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the District Judges of Clerks of the District Courts, and Sheriffs, and to hold their offices during the pleasure of the District Judge; and providing for the election, in each county, of a Chief Justice, who shall have jurisdiction to try and dispose of civil cases of ——— dollars exclusive of interest, except when the title to real estate is in controversy, in which case it shall go to the District Court; of all criminal cases known as petty offences, and shall have jurisdiction as an examining and committing court, in all cases known as felonies. Said Justice, together with the Justices of the Peace of the county, one-third of whom shall constitute a quorum, shall constitute a County Court for police purposes. Also, making the Chief Justice *ex officio* Judge of Probate, and providing for the election of Justices of the Peace, and defining their terms of office.

Read first time, and referred to committee on Judiciary.

Mr. Walker offered the following resolution to amend the 9th Section of the Bill of Rights, as follows:

SECTION 9. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is evident; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a Judge of the Supreme or District Court, upon the return of a writ of *habeas corpus*, returnable in the county where the offence is committed, or to such other county as the same may, by consent of parties, be made returnable.

Read first time, and referred to committee on General Provisions of the Constitution.

Mr. Selman presented the memorials of L. B. Bullard and H. L. Elliott, of Smith county, which were referred to committee on General Provisions of Constitution, without reading.

On motion of Mr. Henderson, the Convention proceeded to the orders of the day.

Report of committee on General Provisions of Constitution, relative to striking out Article VIII of Constitution, and substituting another therefor, was taken up, read, and on motion of Mr. Hart, was made special order for 11 o'clock to-morrow.

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

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WEDNESDAY, February 21st. 1866.

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

Reports of committees being in order, Mr. Norton, chairman of committee on Condition of the State, made the following reports :

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

The committee on the Condition of the State, to whom was referred various resolutions and ordinances upon the subject of secession, have had the same under patient consideration ; and after thorough discussion, and mature deliberation, I have been instructed by a majority of said committee to report the following ordinance, for the action of this Convention :

### AN ORDINANCE,

*Declaring the Ordinance of Secession Annulled.*

SECTION 1. The people of the State of Texas, by delegates in Convention assembled, acknowledging the supremacy of the Constitution of the United States, and laws made in pursuance thereof, do ordain that the ordinance passed by a Convention in the city of Austin, on the 1st day of February, A. D. 1861, entitled an " ordinance to dissolve the Union between the State of Texas and the other States united under the compact styled the Constitution of the United States of America," be and the same is hereby annulled, and declared to be of no further effect.

Read first time, rule suspended, taken up, and 300 copies ordered to be printed on the motion of Mr. Waul, and made the special order for 12 o'clock on Friday next.

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

I am instructed by a majority of the committee on Condition of the State, who have had under consideration several propositions referred to them, in regard to the status of the State, to report the following ordinance, annulling certain ordinances and other proceedings of a Convention held at Austin city, January 28th, 1861, for the adoption of this Convention :

### AN ORDINANCE.

*Annulling certain Ordinances and other proceedings of a Convention of the State of Texas, adopted in January, February, and March, A. D. 1861.*

SECTION 1. *Be it ordained by the people of the State of Texas, in Convention assembled,* That all the ordinances, resolutions, and other proceedings of a Convention of the people of the State of Texas, begun and held on the 28th of January, 1861, and on the 2d of March, 1861, together with so much of

the Constitution adopted by said Convention, for the State of Texas, as conflicts with the Constitution of the United States, are hereby annulled, and declared to be of no further effect.

Read first time, and, on motion of Mr. Waul, rule suspended, taken up, and 300 copies ordered to be printed, and made special order for Friday next, 12 o'clock

Mr. Dickson, chairman of committee on Executive Department, made the following report :

COMMITTEE ROOM, February 21st, 1866.

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

The committee on the Executive Department of the State Government report, that they have had under consideration sundry matters referred to them by the Convention, and, after due deliberation, a majority recommend the adoption of the amendments herewith submitted :

### AN ORDINANCE,

*Proposing Amendments to the Constitution of the State of Texas.*

*Be it ordained by the delegates of the people of Texas, in Convention assembled,* That the following amendments be made to Art. V of the Constitution of the State of Texas :

ART. V—EXECUTIVE DEPARTMENT. Amend Sec. 4 so as to read "four years," instead of "two," in the first line; and in the third line, read "eight years in any term of twelve years," instead of "four years in any term of six years."

Amend Sec. 5 so as to read in third line, "He shall receive an annual salary of three thousand dollars until otherwise provided by law," instead of "the first Governor shall receive an annual salary of two thousand dollars, and no more."

Amend Sec. 8 so as to read in second and third lines, "if that should be dangerous by reason of disease or the public enemy," instead of "if that should be in the actual possession of the public enemy."

Strike out the 23d Section, and insert in lieu thereof, "Sec. 23. There shall be elected by the qualified voters of this State, in the manner prescribed by law, a Comptroller of Public Accounts, and a State Treasurer, each of whom shall hold his office for the term of four years : " *Provided*, that the foregoing amendments shall be submitted to a vote of the people of Texas, at the first general election held after the civil re-organization of the State, and shall not be in force, as a part of the Constitution, unless and until they shall be ratified by a majority of the votes cast at said election : *Provided*, further, that in the event the

foregoing amendments, extending the term of certain officers named therein, shall be ratified by the people, then all of said officers, elected at said general election, shall hold their respective offices for the terms prescribed in said amendments.

Received, to come up in order.

Mr. Shepard, in behalf of the committee on General Provisions of the Constitution, made a report that they had had under consideration the resolution instructing them to inquire into the expediency of retaining in the Bill of Rights the power to regulate the elective franchise in the State, reported that they did not deem it necessary, as the same subject is now before the Convention, by the report of the committee on the Legislative Department of the Constitution, to which, your committee are of opinion, this subject more properly belongs than to the Bill of Rights.

Received, to come up in order.

Mr. Hancock, chairman of committee on General Provisions of the Constitution, reported that the majority of said committee recommend the adoption of the amendment to the 9th Section of the Bill of Rights, as referred to them.

Received, to come up in order.

Mr. Hancock also reported that the committee on the General Provisions of the Constitution instructed him to report, that they had had under consideration the resolutions relative to striking out Sec. 30 of Art. VII, and unanimously agree that they do not deem it expedient to strike out said section.

Received, to come up in order.

Mr. Smith of Colorado made the following report :

*To Hon. J. W. Throckmorton, President of the Convention :*

The committee on the General Provisions of the Constitution, to whom was referred the resolution instructing them to inquire into the expediency of providing a mode of calling a convention of the people, have considered the same, as well as the present mode of proposing amendments to be voted upon by the people, and have instructed me to report as follows :

Strike out all of the Sec. 37 of Art. VII of the present Constitution, and substitute the accompanying ordinance in lieu thereof, and recommend its adoption :

#### ARTICLE VII.

*Mode of Calling a Convention, and Amending the Constitution of this State.*

SECTION 37. The Legislature, by a vote of three-fourths of all the members of each House, with the approval of the Gov-

error, shall have power to call a Convention of the people, for the purpose of altering, amending, or reforming the Constitution of this State. The manner of electing delegates to the Convention, the time and place of assembling them, to be regulated by law.

SEC. 38. The Legislature, at any biennial session, by a vote of two-thirds of all the members of each House, may propose amendments to the Constitution, to be voted upon by persons legally qualified to vote for members of the House of Representatives of this State, which proposed amendments shall be duly published, in the public prints of this State, at least three months before the next general election for representatives to the Legislature, for the consideration of the people. And it shall be the duty of the several returning officers of said general election, to open a poll for, and make return to the Secretary of State, of the number of legal votes cast at said election for and against said amendment; and if more than one be proposed, then the number of legal votes cast for and against each of them; and if it shall appear from said return, that a majority of the votes cast upon said proposed amendment, or amendments, have been cast in favor of the same, and two-thirds of each House of the Legislature, at the next regular session thereafter, shall ratify said proposed amendment, or amendments, so voted upon by the people, the same shall be valid to all intents and purposes, as parts of the Constitution of the State of Texas: *Provided*, that the said proposed amendments shall, at each of said sessions, have been read on three several days in each House of the Legislature, and the vote thereon shall have been taken by yeas and nays: *And provided further*, that the rule in the above proviso shall never be suspended by either of said Houses.

Received, to come up in its order.

Mr. Flanagan, in behalf of committee on Finance, made the following report:

*To the Hon. J. W. Throckmorton, President of Convention:*

The committee on Finance have had an ordinance for the per diem of the members and officers of the Convention. I am instructed by the committee to report the same back, with the following amendment, and to recommend the adoption of the same:

The members to receive eight dollars per day, and likewise eight dollars per day for every twenty-five miles traveled coming to and going from the Convention; and that the officers of the Convention shall also receive the same pay, eight dollars per day.

Received, to come up in order.

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Mr. Dalrymple, chairman of committee on Indian Affairs, made the following report :

COMMITTEE ROOM, February 20th, 1866.

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

The committee on Indian Affairs, to whom was referred the preamble and resolution urging the authorities at Washington to take immediate action in regard to the protection of the Indian frontier of this State, have had the same under consideration, and unanimously instruct me to report them back, and recommend their immediate adoption.

Mr. Slaughter moved that it be read a second time, and engrossed.

Carried.

On motion of Mr. Slaughter, rule suspended, read third time, and passed.

Resolutions being in order, Mr. Walker offered the following resolution :

*Resolved*, That the aggregate amount of debts hereafter contracted by the Legislature shall not exceed the sum of \_\_\_\_\_ dollars, (except in case of war, to repel invasion or suppress insurrection,) unless under the following instructions. That whenever a debt shall be contracted exceeding that amount, the law authorizing the same shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within thirty-three years, or such period of time, not less than eighteen years, as the Legislature may determine, from the time of the contracting thereof. On the final passage of such law in either House of the Legislature, the question shall be taken by yeas and nays, and be duly entered on the journals thereof. If no debt shall have been contracted in pursuance of such law, the Legislature may repeal the same ; or if a portion of the debt authorized should have been contracted, the Legislature may at any time, by law, forbid the contracting of any further debt or liability under such law ; but the tax imposed by such act in proportion to the debt and liability which may have been contracted in pursuance of such law, shall remain in force and be irrepealable, and be annually collected, until the proceeds thereof shall have made full provisions to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the object or objects specified in the act authorizing such debt or liability, or to the re-payment of the same, and for no other purpose whatever. No part of the

specific tax authorized by this section shall be appropriated or set apart for any other purpose whatever, but exclusively to the payment of the interest and principal of such debt.

Referred to committee on Finance, with instructions to fill up the blanks therein.

Mr. Flanagan offered the following resolution :

*Resolved*, That the committee on General Provisions of the Constitution be instructed to consider the propriety of amending Section 24, Article VII, of the Constitution, so as to read as follows :

“ The Legislature may establish new counties, for the convenience of the inhabitants of such new county or counties, whenever, in the discretion of the Legislature, it may seem necessary and proper. Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until entitled by numbers to the right of separate representation.”

Adopted.

Mr. Wilson introduced an ordinance relative to the statutes of limitation.

Read first time, and referred to committee on Judiciary.

Mr. Woods offered the following preamble and resolution :

Whereas, it has been the custom of the States of this Union, in some suitable and public manner, to avow a due sense of human obligation, to respect, as of Divine ordination, the day known as the Christian Sabbath. And

Whereas, no opportunity more appropriate can ever present itself for the people of this State to make a similar avowal of respect for that day than the present. Therefore :

*Resolved*, That the committee on General Provisions of the Constitution be requested to inquire into the propriety of engraving in the Constitution of the State a provision requiring the Legislature to make suitable laws for its due observance.

Adopted.

Mr. Benge offered the following resolution :

*Resolved*, That, whereas, there is no provision in the present Constitution of the State of Texas providing for filling vacancies in the following offices by death, resignation, removal or otherwise : Be it therefore resolved, that in case of the death, resignation or removal of either of the following officers, viz : Judges of the Supreme Court, Judges of District Courts, Attorney General, District Attorneys, Commissioner of General Land Office, State Treasurer and Comptroller, and in case of the death, resignation or removal of District Clerks, the same



shall be filled by appointments made by the Governor of the State, until the next general election shall take place.

Read first time, and referred to committee on Judiciary.

Mr. Lindsey offered the following resolution :

*Resolved*, That the committee on Condition of the State be requested to consider the propriety of requesting the President of the United States to grant a general amnesty and pardon, and report by resolution or otherwise.

Adopted.

Mr. Jones of Bexar offered the following resolution :

*Resolved*, That the Sergeant-at-Arms be authorized, under the direction of the committee on Contingent Expenses, to purchase a sufficiency of suitable carpeting to cover the front lobby of the Representative Hall. Adopted.

Mr. Henderson offered an amendment to Section 1, Article XIV, of the Constitution.

Read first time, and referred to committee on Judiciary.

The hour having arrived, the special order of the day, viz : Report of the committee on General Provisions of the Constitution, reporting a substitute for Article VIII of the Constitution, was taken up.

On motion, the Convention went into Committee of the Whole, on the substitute, Mr. Henderson in the Chair.

The committee rose, and reported progress, and asked leave to sit again to-morrow morning at 10 o'clock.

Report adopted.

The President of the Convention announced the death of the Hon. G. W. Smyth, of Jasper county.

Mr. Norton offered the following resolution :

*Resolved*, That this Convention has heard with unfeigned sorrow of the death of Hon. Geo. W. Smyth, delegate from Jasper and Newton, and that a committee of seven be appointed by the President, to draft suitable resolutions upon the subject, to be reported to-morrow morning at 10 o'clock.

*Resolved*, That this Convention, as a body, will attend the funeral of the deceased, and that a committee of three be appointed to make arrangements for the same.

*Resolved*, That as a token of respect for the memory of this eminent citizen of the State, this Convention stand adjourned till to-morrow morning at 10 o'clock.

The President announced the following as the committees, in conformity with the resolution :

*Committee on Resolutions*—Messrs. Norton, Taylor of Houston, Wilson, Johnson of Tarrant, Stuart, Latimer and Shaw.

*Committee on Funeral Arrangements*—Messrs. Hancock, Shepard and Walker.

Resolution adopted, and the House stood adjourned until 10 o'clock to-morrow morning.

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THURSDAY, February 22d, 1866.

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

A communication was received from the Hon. Géo. C. Rives, Acting Comptroller, and, on motion of Mr. Allen, referred to the committee on Public Lands, without reading.

Mr. Frazier asked to be relieved from serving on the committee on Education.

Granted.

Mr. Hancock, chairman of the committee on Funeral Arrangements, made the following report:

The committee on Funeral Arrangements respectfully report, that all necessary arrangements for the interment of the body of the Hon. G. W. Smyth, dec'd, have been made. The funeral to take place from this hall, at 3, P. M. They recommend the following Programme:

1. Corpse.
2. Chaplain.
3. Governor of State and President of Convention.
4. Secretary of State and Treasurer.
5. Commissioner of General Land Office and Comptroller.
6. Judicial Officers of the State.
7. Federal Field Officers.
8. Members of the Convention.
9. Citizens.

And that the Hon. Wm. M. Taylor and Hon. M. T. Johnson act as Marshals of the Procession.

Respectfully submitted.

JOHN HANCOCK, Chairman.

Adopted.

Mr. Shields offered the following resolution:

*Resolved*, That a committee of three be appointed to procure the attendance of a Chaplain, for prayer at the opening of the daily sessions of this body.

Adopted.

The President announced the following as the committee:—Messrs. Shields, Johnson of Titus, and Davis of Webb.