we must yield, and that these laws and practices require no more of us, as a conquered people, than to accept the government of the conqueror, and that hence it is not necessary to repeal, annul, or declare null and void, the ordinance of secession, the surrender of the South having settled the question.

Read first and second times, and referred to Committee on Condition of State.

The Convention then proceeded to the consideration of orders of the day.

Mr. Flanagan's resolution, as to amending 22d Section of Article VI of the Constitution, so as to protect homesteads from forced sales, and to protect the alienation of the same, unless by consent of the wife, was read, and referred to the Judiciary Committee.

Report of Committee on Privileges and Elections, in relation to members who come within the exceptions of the Amnesty Proclamation, taken up, and read.

Mr. Davis of Webb moved to lay the report on the table.

Withdrawn.

Mr. Taylor of Fannin moved to postpone the action of the House for six days, and to request Gov. Hamilton to endeavor to procure the pardons of the delegates who come under the exceptions of the President's Amnesty Proclamation.

Withdrawn.

Mr. Shields moved to amend report of Committee, by changing so as to read, "that the President be requested to act on the applications."

Carried.

Mr. Shuford offered the following additional resolution to the resolution in the report:

Resolved, That pending the communication between the President of the United States and the Governor, in relation to the ineligibility of the members indicated in the report, that they vacate their seats.

On motion of Mr. Latimer, the House postponed the action on the report of the Committee until 11 o'clock on Monday next, pending Mr. Shuford's amendment.

The report of Mr. Roberts, chairman of the special committee, prescribing the action of the Convention, was taken up.

Mr. Dickson moved to lay the majority report on the table.

Yeas and Nays being called for, resulted thus:

Yeas—Messrs. President. Allen. Anderson. Ball. Bryan.

Clements, Dalrymple, Davis of Webb, Degener, Dickson, Drake, Frazier, Gentry, Giddings, Hart, Hurt, Johnson of Tarrant, Johnson of Titus, Jones of Bastrop, Lane, Lindsey, Middleton, Murchison, Norris, Parker, Parsons, Paschal, Perry, Phillips, Porter, Randolph, Record, Reeves, Richardson, Runnels, Saufley, Shepard, Shields, Shuford, Smith of Lamar, Smyth of Newton, Spaight, Stuart, Taylor of Houston, Thomas of Cameron, Thomas of Grimes, Thompson, Tyus, Walker, Waul, Whitfield and Wilson—57.

Nays—Messrs. Armstrong, Beall, Bengé, Davis of Cherokee, Flanagan, Gurley, Halbert, Hancock, Henderson, Hunt, Ireland, Jones of Bexar, Latimer, Ledbetter, Mabry, McCormack, Nelson, Norton, Ranek, Roberts, Saunders, Selman, Slaughter, Smith of Colorado, Taylor of Fannin, Varnell, Woods and Young—28.

Laid on the table.

Mr. Johnson of Tarrant offered the following resolution as a substitute for the resolution reported by the minority of the committee :

Resolved, That the Convention re-establish the Constitution of the State of Texas as it stood on the 31st of January, 1861, with such amendments to the same, *only*, as may be necessary to conform to the Constitution of the United States, and such ordinances as may be requisite to fully organize a State Government, and enable the State to resume her federal relations in the Union. *Provided*, that the foregoing resolution, after the re-establishment of the Constitution as it stood on the 31st of January, 1861, be construed to limit the action of the Convention as follows :

1st. To the subject of the ordinance of secession, passed March 2d, 1861.

2d. To an ordinance providing for the election of State Officers, and the organization of the State Government.

3d. An ordinance in relation to the public debt.

4th. The status of the negro.

All the foregoing measures shall be considered final, when adopted by the Convention, without reference to the people ; after which such amendments to the Constitution, and ordinances, shall be acted upon, as the Convention may determine to adopt, which amendments and ordinances shall be submitted to the people, for their ratification or rejection.

Mr. Flanagan moved to lay the whole matter on the table.

On motion of Mr. Dickson, a division of the question was ordered.

D

First question being on laying Mr. Johnson's substitute on the table, the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Armstrong, Ball, Bradshaw, Bumpass, Clements, Dalrymple, Davis of Webb, Davis of Cherokee, Degener, Dickson, Drake, Flanagan, Frazier, Giddings, Gurley, Halbert, Hancock, Hart, Henderson, Hunt, Hurt, Johnson of Titus, Jones of Bexar, Lane, Latimer, Ledbetter, McCormack, Middleton, Murchison, Nelson, Norton, Norris, Parker, Parsons, Phillips, Porter, Ranck, Randolph, Reeves, Roberts, Saunders, Saufley, Selman, Shuford, Slaughter, Smith of Colorado, Smith of Lamar, Thomas of Grimes, Walker, Wilson and Young—51.

Nays—Messrs. President, Allen, Anderson, Beall, Benge, Bryan, Burke, Camp of Goliad, Camp of Upshur, Gentry, Johnson of Tarrant, Jones of Bastrop, Lindsey, Mabry, Paschal, Perry, Record, Shepard, Shields, Smyth of Newton, Spaight, Stuart, Taylor of Houston, Thomas of Cameron, Thompson, Tyus, Varnell, Whitfield and Woods—29.

So the substitute was laid on the table.

The question recurring on laying the resolution reported by the minority of the committee on the table, the Yeas and Nays being called for, resulted thus :

Yeas—Messrs. Armstrong, Ball, Beall, Davis of Cherokee, Drake, Flanagan, Frazier, Gurley, Halbert, Hancock, Hart, Henderson, Hunt, Jones of Bexar, Lane, Latimer, Ledbetter, Mabry, McCormack, Nelson, Norton, Norris, Paschal, Phillips, Porter, Ranck, Roberts, Saunders, Saufley, Selman, Shuford, Smith of Colorado, Smith of Lamar, Varnell and Young—35.

Nays—Messrs. President, Allen, Anderson, Benge, Bryan, Bradshaw, Bumpass, Burke, Camp of Goliad, Camp of Upshur, Clements, Dalrymple, Davis of Webb, Degener, Dickson, Gentry, Giddings, Hurt, Johnson of Tarrant, Johnson of Titus, Jones of Bexar, Lindsey, Middleton, Murchison, Parker, Parsons, Perry, Randolph, Record, Reeves, Richardson, Shepard, Shields, Slaughter, Smyth of Newton, Spaight, Stuart, Taylor of Houston, Thomas of Cameron, Thomas of Grimes, Thompson, Tyus, Walker, Wilson and Woods—45.

House refused to lay the report on the table.

Mr. Hancock offered the following as a substitute for the resolution reported by the minority of the committee.

Resolved, That this Convention will act on the subject of the ordinance of secession, provide for the election of State and Federal officers, on the public debt, and the status of the negro, definitely and finally, and make such amendments to the State Constitution as may be deemed expedient by this Convention, to

be submitted to the people, or not, as the Convention may determine, for their ratification or rejection.

Mr. Bumpass moved to lay the substitute on the table.

On motion of Mr. Henderson, a call of the House was ordered.

On motion of Mr. Parsons, the Convention adjourned until 10 o'clock to-morrow morning.

SATURDAY, February 17th, 1866.

Convention met pursuant to adjournment. Roll called; quorum present; journal of yesterday read and adopted.

Reports of Committees being in order, Mr. Henderson, chairman of committee on the Legislative Department, reported an ordinance to make sundry amendments in the Constitution.

Read, to come up in order.

Mr. Jones of Bastrop was, on motion of Mr. Taylor of Fannin, excused from attendance on the Convention until Tuesday next.

Mr. Jones of Bexar moved to print 500 copies of so much of the report of the committee on the Legislative Department, amending the State Constitution, wherein the wording was changed.

Carried.

Mr. Latimer moved to excuse Mr. Paschal from attendance on the Convention from Monday next until Friday next.

Carried.

Mr. Mr. Armstrong was, on motion of Mr. Armstrong, excused until Monday next, on account of sickness.

On motion of Mr. Harwood, Mr. Slaughter was also excused until Monday, on account of sickness.

Mr. Roberts, chairman of the Judiciary Committee, made the following report :

REP. HALL, February 16, 1866.

Hon. J. W. Throckmorton, President of Convention:

The Judiciary Committee, to whom was referred the resolution offered by Mr. Ireland, requiring said committee to inquire into the condition of the papers, &c., of the Supreme Court, have acted upon the same, and instruct me to report that the Provisional Governor has already appointed a competent gentleman to take charge of the same, and do not think any action necessary.

Read, to come up in order.

Mr. Hancock, chairman of the committee on the General Provisions of the Constitution, reported in favor of striking out the