

WEDNESDAY MORNING, Aug. 20, 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, Evans, Everts, Forbes, 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, Tarant, Ochiltree, Van Zandt, White, Wright and Young.

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

Mr. Ochiltree, Chairman of the revising committee, made the following report :

COMMITTEE ROOM, August 20, 1845.

To the Hon. THOS. J. RUSK,

*President of the Convention :*

The committee of supervision, have had the Preamble and the legislative article of the Constitution under consideration, and have directed me to report the following substitute for the Preamble and amendments to the legislative article.

Very respectfully,

Your obedient servant,

W. B. OCHILTREE, Chairman.

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

Mr. Lewis moved to take up the report of the revising committee.

Carried.

The preamble offered by the committee, as a substitute for the preamble heretofore proposed, was first in order, and is as follows:

#### PREAMBLE.

“We the people of the Republic of Texas, acknowledging with gratitude the grace and beneficence of GOD, in permitting us to make a choice of our form of Government, do in accordance with the provisions of the joint resolution for the annexation of Texas

to the United States, approved March 1st, 1845, ordain and establish this Constitution."

Which was adopted as a substitute for the original.

Mr. Lusk moved to strike out "Republic."

Lost; and the substitute as a Preamble, was then adopted.

On motion of Mr. Ochiltree, the rule was suspended, and the Preamble read a third time and passed.

The correction of all the grammatical errors in the Legislative Department, proposed by the committee of revision, were adopted.

Mr. Van Zandt moved to strike out the word "for," at the end of the 23d section.

Carried.

On motion of Mr. Anderson, the article on the Legislative Department, was taken up, to be read section by section.

Mr. Howard offered the following as an addition to the first section:

"Nothing in this section shall be so construed as to disfranchise any person entitled to vote by the existing laws at the time of the adoption of this Constitution."

Which was rejected,—two-thirds being required to vote for its adoption.

Mr. Darnell moved to amend the 12th section, by inserting after the word "Speaker," the words "of their own body;" and to insert after "President pro tem.," the words "of their own body."

Lost.

Mr. Hemphill moved to amend the 14th section, by adding to it "except in such cases as may require secrecy."

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

Ayes—Messrs. Brown, Caldwell, Cazneau, Cunningham, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Howard, Lumpkin, Lipscomb, Miller, Navarro, Parker, Power, Scott, Tarrant and Wright—22.

Noes—Messrs. Anderson, Armstrong of J., Armstrong of R., Baylor, Bagby, Bache, Brashear, Burroughs, Clark, Cuney, Evans, Horton, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lusk, Mayfield, McGowan, McNeill, Rains, Smyth, Ochiltree, Van Zandt, White and Young—31.

So the amendment was rejected.

Mr. Henderson offered the following as an additional section, to come in after the 21st section:

"After a bill or resolution has been rejected by either branch

of the Legislature, no bill or resolution containing the same substance, shall be passed into a law during the same session."

Mr. Forbes moved to amend, by inserting the words "or like," after the word "same," so as to read "the same or like substance."

Which was rejected, and the additional section adopted by a vote of two-thirds.

Mr. Jones moved to strike out the last clause of the 23d section: "nor shall the members be capable, &c."

Lost.

Mr. Armstrong of J., offered the following as an addition to the 23d section:

"The President for the time being of the Senate, and Speaker of the House of Representatives, shall be elected from their respective bodies."

Which was adopted by a vote of two-thirds.

Mr. Forbes moved to amend, by striking out in the 29th section, the word "four" where it occurs, and insert "three;" strike out the word "three" where it occurs, and insert "two;" and strike out the word "two" where it occurs, and insert "one."

Mr. Bagby moved to amend the amendment, by striking out the word "one."

Which, after some discussion, was withdrawn.

The question on Mr. Forbes' amendment was taken and lost.

Mr. Van Zandt moved to amend the 34th section, by striking out after the words "Seat of Government," the words "until the year;" also, to strike out "unless," and insert "until;" and also, strike out the word "sooner," so as to read "then the same shall be the permanent Seat of Government until the State shall be divided."

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

Ayes—Messrs. Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Brown, Clark, Cazneau, Cunningham, Evans, Everts, Gage, Hemphill, Hicks, Horton, Howard, Irion, Jewett, Jones, Latimer of R. R., Mayfield, McGowan, McNeill, Miller, Navarro, Runnels, Smyth, Tarrant, Van Zandt, White and Wright—31.

Noes—Messrs. Bagby, Brashear, Burroughs, Caldwell, Cuney, Darnell, Forbes, Henderson, Hogg, Holland, Hunter, Latimer of L., Lewis, Love, Lumpkin, Lusk, Lipscomb, Parker, Rains, Scott, Standefer and Young—24.

Two-thirds not having voted for the amendment, it was lost.

Mr. Cazneau moved to fill the blank in 34th section with 1860.

Mr. Young moved to fill the blank with 1870.

Mr. Hemphill moved to fill the blank with 1900.

Mr. Brown moved to fill the blank with 1876.

Lost.

Mr. Ochiltree moved to fill the blank with the words "till altered by a Convention of the people."

The question was taken on Mr. Young's motion to fill the blank with 1870, and carried.

Mr. Forbes moved to strike out the words "unless sooner divided," in 34th section.

Mr. Bagby moved the previous question.

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

The main question being the passage of the article on the Legislative Department, was taken and carried..

On motion, the Convention took up the

#### ORDERS OF THE DAY.

Mr Loves' substitute for Mr. Rusk's substitute for the 21st section of the General Provisions, before the Convention,

Mr. Mayfield gave notice in writing, that he would move a re-consideration of the vote adopting the 34th section of the article on the Legislative Department, with a view of offering an amendment thereto.

Mr. Cazneau moved to adjourn until 4 o'clock.

Lost.

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

#### THREE O'CLOCK, P. M.

The Convention met pursuant to adjournment.

The President being sick, Mr. Lewis took the chair, and called the Convention to order.

Roll called—quorum present.

The 21st section of the General Provisions being first in order,

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

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

Mr. Armstrong of R., moved to appoint a committee to wait on Messrs. Rusk, Moore, Parker and Wood, who were sick, and receive their votes on Mr. Love's substitute for 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, Brashear, Caldwell, Clark, Cunningham, Evans, Forbes, Gage, Hogg, Horton, Howard, Hunter, Jewett, Love, Lumpkin, Lusk, McGowan, McNeill, Scott, Smyth, Standefer, Tarrant, Van Zandt and Wright—25.

Noes—Messrs. Anderson, Bagby, Brown, Burroughs, Cuney, Darnell, Everts, Hemphill, Henderson, Hicks, Holland, Irion, Latimer of L., Latimer of R. R., Lewis, Lipscomb, Miller, Navarro, Power, Rains, White and Wright—22.

So the motion prevailed.

Messrs. Armstrong of R., Smyth and Young, were appointed to wait on the above named members and receive their votes.

On motion of Mr. Anderson, the 21st section of the General Provisions was laid on the table, and the report of the committee on Education was taken up; and the first section adopted.

In 2d section, Mr. Gage moved to strike out the word "shall" in the first line, and insert the word "may."

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

Ayes—Messrs. Brown, Bagby, Gage, Hemphill, Hicks, Hogg, Lumpkin, McNeill, Rains, Runnels and Young—11.

Noes—Messrs. Anderson, Armstrong of J., Baylor, Bache, Brashear, Burroughs, Caldwell, Clark, Cazneau, Cunningham, Cuney, Darnell, Evans, Everts, Forbes, Henderson, Holland, Irion, Latimer of L., Latimer of R. R., Lewis, Lusk, Lipscomb, Mayfield, McGowan, Miller, Moore, Navarro, Power, Parker, Runnels, Standefer, Tarrant, Ochiltree, Van Zandt, White and Wright—41.

So the amendment was rejected.

On motion of Mr. Cazneau, the report of the committee on Education was laid on the table, and the 21st section of the General Provisions, with the substitutes, were again taken up.

The ayes and noes being called on the adoption of Mr. Love's substitute, stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Bagby, Bache, Brashear, Burroughs, Caldwell, Cazneau, Clark, Darnell, Forbes, Hemphill, Henderson, Hicks, Hogg, Howard, Holland, Irion, Lewis, Love, Lipscomb, McGowan, Miller, Moore, Navarro, Rains, Runnels, Smyth and Ochiltree—30.

Noes—Messrs. Armstrong of R., Baylor, Brown, Cunningham, Cuney, Evans, Everts, Gage, Horton, Hunter, Jewett, Jones, Latimer of L., Latimer of R. R., Lumpkin, Lusk, May-

field, McNeill, Parker, Power, Scott, Standefer, Tarrant, Van Zandt, White, Wright, Wood and Young—28.

So the substitute was adopted.

Mr. Brown moved to strike out the last clause of the substitute in relation to the suspending of the contracts.

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

Ayes—Messrs. Baylor, Bache, Brown, Burroughs, Cazneau, Cunningham, Cuney, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hogg, Horton, Howard, Holland, Hunter, Irion, Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Standefer, Tarrant, Ochiltree and White—39.

Noes—Messrs. Anderson, Armstrong of J., Armstrong of R., Bagby, Caldwell, Clark, Darnell, Hicks, Jewett, Jones, Latimer of L., Love, Runnels, Van Zandt and Young—16.

So the clause was stricken out.

Mr. Caldwell offered the following, to come in at the end of the substitute:

“Provided, the amount of land so allowed, does not exceed the quantity allowed to colonists by law.”

Which was adopted.

Mr. Mayfield offered the following as a substitute for the substitute of Mr. Love as amended:

“The colonization contracts entered into heretofore with any contractors, by the President of Texas, for the settlement and colonization of any of the unappropriated lands of the country, are declared null and void, but all persons who may have been introduced, or immigrated to the country under the provisions of any of said contracts, and who shall be residing within the limits of said colonies at the time of the adoption of this Constitution by the people of Texas, and engaged in agriculture, or any of the mechanic arts, shall be guaranteed in the quantum of land to which they were entitled by reason of their emigration. Provided, always, that the Legislature shall have power to pass laws necessary to enable said contractors, ‘who entered into contract with the President,’ to institute suits against the State for the recovery of any indemnity in lands, to which they may be equitably entitled, and grant to them the premium lands to which they may be justly entitled.”

Mr. Ochiltree moved the appointment of a committee to wait upon the sick members and receive their votes. Lost.

Mr. Latimer of R. R., moved to adjourn until half past 8 o'clock to-morrow.

Lost.

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

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

#### THURSDAY MORNING, Aug. 21, 1845.

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

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

The journal of the preceding day was read and adopted.

Mr. Lipscomb offered the following ordinance :

*“Be it ordained by the people of Texas in Convention assembled,* That all contracts with the Government of the Republic of Texas, for settling colonies, be, and the same are hereby annulled from and after the adoption of this Ordinance by the people.

*And be it further ordained,* That all persons who are actually settled under such contracts, shall be guaranteed in the quantity of land they claim under such contract: provided, it shall not exceed six hundred and forty acres to a head of a family, and three hundred and twenty to single men.

*And be it further ordained,* That all persons aggrieved by the rescision of their contracts, be authorized to sue the Government of Texas to recover such premium lands as they may be entitled to.

*And be it further ordained,* That this Ordinance be submitted to the people for their adoption, at the same time the Constitution shall be offered to them, and if ratified by them, shall be considered binding and in full force to all intents and purposes.”

# 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

<a href="#">Previous</a>	<a href="#">Aug 19, 1845</a>	<a href="#">259a</a>
--------------------------	------------------------------	----------------------

<a href="#">Next</a>	<a href="#">Aug 21, 1845</a>	<a href="#">279a</a>
----------------------	------------------------------	----------------------

[Return to Electronic Index Page](#)