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CAPITOL, AUSTIN, TEXAS,
February 1, 1869.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Prayer by the Chaplain.

Journal of Saturday read and adopted.

The President stated a point of order and announced that the Secretary, Mr. Tunstall, had presented an account for copying the journals, which the President had refused to approve, because he considered it fraudulent and extravagant. That on his stating to the Secretary on yesterday that he could not approve the same, the Secretary told him that if he did not approve the account he would not sign for the President his certificate for his per diem.

Mr. Patten moved the Secretary be discharged.

Withdrawn.

Mr. Patten moved to raise a committee of three to examine into the matter.

Mr. Evans of Titus 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 motion.

It was adopted.

The President appointed Messrs. Burnett, McCormick and Brown as the committee.

Mr. Degener offered the following resolution :

WHEREAS, Mr. R. E. Talbot, the member elect from Williamson and Burnett counties, is in attendance ; therefore be it

Resolved, That he be invited to a seat on the floor without a vote, till the Convention is officially advised of his election.

The resolution was agreed to.

Mr. McCormick moved that Mr. Kealy be permitted to print remarks upon the section in the constitution relating to poor houses.

Mr. Ruby rose to a question of personal privilege, stating that the assistant doorkeeper violently assaulted him upon the public street this morning while on his way to the capitol.

Mr. Degener asked that the question be referred to the special

committee raised this morning to investigate the conduct of the Secretary of the Convention.

Mr. Johnson 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. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Board, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Carter, Cole, Degener, Downing, Evans of Titus, Fayle, Fleming, Flanagan, Hamilton of Travis, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendall, Kuechler, Kirk, Leib, Long, Mackey, Morse, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—49.

Nays—Messrs. President, Gray, Hamilton of Bastrop, Harris, Lippard, Mullins, Newcomb, Patten, Ruby, Slaughter—10.

* Main question ordered.

The question recurred upon the adoption of the motion.

It was adopted.

Mr. Degener rose to the point of order, and moved that officers against whom charges had been made, and which charges had been referred to a committee, should be suspended until the said committee had reported.

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

Yeas—Messrs. Board, Butler, Burnett, Degener, Downing, Evans of Titus, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—24.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Brown, Bryant of Grayson, Buffington, Carter, Cole, Curtis, Fayle, Fleming, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Leib, Mackey, McCormick, Morse, Mundine, Phillips of San Augustine, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Williams, Wilson of Brazoria, Wright—34.

Mr. Smith of Galveston rose to a question of personal privilege, stating that he had been assaulted in the hall of the Convention by

Mr. Bryant of Grayson, and desired the matter referred to the committee appointed to inquire into the conduct of certain officers.

Mr. Burnett moved the motion to refer be laid on the table.

Carried.

Mr. Armstrong of Lamar moved to take up the constitution.

Carried.

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

COMMITTEE ROOM,
Austin, Texas, February 1, 1869.

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

SIR: The Committee on Engrossed Provisions, after examination, report the following declarations and resolutions correctly engrossed, to-wit :

No. 109. Resolution expressing the opinion of the Convention respecting the division of the State of Texas, and providing for the election of delegates to proceed to Washington to represent the condition of the State.

No. 110. Declaration incorporating the Rock Creek Bridge and Turnpike Company.

No. 111. Declaration incorporating the Ship Channel and Bolivar Point Company.

No. 112. Declaration incorporating the Jefferson Navigation Company.

No. 113. Declaration granting the right to build a ferry across the Neches river.

No. 114. Declaration creating the county of Latimer.

No. 115. Resolution providing that the Legislature may make an appropriation for the heirs of W. A. Smith, deceased.

No. 116. Declaration granting mileage to G. H. Slaughter for distance actually traveled.

No. 117. Resolution respecting absent members and the payment thereof.

No. 118. Resolution authorizing Hon. L. D. Evans to draw the pay of Mr. Mullins, deceased.

No. 119. Declaration to incorporate the Port Sullivan, Belton and Northwestern Railroad Company.

No. 120. A declaration incorporating the Liverpool and Texas Steamship Company—limited.

No. 121. Declaration incorporating the Austin Bridge Company.

No. 122. Declaration in relation to Corpus Christi Ship Channel.

Very respectfully submitted.

J. R. SCOTT,
Chairman Committee.

* Article thirteen of the constitution being under consideration, Mr. Hamilton of Bastrop moved to amend section two by striking out "third" and insert "tenth," so as to read "tenth of February."

Carried.

Section two was adopted as amended.

Mr. Hamilton of Bastrop moved to strike out "August" and insert "October," in first line, section three, of article thirteen.

Section three, on motion, was adopted.

Mr. Hamilton of Travis moved to amend section four, article thirteen, by inserting after the word "certificates" the words "now in existence."

Section four, on motion, was adopted.

Mr. Carter moved to strike out, in section five, in third line, the words "excepting mineral lands."

Mr. Hamilton moved to amend the amendment by adding :

Provided that all practical miners and discoverers of mineral lands be protected in the enjoyment of their discoveries.

Amendment accepted.

The question recurred upon the adoption of the amendment.

The Convention refused to adopt.

Mr. Flanagan offered the following amendment, to come in at end of section :

Which shall be reserved for the State, and subject to legislation.

Amendment lost.

Mr. Newcomb 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. President, Bell, Board, Butler, Curtis, Degener, Downing, Evans of Titus, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kendal, Kuechler, Lippard, Long, Morse, Mullins, Newcomb, Phillips of San Augustine, Ruby, Slaughter, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam—28.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Fleming, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kirk, Leib, McCormick, McWashington, Mundine, Phillips of Whar-ton, Posey, Rogers, Scott, Smith, Sorrell, Stockbridge, Thomas, Varnell, Watrous, Wright—31.

Main question not ordered.

Mr. Varnell moved to strike out the three last words in section five, article thirteen.

Carried.

Mr. Wright moved to strike out section five.

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

Yeas—Messrs. Armstrong of Lamar, Bellinger, Board, Bryant of Grayson, Fleming, Harris, Scott, Thomas, Wright—9.

Nays—Messrs. President, Armstrong of Jasper, Bell, Buffington, Butler, Burnett, Carter, Cole, Curtis, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harn, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Newcomb, Phillips of San Augustine, Phillips of Whar-ton, Posey, Rogers, Ruby, Schuetze, Slaughter, Smith, Sorrell, Stockbridge, Varnell, Watrous, Whitmore, Williams, Wilson of Bra-zoria, Wilson of Milam—49.

So the Convention refused to strike out.

On motion, section five, article thirteen, was adopted.

2D SESS.—29

Mr. Hamilton of Travis moved to amend section six, article thirteen, as follows :

Amend by inserting, after the word "persons," in the first line, as follows : "Nor shall any certificates for land be sold at the land office."

Amendment agreed to.

On motion section six, article-13, as amended, was adopted.

Section seven, article thirteen, on motion, was adopted.

Mr. Buffington offered the following as an additional section :

SEC. 8. To every head of a family who has not a homestead there shall be donated one hundred and sixty acres of land out of the public domain, upon the condition that he will select, locate and occupy the same for three years, and pay the office fees on the same.

To all single men twenty-one years of age there shall be donated eighty acres of land out of the public domain, upon the same terms and conditions as is imposed upon the head of a family.

Mr. Hamilton of Bastrop moved to lay the proposed section on the table.

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

Yeas—Messrs. Armstrong of Jasper, Board, Butler, Carter, Cole, Degener, Downing, Hamilton of Bastrop, Keigwin, Kirk, Patten, Slaughter—12.

Nays—Messrs. President, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Curtis, Evans of Titus, Fayle, Flanagan, Fleming, Gray, Hamilton of Travis, Harris, Harn, Hunt, Johnson, Jordan, Kendal, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Mundine, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Schuetze, Scott, Smith, Sorrell, Thomas, Varnell, Watrous, Whitmore, Williams, Wilson of Brazoria, Wilson of Milam, Wright—47.

So the Convention refused to lay on the table.

Mr. Hamilton moved to strike out all relating to single men.

Lost.

Mr. Thomas moved to amend by making the proposed section "pay," instead of "paying."

Agreed to.

The question recurred upon the adoption of the amended section. It was adopted.

Mr. Burnett offered the following as an additional section :

The State of Texas hereby releases to the owner or owners of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of taxation as the Legislature may impose."

The question recurring upon the adoption of the additional section, the Convention adopted the section.

The consideration of the amendments offered by the Committee on the Revision of the Constitution, and upon the Judicial Department, the question recurred upon the adoption of section two of the Judicial Department as reported by the committee.

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

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Board, Brown, Bryant of Grayson, Butler, Carter, Cole, Curtis, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Hamilton of Travis, Harris, Hunt, Johnson, Jordan, Kealy, Keigwin, Kendal, Kuechler, Kirk, Lippard, Long, McWashing-ton, Morse, Mullins, Newcomb, Patten, Rogers, Ruby, Scott, Slaughter, Smith, Sorrell, Thomas, Whitmore, Williams, Wilson of Milam, Wright—44.

Nays—Messrs. Bellinger, Buffington, Burnett, Fayle, Fleming Gray, Harn, McCormick, Mundine, Phillips of Wharton, Posey, Schuetze, Stockbridge, Varnell, Watrous, Wilson of Brazoria—16,

So section two as reported was adopted.

Mr. Degener moved the previous question.

Previous question seconded.

Mr. Hamilton of Travis moved a call of the House.

Call sustained by the following delegates, to-wit : Messrs. Sorrell, Kirk, Armstrong of Jasper, Buffington, Hamilton of Travis, Stock-bridge, Schuetze, Posey, Watrous, McCormick, Mundine, Fayle, Fleming, Gray, Wilson of Brazoria—15.

On motion, the Convention adjourned till the usual hour this evening.

EVENING SESSION—HALF-PAST SEVEN O'CLOCK.

Convention met pursuant to adjournment.

Roll called.

Quorum present.

Mr. McCormick asked leave of absence for Mr. Wilson of Brazoria, for to-night.

Leave granted.

Mr. Carter moved that Mr. Kuechler be added to the Committee on Style.

It was so ordered.

Mr. Evans asked that Mr. Phillips of Wharton be excused on account of sickness.

Excused.

Mr. Hamilton of Travis moved a re-consideration of the vote adopting the second section of the Judiciary Department reported by the committee.

Mr. Patten moved to lay the motion on the table.

Mr. Hamilton of Travis moved a call of the House.

Call sustained by the following delegates, to-wit:

Messrs. Buffington, Kirk, Armstrong of Jasper, Stockbridge, Posey, Leib, Varnell, Watrous, Keigwin, McCormick, Mundine, Fayle, Fleming, Rogers, Harn, Cole, Scott, Hamilton of Travis
—17.

Absentees—None.

Messrs. Glenn and Gaston, being reported sick, were excused.

Mr. Butler was excused on account of sickness.

The question recurred upon the motion of Mr. Patten to lay the motion to reconsider on the table.

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

Yeas—Messrs. President, Bell, Bellinger, Board, Brown, Bryant of Grayson, Cole, Degener, Downing, Evans of Titus, Flanagan, Hamilton of Bastrop, Harris, Hunt, Johnson, Jordan, Kealy, Kendal, Kuechler, Lippard, Long, McWashington, Morse, Mullins, Newcomb, Patten, Phillips of San Augustine, Ruby, Scott, Slaughter, Smith, Whitmore, Williams, Wilson of Milam, Wright
—35.

Nays—Messrs. Armstrong of Jasper, Armstrong of Lamar, Buffington, Burnett, Carter, Curtis, Fayle, Fleming, Gray, Hamilton of Travis, Harn, Keigwin, Kirk, Leib, Mackey, McCormick, Mun-

dine, Posey, Rogers, Schuetze, Sorrell, Stockbridge, Thomas, Varnell, Watrous—25.

So the motion to reconsider was laid on the table.

Mr. Degener moved the previous question upon the adoption of section two of the judiciary department as reported from Committee on Revision.

Previous question seconded.

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

Main question ordered.

The question recurred upon the adoption of section two of the judicial department.

It was adopted.

Mr. Whitmore asked leave of absence for Mr. Williams.

Leave granted.

Mr. Board offered the following amendment to section seven of the judiciary department:

"The establishment of county, police and probate courts shall be given to the Legislature to establish, change or abolish at pleasure."

On motion the amendment was laid on the table.

Section seven, on motion, was adopted.

Mr. Davis, of Nueces, offered the following amendment to section eleven of the judiciary department.

Insert after the word law, in 12th line of section eleven of the judiciary department, the following words:

"And when the district judge is disqualified to try any case or cause within his district, the Governor of the State, on such fact being certified to him, may appoint some person learned in the law to try such case or cases who shall receive such compensation as may be given by law."

The amendment was adopted.

Mr. Davis moved to strike out in thirteenth line of section eleven of the judiciary department the words "in trials at" and insert the word "by."

Carried.

The section, as amended, was then adopted.

Mr. Smith moved the previous question upon the adoption of the original section twelve.

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 twelve.

It was adopted.

Section twenty-five, as reported by the committee, was adopted.

Mr. Hamilton, of Travis, moved to reject section twenty-seven of the judiciary department.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bellinger, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Downing, Evans of Titus, Flanagan, Gray, Hamilton of Travis, Harris, Harn, Johnson, Kealy, Keigwin, Kendal, Kirk, Mundine, Phillips of San Augustine, Rogers, Schuetze, Scott, Smith, Sorrell, Stockbridge, Thomas, Wright, Watrous—32.

Nays—Messrs. President, Brown, Curtis, Degener, Fayle, Fleming, Hamilton of Bastrop, Hunt, Jordan, Kuechler, Leib, Lippard, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Posey, Ruby, Slaughter, Varnell, Whitmore, Wilson of Milam—24.

So the section was rejected.

Mr. Hamilton, of Travis, moved to reject section twenty-eight of the judiciary department as reported from the committee.

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

Yeas—Messrs. Armstrong of Jasper, Bellinger, Bryant of Grayson, Buffington, Burnett, Cole, Evans of Titus, Fayle, Fleming, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Stockbridge, Thomas, Wright—25.

Nays—Messrs. President, Armstrong of Lamar, Bell, Brown, Carter, Curtis, Degener, Downing, Flanagan, Gray, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Leib, Lippard, Long, McCormick, McWashington, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Sorrell, Varnell, Watrous, Whitmore, Wilson of Milam—32.

So the Convention refused to reject.

Mr. Hamilton, of Travis, moved a call of the House.

Call sustained by the following delegates, to-wit :

Messrs. Scott, Bellinger, Evans of Titus, Armstrong of Jasper, Harris, Hamilton of Travis, Bryant of Grayson, Buffington, Posey, Stockbridge, Keigwin, Mundine, Rogers, Cole, Thomas, Kealy.

Absentees--Messrs. Board and Mackey.

The President directed the following communication to be read :

Austin, Texas, February 1, 1869.

Hon. E. J. DAVIS,

President of the Convention :

SIR: I have the honor to hand you this, my resignation of the office of delegate from the counties of Caldwell and Travis to the Constitutional Convention now in session.

Very respectfully,

Your obedient servant,

JOHN MACKEY.

Mr. Hamilton, of Travis, by request of Mr. Mackey, asked leave to withdraw the resignation of Mr. Mackey.

Mr. Flanagan moved the resignation of Mr. Mackey be accepted.

Mr. Mundine moved to adjourn till the usual hour to-morrow morning.

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

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bellinger, Brown, Bryant of Grayson, Buffington, Burnett, Carter, Cole, Curtis, Evans of Titus, Fleming, Gray, Hamilton of Travis, Harris, Harn, Kealy, Keigwin, Kendal, Kirk, Leib, McWashington, Mundine, Phillips of San Augustine, Posey, Rogers, Schuetze, Scott, Sorrell, Stockbridge, Thomas, Watrous, Wright—32.

Nays—Messrs. President, Bell, Degener, Downing, Fayle, Flanagan, Hamilton of Bastrop, Hunt, Johnson, Jordan, Kuechler, Lippard, Long, McCormick, Morse, Mullins, Newcomb, Patten, Ruby, Slaughter, Smith, Varnell, Whitmore, Wilson of Milam—24.

So the Convention adjourned.