

MONDAY MORNING, July 21, 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, 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, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Tarrant, Van Zandt, White, Wood, Wright and Young.

Messrs. Cazneau and Standefer, were granted leave of absence, in consequence of ill health.

Mr. Lewis presented the credentials of Charles B. Stewart, claiming a seat in this body, from the county of Montgomery, which was referred to the Committee on Privileges and Elections.

The President announced the additional members of the Committee on the Legislative Department, contemplated by the resolution of Mr. Jones, of the 19th instant, which are as follows :

Messrs. Gage, Tarrant, Lewis, Armstrong of R., Howard and Horton.

The Orders of the Day were then taken up.

The amendments of the Committee of the Whole, on the Executive Department, being first in order, was taken up.

Mr. Lewis moved the report be laid on the table, and the report of the Committee on the Legislative Department be taken up; which motion was lost.

The amendments of the committee were then taken up.

The first amendment—to strike out “General Assembly,” wherever it occurs, and insert “Legislature,” was adopted.

In the substitute of the committee for the 3d section, Mr. Jones moved to strike out the words “highest number of votes,” and insert the words “being constitutionally eligible,” which was lost.

On motion of Mr. Runnels, the words “being constitutionally eligible,” were inserted after the words “highest number of votes.”

The substitute of the committee for the 3d section, then reads as follows :

“The returns of every election for Governor, until otherwise provided by law, shall be made out, sealed up, and transmitted to

the Seat of Government, and directed to the Speaker of the House of Representatives, who shall, during the first week of the session of the Legislature thereafter, open and publish them, in the presence of both Houses of the Legislature; the person having the highest number of votes, being constitutionally eligible, shall be declared by the Speaker, under the direction of the Legislature, to be the Governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be immediately chosen Governor, by joint vote of both Houses of the Legislature."

Which substitute was adopted.

In the 4th section, the amendment of the committee was adopted—strike out the word "his," in 2d line, and insert, before the word "time," the word "regular"—strike out "native," in 5th line.

The ayes and noes were called for, on striking out, and were as follows:

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Brown, Clark, Cunningham, Cuney, Darnell, Evans, Everts, Forbes, Gage, Hemphill, Hicks, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lumpkin, Lusk, Lipscomb, Love, Mayfield, Bagby, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Van Zandt, White and Wood—43.

Noes—Messrs. Anderson, Burroughs, Caldwell, Davis, Hogg, Lewis, McGowan, McNeill, Miller, Runnels, Tarrant, Wright and Young—13.

So the amendment was adopted.

A further amendment of the committee, to the 4th section, was adopted, which reads as follows: "and shall have resided in the same four years, immediately preceding his election."

In section 5th, the following amendment of the committee was adopted:

"The first Governor shall receive an annual salary of two thousand dollars, and no more."

The amendment of the committee to the 8th section, is as follows:

Strike out "or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders," and insert "or at a different place, if that should be in the actual possession of a public enemy."

Which was adopted, by ayes and noes as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Caldwell, Cunningham, Dar-

nell, Forbes, Gage, Hemphill, Henderson, Horton, Holland, Howard, Hunter, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Lumpkin, Lipscomb, Mayfield, Bagby, Miller, Navarro, Power, Runnels, Tarrant, Van Zandt, White and Wright—34.

Noes—Messrs. Brashear, Burroughs, Clark, Cuney, Davis, Evans, Everts, Hicks, Hogg, Jones, Lewis, Lusk, M'Gowan, McNeill, Moore, Parker, Rains, Scott, Smyth, Wood and Young—21.

In section 9th, after the words "information," insert "in writing," in 2d line; which amendment of the committee was adopted.

The amendment of the committee to the 11th section, was adopted, and is as follows :

Amend 11th section, by striking out all to the word "in," in 4th line, and insert "in all criminal cases, except in those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons; and, under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures."

The following was offered by the committee, to come in between the 11th and 12th sections :

"There shall also be a Lieutenant-Governor, who shall be chosen at every election for a Governor, by the same persons, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for Governor and Lieutenant Governor, the electors shall distinguish whom they vote for as Governor, and whom as Lieutenant-Governor.

"The Lieutenant Governor shall, by virtue of his office, be President of the Senate, and have, while in committee of the whole, a right to debate, and vote on all questions, and, when the Senate is equally divided, to give the casting vote.

"In case of death, resignation, refusal to serve, or removal from office, or from inability of the Governor to serve, or of his impeachment, or absence from the State, the Lieutenant Governor shall exercise the powers and authority appertaining to the office of Governor, until another be chosen at the periodical election for Governor, and be duly qualified; or until the Governor, impeached or absent, shall be acquitted, or return.

"Whenever the Government shall be administered by the Lieutenant-Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their own members as President *pro tempore*; and if, during the vacancy of the office of Governor, the Lieutenant-Governor shall die, resign, refuse to serve, or be removed from office; or if he shall be impeached, or absent from the State, the President of the Senate *pro tempore*

shall, in like manner, administer the Government until he shall be suspended by a Governor or Lieutenant-Governor. The Lieutenant Governor shall, while he acts as President of the Senate, receive for his services, the same compensation which shall be allowed to the Speaker of the House of Representatives, and no more; and during the time he administers the Government as Governor, shall receive the same compensation which the Governor would have received, had he been employed in the duties of his office, and no more.

"The President *pro tempore* of the Senate shall, during the time he administers the Government, receive, in like manner, the same compensation which the Governor would have received, had he been employed in the duties of his office, and no more.

"If the Lieutenant-Governor shall be required to administer the Government, and shall, whilst in such administration, die, resign, or be absent from the State, during the recess of the Legislature, it shall be the duty of the Secretary of State, for the time being, to convene the Senate, for the purpose of choosing a President *pro tempore*."

Mr. Jewett offered the following amendment to the above section: after the words "refusal to serve," insert "or from inability to serve;" which was adopted.

Mr. Davis moved to strike out all that relates to the Lieutenant-Governor serving as President of the Senate.

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

Ayes—Messrs. Bache, Burroughs, Davis, Evans, Hogg, Hunter, Irion, Jones, Latimer of L., Lewis, Lumpkin, Lipscomb, M'Gowan, Parker, Rains, White and Wood—17.

Noes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Brashear, Brown, Caldwell, Clark, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Horton, Howard, Holland, Jewett, Kinney, Latimer of R. R., Love, Lusk, Mayfield, M'Neil, Bagby, Miller, Moore, Navarro, Power, Runne's, Scott, Smyth, Tarrant, Van Zandt, Wright and Young—40.

So the motion was lost.

The ayes and noes were called for, on the adoption of the section as amended, and were as follows:

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Baylor, Brashear, Brown, Caldwell, Clark, Cunningham, Cuney, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Holland, Jewett, Kinney, Latimer of R. R., Love, Lusk, Mayfield, Bagby, Miller, Moore, Navarro, Power, Runnels, Smyth, Tarrant, Van Zandt, Wright and Young—34.

Noes—Messrs. Anderson, Bache, Burroughs, Darnell, Davis, Hicks, Hogg, Horton, Howard, Hunter, Irion, Jones, Latimer of L., Lewis, Lumpkin, Lipscomb, McGowan, McNeill, Parker, Rains, Scott, White and Wood—23.

So the section, as amended, was adopted.

In section 14th, the following amendment of the committee was read and adopted, by the Convention :

Strike out from the word "State," in the first line, to the word "continue," in the 2d line, and insert the words "who shall be appointed by the Governor, by and with the advice and consent of the Senate, and," by ayes and noes as follows :

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Bagby, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Tarrant, Van Zandt, Wright and Young—50.

Noes—Messrs. Clark, Davis, Evans, Holland, Lewis and Wood—6.

Mr. Davis offered the following substitute for the amendment just adopted :

"There shall be elected, by joint ballot of both Houses of the Legislature, one Secretary of State, one Attorney-General, one Treasurer, and one Auditor, who shall hold their offices for the term of two years ; and should a vacancy occur in either of the offices, it shall be filled by the Governor, until the next session of the Legislature, and until a successor is elected and qualified."

Which substitute was rejected.

Mr. Mayfield offered the following amendment to the 14th section : insert, after "Legislature," in 6th line, "or either House thereof;" which was adopted.

The following amendment of the committee, to the 14th section, was adopted :

In 2d and 3d lines, strike out "who shall continue in office during the term of four years," and insert "shall continue in office during the term of service of the Governor elect : " and the section, as amended, was adopted.

The proposition of the committee, to strike out the 15th section, was adopted by the Convention.

In section 16, the following amendment of the committee was taken up :

Strike out, in 7th line, "a majority of the whole number elected

to that House," and insert two-thirds of the members present."

In 10th line, strike out "a majority of the whole number elected to," and insert "two-thirds of the members present of."

Mr. Darnell moved to strike out the words "members present." and insert the words "members elect."

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

Ayes—Messrs. President Rusk, Armstrong of R., Bache, Burroughs, Caldwell, Clark, Cunningham, Cuney, Darnell, Forbes, Hemphill, Hogg, Howard, Jewett, Latimer of R. R., Latimer of L., Lumpkin, Lusk, Mayfield, McNeill, Bagby, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Van Zandt, White, Wood and Young—34.

Noes—Messrs. Anderson, Armstrong of J., Baylor, Brashear, Brown, Davis, Evans, Everts, Gage, Henderson, Hicks, Horton, Holland, Hunter, Irion, Lewis, Love, Lipscomb, McGowan, Tarrant and Wright—21.

So the motion was adopted.

The following amendment of the committee, to the 16th section, was adopted :

Strike out 18th and 19th lines, and insert—"and bills presented to the Governor, one day previous to its adjournment, not returned to the House in which they originated, before the adjournment of the Legislature, shall become a law, and have the same force and effect, as if signed by the Governor."

The amendment of the committee, to strike out the 18th, 19th and 20th sections, was adopted by the Convention.

The amendment of the committee, to strike out, in the 1st line, 21st section, the word "always," was adopted.

The amendment of the committee to the 23d section, was adopted, and is as follows :

Amend by striking out all after the word "be," in the 2d line, add insert the words "biennially elected by the joint ballot of both Houses of the Legislature ; and in case of vacancy in either of said offices, during the recess of the Legislature, such vacancy shall be filled by the Governor ; which appointment shall continue until the close of the next session of the Legislature thereafter."

The amendment of the committee, to strike out the 24th section, was adopted by the Convention.

The amendment of the committee, to strike out the 4th, 5th and 6th sections of that part of the report relating to the militia, was adopted.

On motion of Mr. Mayfield, the Secretary was ordered to make out a fair copy of the report of the Committee on the Executive Department, as amended.

On motion of Mr. Latimer of R. R., the report of the Committee on the Legislative Department was taken up; and,

On motion of Mr. Mayfield, the Convention went into committee of the whole on said report, Mr. Mayfield in the chair.

After some proceeding therein, the committee rose, and, by their chairman, reported progress, and asked leave to sit again; which report was adopted.

On motion, 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, the Convention went into committee of the whole, Mr. Lewis in the chair.

On motion of Mr. Van Zandt, the committee rose, and, through their chairman, reported that they had under consideration, the report of the standing committee on the Legislative Department; and, after making sundry amendments, they asked leave to sit again; which report was adopted.

After various motions to adjourn,

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

TUESDAY MORNING, July 22, 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, Bagby, 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, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt, White, Wood, Wright and Young.

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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