

MONDAY, July 28, 1845.

The Convention met pursuant to adjournment—prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Parker, Power, Rains, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White, Wood, Wright and Young.

Messrs. Lusk and Runnels were excused from attendance on the Convention, in consequence of sickness.

The journal of Saturday was read and adopted.

The Committee on the Bill of Rights and General Provisions of the Constitution, to whom the report was re-referred, made the following report :

COMMITTEE ROOM, July 26, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention :

The committee to whom was referred the Bill of Rights, have examined the same, with such amendments as have been incorporated by the committee of the whole, have had the same under consideration, and instructed me to report the same back to the Convention, and recommend the adoption of the following verbal amendments, viz :

Strike out the word "that," where it occurs in 1st line, 1st section ; in line 2d, section 2d ; in lines 5th and 6th, in section. 4th.

ISAAC VAN ZANDT,

Chairman of the Com. on Bill of Rights and Gen. Prov

Which report was laid on the table, to come up among the orders of the day.

Mr. Burroughs offered the following rule :

Resolved, That the President of the Convention shall first enquire if the Convention is ready for the question ; if ready, he shall fairly put the question ; after which there shall be no debate on that question : this rule shall apply to the committee of the whole.

Which was laid on the table one day, for consideration.

On motion of Mr. Mayfield, the resolution for the election of public printer, was taken up; and,

On motion of Mr. Latimer of R. R., the election was postponed until to-morrow at 12 o'clock, M.

On motion of Mr. Wood, the Convention took up the

ORDERS OF THE DAY.

On motion of Mr. Mayfield, the Convention resolved itself into committee of the whole, on the report of the Judiciary Committee—Mr. Mayfield in the chair.

After the adoption of various amendments, the committee rose, reported progress, and asked leave to sit again.

Which report was adopted.

On motion of Mr. Howard, Mr. Kinney was added to the committee to whom was referred the subject of the apportionment of representation, and taking the census.

On motion of Mr. Howard, the Convention adjourned until 4 o'clock, P. M.

4 O'CLOCK, P. M.

The Convention met pursuant to adjournment—roll called—quorum present.

On motion of Mr. Caldwell, the amendments of the committee of the whole to the report of the Committee on the Judiciary Department, was taken up; and,

On motion of Mr. Scott, the Convention resolved itself into committee of the whole, on said report—Mr. Scott in the chair.

After some progress therein, the committee rose, and, through their chairman, reported sundry amendments back to the House, and asked to be discharged from the further consideration thereof.

On motion of Mr. Van Zandt, the report of the Committee on the Judiciary Department was laid on the table, for the present.

Mr. Van Zandt, Chairman of the Committee on the Bill of Rights and General Provisions of the Constitution, made the following report:

COMMITTEE ROOM, July 28, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention:

The committee, to whom were referred the "General Provisions of the Constitution," and sundry resolutions in relation thereto, have had the same under consideration, and have instructed me to report the following provisions, and respectfully recommend their adoption.

ISAAC VAN ZANDT,

Chairman of Com. on B. of R. and G. P

GENERAL PROVISIONS.

SECTION. 1. Members of the Legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation:—"I (A. B.) do solemnly swear, (or affirm) that I will faithfully and impartially discharge, and perform, all the duties incumbent on me as _____, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States, and of this State; and I do, further, solemnly swear, (or affirm) since the adoption of this Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State, nor out of it; nor have I sent or accepted a challenge to fight a duel with deadly weapons; nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending—so help me God."

SEC. 2. Treason against this State, shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit, in this State, who shall have been convicted of having given, or offered, a bribe, to procure his election or appointment.

SEC. 4. Laws shall be made to exclude from office, and from the right of suffrage, those who shall, hereafter, be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections; and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

SEC. 5. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it; or who shall act as second, or knowingly aid and assist, in any manner, those thus offending, shall be deprived of holding any office of trust or profit under this State.

SEC. 6. In all elections by the people, the vote shall be by ballot, until the Legislature shall otherwise direct; and in all elections by the Senate and House of Representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

SEC. 7. No money shall be drawn from the treasury, but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years. A regular statement and account of the receipts and expenditures of all public money, shall be published annually, in such manner as shall be prescribed by law.

SEC. 8. All civil officers for the State at large, shall reside within the State; and all district or county officers, within their districts or counties, and shall keep their offices at such places therein, as may be required by law; and no person shall be elected or appointed to any county office, who shall not have resided in such county long enough before such election or appointment, to have acquired the right of voting in such county; and no person shall be elected or appointed to any district office, who shall not have resided in such district long enough before such appointment or election, to have acquired the right of voting for the same.

SEC. 9. The duration of all offices not fixed by the Constitution, shall never exceed four years.

SEC. 10. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office, under the exceptions contained in this Constitution.

SEC. 11. The Legislature shall have power to provide, by law, for deductions from the salaries of public officers who may be guilty of a neglect of duty.

SEC. 12. The Legislature may point out the manner in which a person coming into this State, shall declare his residence.

SEC. 13. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the Legislature, or hold or exercise any office of profit or trust under this State.

SEC. 14. The Legislature shall direct by law, how persons who are now, or may hereafter become, sureties for public officers, may be discharged from such suretyship.

SEC. 15. The Legislature shall provide by law, for a change of *venue*, in civil and criminal cases.

SEC. 16. It shall be the duty of the Legislature, to pass such laws as may be necessary and proper, to decide differences by arbitration.

SEC. 17. No lottery shall be authorized by this State; and

the buying or selling of lottery tickets, within this State, is prohibited.

SEC. 18. No divorce shall be granted by the Legislature.

SEC. 19. It shall be the duty of the Legislature, as early as possible, to pass laws defining the rights of married women, upon the principle of a community of property between husband and wife, having a due regard to the rights of heirs and creditors.

SEC. 20. The Legislature shall have power to pass laws prohibiting, under such modifications as they may think proper, the separation of the families of slaves by private or public sale.

SEC. 21. The rights of property and of action, which have been acquired under the Constitution and laws of the Republic of Texas, shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void, by the Constitution and laws of the Republic of Texas, be re-invested, revived, or reinstated, by this Constitution; but the same shall remain precisely in the situation which they were before the adoption of this Constitution.

SEC. 22. All colonization contracts for settling the vacant and unappropriated lands of the Republic of Texas, heretofore made with the President thereof, shall be suspended, and cease from and after the adoption of this Constitution, by the people of Texas; but the rights to lands, of actual settlers already introduced in conformity with the terms of the contracts, are hereby guaranteed; and the Legislature shall have the power to pass laws necessary for maintaining the same; and laws to enable the contractors (who entered into the contract with the President) to institute suits against the State, for the recovery of any indemnity to which they may be equitably entitled.

SEC. 23. The Legislature shall have power to protect by law, from forced sale, a certain portion of the property of all heads of families; and in all cases, the homestead of a family, not to exceed 160 acres of land, shall be exempt from sale by execution.

SEC. 24. The Legislature shall provide by law, in what cases officers shall continue to perform the duties of their offices, until their successors shall have been inducted into office.

SEC. 25. Every law enacted by the Legislature, shall embrace but one object, and that shall be expressed in the title.

SEC. 26. No law shall be revised or amended, by reference to its title; but in such case, the act revised, or section amended, shall be re-enacted, and published at length.

SEC. 27. No person shall hold or exercise, at the same time

more than one civil office of emolument, except that of justice of the peace.

SEC. 28. Taxation shall be equal and uniform, throughout the State. All property on which taxes may be levied, in this State, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied. The Legislature shall have power to lay an income tax; and to tax all persons pursuing any occupation, trade, or profession.

SEC. 29. No corporate body shall hereafter be created, renewed, or extended, with banking or discounting privileges.

SEC. 30. Corporations shall not be created in this State, by special laws, except for political or municipal purposes; but the Legislature shall provide, by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

SEC. 31. No corporation, hereafter to be created, shall ever endure for a longer term than _____ years, except those which are political or municipal; and two-thirds of the Legislature shall have the power to revoke and repeal all private corporations, by making compensation for the franchise.

SEC. 32. The aggregate amount of debts hereafter contracted by the Legislature, shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasions, or suppress insurrections, unless the same be authorized by some law, for some single object or work, to be distinctly specified therein; which law shall provide ways and means by taxation, for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge, at maturity, of the capital borrowed; and said law shall be irrevocable, until principal and interest are fully paid and discharged; and shall not be put in execution, until after its enactment by the first Legislature returned by a general election, after its passage.

SEC. 33. No new county shall be established by the Legislature, which shall reduce the county or counties, or either of them, from which it shall be taken, to a less area than nine hundred square miles; nor shall any county be laid off, of less contents. Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until entitled by numbers, to the right of separate representation.

SEC. 34. The Legislature shall have power to extend this

Constitution, and the jurisdiction of this State, over any territory acquired by compact with any State, or with the United States, the same being done by the consent of the United States.

SEC. 35. Any amendment or amendments to this Constitution, may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by a majority of two-thirds of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on the journal, with the yeas and nays thereon; and the Governor of the State shall have the said amendment or amendments published in all the newspapers printed in this State, at least three months previous to the next general election to be held for representatives in said State; and shall order the returning officers to open polls for said amendment or amendments, and return the same to the Secretary of State, in the same manner as other election returns are made, who shall deliver said returns to the Speaker of the House of Representatives, and they shall be opened and counted in the presence of both Houses of the Legislature; and if the majority of the electors shall have voted for said amendment or amendments, then the Legislature shall declare the said amendments to be a part of this Constitution, and incorporate the same accordingly.

IMPEACHMENT.

SECTION 1. The power of impeachment shall be vested in the House of Representatives.

SEC. 2. Impeachments of the Governor, Lieutenant-Governor, Attorney-General, Secretary of State, Treasurer, and of the Judges of the Districts Courts, shall be tried by the Senate. The Chief Justice of the Supreme Court, or the senior Judge thereof, shall preside during the trial of said impeachment.

SEC. 3. Impeachments of Judges of the Supreme Court, shall be tried by the Senate. When sitting as a Court of Impeachment, the senators shall be upon oath or affirmation; and no person shall be convicted, without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment, in cases of impeachment, shall extend only to removal from office, and disqualification from holding any office of honor, trust, or profit, under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

SEC. 5. All officers, against whom articles of impeachment may be preferred, shall be suspended from the exercise of their functions, during the pendency of such impeachment: the ap-

pointing power may make a provisional appointment to replace any suspended officer, until the decision on the impeachment.

SEC. 6. The Legislature shall provide by law, for the trial, punishment, and removal from office, of all other officers of the State, by indictment, or otherwise.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of separate national government, to a permanent state government, it is declared that all process which shall be issued in the name of the Republic of Texas, prior to the day of next, shall be as valid as if issued in the name of the State of Texas.

SEC. 2. The validity of all bonds and recognizances, executed to the President of the Republic of Texas, shall not be impaired by the change of government, but may be sued for, and recovered, in the name of the Governor of the State of Texas, and his successors in office; and all criminal prosecutions, or penal actions, which shall have arisen, or may arise, prior to the day of , or which may be pending within the limits of this State, on the day of , in any of the Courts of the Republic of Texas, shall be prosecuted to judgment and execution, in the name of said State. All suits at law and equity, which may be depending in any of the courts of the Republic of Texas, on the day of , shall be transferred to the proper court of the State, which shall have jurisdiction of the subject matter thereof.

SEC. 3. All laws, and parts of laws, now in force in the Republic of Texas, which are not repugnant to the provisions of this Constitution, shall continue and remain in force, as the laws of this State, until they expire by their own limitation, or shall be altered or repealed by the Legislature thereof.

SEC. 4. All fines, penalties, forfeitures, and escheats, which have accrued to the Republic of Texas, under the Constitution and laws, shall accrue to the State of Texas; and the Legislature shall, by law, provide a method for determining what lands may have been forfeited or escheated.

SEC. 5. All officers, civil and military, now holding commissions under the authority of the Republic of Texas, shall continue to hold and exercise their respective offices, under the authority of this State, until they shall be suspended under the authority of this Constitution.

Which report was read, and, on motion of Mr. Cazneau, 500 copies were ordered to be printed.

Mr. Van Zandt, chairman of the Committee on General Pro-

visions, reported back to the Convention, sundry resolutions which had been referred to said committee, and recommended the same to be laid on the table.

Which report was adopted.

On motion of Mr. Caldwell, the Convention adjourned until half past 8 o'clock, to-morrow morning.

TUESDAY MORNING, July 29, 1845.

The Convention met pursuant to adjournment—prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Gazneau, Clark, Cunningham, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt, White, Wright and Young.

Mr. Wood was excused from attendance on the Convention in consequence of indisposition.

The journal of the preceding day was read and adopted.

Mr. Runnels offered the following resolution:

Resolved, That the committee on the General Provisions of the Constitution be instructed to enquire into the expediency and propriety of incorporating in the Constitution the following provisions:

SLAVES.

1st. The Legislature shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners previous to such emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State, from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age and description shall be continued in slavery by the laws of this State. Provided, that such person or slave be the *bona fide* property of such emigrants; and provided also, that laws may be passed to prohibit the introduction into this State, of slaves who

Journals of the Convention, Assembled at the City of Austin on the Fourth of July, 1845, for the Purpose of Framing a Constitution for the State of Texas. - Link Page

Previous	July 26, 1845	106
--------------------------	-------------------------------	---------------------

Next	July 29, 1845	116a
----------------------	-------------------------------	----------------------

[Return to Electronic Index Page](#)