

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-

ditional section adopted as one of the sections of the General Provisions.

On motion of Mr. Horton, the chairman on Printing was authorised to employ George Fisher for the purpose of translating into the Spanish language the Constitution of the State, at \$2 per page.

On motion of Mr. Young, the report of the revising committee was taken up, and the various corrections to the General Provisions and Education, were adopted by the Convention.

On motion of Mr. Anderson, the General Provisions were read section by section.

Mr. Cunningham moved to strike out the 19th section.

Lost.

Mr. Forbes moved to strike out the 22d section.

Lost.

Mr. Forbes moved to strike out the last clause of the 24th section.

Lost.

Mr. Gage moved to strike out the whole of the 24th section.

Lost.

Mr. Hemphill, from the Judiciary committee, reported the following as an additional section to the General Provisions, to come in after the 21st section :

“All titles to land granted by the Government of Spain or Mexico, or of Coahuila and Texas, under the Colonization laws, or otherwise, lying within the limits of Texas, and which shall not be recorded, or filed for record in the Recorder’s office of the respective counties in which said land lies, within one year from the meeting of the first Legislature under this Constitution, shall be forever barred, and considered vacant. Provided, that the titles to land of minor heirs and *femes covert*, may be exempted from the provisions of this article, in such manner as the Legislature may direct.”

Mr. Cunningham offered the following as a substitute for the one offered by the committee :

“The Legislature shall have power to pass laws requiring all persons having a title to lands derived from the Governments of Spain, Mexico, or the State of Coahuila and Texas, or any other State or authority, to register the same within a reasonable time, in the county in which the lands lie, under penalty of the forfeiture of the same.”

On motion of Mr. Hemphill, the additional section reported and the substitute, were referred to the committee on the Judiciary.

On motion of Mr. Lewis, Mr. Cunningham was added to the committee on the Judiciary.

Mr. Forbes offered the following amendment to the 30th section:

Add, "and all corporate bodies heretofore vested with banking or discounting privileges, either by the laws of Coahuila and Texas, or of the Republic of Texas, are hereby declared null and void."

Mr. Mayfield moved to amend, by adding to the end of the section, "that all colonization contracts entered into with the Secretary of State, or the President, be declared null and void."

Mr. Young 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 General Provisions,

The ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Clark, Cuney, Darnell, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Irion, Jones, Jewett, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, Wright and Young—43.

Noes—Messrs. Caldwell, Cazneau, Cunningham, Evans, Forbes, Hunter, Mayfield and White—9.

So the article passed.

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

On motion of Mr. Henderson, the first blank was filled with the words "organization of the State Government."

On motion, all the blanks in the second section, were filled with the same words.

Mr. Forbes offered the following as an additional section:

"All corporate bodies, with banking or discounting privileges, having been prohibited by this Constitution, all persons or corporate bodies vested with banking or discounting privileges, by the laws of Coahuila and Texas, or of the Republic of Texas, are hereby prohibited from the exercise or use of such banking or discounting privileges."

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

Ayes—Messrs. Bagby, Baylor, Brashear, Clark, Evans, Forbes, Gage, Hunter, Jewett, Latimer of L., Latimer of R. R., May-

field, Tarrant, Ochiltree, Van Zandt, White, Wright and Young—18.

Noes—Messrs. President Rusk, Anderson, Armstrong of R., Bache, Brown, Caldwell, Cunningham, Cuney, Darnell, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Irion, Jones, Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Rains, Runnels, Scott, Smyth and Standefer—32.

Rejected.

Mr. Mayfield offered the following as an additional section:

“All agencies for the colonization or settlement of any of the vacant or unappropriated lands of Texas, made and entered into with the President or Secretary of State of Texas, or any person, from and after the adoption of this Constitution by the people of Texas, are, from and after that time, revoked.”

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

Ayes—Messrs. Armstrong of R., Baylor, Brown, Burroughs, Caldwell, Clark, Evans, Hunter, Jewett, Lumpkin, Mayfield, McNeill, Runnels, Scott, Tarrant, Van Zandt, White and Wright—18.

Noes—Messrs. President Rusk, Anderson, Bagby, Bache, Cazneau, Cunningham, Cuney, Darnell, Forbes, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Irion, Jones, Latimer of L., Latimer of R. R., Lewis, Lusk, Lipscomb, McGowan, Miller, Navarro, Parker, Rains, Smyth, Standefer, Ochiltree and Young—31.

So the additional section was rejected.

The 3d section was taken up, and the amendment of the committee on the Judiciary, to wit:

Between the words “repugnant” and “to,” in the second line, insert “to the Constitution of the United States, the Joint Resolution for annexing Texas to the United States, or.”

Adopted.

The section as amended was then adopted,

Mr. Love offered the following as an amendment to the 4th section:

“Every person now subject to any fine, penalty, or forfeiture, for the commission of any political offence against the Republic of Texas, shall be, and are hereby released, discharged and acquitted from all liability arising from such offence, under any law now in force; and are hereby restored to all rights and privileges of which they have not been divested by the judgment of a judicial tribunal having competent jurisdiction.”

Mr. Lipscomb offered the following amendment to the amendment offered by Mr. Love, which was accepted :

“On this condition, however, that all such offenders shall take the oath of allegiance to support the Constitution of this State, and of the United States, within twelve months after the acceptance of this Constitution by the Congress of the United States.”

Mr. Bagby moved the previous question.

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

The main question was the adoption of the original section,—which question prevailed.

Mr. Henderson offered the following as additional sections to the Schedule, to come in after the 4th section :

SEC. 5. Immediately after the adjournment of this Convention, the President of this Republic shall issue his proclamation directing the Chief Justices of the several counties of this Republic, and the several Chief Justices and their Associates, are hereby required, to cause polls to be opened in their several counties at the established precincts, on the second Monday of October next, for the purpose of taking the sense of the people of Texas in regard to the adoption or rejection of this Constitution, and the votes of all persons entitled to vote under the existing laws or this Constitution, shall be received. Each voter shall express his opinion by depositing in the ballot box a ticket, whereon shall be written “the Constitution accepted,” or “the Constitution rejected,” or some words clearly expressing the intention of the voter. The election shall be conducted in conformity with the existing laws regulating elections, and the Chief Justices of the several counties shall carefully and promptly make returns of said polls to the Department of State of this Republic.

SEC. 6. Upon the receipt of the said returns, or on the first Monday of November next, if the returns be not sooner made, it shall be the duty of the President, in presence of such officers of his cabinet as may be present, and of all persons who may choose to attend, to compare the votes given for the ratification or rejection of this Constitution; and if it shall appear from the returns, that a majority of all the votes given, is for the adoption of the Constitution, then it shall be the duty of the President to make proclamation of that fact, and thenceforth this Constitution shall be ordained and established as the Constitution of this State, to go into operation and be of force and effect, on the acceptance of the same by the Congress of the United States; and

the President of this Republic is authorized and required to transmit to the President of the United States, so as to be received early in December next, the said Constitution, certifying under the great seal of the Republic, the number of votes given at the polls for the rejection or adoption of the Constitution, and the majority of the votes given for its ratification.

SEC. 7. Should this Constitution be accepted by the people of Texas, it shall be the duty of the President, on or before the first Monday in November next, to issue his proclamation directing and requiring elections to be holden in all the counties of this Republic, on the first Monday of December next, for the offices of Governor, Lieutenant Governor, members of the Senate and House of Representatives of the State Legislature, in accordance with the apportionment of representation directed by this Constitution; and also, for members of the House of Representatives of the Congress of the United States; and returns for the members of the Legislature of this State, shall be made to the Department of State of this Republic, and those for that of Governor and Lieut. Governor, shall be addressed to the Speaker of the House of Representatives, endorsed "Election Returns of

county, for Governor," and directed to the Department of State; and should, from any cause whatever, the Chief Justices of counties fail to cause to be holden, any of the polls or elections provided for by this Constitution, at the times and places herein directed, the people of the precinct where such failure exists, are hereby authorized to choose managers, judges, and other officers, to conduct said elections.

SEC. 8. Immediately on the President of this Republic receiving official information of the acceptance of this Constitution by the Congress of the United States, he shall issue his proclamation, convening at an early day the Legislature of the State of Texas, at the Seat of Government established under this Constitution; and after the said Legislature shall have organized, the Speaker of the House of Representatives shall, in presence of both branches of the Legislature, open the returns of the election for Governor and Lieut. Governor, count and compare the votes, and declare the names of the persons who shall be elected to the office of Governor and that of Lieut. Governor, who shall forthwith be installed in their respective offices; and the Legislature shall proceed as early as practicable, to elect Senators to represent this State in the Senate of the United States.

SEC. 9. It shall be the duty of the President of Texas, immediately after the inauguration of the Governor, to deliver to him all records, public money, documents, archives and public pro-

perty of every description whatsoever, under the control of the Executive branch of the Government, and the Governor shall dispose of the same in such manner as the Legislature may direct.

SEC. 10. That no inconvenience may result from the taking effect of this Constitution, it is declared that the laws of this Republic, relative to the duties of officers, both civil and military of the same, shall remain in full force, though contrary to this Constitution, and the duties of their several offices shall be performed in conformity with the existing laws, until the organization of the government of the State under this Constitution. That the offices of President, Vice President, of the President's cabinet, foreign Ministers, Chargés and Agents, and others repugnant to this Constitution, shall be superceded by the same, and that all others shall be holden and exercised until they expire by their own limitation, or be superceded by the authority of this Constitution, or laws made in pursuance thereof.

SEC. 11. The first general election for Governor, Lieut. Governor, and members of the Legislature, after the organization of the Government, shall take place on the first Monday in November, 1847, and shall be held biennially thereafter on the first Monday in November; and the Governor and Lieut. Governor elected in December next, shall hold their offices until the installation in office of the Governor and Lieutenant Governor, to be elected in 1847.

Mr. Caldwell moved to lay the additional sections on the table.

Lost.

Mr. Mayfield moved to have 100 copies of the additional sections printed.

Lost.

On motion of Mr. Rusk, 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. Scott moved that Mr. C. B. Stewart be allowed to take his seat in the Convention as a deputy from the county of Montgomery.

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

Ayes—Messrs. President Rusk, Anderson, Bagby, Baylor, Bache, Brashear, Cuney, Darnell, Evans, Forbes, Hemphill,

Horton, Holland, Jones, Latimer of L., Lipscomb, McGowan, McNeill, Miller, Navarro, Rains, Scott and Young—23.

Noes—Messrs. Armstrong of R., Cazneau, Clark, Cunningham, Gage, Henderson, Hicks, Hogg, Hunter, Irion, Jewett, Latimer of R. R., Lumpkin, Lusk, Mayfield, Parker, Smyth, Standefer, Ochiltree and White—20.

So Mr. Stewart was permitted to take his seat.

Mr. Mayfield moved to declare the seat of Sam Houston vacant.

The ayes and noes were called thereon, and stood as follows :

Ayes—Messrs. Anderson, Baylor, Bache, Bagby, Caldwell, Cazneau, Cuney, Evans, Forbes, Hemphill, Horton, Jones, Lipscomb, McGowan, McNeill, Miller, Navarro, Scott and Smyth—19.

Noes—Messrs. President Rusk, Armstrong of R., Clark, Cunningham, Darnell, Gage, Henderson, Hicks, Hogg, Holland, Hunter, Irion, Jewett, Latimer of L., Latimer of R. R., Lumpkin, Lusk, Mayfield, Parker, Rains, Standefer, Tarrant, Ochiltree, Van Zandt, White and Young—26.

Lost.

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

The additional sections offered by Mr. Henderson, being before the Convention, Mr. Forbes moved to have them read.

Lost.

Mr. Rusk offered the following amendment to the 1st section :

“And at the same time, the vote shall be taken for and against annexation.”

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

Ayes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Brown, Caldwell, Cazneau, Cunningham, Cuney, Darnell, Evans, Forbes, Gage, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Lewis, Lumpkin, Lipscomb, Mayfield, McGowan, Miller, Navarro, Parker, Runnels, Scott, Standefer, Stewart, Tarrant, Ochiltree, White and Wright—36.

Noes—Messrs. Bache, Bagby, Brashear, Burroughs, Clark, Hemphill, Henderson, Hicks, Latimer of L., Latimer of R. R., Lusk, McNeill, Rains, Smyth, Van Zandt and Young—16.

Motion carried.

Mr. Rusk moved to have the additional sections offered by Mr. Henderson, read section by section.

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

Ayes—Messrs. President Rusk, Anderson, Baylor, Brown, Caldwell, Cazneau, Darnell, Evans, Forbes, Gage, Henderson, Hogg, Horton, Holland, Hunter, Jewett, Jones, Lipscomb, Mayfield, McGowan, Navarro, Parker, Runnels, Scott, Smyth, Standefer, Stewart, Tarrant and White—29.

Noes—Messrs. Armstrong of R., Bagby, Bache, Brashear, Burroughs, Clark, Cunningham, Cuney, Hemphill, Hicks, Irion, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, McNeill, Miller, Rains, Ochiltree, Van Zandt, Wright and Young—23.

So the motion prevailed.

Mr. Rusk moved to strike out "ballot" and insert "*viva voce*," in regard to voting for or against the Constitution, &c.

Carried.

Mr. Rusk moved to strike out the word "second," before the words "Monday in October," and insert "first."

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

Ayes—Messrs. President Rusk, Anderson, Baylor, Brown, Caldwell, Cazneau, Darnell, Forbes, Gage, Hogg, Horton, Holland, Hunter, Jewett, Jones, Lumpkin, Mayfield, Navarro, Parker, Runnels, Standefer, Stewart, Tarrant and White—24.

Noes—Messrs. Armstrong of R., Bache, Bagby, Brashear, Burroughs, Clark, Cunningham, Cuney, Evans, Hemphill, Henderson, Hicks, Irion, Latimer of L., Latimer of R. R., Lewis, Lusk, Lipscomb, McGowan, McNeill, Miller, Rains, Scott, Smyth, Ochiltree, Van Zandt, Wright and Young—28.

So the motion was lost.

The 5th section was then adopted.

Mr. Henderson moved to strike out the word "first," before "Monday in November," and insert the word "second."

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

Ayes—Messrs. Armstrong of R., Bache, Bagby, Brashear, Burroughs, Clark, Cunningham, Cuney, Evans, Hemphill, Henderson, Hicks, Horton, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McNeill, Miller, Parker, Rains, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt and Young—34.

Noes—Messrs. President Rusk, Anderson, Baylor, Brown, Caldwell, Cazneau, Darnell, Forbes, Gage, Hogg, Hunter, Mayfield, McGowan, Navarro, Runnels, Stewart, White and Wright—18.

So the motion prevailed.

Mr. Mayfield offered the following amendment:

Insert after "United States," in fifteenth line, 6th section, the words "in duplicate, one by a special messenger, and one through the mail." Adopted.

Mr. Henderson offered the following amendment:

Strike out the words "on the acceptance of the same by the Congress of the United States," and insert "from and after the organization of the State Government under this Constitution," in the twelfth and thirteenth lines of the 6th section.

Adopted; and section as amended adopted.

Mr. Rusk moved to strike out "members of the House of Representatives of the United States Congress," in section 7th.

Adopted.

Mr. Brown moved to strike out the 3d section.

Lost.

Mr. Henderson moved to strike out the word "first" before "Monday in December," and insert "second."

Carried.

Mr. Caldwell moved to adjourn until 8 o'clock to-morrow morning.

Lost.

Mr. Mayfield moved to strike out the words "the President shall issue his proclamation," and insert "the Chief Justices shall order an election."

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

Ayes—Messrs. President Rusk, Caldwell, Cazneau, Gage, Hogg, Horton, Holland, Hunter, Mayfield, Runnels and White—11.

Noes—Messrs. Armstrong of R., Baylor, Bache, Bagby, Bra-shear, Brown, Burroughs, Clark, Cunningham, Cuney, Darnell, Evans, Hemphill, Henderson, Hicks, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Rains, Stewart, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, Wright and Young—30.

Lost.

Mr. Henderson moved to strike out the word "first" before "Monday in December," and insert "third."

Mr. Mayfield moved to amend, by inserting "that the Secretary of State, Attorney General, &c., shall not receive any more pay than similar officers of the State Government."

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

Ayes—Messrs. Caldwell, Gage and Mayfield—3.

Noes—Messrs. President Rusk, Armstrong of R., Baylor, Bache, Bagby, Brashear, Brown, Burroughs, Cazneau, Clark, Cunningham, Cuney, Darnell, Evans, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Rains, Runnels, Scott, Smyth, Standefer, Stewart, Tarrant, Van Zandt, White, Wright and Young—46.

So the motion was lost.

The question was then taken on the amendment of Mr. Henderson, to strike out "first Monday."

Which was carried.

On motion of Mr. Henderson, the word "Ordinance" was stricken out, and "Constitution" inserted.

Mr. Caldwell moved to insert "all goods, wares and merchandise imported from the United States, being the manufacture of the same, after the acceptance of this Constitution by the Congress of the United States, shall be imported free from duty."

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

The ayes and noes stood as follows :

Ayes—Messrs. Armstrong of R., Bache, Bagby, Brashear, Burroughs, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Hemphill, Henderson, Hicks, Holland, Irion, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Rains, Scott, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, Wright and Young—36.

Noes—Messrs. President Rusk, Baylor, Brown, Caldwell, Cazneau, Gage, Hogg, Horton, Hunter, Jones, Love, Mayfield, Navarro, Parker, Runnels and White—16.

The main question being the adoption of the section as amended, was put and carried.

Mr. Rusk offered the following as an addition to the 8th section:

The Legislature 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, navy yards, docks, magazines, arms and armaments, and all other property and means pertaining 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 and other foreign duties."

Which was adopted.

Mr. Runnels moved to amend the 8th section, so as to provide for the election of Representatives to the United States Congress, as well as Senators.

Which amendment was adopted.

Mr. Rusk moved to adjourn until to-morrow morning 8 o'clock.

Lost.

Mr. Mayfield gave notice, that he would take this opportunity to give his views in full upon the merits of the Ordinance; and,

On motion of Mr. Latimer of L., the Convention adjourned until 8 o'clock to-morrow morning.

TUESDAY MORNING, Aug. 26, 1845.

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

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

The journal of the preceding day was read and adopted.

Mr. Anderson gave written notice that he would move a reconsideration of the vote adopting a section of the General Provisions providing for amending the Constitution.

Mr. Caldwell, from a special committee, made the following report:

Hon. THOS. J. RUSK,

President of the Convention:

The committee to whom was referred the case of Post Captain E. W. Moore, for want of time, have been unable to examine into the subject matter referred to them; they therefore express no opinion upon the merits of his case, but recommend the passage of the following resolution.

JOHN CALDWELL, Chairman.

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 23, 1845	292a
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Next	Aug 26, 1845	311a
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[Return to Electronic Index Page](#)