

ney, Davis, Forbes, Hogg, Horton, Howard, Hunter, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Mayfield, McGowan, Navarro, Runnels, Standefer, Tarrant, White, Wright and Young—25.

Noes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bache, Brashear, Burroughs, Clark, Darnell, Evans, Everts, Gage, Hemphill, Henderson, Hicks, Holland, Irion, Love, Lumpkin, Lusk, Lipscomb, McNeill, Miller, Moore, Parker, Power, Rains, Scott, Smyth, Van Zandt and Wood—30.

Mr. Hemphill offered the following amendments to the 8th section, viz: strike out all to the word "the," in the 2d line, and insert in lieu, "in all criminal prosecutions:" add, at the end of the article, the following: "no person shall be holden to answer for any criminal charge, but on indictment or information, except in cases arising in the land or naval forces, or offences against the laws regulating the militia:" which were adopted.

On motion of Mr. Jewett, the Bill of Rights was ordered to lay on the table, and the Secretary instructed to have a correct copy of the same, with the amendments made out.

After several motions to adjourn for a longer time, the Convention adjourned until to-morrow morning, half-past 8 o'clock.

THURSDAY MORNING, July 17, 1845.

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

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., 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., Love, Lumpkin, Lewis, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt, White, Wood, Wright and Young.

The journal of the preceding day was read and adopted.

On motion of Mr. Gage, the resolution to establish land offices in eastern Texas, was taken up.

Propositions were made to establish land offices at several different points, all of which, together with the original resolution, were, on motion of Mr. Forbes, referred to the committee on the State of the Nation.

Mr. Wright introduced the following resolution:

Resolved, That the committee on General Provisions be instructed to enquire into the expediency of establishing judicial counties.

Which was read and laid on the table one day for consideration.

Mr. Rusk introduced the following resolution:

Resolved, That the committee on General Provisions of the Constitution, be instructed to enquire into the expediency and propriety of inserting the following Article among the General Provisions:

"All laws and parts of laws which are now in force in Texas, and which are not inconsistent with this Constitution, or the Constitution of the United States, shall continue of force until they may be repealed, altered, or amended, by the Legislature; and no rights which are vested, shall be divested; nor shall any rights or actions which have been divested by the Constitution and laws of the Republic of Texas, be re-vested, or in any way revised or reinstated by this Constitution; but the same shall remain and continue in the same situation as they would have done under the laws and Constitution of the Republic of Texas, before the adoption of this Constitution."

Which was read; and,

On motion of Mr. Van Zandt, the rule requiring it to lay on the table one day for consideration, was suspended, and the resolution adopted.

Mr. Hogg offered the following resolution:

Resolved, That the Legislative committee be requested to take into consideration the apportionment of representation, and the formation of Senatorial districts.

Also, that the documents herewith submitted, be taken under consideration, marked (A), fixing the senatorial ratio at one thousand voters; and document marked (B), fixing the representative ratio at four hundred voters; and report to this Convention the apportionment which they may deem the most practicable.

Which was read and laid on the table one day for consideration.

On motion of Mr. Love, Mr. Runnels was added to the committee on General Provisions.

Mr. Love also moved, that the President of the Convention be requested to sit on said committee.

Which motion was adopted.

Mr. Jones offered the following resolution:

Resolved, That until the first enumeration is made, the coun-

ties lying between the Sabine, Red River, and the Trinity river, (including those crossing the Trinity,) shall be entitled to thirteen members in the House, and six in the Senate. All counties lying between the Trinity and Colorado rivers, (including Galveston, and excluding the counties crossing the Colorado,) shall be entitled to eleven members in the House and five in the Senate.

All counties lying west of the Colorado, including those crossing said river, shall be entitled to seven members in the House, and four in the Senate.

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

Mr. Young offered the following resolution :

Resolved, That the committee on the Legislative Department, be instructed to enquire into the expediency of creating new counties, and report the same to the Convention.

Upon which the rule was suspended requiring the resolution to lay on the table one day,—and on motion of Mr. Young, it was adopted.

On motion of Mr. Tarrant, the resolution of Saturday last, giving to John G. Chambers of the county of Bowie, Jefferson W. Oliver of the county of Sabine, and Memucan Hunt of the county of Galveston, mileage at the same rate as other delegates of this body, was taken up.

At the request of Gen. Hunt, Mr. Bache withdrew his name as a claimant.

The question was then taken on the resolution, which was adopted.

The ayes and noes stood as follows :

Ayes—Messrs. President Rusk, Anderson, Baylor, Bache, Burroughs, Cazneau, Cuney, Darnell, Davis, Evans, Everts, Gage, Henderson, Hogg, Howard, Holland, Hunter, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Mayfield, McGowan, Navarro, Parker, Power, Rains, Runnels, Standefer, Tarrant, Van Zandt, Wright and Young—34.

Noes—Messrs. Armstrong of J., Armstrong of R., Brashear, Brown, Caldwell, Clark, Cunningham, Forbes, Hemphill, Hicks, Horton, Irion, Jewett, Jones, Lumpkin, Lusk, Lipscomb, McNeill, Miller, Moore, Scott, Smyth, White and Wood—24.

Mr. Rusk offered the following resolution :

Resolved, That Horace Bunham be, and he is hereby declared to be entitled to the same pay for mileage to and from the city of Austin as the members of this Convention.

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of R. Baylor, Bache, Burroughs, Darnell, Davis, Evans, Everts, Gage, Henderson, Horton, Howard, Holland, Hunter, Jewett, Kinney, Latimer of L., Latimer of R. R, Lewis, Mayfield, McGowan, Navarro, Parker, Power, Standefer, Tarrant, Van Zandt and Young—30.

Noes—Messrs. Armstrong of J., Brashear, Brown, Caldwell, Clark, Cunningham, Cuney, Forbes, Hemphill, Hicks, Hogg, Irion, Jones, Love, Lumpkin, Lusk, Lipscomb, McNeill, Miller, Moore, Rains, Runnels, Scott, Smyth, White and Wood—26.

So the resolution was adopted.

On motion of Mr. Young, the report of the committee on the Executive Department, was taken up; which, on motion, was laid on the table for the present.

Mr. Evans assigned his reasons for voting against the resolution inviting the United States troops within the territory of Texas.

Which, on motion of Mr. Rusk, were ordered to be entered on the journals, and are as follows:

PROTEST OF MR. EVANS.

The undersigned, impelled by an imperative sense of duty, has, with extreme reluctance, cast his vote in opposition to the passage of a resolution requesting the Government of the United States to introduce the forces of the United States into Texas, and desires to lay his reasons therefor before the Convention.

The resolution above referred to, was, in the opinion of the undersigned, an unnecessary assumption of power on the part of the Convention, as it appears from the various letters which have been submitted to its consideration, that the objects contemplated by the resolution, have been fully accomplished without the intervention of any act by the Convention, three thousand United States troops being then on their march to occupy the exposed portions of the frontiers of Texas. Mr. Donelson, in his letter to the President of the Convention, acknowledging the receipt of the Ordinance, giving the assent of the people of Texas to its annexation to the United States, uses the following language:

“From the date of this Ordinance, Texas will have acquired a right to the protection of the United States, and the undersigned is happy to inform you, that the President of the United States

has taken the steps to afford this protection in the most efficient manner against Mexican and Indian invasion."

The undersigned has said, that in his opinion, the resolution was an assumption of power. He has been led to this conclusion from the belief, that it required the ratification of the people of Texas to any act of the Convention, in which the public interest is involved, to give it force. Texas is yet an independent sovereignty, and the action of this Convention must be ratified by the people of Texas and the Government of the United States, before that sovereignty can be merged in that of the Union. Until these prerequisites are fully obtained, the Constitution of *independent* Texas is still in force, and binding upon us as citizens, owing allegiance to the Republic, its Constitution and laws. He would not be understood to urge that the Convention is bound by the Constitution in their enactments, only so far as relates to those things which are not to be submitted to the people; thus far, the individual members are bound to obey its high behests, and act within its prescribed limits. They were deputised by the people of Texas, to draft for *their* consideration and approval, an Ordinance accepting the terms of annexation, and the plan of a State Constitution; here their authority ceases, and when they travel beyond, their delegated powers are at an end, and their acts are but acts of private citizens owing allegiance to the Republic, and sworn to support its Constitution.

The resolution was unnecessary, because the proper department of the Government had already taken all steps necessary to secure the desired object. The only department of the Government authorised to invite, or even *assent* to the introduction of foreign troops, within the territory of Texas, is that authorized to form treaties; by this branch of the Government, the invitation has been extended, as will be seen by the joint resolution of the last Congress for this purpose, approved by the President of the Republic.

The joint action of both Houses of Congress, and sanction of the President, necessarily includes all parties connected with the treaty making power, and they alone should be held responsible for any ill which might ensue. The Convention should never have thrust itself by an unnecessary and an unauthorised act, between them and a just responsibility, should evil consequences arise out of the invitation.

There are yet existing contingencies which may defeat the annexation of Texas to the United States. The dearest, longest and most cherished hope of the people of Texas, may never be fully realized. The Convention must be apprised, that there are

many delicate subjects which *must* be enquired into, and acted upon, which may change the tide of popular feeling, even in Texas, upon this great measure. It has been proclaimed upon the floor of this Hall, that some action was demanded by the people upon the land titles of the country; all must be aware, that this is a subject which strikes a sensitive chord in the public mind, that thrills with painful intensity, from one end of the Republic to the other, and any error here, might rouse a feeling of alarm in the Republic, which, like "Banquo's ghost," will not "down," but may in the end prove fatal to annexation.

Are there no fears to be entertained as to what will be the "final action" of the United States. Do not the terms of the resolution itself involve a proposition which *may* be construed into an interference with the question of boundary? May not some clause be inserted into the body of this Constitution now being framed, whether from haste, passion, or misconception, which may cause its rejection when presented to the United States for its acceptance? If such should be the result of the labors of the Convention, the attitude of Texas, left as she would be, to her own resources, with a large body of foreign troops within her limits, by her own invitation, would be truly an unenviable one.

The undersigned having thus given his reasons for his vote, desires they may be spread upon the journals.

L. D. EVANS.

On motion of Mr. Young, the report of the committee on the Executive Department was again taken up; and,

On motion of Mr. Van Zandt, the Convention went into Committee of the Whole on the said report—Mr. Darnell in the chair.

After some proceeding therein, the committee rose, reported progress, and asked leave to sit again.

Report adopted.

Mr. Van Zandt moved to adjourn until 8 o'clock to-morrow morning. Lost.

Mr. Moore moved that the Bill of Rights be recommitted to the committee on General Provisions.

Which was carried.

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

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

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