

"The Assessor and Collector of taxes, shall be appointed in such manner, and under such regulations as the Legislature may direct."

Mr. Everts moved the previous question, which was carried.

The main question being the adoption of Mr. Young's substitute to Mr. Caldwell's additional section, was carried; and the substitute adopted.

Mr. Gage offered the following resolution:

*Resolved*, That the committee on Printing be instructed to contract for and cause to be printed, \_\_\_\_\_ copies of the State Constitution, for the use of the members of this Convention.

On motion of Mr. Young, the rule requiring resolutions to lie on the table one day for consideration, was suspended.

On motion of Mr. Gage, the blank in the resolution was filled with "one thousand," and the resolution adopted.

On motion of Mr. Rusk, the vote adopting the additional section offered by Mr. Standefer, was re-considered.

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

FRIDAY MORNING, Aug. 22, 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, Navarro Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White, Wright and Young.

Quorum present—journal of yesterday was read and adopted.

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

COMMITTEE ROOM, August 22, 1845.

*To the Hon. THOS. J. RUSK,*

*President of the Convention:*

The select committee, to whom was referred a separate ordinance in relation to contracts with the Government of Texas. for

settling colonies, together with a substitute for the same; also, the 21st section of the General Provisions, together with the several amendments and substitutes, &c., have had the same under consideration, and have instructed me to report, in part, that a majority of that committee are of the opinion, that whatever action the Convention may take on the subject embraced by the matter referred to them, should be by a separate ordinance:—should the Convention be in favor of the action by a separate ordinance, the committee will prepare one for that purpose; but should the Convention prefer embracing the object as an article in the Constitution, the committee will prepare and report an article, for that purpose, to the Convention.

I am instructed to ask the sense of the Convention, as to the choice of modes.

ABNER S. LIPSCOMB,  
Chairman.

Upon a point of order being made, it was decided that reports of committees were required to lay on the table, and come up among the orders of the day.

Mr. Young moved to suspend the rule requiring the report to lay on the table.

Lost.

Mr. Mayfield presented the memorial of Commodore E. W. Moore; which was read, and, together with the accompanying documents, was, on his motion, referred to a select committee.

Mr. Horton offered the following resolution:

*Resolved*, That numbers of the Constitution of the State of Texas be printed in the Castilian language, for the use of the population on our western frontier; and that the committee on Printing be authorized to contract for the same.

On motion, the rule was suspended.

On motion of Mr. Parker, the blank was filled with "500," and the resolution adopted.

Mr. Young offered the following article:

"It is hereby declared the duty of the Attorney-General of this State, so soon as the organization of the same shall be completed, to institute legal proceedings against all colony contractors; and if, upon investigation, all, or any one, of the colony contracts shall appear to have been unconstitutional, illegal; or that the conditions of said contracts, or either one of them, shall not have been strictly complied with, they, or either one of them, shall be declared null and void: *provided*, that all settlers under the contracts, shall be entitled to their lands as colonists, provided the

same shall not exceed 640 acres of land to heads of families, and 320 acres to single men.

"SEC. 2d. In all suits, when a citizen of this State may be a party litigant against any contractor, empresario, or other description of grantees, it shall be lawful for the person claiming, to set forth any plea that it would be competent for the State to do; and the party may introduce testimony to prove the claim to have been forfeited, as well for the illegality, unconstitutionality, or on account of failure to comply with the conditions of the original grant; and the plea shall be good and valid in all such suits in this State."

On motion of Mr. Lewis, the articles were referred to the select committee to whom was referred the subject of colonization contracts.

Mr. Gage offered the following resolution :

*Resolved*, That James H. Raymond, Secretary of the Convention, be instructed to draw upon the Secretary of the Treasury of the Republic of Texas, for            dollars, the *per diem* pay and mileage of the Deputies in the Convention, and officers of the same, to the 25th instant inclusive, and disburse properly the same.

On motion of Mr. Love, the words "Secretary of the Treasury" were stricken out, and "Treasurer" inserted.

On motion of Mr. Gage, the resolution was laid on the table.

Mr. Wright offered the following resolution :

*Resolved*, That no motion for a re-consideration of any resolution or provision once adopted, shall prevail, unless sustained by two-thirds of the Convention.

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

On motion of Mr. Van Zandt, the article on General Provisions was taken up.

Mr. Armstrong of J., moved a re-consideration of the vote adopting the 22d section. Lost.

Mr. Hogg offered the following, as an additional section:

"There shall not be more than three land-offices in this State. There shall be a General Land-Office established at the seat of government of the State; one subordinate land-office in the town of Nacogdoches, in the county of Nacogdoches; and one subordinate land-office in the western portion of the State, at such place as may be directed by law, whenever the Legislature shall deem it expedient; each of which land-offices shall be subject to such regulations as the Legislature may, by law, direct."

Mr. Young moved to amend by striking out "Nacogdoches," and inserting "Clarksville."

Mr. Forbes moved to lay the additional section and amendment on the table.

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

**Ayes**—Messrs. Anderson, Armstrong of J., Baylor, Bagby, Bache, Brashear, Burroughs, Caldwell, Cazneau, Cunningham, Cuney, Everts, Forbes, Hemphill, Hicks, Horton, Howard, Hunter, Irion, Latimer of L., Latimer of R. R., Lewis, McGowan, McNeill, Navarro, Power, Runnels, Scott, Smyth, Tarrant and Wright—31.

**Noes**—Messrs. President Rusk, Armstrong of R., Brown, Clark, Darnell, Evans, Gage, Hogg, Jewett, Love, Lumpkin, Lusk, Lipscomb, Mayfield, Parker, Rains, Standefer, Ochiltree, Van Zandt, White and Young—21.

So the additional section was laid on the table.

Mr. Cunningham moved to add the 3d, 4th and 5th sections of the Schedule to the General Provisions.

Mr. Horton moved to amend the 4th section, by adding "and all such forfeitures and escheats shall be applied for the purpose of creating a common school fund."

Mr. Van Zandt moved the previous question.

The Chair (Mr. Darnell) decided that the previous question would be upon the adoption of Mr. Cunningham's amendment.

On motion of Mr. Rusk, the General Provisions were laid on the table.

On motion of Mr. Rusk, the report of the select committee, Mr. Lipscomb, chairman, upon the subject of colonization contracts, was taken up.

Mr. Ochiltree moved to instruct said committee to report an ordinance.

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

The ayes and noes were called, on Mr. Ochiltree's motion, and were as follows:

**Ayes**—Messrs. President Rusk, Bache, Brashear, Burroughs, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Holland, Irion, Lewis, Lusk, Lipscomb, McGowan, McNeill, Navarro, Parker, Power, Rains, Scott, Smyth, Standefer, Ochiltree and Young—30.

**Noes**—Messrs. Anderson, Armstrong of J., Armstrong of R., Baylor, Bagby, Brown, Caldwell, Cazneau, Clark, Evans, Horton, Hunter, Jewett, Latimer of L., Latimer of R. R., Love, Lumpkin, Mayfield, Runnels, Tarrant, White and Wright—22.

So the motion was carried.

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

4 O'CLOCK, P. M.

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

On motion of Mr. Cazneau, the report of the committee on Education was taken up.

Mr. Lusk moved to strike out all after the word "State," in 2d line, 2d section.

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

Ayes—Messrs. Armstrong of J., Armstrong of R., Bagby, Brown, Burroughs, Clark, Darnell, Gage, Hemphill, Hicks, Hogg, Irion, Latimer of L., Latimer of R. R., Lumpkin, Lusk, McNeill, Navarro, Parker, Rains, Runnels, Scott, Smyth, Van Zandt, White, Wright and Young—27.

Noes—Messrs. President Rusk, Anderson, Baylor, Bache, Caldwell, Cazneau, Cunningham, Evans, Everts, Forbes, Henderson, Horton; Howard, Hunter, Jewett, Lewis, Love, Lipscomb, Mayfield, McGowan, Power, Standefer and Tarrant—23.

So the motion was carried.

Mr. Mayfield offered the following, as a substitute for the 2d section:

"The Legislature shall, as early as practicable, establish free schools throughout the State; and shall furnish means for their support, by taxation on property; and it shall be the duty of the Legislature, to set apart not less than one-tenth of the annual revenue of the State, derivable from taxation, as a perpetual fund which fund shall be appropriated to the support of free public schools throughout the State; and no law shall ever be made, diverting said fund to any other use; and until such time as the Legislature shall provide for the establishment of such schools, in the several districts of the State, the fund thus created, shall remain as a charge against the State, passed to the credit of the free, common school fund."

Mr. Lewis offered the following, as an amendment to the substitute:

"Provided, that the aforesaid fund shall be appropriated to the education of those who are, themselves, unable to bestow upon their children, the rudiments of an English education."

Rejected.

Mr. Forbes moved to amend, by inserting "from and after the year 1850."

Lost.

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

Ayes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bache, Brashear, Caldwell, Cazneau, Cuney, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Horton, Holland, Hunter, Irion, Jewett, Lewis, Love, Lipscomb, Mayfield, McGowan, McNeill, Navarro, Standefer, Tarrant and White—30.

Noes—Messrs. Bagby, Burroughs, Clark, Darnell, Hicks, Hogg, Howard, Latimer of L., Latimer of R. R., Lumpkin, Parker, Rains, Runnels, Scott, Smyth, Van Zandt, Wright and Young—18.

Adopted.

Mr. Gage offered the following, as an additional section :

“It shall be the duty of the Legislature to pass a law, by which counties now in this State, which have not heretofore received grants of land, shall be entitled to a donation of land for school purposes, equal to that heretofore granted to any county, by the Congress of the Republic of Texas.”

Mr. Everts moved to amend, by confining the locations of the land in the county for whose benefit the land is appropriated.

Lost.

On motion of Mr. Young, the word “now,” in the first line of Mr. Gage's additional section, was stricken out.

The ayes and noes being called, on the adoption of the additional section, stood as follows :

Ayes—Messrs. President Rusk, Baylor, Bache, Bagby, Cazneau, Clark, Cunningham, Darnell, Evans, Everts, Gage, Hemphill, Henderson, Hogg, Horton, Howard, Hunter, Irion, Jewett, Jones, Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Mayfield, McGowan, Navarro, Power, Runnels, Smyth, Standefer, White and Young—34.

Noes—Messrs. Anderson, Burroughs, Caldwell, Latimer of L., Lipscomb, McNeill and Scott—7.

So the section was adopted.

Mr. Darnell offered the following, as an additional section :

“Fifty leagues of land of the public domain of Texas, in addition to the amount already set apart by law, is hereby reserved for the use of common schools, to be used as the Legislature may direct; but no disposition shall be made of the same, under fifteen years from the adoption of this Constitution. The Legislature may authorize the lands to be located at as early a day as possible, and to make them as valuable as circumstances will admit, by lease or otherwise.”

On motion of Mr. Hemphill, the following words were inserted :

"Provided, the debts and liabilities of the Government be first discharged."

The section, as amended, was then rejected.

The President announced the following, as the committee on the memorial of Commodore E. W. Moore: Messrs. Love, Runnels, Cazneau, Horton, Caldwell, Brown and Wright.

Messrs. Love, Horton and Runnels were excused, and Messrs. Anderson, Jewett and Everts were appointed in lieu of them.

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

#### SATURDAY MORNING, August 23, 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, M'Gowan, McNeill, Miller, 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. Lipscomb, from the special committee, made the following report:

COMMITTEE ROOM, August 23, 1845.

*Hon. THOS. J. RUSK,*

*President of the Convention:*

The select committee, to whom was referred an ordinance on the subject of contracts for settling colonies, made with the Government of Texas; also, the substitute, as amended by the Convention, for the 21st section of the General Provisions, and the substitute offered, and several resolutions in relation to the subject, have had the same under consideration, and, in obedience to the instructions given, beg leave to report, that this committee would respectfully recommend that the 21st section of the Gene-

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