

**TEXAS**  
**LAW**

**Tarlton Law Library**  
Jamail Center for Legal Research

Citation: *Journal of the Constitutional Convention of the State of Texas: Begun and Held at the City of Austin Texas. Constitutional Convention (1875). Galveston : Printed for the Convention at the "News" Office, 1875.*

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](mailto:rarebooks@law.utexas.edu).

If you are uncertain whether you need permission to use these materials, please contact us at [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

YEAS—Abner, Ballinger, Brady, Cline, Crawford, Davis of Brazos, Davis of Wharton, Dohoney, Erhard, Ferris, Fleming, Ford, Haynes, Henry of Smith, Lockett, Martin of Hunt, Martin of Navarro, McCabe, McCormick, Mills, Mitchell, Moore, Morris, Nunn, Pauli, Rentfro, Reynolds, Ross, Russell of Harrison, Smith, Wade, Waelder, West—33.

NAYS—Abernathy, Allison, Arnim, Barnett, Blake, Blassingame, Bruce, Burleson, Chambers, Cook of Gonzales, Cooke of San Saba, Darnell, DeMorse, Dillard, Flournoy, Gaither, German, Graves, Henry of Limestone, Holt, Johnson of Collin, Johnson of Franklin, Kilgore, Killough, Lacy, Lynch, McKinney of Denton, McLean, Murphy, Norvell, Nugent, Ramey, Reagan, Robertson of Bell, Robison of Fayette, Russell of Wood, Sansom, Scott, Spikes, Stayton, Stockdale, Whitehead, Whitfield—43.

The question on Mr. Whitfield's substitute for section 3 was then put, and the substitute lost by the following vote:

YEAS—Abner, Ballinger, Brady, Cline, Cook of Gonzales, Crawford, Davis of Brazos, Dillard, Erhard, Fleming, Ford, Henry of Smith, Kilgore, Lockett, Martin of Hunt, Martin of Navarro, McCabe, McCormick, Mills, Mitchell, Moore, Morris, Norvell, Pauli, Rentfro, Reynolds, Ross, Russell of Harrison, Smith, Wade, Waelder, West, Whitehead, Whitfield—34.

NAYS—Abernathy, Allison, Arnim, Barnett, Blake, Blassingame, Bruce, Burleson, Cardis, Chambers, Cooke of San Saba, Darnell, Davis of Wharton, DeMorse, Dohoney, Ferris, Flournoy, Gaither, German, Graves, Haynes, Henry of Limestone, Holt, Johnson of Collin, Johnson of Franklin, Killough, Lacy, Lynch, McLean, Murphy, Nugent, Nunn, Ramey, Reagan, Robertson of Bell, Robison of Fayette, Russell of Wood, Sansom, Scott, Spikes, Stayton, Stockdale—42.

Mr. West moved to reconsider the vote adopting Mr. Reagan's amendment to section 3, line 14, striking out "two" and inserting "one," as poll tax.

On motion of Mr. Reagan, the Convention adjourned.

#### FORTY-EIGHTH DAY.

HALL OF REPRESENTATIVES, }  
AUSTIN, TEXAS, October 30, 1875 }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. H. V. Philpott, of the M. E. Church, Austin.

Journal of yesterday read and adopted.

On motion of Mr. Kilgore, Mr. Henry, of Smith, was excused for ten days.

On motion of Mr. Flournoy, Mr. W. H. Stewart, delegate elect to fill the vacancy occasioned by the resignation of Mr. Rugely, came forward, presented his credentials, took the prescribed oath and his seat as a delegate to the Convention.

On motion of Mr. Cline, Mr. Morris was excused from attendance on the Convention for three days.

Mr. West, chairman of the Committee on General Provisions, made the following reports:

COMMITTEE ROOM, }  
AUSTIN, October 29, 1875. }

*To the Hon. E. B. Pickett, President of the Convention:*

The Committee on General Provisions, to whom was referred a memorial of the Hon. Gustave Cook, of Harris county, asking that certain provisions be placed in the constitution regulating the manner in which the Governor of the State shall proceed in suppressing domestic violence, and prescribing his course of procedure when he makes application to the Federal authorities for troops to suppress insurrection, beg leave to report that they have given the subject matter careful consideration, and they do not deem it advisable to insert in the constitution the clauses suggested. They believe that the subject, without any constitutional injunction to that effect, would be, to a considerable extent, within the control of the Legislature, and that body could, by appropriate legislation, guard against the evils so clearly pointed out in the memorial.

Respectfully submitted,

C. S. WEST, Chairman.

COMMITTEE ROOM, }  
AUSTIN, October 30, 1875. }

*To the Hon. E. B. Pickett, President of the Convention:*

The Committee on General Provisions, to whom was referred a series of resolutions providing for a clause in the constitution to limit the powers of private corporations, beg leave to report that they have examined the subject, and have instructed me to return them and recommend that they be referred to the Committee on Private Corporations. Respectfully submitted,

C. S. WEST, Chairman.

Report received, to come up in its order.

On motion of Mr. Brown, Mr. Stewart was added to the Com-

mitted on General Provisions, Education, Suffrage, and Style and Arrangement.

Unfinished business taken up, viz: "Article —, Public Schools."

Mr. Ferris offered the following amendment as an additional section:

"Sec. —. Until the available school fund, including the fund derivable from taxation, shall appear sufficient for the maintenance of a system of free schools, such fund may be used for the encouragement or support of public schools, which shall afford free tuition to pupils whose parents or guardians are unable to pay for tuition, in such manner and under such regulations as may be provided by law."

The hour having arrived for considering the special order, viz: "Revenue and Taxation," on motion of Mr. Crawford, it was postponed until the pending question shall have been disposed of.

Mr. Ferris also offered the following amendment to section 7:

"And in the counties where such schools exist, the available school fund to which each county is entitled shall be apportioned to such separate schools, according to the relative scholastic population of white and colored children in the county."

On motion of Mr. Scott, the main question was ordered.

Mr Ferris's amendments were both lost.

The question recurring upon the engrossment of the article, it was carried by the following vote:

YEAS—Abernathy, Allison, Ballinger, Barnett, Blake, Brown, Burleson, Chambers, Cline, Cook of Gonzales, Cooke of San Saba, Crawford, Davis of Brazos, Dillard, Dohoney, Erhard, Ferris, Fleming, Flournoy, Gaither, German, Graves, Haynes, Henry of Limestone, Henry of Smith, Johnson of Collin, Johnson of Franklin, Killough, King, Lacy, Martin of Hunt, Martin of Navarro, McCormick, McKinney of Denton, McKinney of Walker, Moore, Norvell, Nugent, Nunn, Ramey, Reagan, Rentfro, Robertson of Bell, Robison of Fayette, Ross, Russell of Wood, Sansom, Scott, Smith, Spikes, Stewart, Waelder, West, Whitehead, Wright—55

NAYS—Abner, Arnim, Blassingame, Brady, Bruce, Cardis, Cooley, Darnell, Davis of Wharton, DeMorse, Ford, Holt, Kilgore, Lockett, Lynch, McLean, Mills, Mitchell, Murphy, Pauli, Reynolds, Russell of Harrison, Stockdale, Wade, Whitfield—25.

Mr Graves moved to reconsider the vote just taken, and to lay the motion on the table.

Carried by the following vote:

YEAS—Abernathy, Allison, Ballinger, Barnett, Blake, Brown, Burleson, Chambers, Cook of Gonzales, Cooke of San Saba, Davis of Brazos, Dillard, Ferris, Flournoy, Gaither, German, Graves, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Killough, Lacy, Martin of Hunt, Martin of Navarro, McCormick, McKinney of Denton, Moore, Norvell, Nugent, Nunn, Ramey, Reagan, Robertson of Bell, Robison of Fayette, Ross, Russell of Wood, Sansom, Scott, Spikes, Stewart, Whitehead, Wright—42.

NAYS—Abner, Arnim, Blassingame, Brady, Bruce, Cardis, Cline, Cooley, Crawford, Darnell, Davis of Wharton, DeMorse, Dohoney, Erhard, Fleming, Ford, Haynes, Holt, Kilgore, King, Lockett, Lynch, McKinney of Walker, McLean, Mills, Mitchell, Murphy, Paul, Rentfro, Reynolds, Russell of Harrison, Smith, Stayton, Stockdale, Wade, Waelder, West, Whitfield—38.

The Convention then proceeded to consider the special order, viz: "Art. —, Revenue and Taxation," on its second reading.

On motion of Mr. Murphy, the article was considered section by section.

Mr. Gaither moved to recommit the article to a select committee of five.

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

Both motions withdrawn, and the Convention, proceeded to consider the article, section by section.

Mr. Ramey proposed to amend section 1, line 6, after "furniture," by adding, "belonging to each family in this."

Adopted.

Mr. Russell, of Harrison, offered the following amendment:

Strike out all after the word "dollars," in section 1, line 7.

The question as to whether the amendment was in order having arisen, the chair submitted the same to a vote of the Convention, by which the amendment was declared in order.

Mr. McCormick offered the following substitute for the section and amendment:

"Section 1. Taxation shall be equal and uniform throughout the State, and all property subject to taxation in this State shall be taxed in proportion to its value, to be ascertained as shall be prescribed by law; *provided*, there shall be forever exempt from all taxation, household and kitchen furniture, the property of citizens of this State, not to exceed in value the sum of two hundred and fifty dollars. The Legislature may also impose occupation and income taxes, upon such occupations and pursuits that it may deem to the interest of the State to tax;

*provided*, That the counties, cities and towns or other political sub-divisions of this State, nor the authorities thereof, shall in no case impose any tax upon occupations or pursuits. But the Legislature may provide by law that such occupation or income tax collected by the State, or any portion thereof may be returned to the county for the benefit of the general county fund; *provided*, that the fund thus returned shall always be returned to the county from which it was collected.

[Mr. McLean in the chair.]

Mr. Brown moved to adjourn to 2½ o'clock P. M.

Lost.

On motion of Mr. German, the Convention adjourned to 2½ o'clock P. M.

---

#### EVENING SESSION—2½ o'clock.

Convention met pursuant to adjournment; roll called, quorum present.

The "Article —, Revenue and Taxation," was taken up, the pending question being upon the amendment of Mr. Russell, of Harrison

Mr. McCormick withdrew his substitute

Mr. Stockdale then offered the following substitute for section 1:

"Section 1 Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The Legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations other than municipal doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax; *provided*, that two hundred and fifty dollars worth of household and kitchen furniture belonging to each family in this State shall be exempt from taxation."

The substitute was adopted.

Mr. McKinney, of Walker, offered the following amendment to the section:

Add to section 1 the words:

"*Provided further*, That the occupation tax levied by any

county, city or town, for any year, on persons or corporations pursuing any profession or business, shall not exceed one-half of the tax levied by the State for the same period on such profession or business."

The amendment was then adopted

Mr. Moore offered the following amendment to section 2:

Strike out lines 11 and 12, except the word "the" at the end of line 12.

Mr. Stockdale offered the following amendment:

Insert the word "occupation" before taxes in line 11.

Mr. Moore then withdrew his amendment.

Mr. Stockdale's amendment was adopted.

Mr. Sansom offered the following amendment:

Amend section 2 by inserting in line 15, after the word "profit," "school houses and their necessary furniture."

On motion of Mr. Waelder, Mr. King was excused for ten days.

On motion of Mr. Henry, of Smith, Mr. Nunn was excused for ten days.

On motion of Mr. Mills, Mr. McCabe was excused for ten days from next Tuesday.

Mr. Sansom's amendment was then adopted.

Mr. Crawford moved to insert the word "public" before "school houses," in Mr. Sansom's amendment.

Mr. Waelder offered the following amendment as a substitute for Mr. Sansom's amendment just adopted:

"All buildings used exclusively and owned by persons, or associations of persons, for school purposes, and the necessary furniture of all schools"

Mr. Ross moved to lay the amendments on the table.

A division of the question ordered.

The motion to lay Mr. Waelder's amendment on the table was lost by the following vote:

Y<sub>EAS</sub>—Abernathy, Allison, Arnim, Ballinger, Fleming, Graves, Norvell, Nugent, Nunn, Ross, Sansom, Smith, Stockdale, Whitfield—14

N<sub>AYS</sub>—Abner, Barnett, Blake, Blassingame, Brady, Bruce, Burleson, Cardis, Chambers, Cline, Cook of Gonzales, Cooke of San Saba, Crawford, Darnell, Davis of Brazos, DeMorse, Dillard, Dohoney, Erhard, Ferris, Flournoy, Ford, Gaither, German, Haynes, Henry of Lunestone, Henry of Smith, Holt, Johnson of Collin, Johnson of Franklin, Kilgore, Killough, Lacy, Lockett, Lynch, McCormick, McKinney of Denton, McKinney of Walker, McLean, Mills, Mitchell, Moore, Murphy, Martin

of Navarro, Martin of Hunt, Pauli, Ramey, Reagan, Rentfro, Reynolds, Robertson of Bell, Robison of Fayette, Russell of Harrison, Russell of Wood, Scott, Spikes, Stayton, Stewart, Waelder, West, Whitehead, Wright—62.

Mr. Crawford's amendment was laid on the table.

Mr. Waelder's amendment was adopted.

Mr. Cline offered the following as a substitute for section 2 :

"Sec. 2. The Legislature may exempt from taxation property used for worship, education, burial, halls of Turners, Masons, Odd Fellows, and similar societies; hospitals, and all property used for purely public charity, and all public property used for public purposes; and no other property."

Lost.

On motion of Mr. McCormick, the Convention adjourned to 9 o'clock A. M. Monday.

---

#### FORTY-NINTH DAY.

HALL OF REPRESENTATIVES, }  
AUSTIN, TEXAS, November 1, 1875. }

Convention met pursuant to adjournment, roll called; quorum present. Prayer by the Rev. Dr. W. H. Dodge.

Journal of Saturday read and adopted.

On motion of Mr. Rentfro, Mr. Cline was excused for four days, commencing from to-day.

Mr. Ford presented the petition of the citizens of Hidalgo county on the subject of allowing one man to hold two offices in counties having less than two hundred and fifty voters.

Referred to Committee on General Provisions.

Mr. Fleming offered the following resolution:

*Resolved.* That the Committee on Public Lands and Land Office be requested to consider the propriety of setting apart five million acres of the public domain for the purpose of building a State Capitol, and to report by ordinance or otherwise.

Referred to Committee on Public Lands and Land Office.

Mr. Norvell moved to suspend the rules and take up "Article —, on Legislative Apportionment"

Lost

Unfinished business taken up, viz: "Article —, Revenue and Taxation."

Mr Allison moved to reconsider the vote taken Saturday on amending sections 1 and 2 of the article.