

Kansas Memory



Leavenworth Constitutional Convention journal

The Leavenworth constitution was the third of four constitutions proposed for Kansas statehood and the second free-state constitution (after the Topeka and before the Wyandotte constitutions). Delegates for the territory's third constitutional convention were elected on March 9 and assembled in Leavenworth on March 25, 1858. The delegates considered the "Homestead Exemption" during the morning session, April 1, 1858. The provision was amended so as to make the basic exemption 160 acres or not over \$2,000. The vote on this was recorded and the yeas and nays are followed by numerous explanations--many delegates who voted nay did so not because they opposed the concept.

Creator: Tappan, S. F. (Samuel Forster), d. 1913

Date: April 1, 1858

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No 18

Thursday
April, 1st. -

Morning Journal.

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Thursday April 1st 1858,

Convention met pursuant to adjournment,
President in the Chair.—

Prayer by Rev. Mr. Haun —

Journal read and approved —

Mr. Lane offered a Report of the Committee
on Preamble - which was adopted -

Mr. Thacher of Committee on
Phraseology reported back the Report
of Committee on Miscellaneous matter
and recommended its passage -

Mr. Lane moved that it be put upon
its passage by sections — Carried —

Mr. Winchell offered the following

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Resolved, That the Committee on
Arrangement and Phraseology
be instructed to present to the Convention
the minority of the Report of the Committee
on Miscellaneous Matters, and that
until that report be presented the consider-
ation of the majority report be postponed.

Mr. Woodworth moved to amend by ~~striking~~
adding the following words "and all
other "minority reports" —

On motion the Resolution of amendments
were laid on the Table -

Mr. Lane presented a minority report
from Committee on Counties, County, &

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Township officers - The Chairman of Committee on Phraseology ^{minority} Mr. Lane presented a report from Committee on Legislature - Mr. Douglas offered the following Resolution - The Committee on Phraseology is instructed to report ~~back~~ back their report or ^{the} reporter reports of the Standing Committees respectively. The report of Committee on Miscellaneous matter was taken up - Sections 1st 2nd 3rd & the 5th & 6th were read & adopted. Mr. Johnson moved to refer the Section 7th to a Select Committee - Carried -

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Dec, 8th was read & adopted -

Dec, 9th Mr. Monteith moved
that the word "eighty" be stricken
out, and the words "one hundred & sixty"
inserted - *all of the following were voted down*
Mr. Winsans moved the following
amendment - After the word "160 acres"
insert "or so much thereof as will not
exceed in value \$2,000 -

M. Lane of Com. of Phraseology reported
back from Select Committee to whom it
was referred "the 1st section of Schedule and
moved its adoption - Adopted -

Mr. Monteith moved the previous



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Question on Mr. Winsor's amendment -
to the Amendment of Mr. Monteith
Last - ~~the question was not decided~~
On the question being taken on the
Amendment of Mr. Monteith, the
Yeas & nays were called - and
resolved as follows - Yeas 60 ~~No.~~
Nays 20

~~Mr. Monteith's amendment~~
~~On the question being taken on the~~
~~Amendment of Mr. Monteith, the~~
~~Yeas & nays were called - and~~
~~resolved as follows - Yeas 60 No.~~
~~Nays 20~~

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The yeas and nays being called for
the result was as follows. Yeas ~~5~~ ~~X~~

60, Nays ~~44~~: 20,

Those voting in the affirmative
were, Gentlemen, A. D. Adams, G. G. Adams,
H. J. Adams, Arny, Allen, Ashmore
Austin, Butter, Barr, Beeler, Curtis,
Colton, Cook, Coffin, Douglass, Davis
P. Ewing Jr. R. Ewing, Eddy, Elliott,
Emery, L. Fish, R. M. Fish,
Fletcher, Flemings, Goodwin, Goodnow,
Harvey, Higginbottom, Hatterscheidt,
Hampson, Johnson, Kenzie, Lynde,
Lane, Langlere, Monroe, McCullough

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Mitchell Mayo, Montith, Newton
Plumb, Pickering, Pillsbury, Ross,
Reese, Root, Robertson, Swallow
Stewart, Shuttleff, Sudder, Louie
Sheppard, Telfer, Winkell, Wood
Williams and Woodworth. 60

Those voting in the negative
were Gentlemen Anderson, Blake
Bowker, Branscomb, Brown, Danford
Goster, Humphrey, Knapp, McCauslin
May, Ritchey, W. G. Roberts Spiggs
Torrey, Twombly, Thacher, Todd,
Webster, Winans. — 20
The question recurring on the motion to insert "160"
resulted as follows - Yeas 55 - Nays 19.

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Those voting in the affirmative were gentle-
men, A. G. Adams, W. J. Adams, Any, Allen
Ashmore, Austin, Butler, Bowker,
Blanscomb, Barr, Blake, Curtis, Bolton
Cook, Coffin, Davis, T. Ewing, R. Ewing Esq.,
D. Elliott, Emery, L. Fish, R. M. Fish, S. W.
Fuller, Fletcher, Goodin, ^{Goodnow} Griffith, Harvey
Higginbottom, Hatterscheidt, Hampson
Johnson, Kenzie, ~~Kennedy~~, Lynde Lane,
Lazelere, Monrol, McCullough, Mitchell
Mayo, Monteith, Newton, Plumb,
PICKERING, Pillsbury, Ross, Rust, Root
Swallow, Stewart, Shurtliff, Scudder,
Soule, Shephard, Todd, Winchell,

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Wood, Williams, ~~Woodworth~~, Wyman.

Those voting in the negative were gentlemen,

Baker, Brown, Buler, Douglass, Foster,

Humphrey, Knapp, McCauslin, May,

Ritchey, W. Y. Roberts, Robertson,

Striggs, Torry, Twombly, Thatcher.

Webster, Woodworth, Wyman.

"Vote against 160 acres, as I do not favor
of 300 being exempted as homestead."

All the Committee on Heraldry submitted

a report in "American Heraldry and Genealogy"

Adopted.

The Day

July 19th

Adopted.

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Mr. McCauslin offered the following I am in favor
of a Homestead Exemption -

of 80 acres, and voted therefore and

opposed 160 acres as I believe the

practical operation will be bad, and

there is no limit in value to the same -

Mr. Thacker desired that the following

reasons be inserted for not voting in favor

Explanation be inserted in the Journal -

"I vote against, ^{the insertion of} 160 acres, as I am in favor

of 80 acres being exempted as homestead"

M. Lane of Committee on Phraseology submitted

a report on "Division of Powers," and recommended

its adoption -

Adopted -

M. Ewing offered the following as a

substitute for Section 9th -

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A Homestead not exceeding in value \$3,000, or in lieu thereof the property to the value of \$1000, belonging to any person shall by law be exempted from sale under any process of law or alienated without the joint consent of husband & wife, in cases where that relation exists -

Mr. Barr moved to lay the substitute ~~over~~
on the table - Carried -

Mr. Douglas offered the fol. as a substitute -
The Homestead of every man of such value as shall be prescribed by law shall forever be exempt from forced sale under any process of law -

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On motion of Mr. Gazelece it was
laid on the table — Carried

Mr. Wood moved to strike out "1000"
and insert "2000, in Section 9th

Mr. Woodworth moved to amend further
"the homestead to be valued at three thousand dollars"
by inserting, (~~3000~~, in place of ~~2000~~)

Laid on the table

Mr. Mitchell off^{or} the fol. amend^t

And the collections of debts can in no case
be enforced by law —

Mr. Lane moved the previous question
on the amendment of Mr. Wood — Lost —

Mr. Curing off^{or} the fol. amend^t

But such exemption shall not extend to debts
already contracted — Carried

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Mr Lane moved the adoption
of Sec. 9th - The yeas & nays
being called resented as follows -
Yea^s 58, Nay^s 18.

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Those voting in the affirmative are
Messrs. F. G. Adams, H. J. Adams
Army Ashmore, Austin Butler
Branscomb, Barr, ^{Blake} Blake, Curtis
Cook, Coffin, Sanford, T. Ewing, Jr.
Espy, W. Ewing, Elliott, Emery
K. M. Fish, G. M. Fuller, Fletcher
Goodin, Griffith, Goodnow, Harvey
Higginbottom, Hattersheidt, Hampson
Johnson, Kenzie, Lynde, Lane
Gazalere, Monroe, McCullough the
McCaulin, Mitchell Mayo
Monteith, Newton, Plumb, Peckering
Perham Pillsbury, Ross, Reese

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Koot. Swallow. Stewart. Shurtliff.
Scudder. Soule. Sheppard. Sorrey.
Todd. Wood. Williams. 57 Those
voting in the Negative were Meppin,
Anderson Baker. Bowker. Brown
Beeler. Foster. Humphrey. Knapp
May. Ritchey. W. Y. Roberts.
Robertson. Spriggs. Tuomblly.
Thatcher. Webster. Woodsworth.
Wymans. 18.

~~Mr. Thatcher, ^{the Captain} desired to insert in the
Journal his reasons for voting against
inserting "160 acres" — which reasons are as follows —
I am in favor of a Homestead exemption.~~

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Mr Woodworth assigned the foll. reasons
for ~~not~~ voting no - "I vote no because
the Homestead is ^{not} valued - it is therefore
Antirepublican & unequal -

Mr Winchell assigned the foll. reason
for not voting - Having been denied
the privilege of an enquiry necessary
to an understanding of the effect of the
Section I decline voting" —

Mr Brown offered the foll.-

My reason for voting for 160 acres
as a homestead is that it has no value
attached to it and I believe it to be unjust
for this reason, one man may have

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160 acres worth worth in value
\$50,000 - while another has 160 acres
valued only \$500.

Mr. Ritchey offered the following,
My reason for voting is that I am
opposed to the number 160 acres, It
being too much and calculated to
defeat the object intended by the
friends of the Homestead —

Sec 10 Read & approved —

Mr. O. Ewing moved to suspend
the rule so that Sec. 1, of Schedule can
be adopted — Carried —

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Sec. 11th on Miscellany was
read and passed —

Sec. 12th was read & approved

M Lane moved the adoption
of the report as a whole — Adopted,
On motion adjourned until
1/2 o'clock this P.M.

to effect the object intended by the
friends of the slaves

to Read & Approve

Clearing money & expenses

for the slaves