

Mr. Parker moved to strike out "forty" and insert "sixty."

Lost.

The ayes and noes being called on Mr. Brown's amendment, stood as follows :

Ayes—Messrs. Baylor, Brown, Burroughs, Evans, Forbes, Moore and Power—7.

Noes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Bache, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Everts, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McNeill, Miller, Navarro, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, White, Wright and Young—44.

So the motion was lost.

The section was then adopted.

Mr. Gage moved to adjourn until half past 8 o'clock to-morrow morning.

Lost.

The first section of the report, together with the substitute reported by the select committee—Mr. Brown, chairman—was taken up.

Mr. Love moved to lay the section and substitute on the table.

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

FRIDAY MORNING, Aug. 15, 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, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, 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.

The journal of the preceding day was read and adopted.

Mr. Cunningham filed the following protest to the vote heretofore given, adopting the 31st section of the Legislative Department Report:

AUSTIN, August 14th, 1845.

The undersigned, having voted against the 31st section of the Constitution, relating to the Legislative Department of the Government, establishing the number of representatives in the first Legislature of Texas, and apportioning the same among the several counties, begs leave, respectfully, to protest against the adoption of the said section, for the following reasons:

1st. The large number of the representatives will necessarily subject the people of the western portion of the country, already impoverished by their patriotic efforts to support and maintain the independence of the country, to an onerous tax, from which they ought, if possible, to be relieved.

2d. The apportionment of the representatives among the respective counties is unjust, and injurious to the rights and interests of the people of the western portion of the State, inasmuch as it deprives them of their due weight in the legislation of the State, by changing the constitutional apportionment in the Legislature of the country. This infringement of a right so dear to freemen, is justified solely on the ground of a partial depopulation of that country, by the ravages of a desolating war.

The undersigned can recognize no principle of justice, patriotism, or humanity, which would warrant this body in depriving any portion of the people of this country of this inestimable right; by reason of the vicissitudes of fortune, over which they could exercise no control; especially when it is recollected, that the inhabitants of this portion of the country have, for the last eight years, borne all the burdens of a war, almost unaided by their Government; that they have paid a tribute for the support and maintenance of that Government, in blood, treasure, and personal service, which, in proportion to their numbers and means, is unprecedented in the history of modern republics; that the depopulation of their country has been caused by a sacrifice of life, in defence of their country, and by reason of a dereliction of duty, neglect, or inability of the Government to protect them in the enjoyment of their homes; that the widows, orphans and heirs of those who have fallen in battle, and been driven from their homes, claim the same interest in the soil, which was owned by their husbands, fathers and friends. Now, the undersigned believes, that wherever they have wandered, or been driven, their voice should be heard in the Legislature of the State; and that

voice should be for the protection of the local interests of the homes hallowed to them by the blood of their kinsmen.

The undersigned, therefore, believes that the old constitutional apportionment should be preserved, until full protection is given to the western frontier; and ample time for those driven from their homes, to return to them: actuated, however, by a liberal spirit of concession, he was willing, by way of compromise, to adopt the provision reported by the select committee, through its chairman; he would, however, consider himself recreant to the interests of his constituents, and of the people of western Texas, were he to depart further from the rule which a sense of justice dictates to him.

A. S. CUNNINGHAM.

Mr. Horton moved a re-consideration of the vote given yesterday, adopting the 28th section of the Legislative Department Report; which motion was lost.

The select committee, to whom was referred the resolution enquiring into the expediency of dividing Texas into two Congressional Districts, (Mr. Everts, chairman,) made the following report:

COMMITTEE ROOM, Aug. 15, 1845.

Hon. THOS. J. RUSK,

President of the Convention:

The committee, to whom was referred the resolution of the Convention, to enquire into the propriety of dividing Texas into two Congressional Districts, agreeably to the act of Congress of the United States, of 1842, upon that subject, in order to elect two representatives for the State of Texas until the year 1853, beg leave to make the following report:

That the act of Congress above alluded to, does, amongst other things, require that each State shall be laid off into as many congressional districts as the same may be entitled to representatives in the Congress of the United States; and your committee believing, and being fully persuaded, that Texas, under the ratio fixed by said act of Congress, is entitled to two representatives in the Congress of the United States, until an apportionment shall be made under the census of 1850, have proceeded to divide Texas into two Congressional Districts, in such a manner as to give, as nearly as possible, an equal number of qualified voters to

each District; and, in conformity thereto, have instructed me to report the following

ORDINANCE.

It is declared and ordained, by Deputies in Convention assembled, That all the territory comprised within the limits of the following named counties, shall comprise the first Congressional District of the State of Texas, until after the next apportionment, and shall elect one representative to the Congress of the United States, to wit: the counties of Fannin, Lamar, Red River, Bowie, Harrison, Shelby, Jefferson, Jasper, Rusk, Sabine, San Augustine, Liberty, Houston, Nacogdoches and Galveston.

All the territory comprised within the limits of the following named counties, shall compose the 2nd Congressional District of the State of Texas, and shall elect one representative to the Congress of the United States, to wit: Brazoria, Fort Bend, Matagorda, Jackson, Victoria, Austin, Colorado, Fayette, Gonzales, Travis, Bastrop, Washington, Bexar, Goliad, Refugio, San Patricio, Milam, Brazos, Robertson, Montgomery and Harris.

All of which is respectfully submitted.

G. A. EVERTS, Chairman.

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

Mr. Bache offered the following resolution:

Resolved, That a committee of _____ be appointed, to wait upon the President of the Republic of Texas, to consult with him concerning the transfer of the Government, by the Convention, from an independent Republic to a Republican State Government.

Which was laid on the table for one day, according to the rule.

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

ORDERS OF THE DAY.

The first section and substitute of select committee on the Legislative Department being first in order,

Mr. Love offered the following, as a substitute for the substitute of the select committee—Mr. Brown, chairman:

“Every free male person who shall have attained the age of twenty-one years, and shall be a citizen of Texas at the time of the adoption of this Constitution by the Congress of the United States, (Indians not taxed, Africans and descendants of Africans, excepted,) shall be deemed a qualified elector, and be entitled to

vote in the county, city, town, or district, where he may actually reside; those who may not be citizens of Texas at the time of the adoption of this Constitution by the United States, when they have attained the age of twenty-one years, and shall have resided in the State twelve months, and six months in the county, city, town, or district, where he offers to vote, shall be deemed a qualified elector; those who have resided two years in the State, and three months in the county, shall be entitled to vote in any county, city, town, or district, where he may actually reside. After the acceptance of this Constitution by the United States, the Legislature shall provide by law, the manner in which foreigners arriving in the State, after its adoption as one of the United States, and who may not be naturalized under the laws of the U. States, shall exercise the right of suffrage in all elections for state officers: *provided*, nevertheless, that the right of suffrage shall not be exercised by any non-commissioned officer, soldier, seaman, or marine, in the service of the United States."

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

Ayes—Messrs. President Rusk, Armstrong of R., Bagby, Burroughs, Cunningham, Cuney, Darnell, Davis, Gage, Henderson, Hogg, Holland, Irion, Jewett, Jones, Latimer of L., Lewis, Love, Lusk, McNeill, Miller, Parker, Power, Rains, Scott, Smyth, Standefer, Tarrant, Ochiltree and Young—30.

Noes—Messrs. Anderson, Armstrong of J., Baylor, Bache, Brown, Caldwell, Clark, Evans, Everts, Forbes, Hicks, Horton, Hunter, Latimer of R. R., Lumpkin, Mayfield, McGowan, Moore, Navarro, Van Zandt, White and Wright—22.

So the substitute was adopted.

Mr. Mayfield offered the following substitute for the substitute of Mr. Love:

"Every free male person of the age of twenty-one years, who shall be a citizen of the United States, or who, at the time of the adoption of this Constitution by the people of Texas, shall be a *bona fide* inhabitant of Texas, or at the final action of the Congress of the United States thereon, and shall have resided the last six months in the county, city, town, or district, in which he offers to vote, (Indians not taxed, Africans, and descendants of Africans, excepted,) shall be deemed a qualified elector, and entitled to enjoy all the rights, immunities and privileges of citizens of this State, under such disabilities as is otherwise provided for in this Constitution, and the Constitution of the United States."

Mr. Rusk moved to strike out the clause in Mr. Love's substitute, in relation to the Legislature providing by law for those

who may not be naturalized under the laws of the United States; which motion prevailed, and the clause was stricken out.

The ayes and noes were then called, on the adoption of Mr. Mayfield's substitute, and were as follows :

Ayes—Messrs. Anderson, Bache, Caldwell, Cazneau, Evans, Everts, Horton, Howard, Hunter, Lipscomb, Mayfield, Navarro and Power—13.

Noes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Baylor, Bagby, Brashear, Brown, Burroughs, Clark, Cunningham, Darnell, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, McGowan, McNeill, Miller, Moore, Parker, Rains, Runnels, Scott, Smyth, Tarrant, Standefer, Ochiltree, Van Zandt, White, Wright and Young—42.

So the substitute was rejected.

Mr. Van Zandt offered the following substitute for Mr. Love's substitute :

"Every free male person of the age of twenty-one years, (Indians not taxed, Africans and descendants of Africans, excepted,) who is an actual resident and inhabitant of Texas, at the time of the approval of this Constitution by the Congress of the United States, or who, after the adoption of this Constitution, shall be a citizen of the United States, and shall have resided six months in the county or district where he may offer his vote, shall be deemed a qualified elector, and entitled to vote for members of the Legislature, and other officers for the district or county in which he may reside : *provided*, no officer, soldier, seaman, or marine, in the army or navy of the United States, shall be entitled to vote."

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

Ayes—Messrs. Anderson, Armstrong of J., Baylor, Bache, Brown, Clark, Evans, Everts, Forbes, Hemphill, Horton, Howard, Hunter, Lipscomb, Navarro, Power and Van Zandt—17.

Noes—Messrs. President Rusk, Armstrong of R., Bagby, Brashear, Burroughs, Caldwell, Cazneau, Cunningham, Darnell, Henderson, Hicks, Hogg, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Mayfield, McGowan, McNeill, Miller, Moore, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, White, Wright and Young—37.

So the substitute of Mr. Van Zandt was rejected.

Mr. Gage moved to strike out "non-commissioned," before "officer," in Mr. Love's substitute.

Lost.

The ayes and noes were called for, on the motion of Mr. Gage.

The Chair decided that the ayes and noes could not be called for, after the decision of the Chair.

Mr. Gage appealed from the decision of the Chair; and, upon the question being put, the Convention sustained the decision of the Chair.

Mr. Van Zandt moved to strike out "non-commissioned officer," and insert "officer."

A division of the question was called for, and the question upon striking out was put.

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

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Baylor, Bagby, Burroughs, Clark, Cunningham, Everts, Forbes, Gage, Hogg, Horton, Hunter, Irion, Latimer of R. R., Lusk, McNeill, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White and Wright—27.

Noes—Messrs. Armstrong of R., Bache, Brown, Caldwell, Cazneau, Hemphill, Henderson, Hicks, Jewett, Jones, Lewis, Love, Lumpkin, Mayfield, McGowan, Miller, Moore, Navarro, Parker, Power, Rains and Young—22.

So the motion prevailed, and the words were stricken out.

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

4 O'CLOCK, P. M.

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

Mr. Love's substitute being under consideration.

Question before the Convention, (non-commissioned officers being stricken out) was Mr. Van Zandt's motion to fill the blank with "officers."

Which motion prevailed.

Mr. Love moved to strike out the whole proviso, in the substitute offered by himself.

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

Ayes—Messrs. Brashear, Cunningham, Evans, Hunter, Jewett, Love, Lusk and Miller—8.

Noes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Cazneau, Clark, Cuney, Darnell, Davis, Everts, Gage, Hemphill, Hicks, Hogg, Horton,

Holland, Irion, Latimer of L., Latimer of R. R., Lewis, Lipscomb, McGowan, McNeill, Navarro, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt, Ochiltree, White and Wright—38.

So the motion was lost.

Mr. Van Zandt moved to strike out "service," in the substitute, and insert "Army or Navy."

Which motion prevailed.

Mr. Rusk offered the following, as a substitute for the substitute offered by Mr. Love :

"Every free male person of the age of twenty-one years and upwards, (Indians not taxed, Africans and descendants of Africans, excepted,) who shall be a citizen of the United States, and shall have resided in this State one year previous to an election, and in the county or district six months, shall be a qualified elector : this provision, however, shall not apply to the first election under this Constitution ; but all free male persons (Indians not taxed, Africans and descendants of Africans, excepted,) who may reside in Texas at the date of the adoption of this Constitution. and who shall be twenty-one years of age, shall be entitled to vote in the first election : *provided*, that no officer, soldier, seaman or marine, in the land or naval forces of the United States, shall be entitled to vote for any county, district or state officer."

On motion of Mr. Rusk, Messrs. Henderson and Baylor were appointed as a committee to wait on the Hon. E. Allen, Secretary of State, and invite him within the bar of the Convention.

The question was then taken, by ayes and noes, on the adoption of the substitute offered by Mr. Rusk, and were as follows :

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Baylor, Caldwell, Cazneau, Darnell, Evans, Everts, Gage, Henderson, Hogg, Horton, Jewett, Jones, Lewis, Lumpkin, Lipscomb, Moore, Navarro, Parker, Rains, Runnels, Smyth Standefer, Ochiltree, White and Young—28.

Noes—Messrs. Bagby, Bache, Brashear, Brown, Burroughs, Cunningham, Cuney, Forbes, Hemphill, Hicks, Hunter, Irion, Latimer of L., Latimer of R. R., Love, Lusk, Mayfield, McGowan, McNeill, Miller, Power, Scott, Tarrant, Van Zandt and Wright—25.

So the substitute was adopted.

Mr. Ochiltree offered the following, as a substitute for the substitute offered by Mr. Rusk :

"At the first election held under this Constitution, every free-man of the age of twenty-one years, who shall be a citizen of the

Republic of Texas at the time of the acceptance of this Constitution by the Congress of the United States, shall be deemed a qualified elector. In all succeeding elections, every freeman of the age of twenty-one years, who shall have been a citizen of the Republic of Texas, or shall be a citizen of the United States, and shall have resided twelve months in the State—the last three months thereof in the county or district in which he offers to vote, (Indians not taxed, Africans and descendants of Africans, excepted,) shall be deemed a qualified elector: *provided*, that no officer of the regular army, soldier, seaman, or marine, in the service of the United States, shall be authorized to vote."

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

SATURDAY MORNING, Aug. 16, 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, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Howard, 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.

On motion of Mr. Jones, the Convention took five hundred copies additional, of the "New Era," for this week.

On motion of Mr. Van Zandt, Mr. Clark was excused from attendance on the Convention on account of sickness.

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

ORDERS OF THE DAY.

Mr. Ochiltree's substitute for the 1st section of the Legislative report, being before the Convention,

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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