

The question on Mr. Mayfield's amendment was debated at considerable length, and no action taken.

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

TUESDAY MORNING, Aug. 19, 1845.

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

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

The journal of yesterday was read and adopted.

Mr. Anderson filed the following protest, which was ordered to be spread upon the journals :

To the Hon. THOS. J. RUSK,

President of the Convention :

As a delegate from the county of Gonzales, availing myself of an essential privilege, ask leave, most respectfully, to spread upon the journal of the Convention, my protest against the adoption of the first section of the Legislative report, together with the reasons which influenced me in so doing.

I consider that the adoption of the section referred to many of the rights of individuals who are now residing in this country, in good faith and strong attachment to free institutions, are denied the most important privilege of aiding in the promotion of those who are to represent and determine upon the great interest of the community. It is true, the section referred to extends the privilege of franchise to all those who may have strictly complied with all the requirements of the naturalization laws of the Republic of Texas, up to the adoption of this Constitution ; but the true condition of the country, as well as the peculiar situation of individuals, justifies the assertion, that there will be many who will be wholly excluded from the right of franchise, by a strict adherence to the principles contained in the second section, (and

that a strict construction will be required, there will be but little doubt,) although they have largely contributed to the support of the government; and have not only acquiesced in the change of our political institutions which is going on, but have cheerfully given their support toward the completion of the great measure for which we are assembled.

It would be unnecessary for me, at this time, to submit individual instances of that class of individuals who have become the actual cultivators of the soil of Texas—who have either deemed it unnecessary to take the oaths of allegiance, or who, ignorant of their duties and rights, have heretofore neglected it, and will continue in their present state up to the time of the adoption of this Constitution, and who, consequently, will be disfranchised by the adoption of the section referred to; which restrictions, as imposed by the section, conduces, as I consider, with but little benefit to the country, and to the great injury of private rights.

Another, and an imposing reason, urges itself upon the consideration of the section so adopted, which, it seems, if strictly observed, would force conclusions against the propriety and policy of the section.

It is conceded by all who are acquainted with the reserved rights of States, and those which are ceded, that every State in the Union has the inherent right—the undenied power, to pass such laws, or to incorporate into its Constitution, such provisions as shall constitute a voter, or qualified elector, without regard to the naturalization laws of the United States. Then, if this be the fact, I consider that portion of the section which uses the term “citizen of the United States,” is wholly unnecessary, and utterly impolitic, because it is anti-democratic, and adverse to the advancement of free institutions, and the spirit of the times.

Under the section referred to, all those who are not citizens of the United States, and emigrate to Texas after the change of government, will be unable to exercise the inestimable right of freemen—the right of voting—until he shall have become a citizen of the United States, which requires a period of five years, together with other indispensable duties. So long as Texas remained an independent government, a provision of this kind would be very valuable. But even under the Constitution of the Republic of Texas, when we had not that solid protection which the United States exerts over all its parts, and which will be successfully extended to us, against all internal and foreign invasion upon established rights, we have experienced no evil; but, on the contrary, a hardy and industrious population, from the liberality of our institutions, have been invited to participate

in all the benefits resulting from free government, to the development of our riches, and to the finding out new objects upon whom to bestow the rights, the comforts, and the great blessings of free principles. If ever the reason did exist for a period of probation so long as five years, that reason has now ceased; and the reason causing the effect, ought to be felt no longer.

I think the fears of those who consider European population as dangerous to our institutions, are utterly unfounded: no other than the spirit which stimulated our forefathers, stimulated them: if there be any other, it is that of interest; and it is certainly the interest of every individual, to enter readily, or essentially, into the very spirit of the institutions which are to govern him.

This result of the policy of the section, is to close the doors which have heretofore been open to emigration; and if it should not have that effect, it will deny the essential right of being represented upon important interests—when, at the same time, they must contribute to the support of the existing government. A shorter period of time than the one proposed, would have produced all the benefits contemplated by the section, and would have extended to individuals rights which were just and compatible with free and liberal principles.

Then, upon the ground, 1st, that it affects the present inhabitants of the country, who are actual cultivators of the soil; 2d, those who are here at this time, and have not, nor will not, be competent voters; and lastly, its exactions upon all who may seek Texas as their final resting place from tyranny, persecution, and distress, are sufficient reasons to influence me in the course pursued; and, in due deference to the opinion of the Convention, I will subscribe myself

JNO. D. ANDERSON.

I concur in the objections above urged, to the section alluded to, for the reasons assigned; and further, because it leaves the rights of a large number of actual inhabitants, and cultivators of the soil, to hold and inherit land subject to doubt and the interpretation of principles of international law; and I do, therefore, accordingly, respectfully protest against its adoption.

J. S. MAYFIELD, of Fayette.

Mr. Darnell, chairman of the select committee, to whom was referred the 18th section of the article on the General Provisions of the Constitution; together with the report of the majority and minority of the Judiciary committee on the same section made the following report:

COMMITTEE ROOM, August 18, 1845.

Hon. THOS. J. RUSK,

President of the Convention :

The select committee, to whom was referred the 18th section of the article on the General Provisions of the Constitution, together with the substitute for the same, reported by the majority and minority of the committee on the Judiciary, have had the same under consideration, and have instructed me to report and recommend to the Convention, for adoption, the following substitute for the section.

N. H. DARNELL, Chairman.

SUBSTITUTE.

“All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed, more clearly defining the rights of the wife, in relation as well to her separate property, as that held in common with her husband.”

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

Mr. Ochiltree, chairman, &c., made the following report :

COMMITTEE ROOM, August 19, 1845.

Hon. THOS. J. RUSK,

President of the Convention :

The committee of revision, &c., have had the Bill of Rights, the Judiciary and the Executive articles of the Constitution under consideration, and have directed me to submit the accompanying report.

The committee would, with much respect, state that they have ventured to go somewhat further than the strict letter of their authority would warrant, in recommending to the adoption of the Convention, an entire separate article, providing for the proper distribution of the powers of the government; which article, they would suggest, should follow the Bill of Rights, to be succeeded by the Legislative, the Judicial, the Executive, and the article containing the General Provisions, in the order here stated.

Your committee would beg leave to call the particular attention of the Convention, to the concluding provision of the 9th

section of the Bill of Rights; and would suggest to the Convention, the propriety of striking out that part of the section which occurs after the words "*habeas corpus*," and which makes the writ returnable to the county where the offence is committed. Your committee are well satisfied, that if this portion of the section is retained, that it will operate frequently to the very great injury of the party charged with crime, or to the interest of the judicial district in which the crime shall have been committed.

All of which is respectfully submitted.

W. B. OCHILTREE, Chairman.

Mr. Bache offered the following resolution, which was laid on the table one day for consideration.

Resolved, That it shall be the duty of the Governor to nominate, and with the advice and consent of two-thirds of the Senate, at the first session of the Legislature, to appoint a board consisting of three commissioners, whose duty it shall be to ascertain, classify, and liquidate, the public debt, according to the principles of equity, under such regulations as the Legislature may prescribe.

On motion of Mr. Cazneau, the report of the revising committee was taken up, and the grammatical corrections of said committee, to the articles on the Bill of Rights, the Judiciary and the Legislative Departments, were adopted.

The following amendment, proposed by the same committee, to the 9th section of the Bill of Rights, viz: to strike out "returnable where the offence is committed," was taken up, and after some debate,

Mr. Young moved the previous question.

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

The question being the adoption of the amendment proposed by the revising committee, the ayes and noes being called thereon, stood as follows:

Ayes—Messrs. President Rusk, Armstrong of J., Brown Caldwell, Darnell, Evans, Everts, Forbes, Hemphill, Henderson, Howard, Irion, Lewis, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Navarro, Power, Rains, Runnels, Scott, Tarrant, Ochiltree and White—26.

Noes—Messrs. Anderson, Armstrong of R., Baylor, Bagby, Bache, Brashear, Cazneau, Clark, Cunningham, Cuney, Davis, Gage, Hicks, Hogg, Horton, Holland, Hunter, Jewett, Jones, Latimer of L., Latimer of R., R., Love, Lumpkin, Miller, Smyth, Standefer, Van Zandt, Wright and Young—30.

So two-thirds not voting for the amendment, it was lost.

Mr. Mayfield gave notice, that, at the proper time, he would move a re-consideration of the votes engrossing and adopting the 9th section of the Bill of Rights.

The following additional section to the Bill of Rights, reported by the committee of revision, was then adopted.

“Art. 2d. The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another: and no person, or collection of persons, being of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.”

Mr. Cazneau moved to lay the Bill of Rights on the table.

Lost.

Mr. Rusk moved to amend the Bill of Rights, 5th section, by inserting after “*ex post facto* law,” the words “retroactive law;” which was adopted by a vote of two-thirds.

The Bill of Rights was then read a third time and passed.

The article on the Executive Department, was read a third time.

Mr. Rusk offered the following, as an additional section, to come in as the 19th section:

“The Governor, by and with the advice and consent of two-thirds of the Senate, shall appoint a convenient number of notaries public, not exceeding six for each county, who, in addition to such duties as prescribed by law, shall discharge such other duties as the Legislature shall, from time to time, prescribe.

Which was adopted by a vote of two-thirds.

The Executive article was then passed.

The article in relation to the Judicial Department, was read a third time.

Mr. Scott moved to strike out the 18th section.

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

Ayes—Messrs. Bagby, Brown, Cunningham, Hemphill, Jones, Lipscomb, Scott and Smyth—8.

Noes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Cazneau, Clark, Cunney, Darnell, Davis, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Horton, Hunter, Irion, Jewett, Latimer of R. R., Lewis, Love, Lusk, Lumpkin, Mayfield, McGowan, McNeill, Navarro,

Power, Rains, Runnels, Standefer, Ochiltree, Van Zandt, White, Wright and Young—40.

So the motion was lost.

The article on the Judicial Department was then passed.

Mr. Davis asked leave of absence for the remainder of the session, after to-day, which was granted.

The committee on the State of the Nation, made the following report:

Hon. THOS. J. RUSK,

President of the Convention:

The committee on the State of the Nation, to whom was referred the difficult and complicated task of providing for the abolition of the present government, and to adopt and establish in lieu thereof, a government for the State of Texas, as a separate and independent State of the American confederacy, deem it necessary, until this change, and until consummated by being accepted, as a state, in the American Union, that a government suitable to our condition, acknowledged and approved by this Convention, and by the people, should continue and be preserved, to exercise full and ample powers, to do all and every thing which is now done, under the Constitution and laws of the Republic of Texas; and also, every thing which is contemplated to be done and performed by the Governor and Legislature, under the powers granted therein, by the Constitution now formed and submitted for adoption, by the people. For that purpose, your committee submit the following ordinance for your consideration.

Respectfully, yours, &c.,

JOHN CALDWELL, Chairman.

AN ORDINANCE

To provide for referring directly to the people of Texas, the proposition for the annexation of Texas to the United States of America, as contained in a joint resolution passed by the Congress of the said United States of America, and approved by the President thereof, on the day of 1845; and for submitting to the said people of Texas, for their approval or rejection, the Constitution made and adopted by their delegates in convention assembled, in view of said annexation; and also to provide for the abolition of the present form of government of the Republic of Texas, and to adopt

and establish, in lieu thereof, a government for the State of Texas, as a separate and independent State of the American Confederacy.

1st. *Be it ordained by the people of Texas, and it is hereby ordained by their delegates in Convention assembled,* That polls shall be opened at the several election precincts, as now established in the Republic of Texas, on the _____ day of _____ next; at which polls, all the qualified voters of said Republic shall have the right to assemble, and vote directly upon the proposition of annexation, as offered in the joint resolution passed by the Congress of the United States of America, and approved by the President thereof, on the _____ day of 1845; and also, upon the adoption or rejection of the Constitution made and prepared by their delegates in convention assembled, for the formation of a state government, in accordance with said proposition.

2d. *Be it further ordained by the authority aforesaid,* That, at the election to be held at each of said polls, the managers of the same shall cause to be prepared, three tabular lists, each of which shall contain five columns; the first to be headed—"Names of Voters;" the second—"For Annexation;" the third—"Against Annexation;" the fourth—"Adoption of the Constitution;" and the fifth—"Rejection of the Constitution;" and as each person presents himself to vote, his name shall be written in the first column, on each of said lists; and he shall there pronounce, *viva voce*, his vote upon the question presented,—if in favor of annexation, by saying "Annexation;" if opposed to it, "No Annexation;" and if in favor of the adoption of the Constitution, by saying "Adopt;" and if opposed, "Reject;"—each of which said votes shall be marked on a line with the name of the voter, in its appropriate column; and the said election shall be conducted, in all other respects, in conformity with the law of the Republic, now in force, regulating elections.

3d. *Be it further ordained by the authority aforesaid,* That at the same time and places above specified for holding said elections, polls shall also be opened under the superintendence of the same managers, judges, and other officers, for the election of Governor and Lieutenant Governor for the State of Texas, and for Senators and Representatives to the Legislature of said State, in accordance with the apportionment of representation as established by said Constitution; but the votes for said Governor and Lieutenant Governor, Senators and Representatives to the Legislature, shall be by ballot.

4th. *Be it further ordained by the authority aforesaid,*

That it shall be the duty of the managers of said elections to forward, within two days after the same shall have been closed, the said lists to the Chief Justice of the county in which the same were held, whose duty it shall be to deposite one of said lists in the clerk's office of the county court of said county, to forward another one of said lists to the Secretary of State of the Republic, and the remaining one of said lists to the Speaker of the House of Representatives of the Legislature of said State of Texas, the said lists so forwarded to be properly enveloped and marked on the outside, "Election returns of _____ county."

5th. *Be it further ordained by the authority aforesaid,* That the President of the Republic of Texas be, and he is hereby requested to issue his proclamation ordering the said elections, and the chief justices of the several counties in this Republic, or their associates, are hereby required to cause said elections to be holden in their respective counties at the time and manner provided for by this ordinance; and should any chief justice or his associates fail to cause said elections to be holden at the time and places herein provided, the people of the precinct where such failure exists, are hereby authorized to choose managers, judges, and other officers, to hold and conduct said elections.

6th. *Be it further ordained by the authority aforesaid,* That if the people of Texas elect to accept the aforesaid proposition of annexation, and approve and adopt the Constitution for the State of Texas submitted to them by their said delegates in Convention, which shall be ascertained from the returns made to the Secretary of State, whose duty it shall be to publish the result of said polls, then the first Legislature of said State shall convene at the Seat of Government established under this Constitution, on the _____ day of _____ next, and proceed immediately to organize under said Constitution; and that after they shall have organized, the Speaker of the House of Representatives shall, in the presence of both branches thereof, open the returns of said election, count and compare the votes, and declare the names of the persons who shall have been chosen as Governor and Lieutenant Governor, which said persons shall forthwith take the oaths of office prescribed by the Constitution, and enter upon the discharge of their respective duties

7th. *Be it further ordained by the authority aforesaid,* That it shall be the duty of the President of Texas, immediately after the inauguration of the Governor, and his entrance upon his duties, to deliver to him the possession of all records, public documents, archives and public property or money of every de-

scription whatsoever under the control of the Executive branch of the government of the Republic of Texas, who shall dispose of the same in such manner as the Legislature may direct.

8th. *Be it further ordained by the authority aforesaid,* That the Legislature shall proceed forthwith, after its organization, to pass all such laws and resolutions as may be necessary to the complete and perfect organization of the government of the State, and as may not have been provided in the Constitution and this Ordinance. The said Legislature shall, as soon as it may be proper, proceed to elect senators and provide for the election of representatives to represent the State in the Congress of the United States; it shall also adopt such measures as may be required to cede to the United States, at the proper time, all public edifices, fortifications, barracks, ports, harbors, navy and navy yards, docks, magazines, arms and armaments, and all other property and means as pertain to the public defence, now belonging to the Republic of Texas; and to make the necessary preparations for transferring to the said United States, all custom houses and other places for the collection of impost duties and other foreign revenues.

9th. *Be it further ordained by the authority aforesaid,* That from and after the organization of the government of the State of Texas, as provided for and contemplated by the Constitution of the State of Texas and this Ordinance, all revenues arising either from the tonnage of vessels or upon the importation of goods, wares and merchandize from foreign ports or places which up to that period were collected by the government of the Republic of Texas, shall be collected by and for said State of Texas, and for the exclusive benefit of the government and people thereof, and shall be returned to and disbursed by the Treasurer of said State of Texas, until the measure of annexation shall have been finally consummated and completed by the acceptance of the Constitution of said State by the Congress of the United States, and the admission of said State of Texas into the Union as a separate and independent State of the confederacy, and until the custom houses are taken possession of by the officers appointed to collect the revenue according to the laws of the United States; and all laws now of force in the Republic of Texas, providing for the collection of imposts and tonnage duties, shall remain in force and be observed in said State, for the time aforesaid, except such laws as impose duties upon goods, wares and merchandize imported from ports or places within the said United States of America, and such as impose tonnage duties upon the ships and vessels of the said United States. And it is hereby

declared, that from and after the organization of the State government of Texas, and until the said State shall be fully admitted into the Union as one of the states of the American confederacy, there shall be no duties collected at the custom houses of said State upon the tonnage of the ships and vessels of the United States, or upon goods, wares and merchandize imported and brought into said State of Texas from any port or place within the said United States or the territories thereof.

10th. *Be it further ordained by the authority aforesaid,* That to prevent inconvenience or embarrassment from resulting to the people of Texas from the change of the government which is about to be effected, by the abolition of the present existing government of the Republic of Texas, and the establishment of a State government, preparatory to the incorporation of said State of Texas into the American Union, as one of the States of the confederacy, it is hereby declared,—1st, That all officers, civil and military, who shall be holding and exercising offices within the said Republic of Texas at the time of the change and the organization of the State government, except the officers of President, Vice President, President's Cabinet and Foreign Ministers, Chargés and Foreign Agents, (all of which are hereby declared to be abolished from that time) shall remain in office, and continue to discharge and perform the duties of their respective offices, provided the same be not abolished by, or repugnant to, the Constitution of the State, until they shall be superceded by the Legislature of the State, or the Governor thereof, or until said offices be abolished by law.

11th. *Be it further ordained by the authority aforesaid,* That the Governor and Legislature of the State shall, as soon as practicable, after the change of the government, proceed to organize the judicial system of the State, in accordance with the provisions of the Constitution, by appointment of judges of the Supreme Court, the establishment of judicial districts and the appointment of the judges thereof, and such other officers as are provided for by this Constitution.

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

On motion, the Convention adjourned until 3 o'clock, P. M.

3 O'CLOCK, P. M.

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

On motion of Mr. Ochiltree, the preamble of the Constitution was taken up; and

w*

On motion of Mr. Hemphill, it was referred to the revising committee.

On motion of Mr. Darnell, the report of the select committee on the rights of married women, was taken up.

The substitute reported by the select committee for the 18th section, being before the Convention,

Mr. Horton moved to amend the substitute by inserting "laws shall be passed providing for the registration of the wife's property."

Which was adopted.

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

Ayes—Messrs. President Rusk, Anderson, Bache, Bagby, Brown, Caldwell, Clark, Cuney, Davis, Darnell, Evans, Forbes, Gage, Hemphill, Henderson, Hogg, Horton, Howard, Holland, Hunter, Jewett, Latimer of L., Lewis, Love, Lusk, Lipscomb, Miller, Navarro, Power, Rains, Smyth, Tarrant, Standefer, Ochiltree, Van Zandt and Young—37.

Noes—Messrs. Armstrong of J., Armstrong of R., Baylor, Cunningham, Everts, Hicks, Iron, Latimer of R. R., McGowan, McNeill, Scott and Wright—13.

So the substitute of the committee was adopted.

Mr. McNeill offered the following, as an amendment to the substitute just adopted:

"Provided, that the property in possession of either husband or wife, or an agent of either, shall be subject to the debts contracted on the faith of said property."

Which, on motion of Mr. Young, was laid on the table.

Mr. Brown offered the following, as a substitute for the substitute of the committee:

"All lands and slaves owned by the wife before coverture, and all subsequently acquired by gift, devise or descent, together with the increase and profits of the same, shall be the separate property of the wife."

Which was rejected.

Mr. Armstrong of J., moved to insert in substitute of committee, after "separate," the words "and the community."

Which was lost.

The question was then on the adoption of the substitute as a section.

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

Ayes—Messrs. President Rusk, Anderson, Bache, Bagby, Brown, Clark, Cuney, Darnell, Davis, Evans, Gage, Hemphill,

Henderson, Hogg, Horton, Howard. Hunter, Holland, Jewett, Jones, Lewis, Love, Lusk, Lipscomb, Miller, Navarro, Power, Rains, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White and Young—35.

Noes—Messrs. Armstrong of J., Armstrong of R., Caldwell, Cunningham, Everts, Forbes, Hicks, Latimer of L., Latimer of R. R., Lumpkin, McGowan, McNeill, Scott and Wright—16.

So the substitute was adopted as a section.

Mr. Latimer of R. R., moved to take up the 21st section of the General Provisions of the Constitution.

Carried.

Mr. Mayfield's amendment being before the Convention,

On motion of Mr. Van Zandt, a call of the Convention was ordered.

On motion of Mr. Young, the call was suspended.

On motion, Messrs. Van Zandt, Forbes and Davis, were appointed to wait upon such members as were sick and receive their votes on the amendment to the 21st section.

On motion of Mr. Anderson, a call of the Convention was ordered.

Mr. Lusk moved a suspension of the call.

Lost.

Mr. Young moved to suspend the call, and called for the ayes and noes upon it, which resulted as follows ;

Ayes—Messrs. Anderson, Brashear, Bagby, Brown, Cuney, Latimer of R. R., Latimer of L., Love, Miller, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree and Young—17.

Noes—Messrs. President Rusk, Armstrong of R., Baylor, Bache, Caldwell, Cazneau, Clark, Cunningham, Darnell, Evans, Everts, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Hunter, Holland, Irion, Jewett, Jones, Lewis, Lumpkin, Lusk, McGowan, McNeill, Navarro, Power, Rains, White and Wright—31.

So the Convention refused to suspend the call.

Mr. Everts moved to suspend the call : which was lost, ten members voting against it.

The committee which was appointed to wait upon the absent members having returned,

On motion of Mr. Horton, the call was suspended.

The question now recurred on Mr. Mayfield's amendment to the 21st section of the General Provisions.

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

Ayes—Messrs. Armstrong of R., Baylor, Bagby, Brown, Burroughs, Caldwell, Clark, Davis, Evans, Gage, Holland, Horton,

Hunter, Jewett, Jones, Latimer of L., Latimer of R. R., Love, Lumpkin, Mayfield, McNeill, Moore, Ochiltree, Parker, Runnels, Standefer, Tarrant, Van Zandt, White, Wood, Wright and Young—32.

Noes—Messrs. President Rusk, Anderson, Bache, Brashear, Cazneau, Cuney, Darnell, Everts, Hemphill, Hicks, Hogg, Howard, Irion, Lewis, Lusk, Lipscomb, Miller, McGowan, Navarro, Power, Rains, Scott and Smyth—23.

So the amendment was adopted.

Mr. Love offered the following, as a substitute for the section as amended :

The Legislature shall not have power to extend the time, alter, change or modify the conditions in favor of any contractor who may have heretofore made any contract for the introduction of colonists into Texas, under any law now or heretofore in force.

And in order to test the constitutionality, legality or validity of any such contract, the Attorney General, as soon as practicable after the organization of the State government, shall institute legal proceedings against the several contractors to annul and set aside the aforesaid contracts, as well on account of their unconstitutionality, illegality, and for failure to comply with the terms and conditions of the same.

And after judicial investigation, should it appear that any or all of said contracts are unconstitutional, illegal, or that the terms shall not have been complied with by the contractors, the court is directed to declare said contracts void and of no effect.

It is, however, declared, that all colonists introduced before the adoption of this Constitution by the people, shall be, and are hereby guaranteed the right and possession of any lands he may have acquired as a colonist under any agreement or contract made with a contractor. And it is declared, that until the investigation can be had, as authorized by this Constitution, the right of any contractor to introduce any colonist under any contract shall be, and the same is hereby suspended.

Mr. Brown moved a call of the Convention.

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

A call of the Convention was ordered.

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

Mr. Mayfield moved to adjourn until 9 o'clock to-morrow.

Lost.

On motion of Mr. Wright, the Convention adjourned until 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 18, 1845 [257a](#)

[Next](#) Aug 20, 1845 [273](#)

[Return to Electronic Index Page](#)