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CAPITOL, AUSTIN, TEXAS,
January 27, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Smith presented a petition from the police court of Galveston county, and asked its reference to the Committee on State Affairs.

Mr. Gray presented the following report from the minority of the committee appointed to revise the engrossed constitution.

Austin, Texas, January 26, 1869.

Hon: E. J. DAVIS,

President of the Reconstruction Convention :

SIR: The special committee of eleven, to whom was referred the labor of revising and correcting the constitution as far as engrossed, and to present other articles and sections not engrossed, have devoted much time to the labor assigned them. Considering the amount and importance of labor to be performed, and the short time which has elapsed since the special committee was raised, your committee, it may well be presumed, are not prepared to present to the Convention a constitution as perfect in all its parts as they desired.

It is well known to the country that more than four months have been consumed in the attempt to frame a constitution for the State. Early in June of last year various committees were raised, charged with the duty of framing a constitution suited to the different departments of State government. The undersigned, a minority of committee, who presents this minority report, knows well that the standing committees of this body required, on an average, about six weeks, to consider and report the several parts of a constitution.

This question, above all others, has engrossed the attention of the best talent in the country, and yet it has not been solved to the satisfaction of the country.

The committee have carefully examined the engrossed constitution, and have made some slight verbal changes, not affecting the substance. The majority report, it is believed, will show the changes in language suggested and recommended. The undersigned would recommend the adoption of the suggestions made by the majority of the committee as to the verbal alterations aforesaid.

The undersigned would also recommend that special authority be conferred on district judges to grant writs of *habeas corpus*, as recommended in the majority report.

The minority of the committee agree also with the majority in recommending that the district attorneys shall be appointed by the Supreme Court and commissioned by the Governor.

Two plans have been presented for establishing a system of common schools. The system best adapted to attain ends so desirable would be to provide a fund, and for details, leave its execution to the Legislature. The minority of the committee herewith present what they believe to be a sufficient basis for the establishment of common schools in every county and precinct in the State.

The development of the future will open up the way to guide the legislator in the faithful execution of the general plan here presented.

There was a time in the history of this State when we could boast of having provided a munificent fund to enlighten and enlarge the mind of the youth of our once growing and prosperous State. But now we can only look on with regret at the ruin which has been wrought by the untoward results of war and hasty and ill advised legislation. The school fund has been squandered, and the youth of twelve years amidst the past eight years of distress have reached the years of discretion with but little cultivation of mind.

When we contemplate our present condition, with an empty treasury and impoverished people unable to bear the burthens of heavy taxation, we almost despair of being able to provide for the education of the rising generation. All we can do is to lay the foundation as broad as our limited means will permit. It is true that if we would perpetuate the principles of a free constitution, the people must be educated, so that they may learn virtue, administer justice and practice morality.

A people thus educated will each be a sentinel to guard the temple of liberty. They will watch with jealous care every approach to undermine the principles of our free constitution.

The results of war have forced on us political questions the most difficult to solve. He who says that he finds no impediments in his pathway will not be instructed by this minority report. He is presumptuous, and has reached the climax of folly. At the close of actual hostilities between the North and South we found ourselves in the position of alien enemies, our substance gone, and our government overturned.

There was not a man in our midst to wield the sword of justice, guided by law, until the conqueror extended to us a helping hand. The late rulers who controlled when dark clouds overshadowed our

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country, at the approach of a victorious army, fled and took refuge in foreign lands.

Soon afterwards executive clemency came, and a proclamation of amnesty and pardon greeted us as a messenger of peace. The thirteenth amendment to the Constitution of the United States was the great seal of the nation consecrating the late slave to freedom. But the sagacious statesmen saw the necessity of another amendment, which defines who are citizens of the republic. This includes every person born within our national limits.

It is apparent, from these recitations from the history of the times, the object of the Government was to win back, and not to oppress, a people who had disputed every inch of ground on a hundred battlefields with the mighty armies of the Republic.

It was for the conqueror to propose terms of peace and restoration to the full enjoyment of liberty, and it was for us to accept.

By a careful examination of the fourteenth amendment, it will be found that the question of suffrage is left with the States, at least so far as voting for State officers is concerned.

By the very terms of this amendment a certain class of persons who are declared to be citizens, are denied the right to hold office, State or Federal. This was not intended as a punishment upon this class of our citizens, but as a security to good order and peace in the country. The wisdom of the framers of the constitution of 1789 foresaw the necessity of requiring of judges and State legislators an oath to support the Constitution of the United States. This is an oath of allegiance and its obligations are to reach beyond the term of office. Whatever may have been the construction we placed on this oath, it is now understood that its obligation is perpetual. It was not regarded as safe to entrust the powers of State in the hands of those who had broken their faith. But it was not intended that the bar should be perpetual, but the promise of complete restoration was held out in the hope that the errors of the past would all be blotted out in the performance of good works. Thousands have been relieved of all political disability, and none have the crime of rebellion resting upon them.

Whatever else may be said of Andrew Johnson, in his proclamations of amnesty he was the true representative of magnanimous policy. We know there is a few who would willingly humiliate and degrade those of their own kindred and blood who dared to differ with them in their notions and contracted theories of government. But the mass of the people partake largely of the spirit of the nation. No threatenings are breathed to terrify a people already distressed by the devastating hand of war. Adopting a liberal and gracious policy, men of enlarged views offer the olive branch of

peace. He is a poor political philosopher who has not seen that our government can not afford to change its Republican theory and adopt one founded on proscription, entailing humiliation upon the great bulk of the white inhabitants of the State.

No stable Republican government can long maintain its self respect if it should pursue a policy at war with the very theory upon which free government rests. The most superficial observer, upon a candid and fair examination of the policy of Congress to rehabilitate our State governments, has failed to discover the enlightened policy inaugurated.

The object of the nation is to the more firmly establish its representative theory. Those who are taxed and bear the burdens of government ought to be heard and represented in every department of State. The policy referred to, the action of the government, the letters and speeches of the wisest statesmen, are at war with the doctrine of proscription. It is not founded in justice or mercy. Instead of being the harbinger of peace, it comes freighted with poison more deadly than the Upas tree. It sows the seeds of discord, producing the fruits of bloodshed and all the ills to which humanity is heir.

The history of all the rebellions, of all the most noted revolutions, beginning with that of Oliver Cromwell down to the last one, and the greatest one in our country, shows that no such proscription as many propose was ever adopted.

A liberal policy toward the people will fill the Republican ranks with as good and pure men as any of which it can now boast. But a policy especially designed to perpetuate power in the hands of the few at the expense of the many, ought to meet an early grave, and so deep that the hand of resurrection will never reach it.

The minority are opposed to depriving the freedmen of any right, civil or political, to which he is entitled, and are equally opposed to depriving the white population of their equality before the law. Equal political rights to the adult citizen, of whatever nation, race or color, is the spirit of the government, and will lay a sure foundation for peace, and as a consequence for general prosperity. The minority herewith present an ordinance upon the subject of the elective franchise, which they believe ought to commend itself to every patriot in the land. Also the oath of office, which affords every safeguard contemplated by the Fourteenth Amendment to the Constitution of the United States; also an ordinance upon the subject of the declarations passed by this Convention, and other declarations as substitutes; and, in conclusion, say they do not endorse the majority report further than herein stated, or as set forth in the majority report.

Having but a few hours within which to consider this report, the minority can only present their views in this broken form.

Respectfully submitted,

B. W. GRAY,
A. M. BRYANT, of Grayson,
A. BUFFINGTON,
THOMAS KEALY, Denton.

Mr. Evans of Titus introduced the following resolution :

Resolved, That a special committee of five members be appointed to inquire into the allegations and statements contained in a certain paper, purporting to be an official resolution of the grand jury of the District Court of the United States for the Western District of Texas, presented at the present term of said court, and published in the official journal of the Convention on Saturday, the twenty-third instant; with authority to send for persons and papers and examine on oath witnesses.

Mr. Thomas moved to lay the resolution on the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harn, Kealy, Keigwin, McCormick, McWashington, Mundine, Posey, Rogers, Stockbridge, Thomas, Watrous, Wilson of Brazoria—21.

Nays—Messrs. President, Adams, Bell, Board, Brown, Bryant of Harris, Buffington, Butler, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Gray, Hamilton of Bastrop, Harris, Horne, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Long, Mullins, Newcomb, Patten, Phillips of San Augustine, Phillips of Wharton, Ruby, Schuetze, Scott, Slaughter, Smith, Sorrell, Varnell, Vaughan, Whitmore, Williams, Wilson of Milam, Wright—43.

So the Convention refused to lay the resolution on the table.

The question recurred upon the adoption of the resolution.

It was adopted.

Mr. McWashington introduced the following resolution :

WHEREAS, A large class of the citizens of Texas have volun-

teered in the rebellion to defend their so-called rights and property; and

WHEREAS, The government of the United States has declared them a conquered people; and

WHEREAS, The government of the United States has restricted them to law and order, by the laws of war and the policy of the same; and

WHEREAS, It is the intent of the Congress of the United States to have peace and harmony among the citizens thereof; and

WHEREAS, It is necessary for the people of Texas, in Convention assembled, to look to the best policy of peace and order; and

WHEREAS, A large portion of the citizens of Texas have rendered their allegiance to the government of the United States, and who rebelled against the same; therefore,

Be it resolved, by the people of Texas in Convention assembled, That no further disfranchisement shall exist in Texas without the consent of or by the authority of the Congress of the United States.

It was referred to the Committee on State Affairs.

Mr. Buffington introduced the following resolution:

Resolved, That the further sum of fifty thousand dollars, or so much thereof as may be necessary, to pay the per diem of members and the contingent expenses of this Convention, be appropriated out of the funds of the Convention not otherwise appropriated.

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Referred to the Committee on Contingent Expenses.

The President announced the business in order was upon the motion to lay on the table the motion of Mr. Mundine, to dispense with the reading and print the report of the committee appointed to revise the engrossed constitution.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs: President, Adams, Bryant of Harris, Buffington, Butler, Burnett, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Gray, Hamilton of Bastrop, Horne, Hunt, Kendal,

Kuechler, Long, Mullins, Newcomb, Patten, Slaughter, Smith, Varnell, Whitmore, Williams, Wilson of Milam, Wright—29.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Bryant of Grayson, Carter, Cole, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Jordan, Kealy, Keigwin, Leib, McCormick, McWashington, Mundine, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Wilson of Brazoria—32.

The Convention refused to lay on the table.

Mr. Newcomb offered the following amendment to the motion :

“That the printing be done in separate articles, so that the Convention can have it to act upon at the earliest date.”

Amendment accepted.

Mr. Davis offered the following substitute :

“That all that part of the engrossed constitution which has not been changed by the committee, be immediately taken up and passed upon ; that the sections amended or added be printed without delay and laid upon the tables of members.”

The question recurred upon the adoption of the substitute to the motion of Mr. Mundine.

It was adopted.

Mr. Hamilton of Bastrop, moved that during the consideration of the provisions of the constitution, the floor be cleared of visitors.

Carried.

The consideration of the constitution being in order, Mr. Armstrong, of Jasper, moved to strike out article one of the constitution,* as reported, and insert “article one of the constitution of 1845.”

Mr. Hamilton, of Bastrop, moved the previous question.

Previous question seconded.

The question recurred, “Shall the main question be now put?”

Main question ordered.

The question recurred upon the adoption of the preamble to article one, of the reported constitution.

It was adopted.

Mr. McCormick raised the following point of order :

*See page 235, first session.

The sections of the constitution engrossed at the summer session, and referred to the special committee of eleven for revision, now come up under third reading, and amendments proposed to engrossed provisions or sections can only be engrafted by a two-thirds vote.

That new sections proposed by the committee on new subjects, on which no provisions were engrossed, appear now on the second reading.

The President decided that as the engrossed constitution was re-committed to a committee, the constitution passed to engrossment at the last session having been altered and amended, reported by the committee, was on its second reading, as to those sections which had been altered, amended or supplied.

Mr. McCormick appealed from the decision of the chair.

The question then recurred, "Shall the decision of the chair stand as the decision of the House?"

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Carter, Curtis, Degener, Downing, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Scott, Varnell, Whitmore, Williams—27.

Nays—Messrs. Brown, Bryant of Grayson, Buffington, Burnett, Cole, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Hamilton of Travis, Harn, Keigwin, Leib, McCormick, McWashington, Morse, Mundine, Phillips of San Augustine, Phillips of Wharton, Rogers, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Wilson of Brazoria, Wright—32.

The Convention refused to sustain the chair.

"The question recurred upon the adoption of section two of the "Bill of Rights."

It was adopted.

Section three being next in order, Mr. Armstrong, of Jasper, offered the following amendment :

Substitute for section three :

No religious or political test shall be required as a qualification to any office of public trust in this State, except such as may be in conflict with the Constitution of the United States.

Mr. Patten moved the rejection of the amendment.

Mr. Hamilton, of Bastrop, moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon the adoption of section three.

It was adopted.

The question recurred upon the adoption of section five.

It was adopted.

Section six on motion was adopted.

Section eight on motion was adopted.

Section ten on motion was adopted.

On motion the Convention adjourned until half-past seven o'clock this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Messrs. Phillips of Wharton and Varnell were excused on account of sickness.

Mr. Buffington moved a call of the House.

Call not sustained.

Mr. Vaughan was excused after to-night, on motion of Mr. McCormick.

Mr. Smith, of Galveston, moved that the sections of the constitution so far as engrossed, which were not amended by the committee, be considered as a whole.

Mr. Flanagan moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Main question ordered.

The question recurred upon agreeing to the motion.

It was agreed to.

Mr. Degener offered the following amendment to the twenty-third section of the "Bill of Rights:"

And we declare that the powers herein granted to the different departments of this State are based upon the equality, in civil and political rights, of all human beings within the jurisdiction of this State; and should any department (either executive, legislative or

judicial) attempt, in any manner, to deprive any person or persons of their herein guaranteed civil and political rights, such attempts shall be considered as a violation of the compact under which this State entered the Union.

Mr. Burnett moved the previous question.

Previous question seconded.

The question recurred, "Shall the main question be now put?"

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. Adams, Armstrong of Jasper, Bell, Brown, Bryant of Grayson, Burnett, Flanagan, Fleming, Glenn, Gray, Hamilton of Travis, Harn, Kealy, Keigwin, Rogers, Slaughter, Smith, Sorrell, Stockbridge, Wright—20.

Nays—Messrs. President, Armstrong of Lamar, Bellinger, Buffington, Butler, Carter, Cole, Curtis, Degener, Downing, Fayle, Gaston, Harris, Hunt, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Thomas, Vaughan, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam—35.

So the Convention refused to order the main question.

Pending the announcement of the vote, Mr. Hamilton, of Bastrop, was excused from voting.

The House then proceeded to the reading of each section consecutively and adopting same, unless amendments were offered.

Mr. Hamilton, of Travis, moved to strike out "or limb," in section 12.

Carried.

Mr. Thomas moved to strike out the word "ever" in third and fourth lines.

Lost.

Mr. Degener offered the following amendment to section 23 of bill of rights:

And we declare that the powers herein granted to the different departments of the government of this State are based upon the equality, in civil and political rights, of all human beings within the jurisdiction of this State; and should any department (either executive, legislative or judicial) attempt, in any manner, to deprive any person or persons of their herein guaranteed civil and political rights, such attempts shall be considered as a violation of the compact under which this State entered the Union.

Mr. Smith moved to lay the amendment on the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Grayson, Butler, Cole, Fleming, Gaston, Gray, Hamilton of Travis, Harris, Harn, Horne, Kealy, Keigwin, Leib, Morse, Phillips of San Augustine, Rogers, Schuetze, Scott, Slaughter, Smith, Sorrell, Stockbridge, Thomas, Watrous, Whitmore, Wilson of Milam, Wright—34.

Nays—Messrs. President, Buffington, Burnett, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Jordan, Kendal, Kuechler, Lippard, Long, McCormick, McWashingtion, Mullins, Newcomb, Patten, Vaughan, Wilson of Brazoria—23.

So the amendment was laid on the table.

Mr. Hamilton, of Travis, moved to strike out section one of the legislative department.

Carried.

Mr. Slaughter moved to strike out two and insert four in section four.

Lost.

Mr. McCormick moved to strike out the words, "except for justices of the peace," in sixth section of the legislative department.

Carried.

Mr. Patten moved to strike out "four" in sixth section.

Withdrawn.

Mr. Davis moved to strike out the sixth section.

Lost.

Mr. Flanagan moved to strike out four and insert three in section sixth.

Lost.

Mr. McCormick moved to strike out the word "three" and insert "ten" in section seventeen.

Lost.

Mr. Hamilton moved to strike out section twenty-six.

Carried.

Mr. Hamilton, of Travis, moved to strike out all after the words "the United States," in the seventh line of section thirty-seven of the legislative department.

Withdrawn.

Mr. Smith, of Galveston, moved to amend by adding "consider the question of the ratification," in section thirty seven.

Lost.

Mr. Hamilton, of Travis, moved a reconsideration of the vote adopting section fourteen of the legislative department.

Lost.

Mr. Patten moved to insert "\$2,500 per annum" instead of "twice the per diem pay of a Senator," in section sixteen.

Lost.

Mr. Hamilton, of Bastrop, moved to strike out of section twenty all after the word "elected," in fifteenth line.

Lost.

Mr. Butler moved the word "comptroller," etc., in first part of section twenty-four, be stricken out, and in section twenty-four, and at the end of section insert "and Comptroller of Public Accounts, \$4,500."

Lost.

On motion the Convention adjourned until half-past nine o'clock to-morrow morning.
