

"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-

ral Provisions, and the substitute and amendment thereto, and the one offered, be rejected; and they recommend the adoption of the substitute for the ordinance heretofore reported, in lieu of the same. All of which is submitted.

ABNER S. LIPSCOMB,
Chairman of Select Com.

ORDINANCE.

Whereas, various contracts have been entered into, by the President of the Republic of Texas, with divers individuals, with the expressed intention of colonizing an enormous amount of the public domain of Texas; and

Whereas, it is believed that said contracts are unconstitutional, and, therefore, void from the beginning; and in their operations, if carried out, would operate as a monopoly of upwards of seven millions of acres of the public domain of Texas, in the hands of a few individuals, when, in truth, the citizens, soldiers and creditors of the Republic of Texas had, by the laws and Constitution of said Republic, a clear and indisputable previously subsisting right to locate upon the public domain thus attempted to be assigned to said contractors; therefore,

It is hereby ordained and declared; That it shall be the duty of the Attorney-General of this State, or the District Attorney of the district in which any portion of the colonies may be situate, as soon as the organization of the State shall be completed, to institute legal proceedings against all colony contractors who have entered into contracts with the President of Texas; and if, upon such investigation, it should be found that any such contract was unconstitutional or illegal in its inception, or that the conditions of the same had not been complied with, according to its terms, such contract shall be adjudged and decreed null and void: *provided*, however, that all actual settlers, under any such contract, shall be entitled to their quantity of land as colonists, not to exceed six hundred and forty acres to the head of a family, and three hundred and twenty acres to a single man. And in all such suits, brought by or against any contractor, it shall be lawful for the adverse claimant to set forth any plea that it would have been competent for the State to plead; and the party may introduce testimony to prove the claim or title to have been forfeited, as well for frauds or illegality, or unconstitutionality in its inception, on account of a failure to comply with the conditions of the original grant or contract; and any such pleas shall be deemed good and valid in law, in all such suit or suits in this State.

And be it further ordained, That this ordinance shall be presented to the people for their adoption or rejection, at the same time this Constitution shall be presented to them; and the returns of the votes taken on this ordinance, shall be made to the office of the Secretary of State of the Republic of Texas, at the same time the votes for the Constitution may be returned.

On motion of Mr. Lewis, the report of the special committee, and ordinance, were taken up.

Mr. Mayfield offered the following, as a substitute to the ordinance of the special committee :

“Be it ordained, &c., That all colonization contracts made by the Secretary of State, or the President of Texas, with any undertaker or contractor, for the settlement or colonization of any portion of the unappropriated or vacant lands of the country, are declared voidable, and shall be suspended, and cease, from and after the adoption of this ordinance by the people of Texas; nothing, however, herein contained, shall be construed to limit or prejudice the rights to land, of any actual settler or colonist living within the limits of any of said colonies, and who were introduced, or emigrated, under the provisions of said contracts: *provided,* always, that the Legislature shall have power to pass laws defining the mode and manner by which said contractors may sue or be sued, either for the purpose of recovering any indemnity to which they may be equitably entitled, and ascertaining their respective rights to premium lands, or for the purpose of fully vacating and annulling any and all of said contracts.”

Mr. Lipscomb offered the following amendment:

Strike out “or other description of grantee,” which would leave it to the colonization contracts only.

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

Ayes—Messrs. President Rusk, Anderson, Baylor, Bache, Bra-shear, Brown, Caldwell, Cazneau, Clark, Cuney, Darnell, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Horton, Howard, Hol-land, Hunter, Irion, Jewett, Jones, Love, Lumpkin, Lusk, Lips-comb, Mayfield, McGowan, Miller, Navarro, Parker, Power, Rains, Rannels, Scott, Standefer, Tarrant, Ochiltree and Van Zandt—41.

Noes—Messrs. Armstrong of R., Bagby, Burroughs, Cunning-ham, Evans, Latimer of L., Latimer of R. R., Lewis, McNeill, Smyth, White, Wright and Young—13.

So the amendment was adopted.

The question was then taken on the substitute of Mr. Mayfield.

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

Ayes—Messrs. Anderson, Armstrong of R., Baylor, Burroughs, Caldwell, Clark, Forbes, Horton, Hunter, Jewett, Latimer of L., Latimer of R. R., Love, Mayfield, McNeill, Miller, Runnels, Ochiltree, Van Zandt and White—20.

Noes—Messrs. President Rusk, Bache, Bagby, Brashear, Brown, Cunningham, Cuney, Darnell, Evans, Everts, Gage, Henderson, Hicks, Hogg, Howard, Holland, Irion, Jones, Lewis, Lumpkin, Lipscomb, McGowan, Navarro, Parker, Power, Rains, Scott, Smyth, Standefer, Tarrant, Wright and Young—32.

So the substitute was rejected.

Mr. Mayfield then offered the following substitute :

“The Legislature shall, at its first session, pass laws providing the mode and manner by which all colonization contracts heretofore made by the Secretary of State, or President of the Republic of Texas, with any undertaker or contractor, for the settlement or colonization of any of the vacant or unappropriated lands of Texas, as well on account of their unconstitutionality, illegality, fraud, or non-performance of said contracts, shall be vacated and fully annulled ; and of extending to any of said contractors, the premium lands and rights to which they may have been equitably entitled ; but no laws shall be passed, limiting or prejudicing the rights of those who may have emigrated or settled within said colonies, by virtue of said contracts, to the quantum of lands to which such emigrant or settler may have been entitled.”

Mr. Ochiltree moved to amend by inserting, after word “Legislature,” the words “if they deem it necessary.”

Which was carried.

The President of the Convention announced that he had, on his table, a communication from the Chief Justice of Montgomery county, enclosing a certificate of the election of Charles B. Stewart as a deputy to the Convention, from said county.

Which was read by the Secretary, and ordered to be laid on the table.

On motion of Mr. Rusk, the proviso to the ordinance reported by the special committee, on the subject of colonization contracts, was stricken out.

Mr. Van Zandt moved to adjourn until 4 o'clock, p. m. Lost.

The last substitute offered by Mr. Mayfield, was then taken up.

On motion of Mr. Forbes, a call of the House was made.

On motion of Mr. Young, a further call was dispensed with.

Mr. Mayfield then moved to adjourn until 4 o'clock, p. m.

Lost.

On motion of Mr. Mayfield, a call of the House was made.

On motion of Mr. Ochiltree, the Sergeant-at-Arms was despatched for absent members.

Mr. Henderson moved to adjourn until 3 o'clock, P. M.

Lost.

Mr. Howard moved to suspend a further call of the House.

Lost.

Mr. Hunter moved to adjourn until 4 o'clock, P. M.

Lost.

The absent members having appeared, the ayes and noes were called, on the substitute of Mr. Mayfield, and stood thus :

Ayes—Messrs. Anderson, Baylor, Caldwell, Cazneau, Clark, Evans, Horton, Hunter, Jewett, Lusk, Mayfield, McNeill, Runnels, Tarrant, Ochiltree, Van Zandt and White—16.

Noes—Messrs. President Rusk, Armstrong of R., Bache, Bagby, Brashear, Brown, Burroughs, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Howard, Holland, Irion, Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, Miller, Navarro, Power, Rains, Scott, Smyth, Standefer, Wright and Young—34.

So the substitute was rejected.

Mr. Caldwell moved to insert the word "such," before the word "suits," in the ordinance reported by the special committee.

On motion of Mr. Gage, the word "Republic" was inserted, before the word "Texas," so as to read "President of the Republic of Texas."

Mr. Evans moved to strike out the last section of the ordinance.

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

Ayes—Messrs. Baylor, Caldwell, Cazneau, Evans, Hunter, Latimer of L., Mayfield, McNeill, Navarro, Runnels, and Tarrant—11.

Noes—Messrs. President Rusk, Armstrong of R., Bache, Bagby, Brashear, Brown, Burroughs, Clark, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Horton, Howard, Holland, Irion, Jewett, Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Power, Rains, Scott, Smyth, Standefer, Ochiltree, Van Zandt, White and Young—38.

So the amendment was lost.

On motion of Mr. Evans, the words "of the Republic of Texas" were inserted after the words "Secretary of State."

Mr. Evans moved to insert the words "and that this ordinance become a part of the Constitution of the State of Texas."

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

Ayes—Messrs. Anderson, Armstrong of R., Baylor, Caldwell, Evans, Howard, Hunter, Jewett, Latimer of L., Latimer of R. R., Lumpkin, Lipscomb, Mayfield, McNeill, Runnels, Tarrant, White and Young—18.

Noes—Messrs. President Rusk, Bache, Bagby, Brashear, Brown, Burroughs, Clark, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Horton, Holland, Irion, Lewis, Lusk, McGowan, Miller, Navarro, Power, Rains, Scott, Smyth, Standefer, Ochiltree and Van Zandt—31.

So the amendment was rejected.

Mr. Mayfield moved to amend, by inserting the following:

“And all said contracts shall be suspended, and cease, from and after the institution of any suit or suits provided for by this ordinance, until the final decision and adjudication of the same.”

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

Ayes—Messrs. Baylor, Caldwell, Clark, Horton, Hunter, Jewett, Mayfield, McNeill, Tarrant, Van Zandt and White—11.

Noes—Messrs. President Rusk, Anderson, Armstrong of R., Bache, Brashear, Brown, Burroughs, Cunningham, Cuney, Darnell, Evans, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Howard, Holland, Irion, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Navarro, Power, Rains, Scott, Smyth, Standefer, Wright and Young—36.

So the amendment was rejected.

The question was then taken, on the adoption of the ordinance reported by the special committee.

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

Ayes—Messrs. President Rusk, Bagby, Brashear, Burroughs, Caldwell, Cuney, Darnell, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Howard, Holland, Irion, Lewis, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Navarro, Ochiltree, Power, Rains, Scott, Smyth, Standefer, Wright and Young—31.

Noes—Messrs. Anderson, Armstrong of R., Baylor, Bache, Brown, Cazneau, Clark, Cunningham, Evans, Horton, Hunter, Jewett, Latimer of L., Latimer of R., R., Mayfield, McNeill, Runnels, Tarrant, Van Zandt and White—20.

So the ordinance was adopted.

The question was then taken on the engrossment, and carried.

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

Mr. Mayfield moved the same be read.

Lost.

Mr. Mayfield moved to adjourn until 5 o'clock, P. M. Lost.

Mr. Mayfield moved that the General Provisions be read.

Motion lost.

Mr. Anderson moved to adjourn until half-past 4 o'clock, P. M.

Lost.

Mr. Anderson then moved that the General Provisions be read.

The Chair decided the motion to be out of order, as the question had just been taken on the same motion.

Mr. Gage appealed from the decision of the Chair; which appeal was lost, and the Chair sustained.

The question was then taken on the engrossment of the General Provisions, and carried.

Mr. Mayfield moved to adjourn until half-past 8 o'clock, Monday morning.

Lost.

On motion of Mr. Howard, the Convention adjourned until 5 o'clock, P. M.

5 O'CLOCK, P. M.

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

Mr. Ochiltree offered the following resolution :

Resolved, That the business not directly connected with the formation of the Constitution, and the passage of the ordinance directing the changing the Government, shall be postponed until the Constitution shall be finally passed, and signed by the members of this Convention."

On motion of Mr. Young, the rule was suspended, and the resolution adopted.

Mr. Everts moved to take up the ordinance in relation to the formation of an election precinct.

The President decided the motion to be out of order, as it was not in accordance with the resolution of Mr. Ochiltree, just adopted.

From which decision, Mr. Everts appealed, and the Chair was sustained.

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

ORDERS OF THE DAY.

Mr. Mayfield moved that the report of the Judiciary Committee, in relation to fraudulent land-certificates, be first taken up.

Which motion was lost.

Mr. Cazneau moved to take up the report of the committee on the State of the Nation.

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

Ayes—Messrs. President Rusk, Armstrong of R., Baylor, Caldwell, Cazneau, Darnell, Evans, Everts, Gage, Horton, Irion, Jewett, Mayfield, Navarro, Tarrant and Wright—16.

Noes—Messrs. Bagby, Bache, Brashear, Burroughs, Clark, Cunningham, Henderson, Hicks, Hogg, Howard, Holland, Hunter, Latimer of L., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Parker, Rains, Runnels, Scott, Smyth, Standefer, Ochiltree, White and Young—29.

So the motion was lost.

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

Mr. Mayfield offered the following amendment, as an addition to the 3d section:

“And all lands which may hereafter be declared vacant, either by the courts of this State, the Federal or Supreme Courts of the United States, lying within the limits of any colonization contracts, as specified in the same, after applying the proceeds thereof to the payment of the debts and liabilities, for money or land, of the Republic of Texas, as the Legislature may direct, the one-half of the residue thereof shall be applied to the support and maintenance of free common schools—reserving, at all times, to the contractor, his just quantum of premium lands; and to the actual settler, the full quantity to which he may be justly entitled.”

Mr. Evans moved to strike out that portion applying the proceeds to the payment of the debt and liabilities of the Republic of Texas.

Which motion was lost.

Mr. Young moved to strike out that portion reserving to the contractors, their premium lands.

Lost.

The ayes and noes were then called, on the adoption of Mr. Mayfield's amendment, and stood thus:

Ayes—Messrs. Armstrong of R., Baylor, Caldwell, Cazneau, Clark, Evans, Everts, Horton, Hunter, Jewett, Lewis, Mayfield, McGowan, Tarrant and White—15.

Noes—Messrs. President Rusk, Bache, Bagby, Brashear, Burroughs, Cunningham, Cuney, Gage, Hicks, Hogg, Irion, Latimer of L., Latimer of R. R., Love, Lumpkin, Lipscomb, McNeill, Navarro, Parker, Power, Rains, Scott, Smyth, Standefer, Ochiltree, Wright and Young—27.

So the amendment was rejected.

Mr. Young moved the previous question.

Which motion prevailed.

The main question being the adoption of the 3d section of the report of the committee on Education, was carried, and the section adopted.

On motion, the report was ordered to be engrossed.

Leave of absence was granted to Messrs. Everts and Howard, for the remainder of the session.

On motion of Mr. Young, the Schedule was taken up.

Mr. Ochiltree moved to fill the blank in the 1st section, with the words "time of the adoption of this Constitution by the Congress of the United States."

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

MONDAY MORNING, August 25, 1845.

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

Present—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bache, Bagby, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, 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 Monday was read and adopted.

The special committee, W. B. Ochiltree chairman, appointed to supervise and make grammatical and other corrections to the different articles of the Constitution, reported corrections upon the General Provisions, Education, Slaves and Impeachment.

Mr. Standefer offered the following additional section to the General Provisions, to come in between the 23d and 24th sections:

"The salaries of the Governor and the Judges of the Supreme and District Courts, are hereby fixed at the minimum established in the Constitution, and shall not be increased for ten years."

On motion of Mr. Hogg, the rule was suspended, and the ad-

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