

Gowan, Miller, Parker, Rains, Scott, Smyth, Standefer, White and Young—27.

Noes—Messrs. Anderson, Armstrong of J., Baylor, Bache, Brashear, Burroughs, Clark, Cuney, Darnell, Hemphill, Henderson, Hogg, Howard, Holland, Hunter, Latimer of R. R., Lewis, Lusk, McNeill, Moore, Navarro, Power, Runnels, Tarrant, Ochiltree and Van Zandt—26.

So the amendment was adopted.

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

FRIDAY MORNING, Aug. 8, 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, Wright and Young.

The journal of the preceding day was read and adopted.

The committee on General Provisions, Isaac Van Zandt chairman, made the following report, which was laid on the table to come up among the orders of the day :

COMMITTEE ROOM, August 8, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention :

The committee on General Provisions have had under consideration, two resolutions which were referred to them, on the subject of slaves. After mature deliberation, they have instructed me to submit the following, as a substitute for both, and respectfully recommend its adoption.

ISAAC VAN ZANDT,
Chairman of the Committee.

SUBSTITUTE.

The Legislature shall not have power to pass any laws for the emancipation of slaves, without the consent of the owner; nor shall the owner emancipate his slaves, without the consent of the Legislature, unless he sends them beyond the limits of the State. The Legislature shall pass laws to prohibit cruelty to slaves, and unusual punishments.

2d. In the prosecution of slaves for crimes of a higher grade than petit larceny, the Legislature shall have no power to deprive them of a trial by an impartial jury, in the District Court.

The same committee made the following report:

COMMITTEE ROOM, Aug. 8, 1845.

Hon. THOS. J. RUSK,
President of the Convention:

The committee on General Provisions of the Constitution, to whom was referred two resolutions, proposing to vest the Legislature with power to prohibit the circulation of lithographed and other bills of individuals and companies, as money, have had the same under consideration, and have instructed me to report the following substitute, and respectfully recommend its adoption.

ISAAC VAN ZANDT, Chairman.

SUBSTITUTE.

The Legislature shall prohibit individuals from issuing bills, checks, promissory notes or other paper, to circulate as money.

Which was laid on the table, to come up among the orders of the day.

Mr. Jewett moved a reconsideration of the vote adopting the additional section offered by Mr. Runnels on yesterday, to come in after the 6th section, requiring the Legislature to provide by law for the compensation of all officers, &c., and prohibiting them from granting extra compensation to any such officer, &c.; which motion was laid on the table.

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

ORDERS OF THE DAY.

The amendment of Mr. Lewis to the 31st section of the report of the committee on General Provisions, providing that "no money shall ever be borrowed on the faith of the State." being first in order, was taken up.

Mr. Lewis moved to refer the amendment to a select committee. Lost.

The ayes and noes being then called on the adoption of the amendment, stood as follows :

Ayes—Messrs. Armstrong of J., Bache, Brashear, Burroughs, Cazneau, Cuney, Davis, Gage, Hogg, Hunter, Lewis, Lumpkin, Parker, Power, Runnels, Standefer and Ochiltree—17.

Noes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bagby, Brown, Caldwell, Clark, Cunningham, Darnell, Evans, Everts, Forbes, Hemphill, Hicks, Horton, Howard, Holland, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Love, Lusk, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Rains, Scott, Smyth, Tarrant, Van Zandt, White, Wright and Young—39.

Rejected.

Mr. Armstrong of J., moved to strike out all after the word "dollars," in second line, 31st section. Lost.

Mr. Anderson moved to insert after the word "dollars," the words "at any one time," in second line. Lost.

Mr. Armstrong of J., moved to strike out the words, "except in case of war." Lost.

Mr. Forbes moved the previous question.

The question, shall the main question be now taken? was put and carried.

The main question being the adoption of the 31st section as amended,

The ayes and noes were called for, and stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of R., Bagby, Bache, Brashear, Brown, Burroughs, Cazneau, Clark, Cunningham, Darnell, Forbes, Hicks, Horton, Howard, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Love, Lusk, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Tarrant, Ochiltree, Van Zandt, White, Wright and Young—40.

Noes—Messrs. Armstrong of J., Baylor, Caldwell, Cuney, Davis, Evans, Everts, Gage, Hogg, Hunter, Lewis, Lumpkin, Runnels and Standefer—14.

So the section was adopted.

Mr. Hogg offered the following amendment to the 32d section: Add, at the beginning, "The Legislature shall at the first session thereof, and may at any subsequent session, establish new counties, for the convenience of the inhabitants of such new county or counties. Provided, that."

Which amendment was adopted.

Mr. Hicks offered the following amendment to the 32d section:

Add, after the word "contents," in third line, "nor shall any county site be removed, unless two-thirds of the qualified voters of such county shall vote for such removal."

Rejected.

Mr. Tarrant offered the following amendment, to come in in third line, after the words "square miles:"—"except the county of Bowie."

Adopted.

Mr. Everts moved to strike out all after the word "contents" in third line, 32d section.

Lost.

Mr. Lipscomb moved to amend, by adding after the words "square miles," the words "unless by the consent of two-thirds of the Legislature."

Adopted.

The section as amended was then adopted.

Mr. Davis moved to strike out the 33d section.

Lost.

On motion of Mr. Rusk, the vote refusing to strike out the 33d section, was re-considered.

Mr. Rusk then moved to strike out the 33d section.

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

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Gage, Hemphill, Hicks, Hogg, Horton, Howard, Irion, Jewett, 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, White, Wright and Young—52.

Noes—Messrs. Evans, Hunter and Van Zandt—3.

So the section was stricken out.

Mr. Bache offered the following as an additional section, to come in as the 33d section:

"The Legislature shall have power to erect new States out of the territory of this State, of convenient size, not exceeding four in number, in addition to this State, whenever sufficient population may authorize such erection, agreeably to the provisions of the Constitution and laws of the United States,—to be admitted as separate States into the Union."

Mr. Hemphill moved to refer the additional section to the committee on General Provisions.

Lost; and,

On motion of Mr. Rusk, referred to the committee on the Judiciary.

On motion of Mr. Hemphill, the report of the committee on General Provisions was laid on the table for the present.

Mr. Hemphill, chairman of the committee on the Judiciary, made the following report:

COMMITTEE ROOM, Aug. 8, 1845.

Hon. THOS. J. RUSK,

President of the Convention:

The committee on the Judiciary, to whom was referred the propriety of declaring in the Constitution that "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," have instructed me to report against the expediency of inserting such a provision in the Constitution. The ordinary powers of Legislation will authorize the adoption of the necessary means for the investigation of this and other classes of forfeitures, and such disposition and appropriation of them as may be most conducive to the ends of public justice, and advancement of the common welfare.

All of which is respectfully submitted.

JOHN HEMPHILL, Chairman.

The same committee made the following report:

COMMITTEE ROOM, Aug. 8, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention:

The committee on the Judiciary, to whom was referred the propriety of inserting among the General Provisions of the Constitution the following section:

"The legal effects of all marriages now or heretofore subsisting, shall for the future be held and taken to be the same as though such marriages had been good and valid from the beginning. Provided, that nothing herein contained shall work any revocation of vested rights,"—have had the same under consideration, and have instructed me to report: that the adoption of the pro-

vision would be unnecessary and inexpedient. The laws already legalize and confirm marriages where the rites of matrimony have been celebrated by bond, or by officers supposed to be not properly authorized for that purpose.

The Legislature in the exercise of its ordinary powers, will have competent authority to legalize marriages not already confirmed; and in many particulars, to establish by proper regulations, the rights, duties and obligations arising from the contract of marriage. And your committee pray to be discharged from the further consideration of the subject.

JOHN HEMPHILL, Chairman.

The same committee also made the following report:

COMMITTEE ROOM, Aug. 8, 1845.

Hon. THOS. J. RUSK,

President of the Convention :

The committee on the Judicial Department of the Government, to whom was referred a resolution instructing them to enquire into the propriety of authorizing the Legislature to establish separate chancery courts, whenever it shall be deemed expedient to do so, have had the same under consideration, and have instructed me to report: That the present system of administering justice in the same court, according to the principles of both law and equity, or either, as the circumstances of the controversy may demand, has been long established, is well understood, and possesses too many advantages to be lightly abandoned. They therefore deem it inexpedient to confer on the Legislature the authority contemplated by the resolution, and pray to be discharged from the further consideration of the subject.

JOHN HEMPHILL, Chairman.

All of which reports were laid on the table, to come up among the orders of the day.

Mr. Gage moved to take up the first report, relative to forfeitures.

Lost.

On motion of Mr. Burroughs, the report of the committee on General Provisions was again taken up.

Mr. Horton offered the following as a substitute for the 34th section:

MODE OF AMENDING THE CONSTITUTION.

“The Legislature, whenever two-thirds of each House shall deem it necessary, may propose amendments to this Constitu-

tion, which proposed amendments shall be duly published in print, at least three months before the next general election of Representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next general election which shall be held for Representatives, to open a poll for, and make a return to the Secretary of State for the time being, of the names of all those voting for Representatives, who have voted on such proposed amendments; and if, thereupon, it shall appear that a majority of all the citizens of this State voting for Representatives, have voted in favor of such proposed amendments, and two-thirds of each House of the next Legislature shall after such election, and before another, ratify the same amendments by yeas and nays, they shall be valid to all intents and purposes, as parts of this Constitution; provided, that the said proposed amendments shall at each of the said sessions have been read on three several days in each House."

Mr. Forbes moved a call of the Convention. Lost.

The ayes and noes being called on the adoption of the substitute, stood thus:

Ayes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bagby, Brown, Burroughs, Caldwell, Cazneau, Cunningham, Cuney, Davis, Everts, Forbes, Gage, Hemphill, Hicks, Hogg, Horton, Howard, Irion, Jewett, Kinney, Latimer of L., Lewis, Love, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Power, Rains, Runnels, Scott, Standefor, Tarrant, Ochiltree and Wright—40.

Noes—Messrs. Armstrong of J., Bache, Brashear, Clark, Darnell, Evans, Hunter, Latimer of R. R., Lumpkin, McNeill, Parker, Smyth, Van Zandt and White—14.

So the substitute was adopted.

Mr. Anderson offered the following amendment to the substitute:

"And the same amendment shall not be made oftener than once in every five years."

Rejected, and the section as substituted adopted.

Mr. Evans offered the following as an additional section, to come in after the 34th section:

"For the purpose of securing to the people a safe mode of changing or improving their Constitution, the Legislature shall every ten years submit to a vote a proposition to convene a Convention, and if a majority of the qualified voters of the State, are in favor of a Convention, the Legislature shall provide for convening a Convention."

Rejected.

Mr. Navarro offered the following as an additional section, to come in as the 35th section:

"No soldier shall in time of peace, be quartered in the house, or within the enclosure of any individual, without the consent of the owner, nor in time of war, but in a manner prescribed by law."

Adopted.

IMPEACHMENT

Mr. Evans moved to strike out the first section.

Lost.

On motion of Mr. Young, the first section was adopted.

Mr. Evans moved to strike out the 2d section.

Lost.

On motion of Mr. Runnels, all after the word "Senate," in the 3d line of the 2d section, was stricken out, and the section, as amended, was adopted.

The 3d and 4th sections were adopted.

In 5th section, Mr. Howard moved to strike out all after the word "impeachment," in 3d line.

Lost.

Mr. Forbes moved to strike out the words "their functions," and insert "the functions of their office."

Lost.

Mr. Love moved to strike out the words "their functions," and insert "the duties of their office."

Carried; and the 5th section, as amended, was adopted.

In the 6th section, 2d line, Mr. Evans moved to strike out the word "other."

Lost.

Mr. Everts moved to insert the word "county," after the word "State," in 6th section.

Lost.

On motion of Mr. Forbes, 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 Convention took up the report of the select committee. D. Gage chairman, to whom was referred the 7th section of the Ge-

neral Provisions; and the following amendments, recommended by said committee, were adopted:

In the first line, strike out the words "at large;" and strike out the entire section after the word "law," in the 3d line.

The Convention took up the report of the committee on General Provisions, upon the subject of vesting the Legislature with power to prohibit the circulation of lithographed bills, &c., as money.

Mr. Hemphill moved to insert, after the word "individuals," the words "or corporate bodies."

Carried.

The substitute, as amended, was then adopted, to come in after the 28th section.

Mr. Evans offered the following as an additional section, to come in between the 6th and 7th sections:

"The Legislature shall never legislate upon any private claims—individual or separate case; no relief law, special law, or individual law, shall ever be passed; no resolution expressing the opinion of the Legislature, or eulogizing abstract principle, party, or individual, shall ever be adopted."

Rejected.

Mr. Evans moved to strike out the 1st, 2d, 3d, 4th and 5th sections, and the word "other," in the 6th section, under the head of "Impeachment."

Which motion was seconded by Mr. Ochiltree.

Mr. Runnels moved to re-consider the vote adopting the 1st section under the head of "Impeachment."

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

Ayes—Messrs. Anderson, Bache, Brashear, Caldwell, Cazneau, Evans, Everts, Gage, Hunter, Latimer of R. R., Lewis, Love, Lusk, McGowan, McNeill, Power, Runnels, Standefer and Ochiltree—19.

Noes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Baylor, Bagby, Burroughs, Clark, Cunningham, Cuney, Davis, Forbes, Hemphill, Hicks, Hogg, Horton, Howard, Holland, Irion, Jewett, Kinney, Latimer of L., Lumpkin, Lipscomb, Moore, Navarro, Parker, Rains, Scott, Smyth, Tarrant, Van Zandt, White Wright and Young—34.

So the Convention refused to re-consider.

On motion of Mr. Van Zandt, the Convention took up the sections on the subject of slaves, reported by the committee on General Provisions, to come in after the 18th section.

The question was then taken on the adoption of the substitute

to the original section offered by Mr. Runnels, which was carried.

Mr. Hemphill offered the following amendment to the substitute:

After the word "laws," strike out the words "to prohibit cruelty to slaves, and unusual punishments," and insert in lieu thereof, the words "to oblige the owners of slaves to treat them with humanity, and to provide for them necessary food and clothing."

Which was adopted.

Mr. Van Zandt moved to insert, after the word "larceny," the words "except in cases of insurrection."

Which was adopted.

Mr. Hemphill offered the following, as a substitute for the 2d section of the report of the committee on General Provisions, under the head of "Slaves:"

"The Legislature shall provide by law, for the punishment of offences committed by slaves; but they shall have no power to deprive them of an impartial trial."

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

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bache, Brown, Caldwell, Cuney, Davis, Gage, Hemphill, Hicks, Jewett, Lumpkin, Lusk, Lipscomb, McNeill, Parker, Runnels, Scott, Tarrant and White—21.

Noes—Messrs. Anderson, Baylor, Bagby, Brashear, Burroughs, Cazneau, Clark, Cunningham, Evans, Everts, Forbes, Henderson, Hogg, Horton, Howard, Holland, Hunter, Irion, Latimer of R. R., Lewis, McGowan, Moore, Navarro, Power, Rains, Smyth, Standefer, Ochiltree, Van Zandt, Wright and Young—31.

So the amendment was rejected.

Mr. Runnels offered as a substitute to the section of the committee, the clause in the Alabama Constitution, under the head of "Slaves."

Mr. Lusk offered the following proviso:

"Provided, the Legislature shall not have power to authorize any person to emancipate their slaves, unless they send them out of the State."

Which was rejected.

The question was then taken on the substitute offered by Mr. Runnels, (being the clause in the Alabama Constitution, under the head of "Slaves,") which was adopted.

Mr. Van Zandt moved to substitute the 2d section offered by

Mr. Runnels, by adopting the 2d section of the report of the committee on General Provisions, in lieu thereof.

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

Ayes—Messrs. Baylor, Bagby, Burroughs, Caldwell, Clark, Darnell, Evans, Everts, Forbes, Gage, Henderson, Hogg, Horton, Holland, Hunter, Irion, Latimer of R. R., McGowan, Rains, Standefer, Ochiltree, Van Zandt and Young—23.

Noes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bache, Brashear, Brown, Cazneau, Cuney, Davis, Hemphill, Hicks, Howard, Jewett, Lewis, Lumpkin, Lusk, Lipscomb, McNeill, Moore, Navarro, Parker, Power, Runnels, Scott, Smyth, Tarrant, White and Wright—28.

So the motion was lost, and the section, as offered by Mr. Runnels, was adopted.

The article reported by Mr. Davis, from the select committee, in relation to the Land-Office, was taken up.

Mr. Van Zandt moved to strike out the words "as to make it support itself, without becoming a charge to the State, and shall."

Which motion was carried, and the words stricken out.

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

SATURDAY MORNING, August 9, 1845.

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

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Bagby, 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, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White, Wright and Young.

Quorum present—the journal of the preceding day was read and adopted.

Mr. Ochiltree offered the following resolution:

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 7, 1845	179
Next	Aug 9, 1845	196a

[Return to Electronic Index Page](#)