

tions to the Judiciary Committee, and moved the previous question; which motion was carried.

The main question being the adoption of the 20th section.

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

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bagby, Bache, Brashear, Brown, Burroughs, Cazneau, Clark, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Holland, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White and Young—53.

No—Mr. Hunter—1.

So the section was adopted.

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

TUESDAY MORNING, Aug. 5, 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, Lusk, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White and Young.

The journal of the preceding day was read and adopted.

Mr. Davis, from the select committee to whom was referred the communication of the Commissioner of the General Land-Office, of the 31st ult., made the following report:

COMMITTEE ROOM, Aug. 4, 1845.

Hon. THOS. J. RUSK,

President of the Convention:

The select committee, to whom was referred the communica-

tion of the Commissioner of the General Land-Office, upon the subject of that Department, have had the same under consideration, and a majority of the committee have instructed me to make the following report.

JAMES DAVIS, Chairman.

By reference to the communication referred to, it appears that the expenses of the General Land-Office, at present, are as follows :

Salary of Commissioner,	\$1,500 00
“ Chief Clerk,	1,050 00
“ Spanish Clerk,	1,050 00
“ Draftsman,	1,050 00
“ 8 Assistant Clerks, \$850 each,	6,800 00
“ For county Maps & connecting Surveys,	1,000 00
“ Contingent Expenses,	200 00
“ Stationery,	200 06
“ Patents,	1,000 00
“ Surveying Land-Scrip,	500 00
	<hr/>
	\$14,350 00

All of which expenses are now paid by the Government, which seems to be an unfair appropriation, when we consider that those who obtain patents, are the only persons benefitted.

The great reduction of the resources of the country consequent upon the change from the present to a State Government, imperatively demands that the Land-Office shall support itself. When the contemplated change takes place, the impost duties will be cut off, and we shall have to rely solely upon direct taxation for the support of the State Government.

It is the confident opinion of the Commissioner of the General Land-Office, that a reasonable sum paid by each individual obtaining a patent, would amply defray all the expenses of the Land-Office Department, in which opinion your committee concur.

The impossibility of the General Land-Office, under the present arrangement, to supply the demand for patents, as well as the great inconvenience and expense attendant upon persons having business in the Land-Office, owing to the large extent of territory embraced in the State of Texas, imperiously demands a change of the system.

Your committee have given the subject that deliberation its importance demands, and concur in the suggestion of the Commissioner of the General Land-Office, “that the territory em-

braced in each county, should be created a land section. The sections thus created, should be divided, according to territory, into land districts: that there should be appointed by the Commissioner of the General Land-Office, one draftsman, and one surveyor, whose duty it shall be to examine the field notes of all surveys situated within the limits of their respective districts, and correct all errors they may discover in the same; to run all divisional and connecting lines; complete maps; and do all other things that will tend to the perfecting of the land business of their respective districts, in accordance with the instructions of the Commissioner of the General Land-Office, and return the same to the General Land-Office to be patented; and as soon as patented, they shall be sent to the land districts to which they respectively belong, to be delivered to the patentee."

By the adoption of such a system, the great and increasing demand for patents, owing to the annexation of Texas to the United States, might be supplied. The owners of land are desirous to sell; and in consequence of the supposed great uncertainty of land titles in Texas, it might facilitate sales, to have patents.

The committee have instructed me to report the following section to be incorporated in the Constitution, and recommend its adoption:

"The Legislature shall, at its first session, so re-organize the Land-Office Department, as to make it support itself, without becoming a charge to the State; and shall establish a number of land offices, not less than four nor more than six, until the year eighteen hundred and fifty, under such rules and regulations as shall be prescribed by law."

Mr. Jewett, one of the committee, filed his dissent from the report of the majority, as follows:

COMMITTEE ROOM, Aug. 4, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention:

The undersigned, one of the select committee to whom was referred the communication of the Commissioner of the General Land Office, upon the subject of that department, respectfully dissents from that part of the report of the majority of the committee, which recommends the insertion of an article in the State Constitution, providing that "The Legislature shall, at its first session, so re-organize the Land-Office Department, as to make it support itself, without becoming a charge to the State."

The undersigned considers it the more judicious policy, to en-

trust this subject to the sound discretion of the Legislature, than to enjoin as a mandate upon that body, to adopt, at its first session, this radical change in conducting the business of the Land-Office. The effect of the proposed change is important; and, with the information before the Convention, its operations upon the different sections of the country, cannot be duly understood.

The attention of the Legislature will, doubtless, be directed to the subject, at an early period; and it may be confidently expected, that the necessary laws will be passed, to provide for such change in conducting the business of the Land-Office, as the public interest may require.

HENRY J. JEWETT,
One of the Committee.

The reports were ordered to lay on the table, to come up among the orders of the day.

Mr. Darnell moved to re-consider the vote of yesterday, referring the 18th section of the General Provisions to the committee on the Judiciary.

Which motion was carried, and vote re-considered.

Mr. Evans moved to re-consider the two votes of yesterday, one calling for the previous question on the 20th section of the General Provisions, and one adopting said section.

Mr. Cazneau moved to lay the motion on the table. Lost.

The question was then taken on the re-consideration, and lost.

Mr. Davis offered the following resolution:

Resolved, That the Convention, for the remainder of the session, shall meet each day (Sundays excepted) at half-past 8 o'clock A. M.; shall adjourn at half-past 12 o'clock P. M.; shall meet again at half-past 2 o'clock P. M., and shall again adjourn at 6 o'clock P. M.

Mr. Lipscomb moved to amend the resolution, by meeting at half-past 8 o'clock, A. M., and adjourn at half-past 3, P. M.

Mr. Young moved to amend the amendment, by reading to meet at half-past 8 o'clock A. M., and adjourn at half-past 6, P. M.

Which motion was carried.

Mr. Gage moved to lay the resolution upon the table.

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

Ayes—Messrs. Anderson, Evans, Gage, Jones, Kinney, McNeill, Miller and White—8.

Noes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Forbes, Hemphill,

Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Latimer of L., Latimer of R R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt and Young—46.

So the motion was lost.

Mr. Parker moved to refer the resolution to a select committee.

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

Ayes—Messrs. Caldwell, Evans, Gage, Hemphill, Lumpkin, McNeill, Parker, Rains, and White—9.

Noes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Forbes, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Power, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt and Young—47.

So the motion to refer was lost.

Mr. Gage moved the indefinite postponement of the resolution.

Which motion was lost.

The amendment of Mr. Lipscomb, as amended by Mr. Young, was adopted.

Mr. Armstrong of J., moved the previous question.

Which motion was carried.

The main question being the adoption of the resolution as amended—

The ayes and noes being called, stood thus :

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Howard, Hunter, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Ochiltree, Van Zandt and Young—50.

Noes—Messrs. Anderson, Forbes, Gage, McNeill, Tarrant and White—6.

So the resolution was adopted.

Mr. Forbes offered the following resolution :

Whereas, a resolution has been adopted, requiring the Convention to meet at half-past 8 o'clock, A. M., and sit until half-past 6 o'clock, P. M.; therefore, be it

Resolved, That the meals of the members be served in the adjoining hall.

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

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

ORDERS OF THE DAY.

The resolution of Mr. Evans, of yesterday, proposing the appointment of a committee of five, to enquire into the land system of Texas; and report to the Convention, was taken up.

Mr. Cunningham moved to amend by adding "also the number of acres which have been patented by the Government of Texas, and in what counties the same is situated."

Adopted.

The motion of Mr. Howard, to refer the 21st section of the General Provisions, and the 4th section of the Schedule, to the committee on the Judiciary, was taken up; and,

On motion of Mr. Jewett, laid on the table for the present.

Mr. Cunningham offered the following additional section, to come in between the 20th and 21st sections.

"All persons who left the country for the purpose of evading a participation in the revolution of 1836, or who refused to participate in it, or who aided or assisted the Mexican enemy, shall forfeit all rights of citizenship, and such lands as they may hold in this State."

Mr. Rusk moved to refer the section to the committee on the Judiciary.

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

Ayes—Messrs. President Rusk, Baylor, Caldwell, Cazneau, Darnell, Davis, Evans, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Howard, Hunter, Irion, Jones, Kinney, Love, Lusk, Lipscomb, Miller, Moore, Navarro, Parker, Power, Runnels and Standefer—28.

Noes—Messrs. Anderson, Armstrong of R., Bache, Bagby, Bra-shear, Brown, Burroughs, Clark, Cunningham, Hemphill, Horton, Holland, Jewett, Latimer of L., Latimer of R. R., Lewis, Lumpkin, McGowan, McNeill, Scott, Smyth, Tarrant, Ochiltree, Van Zandt, White and Young—26.

So the section was referred.

Mr. Hicks moved that the House adjourn for one hour. Lost.

Mr. Moore moved to take a recess of two hours.

Mr. Parker moved, as a substitute to Mr. Moore's motion, to take a recess till 3 o'clock, P. M.

The Chair decided the motion of Mr. Parker to be in order; from which decision Mr. Anderson appealed, and the Chair was sustained by the Convention:

On motion of Mr. Ochiltree, a call of the House was made; and on motion of Mr. Everts, a further call was suspended.

Mr. Everts moved a re-consideration of the vote adopting the resolution to meet at half-past 8 o'clock, A. M., and adjourn at half-past 6, P. M.

Upon which, Mr. Darnell moved the previous question, which was carried.

The main question being the re-consideration of the vote adopting the resolution.

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

Ayes—Messrs. President Rusk, Anderson, Bagby, Baylor, Bra-shear, Brown, Caldwell, Cazneau, Cunningham, Darnell, Everts, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Irion, Jew-ett, Kinney, Latimer of R. R., Lumpkin, Lipscomb, McNeill, Miller, Navarro, Parker, Rains, Runnels, Standefer and White—32.

Noes—Messrs. Bache, Burroughs, Clark, Davis, Evans, Gage, Howard, Hunter, Jones, Latimer of L., Lewis, Love, Lusk, Mc-Gowan, Moore, Power, Smyth, Tarrant, Ochiltree, Van Zandt and Young—21.

So the vote adopting the resolution, was re-considered.

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

4 O'CLOCK, P. M.

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

The President of the Convention announced a communica-tion from the Commissioner of the General Land-Office, which was read, and is as follows:

GENERAL LAND-OFFICE, AUSTIN, }
August 5th, 1845. }

HON. THOS. J. RUSK,

President of the Convention:

SIR:—In compliance with a resolution of your honorable bo-dy, requiring me to report to the Convention certain information,

a copy of which resolution I received in a note from James H. Raymond, Esq., I have the honor to transmit herewith, a statement, in which I have answered, as far as the records of this office has enabled me to, the requirements of your resolution; in addition to which I will remark, that I have no means of knowing the whole amount of scrip that has been issued by our Government, but think that the amount yet out, or that has not been returned to this office, is about one-eighth of the quantity which I have shown to be in this office at the present time: the same is the case in relation to bounty-land warrants—not being able to inform you of the exact number issued by the Department of War, or to state the precise quantity of land they contain. I have reported the same, as near the truth as possible to be obtained from the data in my possession.

I have the honor to be,

Very respectfully,

Your obedient servant,

THOS. W. WARD.

STATEMENT.

Superficial extent of Texas, as comprised within the limits defined by statute of 1st Texian Congress, page 133,	397,319 sq. m. <i>or</i> 254,284,160 acres.
Total amount of land issued by the various Boards of Land-Commissioners,	43,543,970 “
Total amount recommended, from the above, as good and lawful claims, by the Commissioners appointed to detect fraudulent certificates,	19,212,206 “
Total amount issued by Department of War, as bounty and donation claims,	6,300,000 “
Total amount of Land-Scrip sold by the Government of the Republic of Texas,	368,787 “
Total amount of legal claims to lands issued by the authorities of Texas,	25,880,993 “
Total amount issued by various Boards of Land Commissioners, and supposed to be fraudulent,	24,331,764 “
Total amount of land issued by the authorities of Mexico, a portion of which is supposed to be invalid,	22,080,000 “
Total amount of public domain subject to location, and unsurveyed,	181,991,403 “

On motion of Mr. Hemphill, 500 copies were ordered to be printed.

On motion of Mr. Hemphill, the communication of the Commissioner of the General Land-Office, and accompanying resolutions, were referred to the committee contemplated by the resolution of Mr. Evans.

Messrs. Evans, Everts, Smyth, Hemphill and Anderson were appointed said committee.

Mr. Everts offered the following as an additional section, to come in after the 20th section of the report :

"All claims, locations, surveys, grants, and titles to lands, which are declared null and void by the Constitution of the Republic of Texas, are, and the same shall remain, forever, null and void."

Which was adopted.

In 22d section, 2d line, Mr. Hicks moved to strike out all after the word "families."

Mr. Davis offered the following as an addition to the 22d section :

"And no married man shall be permitted to sell his homestead of (not to exceed) one hundred and sixty acres of land, without the consent of his wife, given in such manner as may be hereafter provided by the Legislature."

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

Ayes—Messrs. President Rusk, Armstrong of R., Baylor, Bra-shear, Burroughs, Cazneau, Clark, Darnell, Davis, Evans, Hemp-hill, Henderson, Hogg, Holland, Horton, Howard, Jewett, Jones, Kinney, Latimer of L., Lewis, Lusk, Lipscomb, M'Gowan, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Standefer, Tar-rant, Ochiltree and Young—35.

Noes—Messrs. Anderson, Bagby, Bache, Brown, Caldwell, Cunningham, Everts, Forbes, Gage, Hicks, Howard, Irion, Lati-mer of R. R., Love, Lumpkin, McNeill, Scott, Smyth and White—20.

So the section was adopted.

On motion of Mr. Evans, the words "have power to," in 1st line, 22d section, were stricken out.

Mr. Rusk offered the following, as a substitute to a part of the 22d section, including the amendment of Mr. Davis :

Strike out all after the word "families," in 2d line, and insert the following: "The homestead of a family, not to exceed two hundred acres of land, (not included in a town or city) or any town or city lot or lots, in value not to exceed two thousand dol-

lars, shall not be subject to forced sale, for any debts hereafter contracted, nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the Legislature may hereafter point out."

Which was adopted.

Mr. Forbes offered the following, as an amendment to the amendment: "and further, provided the one hundred and sixty acres of land shall not exceed in value, six hundred dollars."

Which was rejected.

Mr. Gage offered the following, as a substitute to the 22d section, as amended:

"The Legislature shall, as soon as practicable, pass laws, by which a portion of the property of all citizens of this State shall be exempt from forced sale; and in all cases, there shall be two hundred acres of land exempt."

Which was rejected.

The question was then taken on the adoption of the 22d section, as amended.

The ayes and noes being called, were as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Burroughs, Cazneau, Clark, Cuney, Darnell, Davis, Evans, Everts, Hemp-hill, Hogg, Horton, Howard, Holland, Hunter, Jewett, Kinney, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Standefer, Tarrant, Ochiltree and Young—42.

Noes—Messrs. Caldwell, Cunningham, Forbes, Gage, Henderson, Hicks, Irion, Jones, Love, McNeill, Scott, Smyth, Van Zandt and White—14.

So the section was adopted, as amended.

After various motions to adjourn,

Mr. Cazneau moved to strike out the 24th section.

Which motion was lost, and the 23d, 24th, 25th and 26th sections were adopted.

On motion of Mr. Irion, 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

Previous	Aug 4, 1845	158
Next	Aug 6, 1845	173

[Return to Electronic Index Page](#)