

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.

CAPITOL, AUSTIN, TEXAS,
JANUARY 28, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Smith rose to a question of privilege, and desired to change his vote upon the amendment offered by Mr. Degener to section twenty-nine of the bill of rights, and to have his vote recorded in the affirmative on that amendment.

Leave granted.

Also, leave given to same effect to Mr. Watrous.

The President announced the special committee called for by the resolution of Mr. Evans, of Titus, to be Messrs. Hamilton of Bastrop, Evans of Titus, Armstrong of Jasper, Smith of Galveston and Gray.

Mr. Scott, from the Committee on Engrossed Provisions, reported as follows:

COMMITTEE ROOM,
Austin, Texas, January 26, 1869.

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

SIR: The Committee on Engrossed Provisions, after examination, instruct me to report the following declarations and resolutions as correctly engrossed, viz:

No. 99. Declaration to incorporate the Young Men's Real Estate Company.

No. 100. Resolution authorizing the special committee for the revision of the Constitution to employ a clerk.

No. 101. Declaration attaching parts of Guadalupe county to Wilson county, and changing the name of Wilson county to that of "Cibola."

No. 102. Declaration for the relief of the Eastern Texas Railroad Company.

No. 103. Declaration authorizing County Courts to levy a special tax.

No. 104. Declaration authorizing the Police Court of Houston county to levy a special Tax.

No. 105. Declaration for the relief of the Southern Pacific Railroad.

No. 106. Declaration changing the county seat of Refugio county.

No. 107. Declaration to incorporate the Texas Mutual Life Insurance Company.

No. 108. A declaration in relation to the New Orleans, Mobile and Chattanooga Railroad Company, a corporation of the State of Alabama, and authorizing and empowering said Company to exercise and enjoy its corporate powers and franchises in the State of Texas.

Very respectfully submitted,

J. R. SCOTT,
Chairman Committee.

Adopted.

Mr. Wilson, from the Committee on Counties and County Boundaries, reported as follows :

COMMITTEE ROOM,
January 27, 1869.

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

SIR: The Committee on Counties and County Boundaries, to whom was referred the petition introduced by Mr. Downing, praying for the creation of the new county of Keystone, out of the counties of Bosque, McLennan and Coryelle, have had the same under consideration, and a majority of the Committee instruct me

to report the same back to the Convention with recommendation that it be granted.

WILSON, of Brazoria,
Chairman.

A DECLARATION,

Creating the County of Keystone.

SECTION 1. *Be it declared by the people of Texas in Convention assembled,* That a new county be created and established, to be called the county of Keystone, and to include the territory within the following boundaries, to-wit:

“Beginning at the northeast corner of Hamilton county; thence north 60 degrees, east to the centre of the bed of Brazos river; thence in a southeast direction, with the meanders of Brazos river, to a point opposite the mouth of Childer’s Creek; thence in a southwest direction to a point in the McLennan and Coryell county line, nearest the Comanche Springs, about twelve miles south, 30 degrees east, from the present northwest corner of McLennan county; thence in a northwest direction to the northeast corner of Hamilton county, the place of beginning.”

SEC. 2. *Be it further declared,* That the court house of said county of Keystone is hereby established at the town of “Valley Mills,” and the county or police court of said county, when the officers are elected and appointed, as provided by law, shall proceed to cause to be erected the necessary public buildings, and for this purpose they may levy and collect a special tax for three years, of one-fourth of one per cent., and may receive donations in land and money to aid in said work.

SEC. 3. The said county, for all purposes, shall remain a part of the counties from which it is taken till organized, and that upon the acceptance of the Constitution of the State of Texas by the Congress of the United States, this declaration shall be in force from and after its passage.

Mr. Wright introduced the following resolutions:

WHEREAS, Mr. Bryant of Harris, a member of this Convention, is charged with an offense of a very serious character; and

Whereas, he has been taken out of jail on a writ of habeas corpus,

issued by the district judge, and been on trial for three several days, and only one witness been examined; and

Whereas, there are many witnesses yet to examine, and many lawyers to argue the case, so that if we judge the future by the past, we may reasonably suppose it will yet be many days before the investigation closes; therefore be it

Resolved, that it is due to the honor of this Convention that said Bryant be suspended from this body until his guilt or innocence is fairly made to appear; and that if found guilty, that he be expelled from this Convention.

Be it further resolved, that the slow progress made in this trial has been a matter of astonishment to *all* the members of this Convention.

Mr. Patten moved to reject the resolutions.

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

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Buffington, Butler, Carter, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Long, McWashington, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Whitmore—28.

Nays—Messrs. Adams, Armstrong of Jasper, Armstrong, of Lamar, Bryant of Grayson, Burnett, Cole, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Mackey, McCormick, Morse, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Scott, Sorrell, Thomas, Vaughan, Wilson of Brazoria, Wright—27.

So the resolutions were rejected.

The president announced that the consideration of the provisions of the constitution was in order.

Mr. Whitmore offered the following amendment to section four of the judiciary department:*

Add after "the capital of the State," the words "and at Tyler, Smith county."

The question recurring upon the adoption of the amendment, the yeas and nays were demanded and resulted thus:

For report see page 465, first session.

Yeas—Messrs. President, Adams, Armstrong of Jasper, Board, Burnett, Downing, Gaston, Harris, Hunt, Lippard, Mullins, Patten, Slaughter, Sorrell, Whitmore—14.

Nays—Messrs. Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Carter, Cole, Curtis, Degener, Fayle, Flanagan, Fleming, Hamilton of Bastrop, Hamilton of Travis, Harn, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Long, Mackey, McCormick, McWashington, Morse, Mundine, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Smith, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—45.

So the Convention refused to adopt.

Mr. Bryant of Grayson offered the following amendment to section four of the judiciary department:

“And at such other points as the Legislature may select.”

The question recurring upon the adoption of the amendment, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Adams, Armstrong of Jasper, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Butler, Cole, Curtis, Downing, Harris, Hunt, Johnson, Kealy, Kendal, Kuechler, Lippard, Mullins, Mundine, Patten, Ruby, Sorrell, Whitmore, Wilson of Milam, Wright—27.

Nays—Messrs. Armstrong of Lamar, Bell, Buffington, Burnett, Carter, Degener, Fayle, Flanagan, Fleming, Gaston, Gray, Hamilton of Bastrop, Hamilton of Travis, Harn, Jordan, Keigwin, Leib, Long, Mackey, McCormick, McWashington, Morse, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Smith, Stockbridge, Thomas, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria—37.

So the Convention refused to adopt.

Mr. Thomas moved to strike out the word “their” and insert “his,” in the seventh line of section sixth of the judicial department.

Carried.

Mr. Patten offered the following amendment :

Strike out in line three “for each of which a judge shall be ap-

pointed by the governor, by and with the advice and consent of the Senate," and insert "to be elected by the people of said district."

Strike out all from "provided," in line twelve.

Mr. Carter moved the rejection of the amendment.

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

Yeas—Messrs. Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Fayle, Flanagan, Fleming, Gray, Hamilton of Travis, Harn, Johnson, Jordan, Kealy, Leib, Mackey, McCormick, McWashington, Phillips of San Augustine, Rogers, Schuetze, Scott, Smith, Stockbridge, Thomas, Varnell, Watrous, Wilson of Brazoria, Wright—33.

Nays—Messrs. President, Adams, Armstrong of Jasper, Bryant of Harris, Butler, Cole, Curtis, Degener, Downing, Gaston, Hamilton of Bastrop, Harris, Hunt, Keigwin, Kendal, Kuechler, Lippard, Morse, Mullins, Mundine, Newcomb, Patten, Posey, Ruby, Sorrell, Whitmore, Williams, Wilson of Milam—28.

So the Convention rejected the amendment.

Mr. Armstrong of Lamar offered the following amendment to section nine of the judiciary department:

Strike out "elected," and insert "shall be appointed by the district judge."

On motion, the amendment was rejected.

Mr. Phillips of San Augustine offered the following amendment:

Insert "three" in place of "four," in third line, and "two" in place of "three," in sixth line.

Rejected, on motion of Mr. Carter.

Mr. Burnett moved to amend section nineteen by inserting "not less than" in fourth line of judicial department.

Lost.

Mr. McCormick offered the following amendment:

Strike out the words "after different precincts or county," and insert "thereof."

The amendment was adopted.

2D SESS.—26

Mr. Thomas moved to strike out the word "shall," and insert "may," in section twenty, line eighteen.

Lost.

Mr. McCormick moved to reconsider the vote adopting section twenty-four of the Executive Department.

The Convention agreed to reconsider.

Mr. McCormick offered the following substitute for section twenty-four of the Executive Department :

SUBSTITUTE.

The Secretary of State, Treasurer and Commissioner of the General Land Office shall each receive for his services an annual salary of not less than three thousand dollars ; and the Comptroller of Public Accounts and the Attorney-General shall each receive an annual salary of not less than four thousand five hundred dollars. And the salaries of these officers shall not be diminished during their continuance in office.

The Convention refused to adopt.

Mr. Carter moved to reconsider the vote adopting section twenty-one of the Legislative Department.

Mr. Carter offered the following amendment to section twenty-one of the Legislative Department.

Each House may punish, during the session, by imprisonment, any person not a member.

The amendment was agreed to.

On motion of Mr. Smith, section ten of the General Provisions was stricken out.

Mr. Hamilton of Travis moved a reconsideration of the vote striking out section ten of the General Provisions.

The Convention agreed to reconsider.

Mr. Thomas moved to strike out, in section twenty-seven of General Provisions, all after the word "inhabitants."

Lost.

Mr. Wright moved a reconsideration of the vote adopting section twenty-two of the General Provisions.

Lost.

Mr. Wilson of Brazoria moved to strike out the words "road duty," in section thirty-two, line eight of the General Provisions.

Lost.

Mr. Thomas moved to strike out the word "that," in section thirty-three, first line of General Provisions.

Carried.

Mr. McCormick offered the following amendment to section thirty-six of General Provisions.

* And no law shall be passed requiring the personal services of any portion of the people on public roads.

The Convention agreed to the amendment.

Mr. Newcomb offered the following substitute to section thirty-seven of the General Provisions.

SUBSTITUTE.

The Legislature may pass protective laws securing mechanics, artizans and laborers in the enjoyment of the fruits of their labors.

The Convention refused to adopt.

Mr. Carter moved to reconsider the vote adopting section four of the Executive Department.

Lost.

On motion of Mr. Flanagan, the Convention adjourned till half-past seven o'clock this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

The sections of the Constitution amended by the Committee to Revise the Constitution being under consideration,

Mr. Thomas moved to amend section one of Bill of Rights by striking out "and to be made," in the second line.

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 the adoption of the original section.

It was adopted.

Mr. Buffington moved the previous question upon the fourth section.

Previous question ordered.

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

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

Yeas—Messrs. Adams, Armstrong of Lamar, Bellinger, Board, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Burnett, Carter, Cole, Curtis, Downing, Fayle, Flanagan, Gaston, Gray, Hamilton of Travis, Harris, Johnson, Jordan, Kealy, Keigwin, Kendal, Leib, Lippard, Long, Mackey, McCormick, McWashington, Morse, Mullins, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Smith, Sorrell, Stockbridge, Thomas, Vaughan, Watrous, Whitmore, Wright—43.

Nays—Messrs. President, Armstrong of Jasper, Bell, Butler, Degener, Fleming, Hamilton of Bastrop, Harris, Hunt, Kuechler, Newcomb, Patten, Ruby, Slaughter, Varnell, Wilson of Milam—16.

Main question ordered.

The question recurred upon the adoption of the original section.

It was adopted.

On motion section seven was adopted.

On motion the substitute of section nine of the Bill of Rights was adopted.

On motion the substitute for section fourteen of the Bill of Rights was adopted.

On motion the substitute for section nineteen of the Bill of Rights was adopted.

Mr. Thomas moved to reconsider the vote adopting the first section of the Bill of Rights.

On motion the motion was laid on the table.

Mr. Carter moved to strike out "body of" in section five of article eleven, in the Provisions of the Government.

On motion, the amendment was laid on the table.

On motion, section one of the Powers of the Government was adopted.

Mr. Burnett moved to suspend the rules to put the section on its final passage.

Rules suspended.

Section read third time and passed.

Mr. Armstrong, of Lamar, moved to make article three of the

Legislative Department the special order of the day for to-morrow at ten o'clock.

Mr. Patten moved the previous question.

Withdrawn.

Mr. Hamilton moved a call of the House.

Call sustained.

On motion of Mr. Ruby, the call was suspended.

On motion, the consideration of article three of the Legislative Department was postponed till to-morrow at eleven o'clock.

Mr. Smith moved the previous question upon the adoption of the original section five of Bill of Rights.

Previous question seconded.

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

Main question ordered.

The question recurred upon the adoption of the original.

It was adopted.

Section fifteen, as substitute to the original, was adopted.

Mr. Smith moved the previous question upon the adoption of the original section twenty-two of the Legislative Department.

Previous question seconded.

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

Main question ordered.

The question recurred upon the adoption of the original section.

It was adopted.

On motion, the substitute to section twenty-four of the Legislative Department was adopted.

Mr. Patten moved to strike out "by vote of the people."

Lost.

Mr. Varnell moved to lay section thirty-seven of Legislative Department, as proposed, on the table.

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

Yeas—Messrs. Adams, Armstrong of Jasper, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Fayle, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Smith, Sorrell, Stockbridge, Thomas, Varnell, Vaughan, Watrous—38.

Nays—Messrs. President, Armstrong of Lamar, Bell, Board, Bryant of Harris, Butler, Curtis, Degener, Downing, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuech-

ler, Newcomb, Patten, Slaughter, Whitmore, Wilson of Milam, Wright—23.

So the section was laid on the table.

Mr. Butler moved the previous question on the adoption of section thirty-eight, as reported from committee.

Mr. Hamilton moved a call of the House.

Call sustained by the following delegates :

Messrs. Glenn, Bellinger, Buffington, Stockbridge, Schuetze, Hamilton of Travis, Leib, Watrous, Posey, Keigwin, Phillips of Wharton, McCormick, Rogers, Cole, Kealy, Harn, Sorrell.

Absentees—Messrs. Mackey, McWashington, Mundine, Williams, Wilson of Brazoria—5.

Mr. Scott, on motion, was excused.

Mr. Mundine, on motion, was excused, Mr. Buffington objecting.

Mr. Harris moved that the Convention adjourn till half-past nine o'clock to-morrow morning.

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

Yeas—Messrs. Adams, Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Harris, Buffington, Burnett, Carter, Cole, Curtis, Fleming, Gaston, Glenn, Hamilton of Travis, Harris, Harn, Johnson, Keigwin, Kendal, Kuechler, Leib, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Watrous, Wright—32.

Nays—Messrs. President, Board, Butler, Degener, Downing, Fayle, Flanagan, Gray, Hamilton of Bastrop, Hunt, Jordan, Kealy, Lippard, Long, Morse, Mullins, Newcomb, Patten, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—23.

So the Convention adjourned till half-past nine o'clock to-morrow morning.