

# THE TEXAS CONSTITUTION PART II

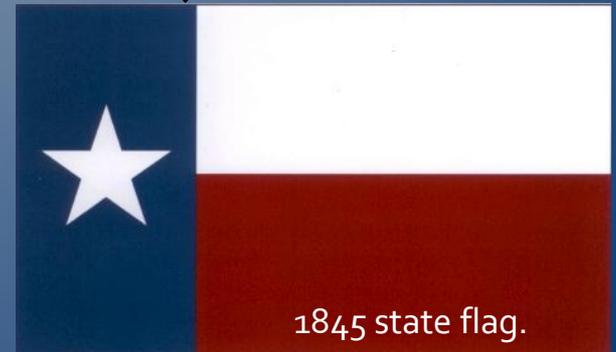
Half the ballot items are ridiculous because they deal with doing away with a constable's position in Erath County or somewhere and the other half no one can understand because they involve bond financing or some arcane part of the Constitution that has to be fixed.

Former Texas Senator Bill Ratliff

# Texas Constitutional History: The Statehood Constitution (1845-1861)



- In 1845, Texas adopted its first state constitution when the Lone Star State joined the Union. Admission to the Union necessitated a new constitution.
- The Statehood Constitution was patterned after the US constitution, creating a similar government, with legislative, executive and judicial branches.
- It was also modeled after the constitutions of other Southern states (especially Louisiana) and the Constitution of the Republic..



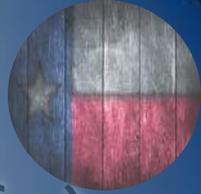
1845 state flag.

# Texas Constitutional History: The Statehood Constitution (1845-1861)

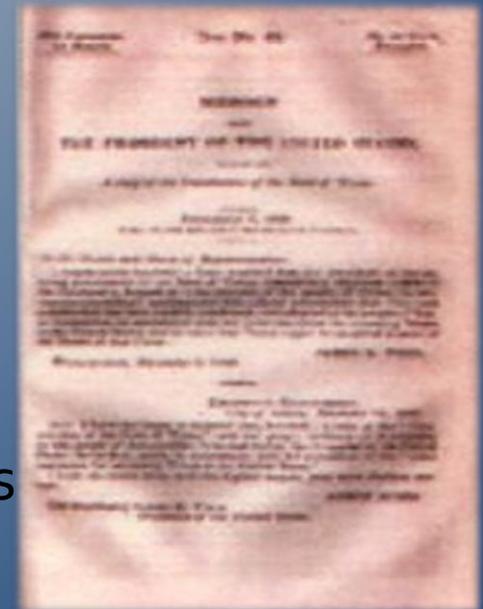


- It was a document based on broad, general principles that allowed state government the leeway to deal with policy problems.
- Embracing democratic principles of participation and elements of the administrative reform movement, this brief, clear document was regarded as one of the nation's best constitutions at the time.
- Influenced by Jacksonian democracy, the Statehood Constitution made almost every office elective and limited by short terms.

# Texas Constitutional History: The Statehood Constitution (1845-1861)



- The Statehood Constitution was well-written, appropriately designed, and the best constitution ever produced by the state ... but twice as long as the Constitution of the Republic.
- It featured:
  - separation of powers into three branches
  - a bicameral legislature, met biennially
  - a democratic form of government
  - elected legislative and executive positions



# Texas Constitutional History: The Statehood Constitution (1845-1861)

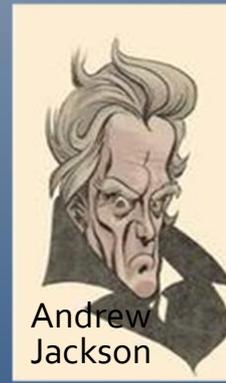


- It featured:
  - appointed judicial positions
  - homestead and community property provisions
  - permanent fund for the support of public schools
  - guaranteed separate property rights for married women
  - recognized slavery, prohibited state-chartered banks, and barred anyone who had ever participated in a duel from holding public office
- Many provisions from this constitution were incorporated into subsequent state constitutions.

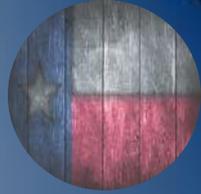
# Texas Constitutional History: The Statehood Constitution (1845-1861)



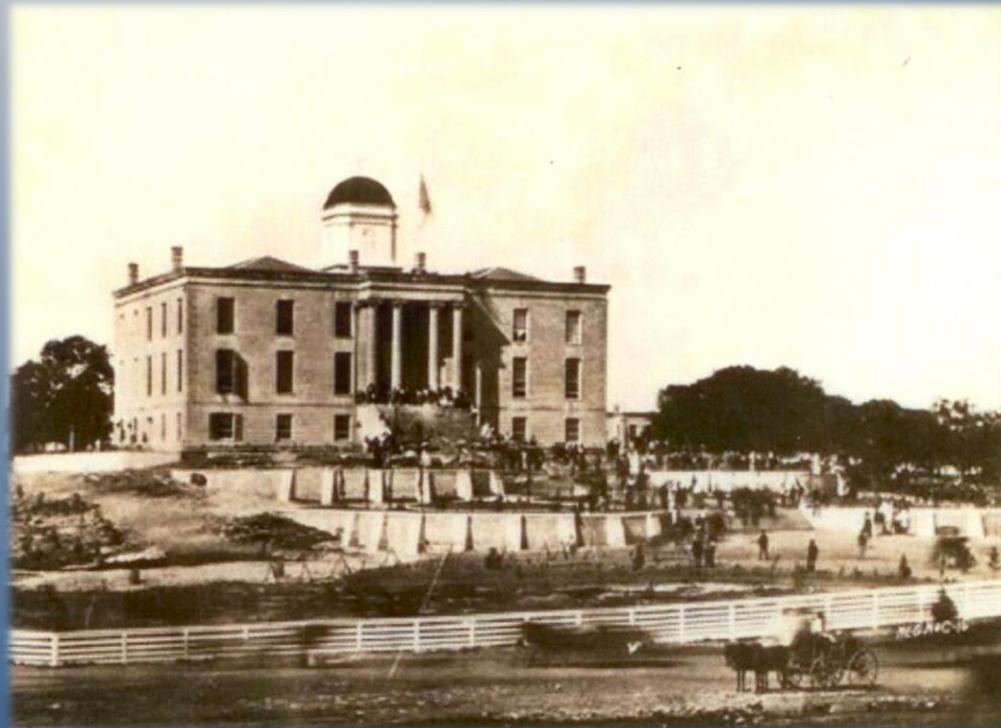
- In 1850, the state constitution was amended to provide for the election of state judges and most executive officeholders, reflecting the principle of Jacksonian democracy.
- Jacksonian democracy: a philosophy (associated with President Andrew Jackson) that the right to vote should be extended to all adult male citizens and that all government offices of importance should be filled by election



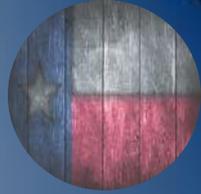
# Texas Constitutional History: Statehood (1845-1861)



In 1850, the state legislature appropriated money for a permanent capitol on the site of Capitol Square (the current site of the capitol).



# Texas Constitutional History: Statehood (1845-1861)



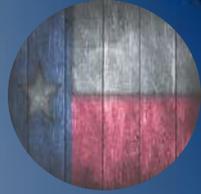
1845



1861

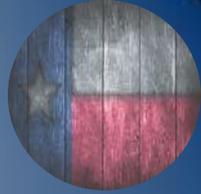


# Texas Constitutional History: Secession (1861)



- A state convention was held in January of 1861 which passed a resolution, later ratified, calling for secession from the Union.
- Most Texans came from the South.
- Sam Houston warned Texans that northern numbers and industrial capability would overwhelm the South.
- The vote was 46,153 for succession and 14,747 against.
  - affirmation of states' rights and of the notion that the union was designed originally as a confederacy, in which sovereign states possessed a right to come and go
- Can Texas Secede?

# Texas Constitutional History: Secession (1861)

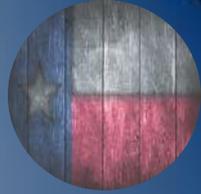


- Slavery and secession destroyed any semblance of a two-party system in Texas.
  - Personalities, factions and war-related issues dominated state politics.
  - Factionalism within the Democratic Party persisted for more than 100 years, until the emergence of a two-party system in the 1980s.
- The Civil War era also contributed to a legacy of states' rights, which persisted well into the next century. Texas and other southern states found ways to thwart national policy through the 1960s.

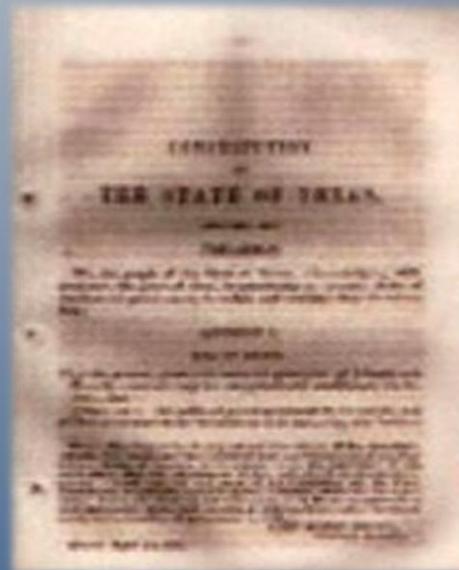
The first national flag of the Confederate States of America with 13 stars



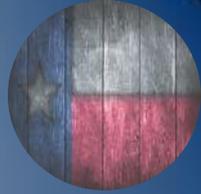
# Texas Constitutional History: Civil War Constitution (1861-1866)



- Secession prompted the adoption of a slightly revised constitution.
- The constitution of 1861 altered the 1845 document to further protect slavery and to declare allegiance to the Confederacy.



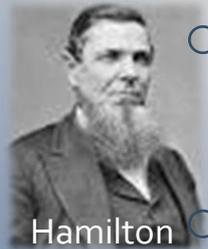
# Texas Constitutional History: Reconstruction (1866-1870)



- Following the South's loss in the war, Abraham Lincoln's plan for bringing the Southern states back into the Union was very lenient.\*
- The 10% Plan: If 10% of the people who had voted in the 1860 presidential election would swear their allegiance to the US, the state could elect their own state government.
- After Lincoln's assassination, Andrew Johnson began to implement Lincoln's plan and appointed AJ Hamilton as provisional governor of Texas.

\*In 1868, the Supreme Court in *Texas v. White* ruled that secession was unconstitutional ... so the states of the Confederacy had never really left the Union.

# Texas Constitutional History: Reconstruction Constitution (1866-1869)



- AJ Hamilton's task was to restore civil government, to register voters, and to assess and collect of taxes.
- A new Texas state constitution was ratified in an effort to meet the requirements for readmission to the Union imposed by Lincoln/Johnson on the Southern states.
- The Reconstruction Constitution was based on the Constitution of 1845.
- It also abolished slavery, repudiated the war debt and the ordinance of secession, and recognized the supremacy of the US constitution in order to meet Union requirements.

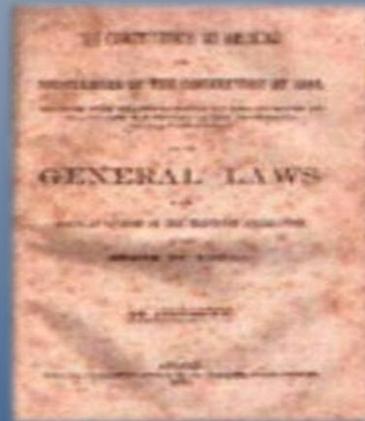
# Texas Constitutional History: Reconstruction Constitution (1866-1869)



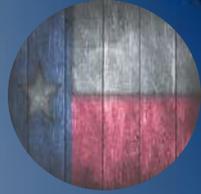
- At the same time the Reconstruction Constitution was ratified, a new legislature was elected and a new governor was inaugurated (JW Throckmorton)
- While hindered by national troops, Throckmorton made steady progress in returning order to the state
- On August 20, 1866, Andrew Johnson proclaimed the insurrection at an end.



Throckmorton

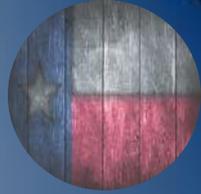


# Texas Constitutional History: Radical Reconstruction (1867-1870)



- In the November 1866 elections, the Radical Republicans gained control of Congress.
- Wanted to protect newly freed slaves.
- Wanted to make sure Republicans stayed in power since freedmen voted Republican.
- Southerners passed black codes which were a lot like slave codes.
- The Republicans, in anger, sent military forces to the South to make sure freedmen got their rights.

# Texas Constitutional History: Radical Reconstruction (1867-1870)



- The Radical Republicans chafed at the leniency of Johnson's Reconstruction and insisted on more punitive measures including the removal of former Confederate leaders from state governmental positions.
- Congress passed additional Reconstruction Acts:

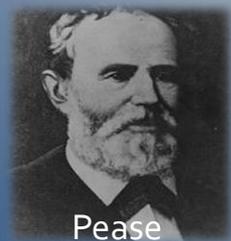


- South divided into military districts with a military leader superior to civil officials.
- All voters had to take oath of allegiance to US.
- Ex-Confederates prevented from voting. Blacks enfranchised.
- Demanded new state constitutional conventions open to voters of both races.

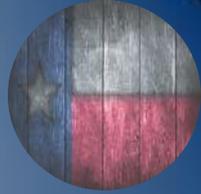
# Texas Constitutional History: Radical Reconstruction (1867-1870)



- The Reconstruction Constitution was short-lived since, by the time of its adoption, it failed to meet the demands of the Radical Republican majority in Congress that had taken control of Reconstruction from President Johnson.
- EM Pease (who had been Throckmorton's opponent in the 1866 election) was appointed provisional governor in 1867 and called for a constitutional convention in April 1868.
- 90 delegates (10 were African-American and many others were Carpetbaggers)

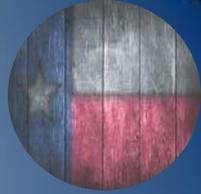


# Texas Constitutional History: Radical Reconstruction (1867-1870)

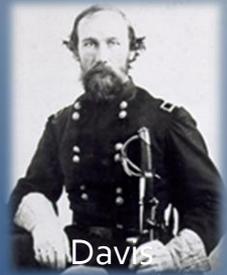


- The Constitutional Convention of 1868 was called under pressure from Washington to comply with the Congressional Reconstruction Acts of 1867.
- The convention involved itself in a wide range of policy details, including specifications for a broad range of activist public policies.
- Because of considerable disarray, after two sessions lasting a total of 150 days, the convention failed to produce a complete constitution.
- Only forty-nine of the ninety delegates signed the long and detailed, yet uncompleted, document.

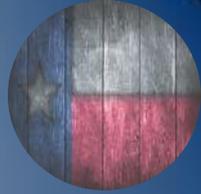
# Texas Constitutional History: Radical Reconstruction (1867-1870)



- The new Radical Reconstruction Constitution was published under orders of the military when the state military commander intervened at the state constitutional convention.
- In the gubernatorial election of 1869, the moderate faction led by AJ Hamilton was defeated by the more radical supporters of EJ Davis, and the Radical Reconstruction Constitution was ratified.
- Davis defeated Hamilton by fewer than 800 votes of over 79,000 ballots.
- The new constitution was approved by over 65,000 votes.



# Texas Constitutional History: Radical Reconstruction (1867-1870)



- The Texas Legislature was dominated by supporters of EJ Davis and the Republican party was in control of state and local governments.
- A state police and a state militia were created under the control of the governor.
- The governor was given power to fill vacancies at the city, county, district and state levels.
- The office of state printer was created and subsidized by the government to print official documents.
- Davis exercised some of the most repressive actions ever imposed on US citizens.

# Texas Constitutional History: Radical Reconstruction Constitution (1869-1876)



- The constitution of 1869 included policy and administrative provisions that:
  - established an immigration bureau
  - established no-fee granting of homesteads to settlers
  - assigned mineral rights to landowners
  - authorized the Legislature to prohibit the sale of liquor near colleges (except in county seats)
  - forbade the Legislature to authorize lotteries or grant divorces



# Texas Constitutional History: Radical Reconstruction Constitution (1869-1876)

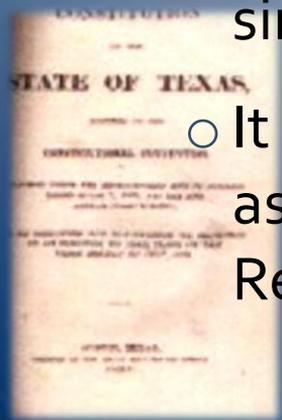


- Many provisions of the Radical Reconstruction Constitution were items that reformers of today would support:
  - annual legislative sessions
  - cabinet-style leadership for the governor
  - greater power at the state level and less at the local level
- Many were not.

# Texas Constitutional History: Radical Reconstruction Constitution (1869-1876)



- The new constitution provided for the gubernatorial appointment rather than election of judges and most executive branch officials, and authorized increased salaries for state officials.
- Although forward-looking in terms of power and organization, this constitution was the least effective of the various Texas constitutions in promoting legitimacy since it was forced on the state by outsiders.
- It represented defeat and humiliation and was regarded as a document imposed by outside forces, ie Radical Republicans.



# Texas Constitutional History: Radical Reconstruction Constitution (1869-1876)



- criticisms
  - the lengthy and incomplete process that produced it
  - considerable detail and general unwieldiness
  - complex and cumbersome
  - reflected the ideals of the newly dominant Republican Party, which sought to enfranchise blacks both politically and economically, and to invest in the human and physical infrastructure to make the state economically diverse and dynamic

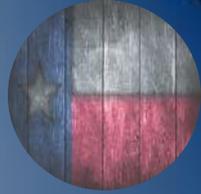
# Texas Constitutional History: Radical Reconstruction (1867-1870)



- All of this was difficult for the economic elite to accept.
- Many leading citizens were barred from holding public office because of their participation in the Confederacy.
- A post-war surge in public investment in schools, roads and bridges was paid for by much higher taxes and large government deficits.
- Centralized political power and strengthened public institutions promoted an activist social agenda supported by the higher taxes and public debt.

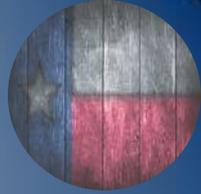


# Texas Constitutional History: Radical Reconstruction (1867-1870)



- The change in labor and the costs of the war undermined the economic power of those who had dominated pre-war economic life, which was focused on the plantation.
- The weakening of the elite threatened not only their economic and social position but also their political power.
- Reconstruction presented the old order with a number of threats: US military, formation of the Freedmen's Bureau, provisional governor, new constitution and laws (especially the former).

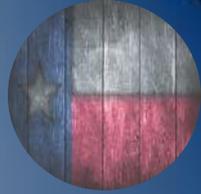
# Texas Constitutional History: Radical Reconstruction (1867-1870)



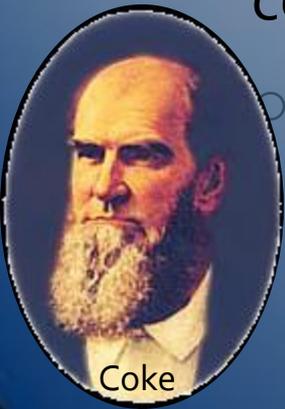
- This period had an enduring impact on Texas constitutional law and politics.
- It prolonged the full reintegration of Texas into the national political system.
- It transformed Texas's constitutional tradition into one of hostility toward and suspicion of government.



# Texas Constitutional History: Post-Reconstruction (1870-1876)

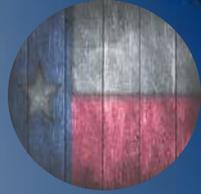


- On March 30, 1870, although Texas did not meet all the requirements, Congress restored Texas to the Union, ending Reconstruction.
- In September of 1871, a taxpayers convention met to protest the high salaries of government officials, violations of the state constitution and the allegation that the Davis administration was bankrupting the state.
- By 1873, many newspapers were calling for the convening of a constitutional convention.
- In the 1873 election, Democrat Richard Coke defeated Governor Davis more than two to one, but the governor refused to leave office. When the local militia took Coke's side, Davis beat a hasty retreat.



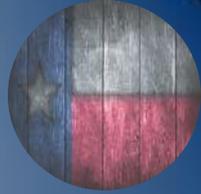
Coke

# Texas Constitutional History: Post-Reconstruction (1870-1876)



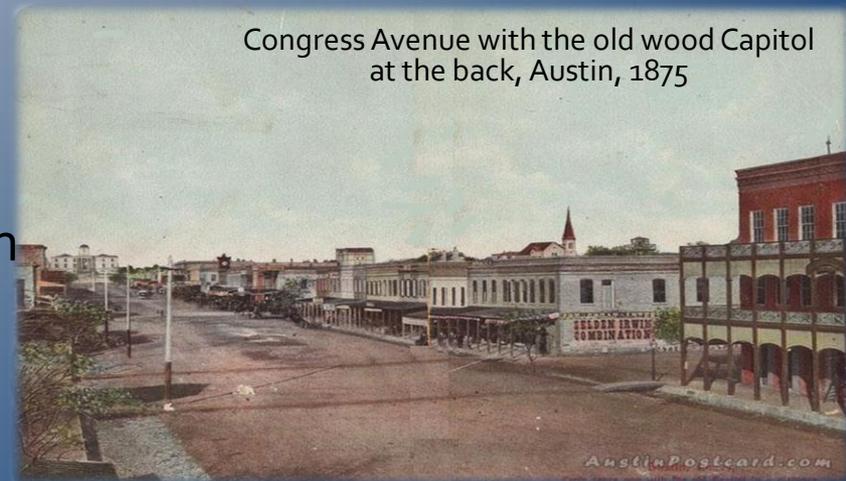
- In 1874, Democrats gained control of the state judiciary.
- When Democrats gained control of state government in 1874, their first priority became to draft a new constitution. The last vestige of the Republican administration was the Constitution of 1869. Most Texas believed that this too needed to be replaced.
- In 1874, state legislators convened to create a new constitution but became deadlocked. A constitutional convention was called for by state Democratic leaders.
- A constitutional convention was organized in 1875.

# Texas Constitutional History: Constitutional Convention of 1875

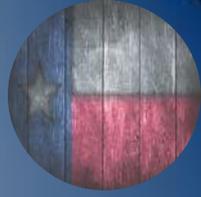


In early September of 1875, a constitutional convention of 90 delegates met in Austin.

- 76 Democrats ... 15, including 6 black men, Republicans (1 of the black members resigned and his place was taken by a white Democrat.)
- overwhelmingly conservative, including a belief in white supremacy and a determination to limit the powers of government
- average age 45
- only 4 native Texans
- 72 immigrants from other Southern states (19 from Tennessee)



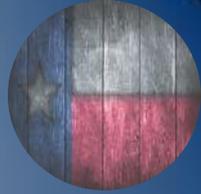
# Texas Constitutional History: Constitutional Convention of 1875



constitutional convention of 90 delegates

- about 50 came to Texas between 1840 and 1870 and had firsthand experience with Reconstruction
- 33 lawyers, 28 farmers, 3 merchants, 3 physicians, 2 editors, 2 teachers, 2 mechanics, 1 minister, 1 postmaster
- many Confederate Army commissioned officers, 3 Union Army officers
- 1 helped write the 1845 Constitution, 8 at 1861 Secession Convention, 1 at 1866 Convention, none at 1869 Convention
- experienced in governmental affairs but not very well read in the writings of the great philosophers

# Texas Constitutional History: Constitutional Convention of 1875



constitutional convention of 90 delegates

- about 40 rural-oriented members of the Grange: an organization of farmers, committed to a slogan of *retrenchment and reform* for state government
- Grange's two basic goals: restrict size and scope of state government, control the excesses of big business
- Specifically, Grange members favored the following.
  - frugality and low taxes
  - anti-monopolistic business practices



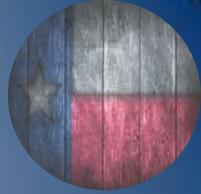
- a limited public school system

limited governmental services, distrust of public officials

governmental regulation of the railroads, banks and other corporations

- a poll tax as a suffrage requirement

# Texas Constitutional History: Constitutional Convention of 1875

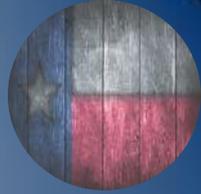


Delegates to the Constitutional  
Convention of 1875

*San Antonio Herald, 1875:  
We know that the convention  
has relatively but a few able  
men in its composition, but  
those we deem very able, with  
sound clear judgment.*



# Texas Constitutional History: Constitutional Convention of 1875



- standing committees: 5-15 delegates each, covered issues including federal relations, suffrage, education, crime, railroads, public lands, etc
- Agricultural interests, law-oriented interests and reversing perceived Republican excesses controlled much of the agenda.
- [Debates in the Texas Constitutional Convention Of 1875](#) [This link is for the first day. If the embedded links to subsequent days don't work, just change the day in the URL. You'll see what I mean!]
- Adopted by a convention vote of 53 to 11.
- The state's voters approved the constitution by a wide margin in February 1876. Although much amended, it has never been replaced and is the current constitution of Texas.

# continued in The Texas Constitution Part III

