

TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Journal of the Reconstruction Convention: which met at Austin, Texas. Texas. Constitutional Convention (1868-1869). Austin, TX: Tracy, Siemering & Co., printers, 1870.*

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.

ington, Mills, Morse, Muckleroy, Mundine, Munroe, Oaks, Patten, Pedigo, Phillips, of San Augustine, Phillips, of Wharton, Posey, Rogers, Ruby, Scott, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Thomas, Varnell, Vaughan, Watrous, Whitmore, Williams, Wilson, of Milam, Wright, Yarborough—67.

So the Convention refused to adopt the amendment.

Mr. Degener moved the previous question, upon the adoption of the section.

Previous question seconded.

The question recurring, "shall the main question be now put?"

The main question was ordered.

The question recurring upon the adoption of section five, as amended,

It was adopted.

Mr. Evans of McLemman, offered the following amendment:

To section 7, strike out the entire section after the word "officers" in line two.

On motion the Convention adjourned until to-morrow morning, at 9 o'clock.

CAPITOL, AUSTIN, TEXAS,
JULY 28, 1868.

Convention met pursuant to adjournment.

Roll called. Quorum present. Prayer by the Chaplain. Journal of yesterday read and adopted.

Mr. Goddin presented a petition from citizens of Polk, Walker and Montgomery counties, praying for the formation of a new county, to be called San Jacinto.

On motion the petition was referred to the Committee on Counties and County Boundaries.

Mr. Lippard presented a petition from the citizens of Hill county, praying that Achilles Foster, formerly Assessor and Collector of Hill county, be relieved from paying four hundred and five dollars of the public funds, stated to have been stolen out of a registered letter.

On motion the petition was referred to the Committee on Counties and County Boundaries.

Mr. Degener presented a petition for the incorporation of the Germania Club of San Antonio.

Reading was dispensed with, and on motion the petition was referred to the Committee on State Affairs.

Mr. Fayle, from the Committee on Enrolled Bills, reported resolutions from twenty-five to thirty as correctly enrolled.

Mr. Whitmore, from the Committee on General Provisions, made the following reports :

COMMITTEE ROOM,
Austin, July 27, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The Committee on General Provisions, to whom was referred a declaration by Mr. Smith of Galveston, dissolving the marital relations existing between Henry Rodefled and his wife, Catherine Cordes, with a petition of the said Henry Rodefled and the evidence of the insanity of the said Catherine Cordes, have had the same under consideration, and after a careful examination of the same, direct me to report back the said declaration with a recommendation that the said declaration do pass, and that the prayer contained in the said petition of the said Henry Rodefled be granted.

The Committee are of the opinion that the Convention should make a provision authorizing the Legislature to provide relief to such cases.

G. W. WHITMORE,
Chairman Com. on General Provisions.

COMMITTEE ROOM,
Austin, July 27, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR : The Committee on General Provisions direct me to report the following additional sections, to be a part of the Constitution, under the head of General Provisions :

G. W. WHITMORE,
Chairman Com. on General Provisions.

ARTICLE XLVI.

SEC. —. All marriages solemnized or had among free persons of color whilst in bondage, according to the rites existing among said persons, are hereby declared to be legal and binding, and are hereby

made valid, and all children born of said marriages are declared legitimate for all purposes.

SEC. 47. That any person who may kill any reasonable creature in being, unless the killing shall be in aid or execution of the law, shall be forever disqualified from holding any office of profit or trust in this State, unless such person shall be relieved therefrom by a vote of two-thirds of the Legislature of this State.

SEC. 48. No person shall practice medicine or surgery in this State unless such person shall first have obtained a diploma from some chartered medical college, and the Legislature shall provide to secure to the people this protection.

SEC. 49. That the Legislature shall provide by law for the issuance of license to druggists and apothecaries, upon the production of evidence that they are skilled and educated in the profession.

SEC. 50. Each county in the State shall provide, in such manner as may be prescribed by law, a Manual Labor Poor House, for taking care of, managing, employing and supplying the wants of its own indigent and poor inhabitants; and under such regulations as the Legislature may direct, all persons committing petty offences in the county may be committed to such Manual Labor Poor House for correction and employment.

SEC. 51. That suits may be brought against the State, and it shall be the duty of the Legislature, at the first session thereof after the adoption of this Constitution, to prescribe by law what courts and in what manner, suits against the State may be brought.

COMMITTEE ROOM,
Austin, July 27, 1868.

To the Hon. E. J. DAVIS,
President of the Convention:

SIR: The Committee on General Provisions direct me to report back to the Convention the following resolutions and declarations, with a recommendation that they do not pass:

Declarations of Mr. Harn, of Grimes, dated as follows: July 9, 13, 15 and 17.

Declarations by Mr. Jordan, of Goliad, dated as follows: July 10 and 17.

Declaration by Mr. Bryant, of Harris, dated July 17.

Declaration by Mr. Watrous, of Washington, dated July 11.

Declaration by Mr. Munroe, of Houston, dated July 9.

Declaration by Mr. Williams, of Colorado, dated July 18.

The Committee are of opinion that the matters and things contained and set forth in the above and foregoing resolutions and decla-

rations, have been fully and entirely covered in a previous report made by said Committee, except an act and petition referred to the committee by Mr. Fayle, asking that the Hebrew Benevolent Society be incorporated. The committee direct me to say that it is not a proper matter to be entertained by the Convention, it being purely legislative.

They ask, therefore, to be discharged from the further consideration of the same.

G. W. WHITMORE,
Chairman Com. on General Provisions.

Mr. Hunt, from the Committee on State Affairs, made the following report :

COMMITTEE ROOM,
Austin, Texas, July 27, 1868.

HON. E. J. DAVIS,
President of the Convention :

SIR: I am instructed by the Committee on State Affairs, to whom was referred the resolution introduced by the Hon. C. T. Harn, of Grimes county, to secure the fund contributed by the people of Texas to erect a monument on the battle-field of San Jacinto commemorative thereof, to make the following report :

Your committee are of opinion that the fund already contributed by the people of Texas should be collected, placed in the treasury of the State, invested in the bonds of the national government, and held as a sacred fund in trust for the purposes for which it was intended.

The fund already amounts to thousands of dollars, and is in the hands of those who will transfer the same to the treasury of the State upon the passage of the resolution under consideration. It is true that but a small amount has yet been set apart, but it is believed that when the State undertakes to control the fund, and to secure the ends for which it was designed, that a sense of State pride and desire to commemorate the names and gallant bearing of those who won a nation's independence on the 21st day of April, 1836, will inspire the people of Texas with a patriotic and generous spirit, and that ere long the means necessary to the accomplishment of the object will be collected.

The 21st of April will be a great holiday when the monument shall be commenced, and annually the patriotic deeds of the fathers of the republic of Texas will be remembered and the people of our

State will have increased confidence and hope of the maintenance of our government.

In view of the premises, and the object to be accomplished, your committee recommend the passage of the resolution.

H. C. HUNT,
Chairman pro tem. of Committee on State Affairs.

Mr. Butler, from the special committee appointed to investigate into the condition of the Penitentiary, reported as follows:

COMMITTEE ROOM,
July 25, 1868.

Hon. E. J. DAVIS,
President of the Convention:

Sir: The Committee of the Convention appointed to investigate the financial affairs of the State Penitentiary, and to whom was referred a resolution directing them to inquire into the condition of the convicts and the causes for which they were sentenced to confinement in that institution, have the honor to submit their report:

From the examination which the committee was enabled to make during their visit to the establishment, they were impressed with a conviction that the inmates were as well taken care of, and as well provided for, as the capacity and condition of the buildings and the enclosure would allow. There are more than four hundred convicts confined within the walls of the Penitentiary, largely too many for the capacity of the institution, which renders it wholly impracticable for the managers to secure that comfort and salutary discipline which a beneficent government should always extend, when practicable, even to the guilty violators of its laws. They ascertained, however, that by means of the labor of the convicts the managers were engaged in making brick to erect other and additional buildings, which will greatly contribute to increase the comforts of the inmates, and enlarge the capacity and promote the convenience of the establishment for the purposes for which it was designed. The appearance of the convicts indicate that they are well fed and properly attended to; but from the number now in the Penitentiary, and restricted capacity, they are necessarily too much crowded, especially at night in their dormitories, for the certain preservation of the health of the establishment. If an epidemic should prevail there, it would be impossible, with the present capacity and arrangement of the institution, to secure the comfort and the re-

storation of the afflicted to health. This will, no doubt, be obviated to a considerable extent when the additional buildings contemplated shall have been erected and fitted up for use and occupation.

The annexed schedule [marked A], which is made a part of the report, will show the names of the convicts, the county in which they were found guilty and sentenced, the offences with which they were charged, the time of conviction, the period of confinement, the time of entrance, and the circumstances of the conviction, as detailed by themselves; and their general deportment since their admission, as related by the managers, of one hundred and sixty-one convicts.

From the special examination thus made, the committee was brought to the conclusion that some of them presented strong claims to Executive clemency, and in the remarks of the schedule they have taken the liberty so to commend them to the Governor for pardon. In their judgment, the Governor, in exercising clemency in these cases, would not only wisely extend mercy to repentant criminals, but he would both offer inducements for moral reformation to the remaining convicts and increase their comforts, now so much discommoded in an over-crowded establishment.

The committee therefore recommend that this report be referred to his Excellency, E. M. Pease, and that he be requested to gain such additional information, in his power, as would enable him to extend Executive clemency to those who, according to his judgment, deserve it.

All of which is respectfully submitted.

JAMES P. BUTLER,
Chairman Committee.