

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.

*"Resolved by the Delegates of the people, in Convention assembled,* That in closing their labors as the representatives of the people, they are constrained by a sense of duty to their country and their gallant fellow-citizen, Post Captain E. W. Moore, to recommend him to the favorable consideration of the American government, and that he may be retained and provided for in the naval service thereof."

On motion, the rule was suspended.

Mr. Van Zandt offered the following amendment to the resolution :

Strike out after the word "they" in the third line, down to the word "that" in the seventh line, and insert "respectfully recommend to the favorable consideration of the American government, their gallant fellow-citizen, Post Captain E. W. Moore, and request that he."

Which amendment was adopted.

The resolution as amended was then adopted, and reads as follows :

*Resolved by the Delegates of the people, in Convention assembled,* That in closing their labors as the representatives of the people, they respectfully recommend to the favorable consideration of the American government their gallant fellow-citizen, Post Captain E. W. Moore, and request that he may be retained and provided for in the naval service thereof.

Mr. Ochiltree offered the following resolution :

*Resolved,* That the officers of the Convention be entitled to receive the same pay as allowed the officers of the House of Representatives of the 9th Congress.

Which was laid on the table one day for consideration.

Mr. Bache offered the following resolution :

*Resolved,* That the President of the Convention be authorized to draw his warrant upon the Secretary of the Treasury of the Republic of Texas, for                                    dollars, in favor of J. D. McLeod, as compensation for extra services as Post Master of Austin, during the session of the Convention.

Which was laid on the table one day for consideration.

Mr. Henderson offered the following resolution :

*Be it resolved,* That the Secretary of this Convention be instructed to draw from the Treasurer the pay allowed by the Convention to J. W. Oliver, of Sabine county, and that he be further instructed to pay over the same to the Hon. J. M. Burroughs, for the use of said Oliver.

Which was laid on the table one day for consideration.

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

## ORDERS OF THE DAY

The additional section, as offered by Mr. Henderson to the 8th section of the Schedule, being first in order, was taken up and adopted.

Section 9th adopted.

In section 10th, Mr. Henderson moved to amend by striking out the words "taking effect of this Constitution," and insert "from the change of the government."

Which was carried.

In the same section, on motion of Mr. Henderson, the words "though contrary to this Constitution," were stricken out; and,

On motion of Mr. Hemphill, the words "or until the first day of the meeting of the Legislature," were added.

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

The main question was the adoption of the section as amended.

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

Ayes—Messrs. Anderson, Armstrong of R., Baylor, Bagby, Brashears, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Hemphill, Henderson, Hicks, Horton, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Navarro, Parker, Rains, Scott, Smyth, Standifer, Stewart, Tarrant, Ochiltree, Van Zandt, White and Young—40.

Noes—Messrs. President Rusk, Caldwell, Cazneau, Gage, Hogg, Mayfield and Runnels—7.

So the section as amended was adopted.

Mr. Anderson offered the following as an additional section, to come in before the 11th section.

"In case of any disability on the part of the President of the Republic of Texas to act as herein required, it shall be the duty of the Secretary of State of the Republic of Texas, and in case of disability on the part of the Secretary of State, then it shall be the duty of the Attorney General of the Republic of Texas to perform the duties assigned to the President."

Which was adopted.

Mr. Mayfield offered the following as an additional section, to come in before the last section.

"No impost duties or tariff shall be collected by the authorities of Texas, upon any goods, wares or merchandize imported into Texas from and after the final action of the United States Congress on this Constitution."

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

Ayes—Messrs. Anderson, Brown, Caldwell, Cazneau, Forbes, Horton, Latimer of L., Love, Mayfield and Navarro—10.

Noes—Messrs. President Rusk, Armstrong of R., Bagby, Baylor, Bache, Brashear, Clark, Cunningham, Cuney, Darnell, Evans, Hemphill, Henderson, Hicks, Hogg, Holland, Hunter, Irion, Jewett, Jones, Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Parker, Rains, Runnels, Scott, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, White, Wright and Young—40.

So the additional section was rejected.

Section 11th was then read.

Mr. Latimer of L., moved the previous question, which was carried.

The main question being the adoption of the section,

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

Ayes—Messrs. Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Hemphill, Henderson, Hicks, Horton, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Navarro, Parker, Rains, Scott, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, White, Wright and Young—43.

Noes—Messrs. President Rusk, Anderson, Caldwell, Cazneau, Gage, Hogg, Mayfield and Runnels—8.

So the section was adopted.

On motion of Mr. Hemphill, the 5th section of the printed Schedule was stricken out.

Mr. Caldwell offered the following as an additional section :

*Be it further ordained*, That at the same time and places above specified, for holding elections for the adoption or rejection of this Constitution, polls shall also be opened under the superintendence of the same managers, judges and other officers, for the election of a 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.

*Be it further ordained*, That if the people of Texas elect to accept the aforesaid proposition of annexation, and approve and adopt the Constitution for the State, submitted to them, then the first Legislature of said State shall convene at the Seat of Government established by this Constitution, on the 2d Monday in No-

vember 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 oath of office prescribed by the Constitution, and enter upon the discharge of their respective duties.

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

Ayes—Messrs. Caldwell, Cazneau, Hogg, Mayfield and Runnels—5.

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

So the additional section was rejected.

Mr. Young moved the previous question.

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

Ayes—Messrs. Armstrong of R., Bagby, Bache, Brashear, Burroughs, Clark, Cuney, Evans, Forbes, Hemphill, Henderson, Hicks, Holland, Irion, Jewett, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, McNeill, Navarro, Rains, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, Wright and Young.—31.

Noes—Messrs. President Rusk, Anderson, Baylor, Brown, Caldwell, Cazneau, Cunningham, Darnell, Gage, Hogg, Horton, Hunter, Jones, Love, Lusk, Mayfield, Parker, Runnels, Stewart, Scott and White—21.

So the previous question was ordered.

The main question being the engrossment of the Schedule,

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

Ayes—Messrs. Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Hemphill, Henderson, Hicks, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, McNeill, Navarro, Parker, Rains, Scott,

Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, Wright and Young—39.

Noes—Messrs. President Rusk, Anderson, Caldwell, Cazneau, Gage, Hogg, Horton, Hunter, Love, Lusk, Mayfield, Runnels and White—13.

So the Schedule was ordered to be engrossed.

Mr. Darnell moved a re-consideration of the vote just taken, ordering the engrossment of the Schedule.

Mr. Darnell moved to lay his motion on the table.

Lost.

The question was then taken on the motion of Mr. Darnell to re-consider.

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

Ayes—Messrs. President Rusk, Anderson, Baylor, Bache, Brown, Caldwell, Cazneau, Cunningham, Darnell, Gage, Hogg, Horton, Love, Mayfield, Runnels, and White—16.

Noes—Messrs. Armstrong of R., Bagby, Brashear, Burroughs, Clark, Cuney, Evans, Forbes, Hemphill, Henderson, Hicks, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Navarro, Parker, Rains, Scott, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, Wright and Young—36.

So the Convention refused to re-consider.

On motion of Mr. Van Zandt, the Schedule was referred to the revising committee.

On motion of Mr. Hemphill, the Convention took up the report of the committee on the Judiciary, on the subject of fraudulent land claims.

Mr. Hemphill offered the following as a substitute to the 2d section of the original report :

"The District Courts shall be opened until the first day of July, 4847, for the establishment of certificates for headrights not recommended by the Commissioners appointed under the "act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants;" and the parties suing shall produce the like proof, and be subjected to the requisitions which were necessary, and were prescribed by law to sustain the original application for the said certificates; and all certificates above referred to not established or sued upon before the period limited, shall be barred; and the said certificates and all locations and surveys thereon, shall be forever null and void; and all re-locations made on such surveys, shall not be disturbed until the certificates are established as above directed."

Which was adopted as a substitute.

Mr. Evans moved to lay the report on the table.

Lost.

Mr. Evans then offered the following as an addition to the sections offered by the Judiciary committee, on the subject of fraudulent land claims, &c.

"All grants, warrants, concessions, orders of survey, or claims to land of every degree and kind emanating or purporting to emanate from the Crown, or authorities of Spain, or from the authorities of Mexico ; and all surveys made thereon, which were located within the twenty leagues of the border line between Texas and the United States, were null and void.

"All grants, warrants, concessions, orders of survey, or claims to land of every degree and kind, emanating or purporting to emanate from Mexico, or any of her authorities after the first day of January, 1832, and prior to the 2d day of March, 1836, and all surveys or locations made thereon, are null and void.

"All grants, warrants, concessions, patents, certificates, orders of survey, or other evidence of claim or title to land, owned, belonging to or claimed by any person or persons, other than an actual and *bona fide* inhabitant of the Republic of Texas, at the day of the adoption of this Constitution by the people of Texas, saving the rights of persons to titles which emanated to them directly from the government of the Republic of Texas, and the rights of widows whose husbands were, or orphan children, whose father was a citizen of the Republic of Texas at the day of his death.

"In all suits by or against any holder or owner of any grant, warrant, patent, concession, order of survey, or title of any degree or kind, or by or against any assignee or representative, either claimant or defendant in his petition or answer, or other pleading verified by affidavit, may put in issue the validity of the opposing title, and may enjoin the other party to prove the authority of the officer or person issuing the claim—that the same was issued in good faith ; that it was issued in conformity with law ; that all the conditions were performed, and that the location and survey were legally performed, and that the location and survey were legally made."

On motion of Mr. Ochiltree, Mr. Rusk was added to the revising committee.

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.

On motion of Mr. Young, the report of the committee on Education, was taken up, read a third time and passed.

On motion of Mr. Young, the report of the committee on the Judiciary, on the subject of fraudulent land claims, &c., was taken up.

Mr. Jones offered the following, as an amendment to the sections as offered by Mr. Evans:

"All grants to land heretofore located within the Republic of Texas, or which shall be located previous to the adoption of this Constitution by the government of the United States, shall be null."

Which was adopted as an amendment.

Mr. Navarro offered the following as a substitute:

"That there may be no further difficulties in the adjudication of the validity of the titles to the grants to land, it is hereby declared that every settler who may have located his claim upon any grants heretofore made by the former governments of Spain and Mexico, shall be bound within the term of two years from the date of the adoption of this Constitution, to enclose the same with a stone wall on all sides, of eight yards in height at least. This obligation shall devolve upon his heirs and assigns, on pain, in case of not complying with it, or in case of neglect to keep the said wall in constant repair, so that there never shall be a breach in it to the extent of one yard, then, and in those cases, he shall forfeit all his claim to the said land; and the grant, title or claim to the said land shall be null and void, and the said land shall be declared vacant and subject to new location, and subject to the same conditions and penalties."

Mr. Van Zandt moved the previous question, which was carried.

The main question being the engrossment of the report of the Judiciary committee.

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

Ayes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bagby, Brown, Burroughs, Caldwell, Cazneau, Clark, Darnell, Evans, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Jewett, Jones, Latimer of L., Lewis, Lumpkin, Lusk, Lipscomb, Mayfield, McNeill, Miller, Navarro, Parker, Rains, Runnels, Scott, Standefer, Stewart, Tarrant, Van Zandt, White, Wright and Young—41.

Noes—Messrs. Bache, Brashear, Cuney, Forbes, Gage, Irion and McGowan—7.

So the section was ordered to be engrossed.

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

Mr. Henderson offered the following resolution:

*"Resolved,* That the Reporter receive the sum of dollars for his services during the session; and further, that he receive the sum of        dollars for the completion of his reports, to be paid upon the certificate of the Secretary of the Convention when the reports may be delivered to him."

Laid on the table one day for consideration.

Mr. Horton offered the following resolution:

*"Resolved,* That the Secretary of the Convention be required to procure a well bound book, and record in the same the journals of the Convention, together with the Constitution, and the several ordinances that may be adopted by the Convention; and that for his services while employed in recording, superintending the printing, and distribution of the Journals, he shall be entitled to and receive the same pay per month, as a Chief Clerk of a Department, to be paid out of the contingent expenses of the Convention."

Which was laid on the table one day for consideration.

Mr. Hemphill moved to take up the report of the Judiciary committee, upon the subject of the creation of new States. *Lost.*

Mr. Ochiltree, from the revising committee, to whom was referred the "Schedule," reported various grammatical amendments and changes of phraseology, which were adopted. He also reported, that a majority of the committee had instructed him to recommend the following, to come in at the end of the 10th section:

*"Provided,* no act shall be performed under the provisions of this section, which would be inconsistent with the obligations which Texas has assumed by the acceptance of the terms of annexation, as contained in the Joint Resolutions of the United States Congress, approved 1st March, 1845; and also the following additional section, to be section 18th:

"After the adoption of this Constitution by the people of Texas, the President shall have no power to enter into any treaty, compact or alliance with any power, other than the United States, or with Mexico, in co-operation with the United States."

The revising committee also recommend that the word "shall" be stricken out, and the word "may" inserted in the 4th section, so as to read "the Legislature may provide by law."

On motion of Mr. Cunningham, a call of the Convention was made; and,

On motion of Mr. Anderson, a further call was suspended.

The ayes and noes were then taken on the amendment of the committee to insert the word "may" in lieu of the word "shall," and stood thus:

Ayes—Messrs. President Rusk, Baylor, Bache, Brashear, Brown, Caldwell, Cazneau, Henderson, Hicks, Horton, Hunter, Irion, Jones, Love, Lusk, Lipscomb, Mayfield, McGowan, Miller, Navarro, Scott, Stewart, Tarrant and Ochiltree—24.

Noes—Messrs. Armstrong of R., Bagby, Burroughs, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Gage, Hemphill, Hogg, Jewett, Latimer of L., Latimer of R. R., Lewis, Lumpkin, McNeill, Parker, Rains, Runnels, Smyth, Standefer, Van Zandt, White, Wright and Young—27.

So the amendment was lost.

The ayes and noes being called on the amendment suggested by the revising committee, to be inserted at the end of the 10th section, stood as follows :

Ayes—Messrs. President Rusk, Baylor, Brown, Caldwell, Cazneau, Forbes, Gage, Hogg, Horton, Hunter, Irion, Jones, Love, Lipscomb, Mayfield, Parker, Runnels, Scott, Smyth, Standefer, Stewart, White and Wright—23.

Noes—Messrs. Armstrong of R., Bache, Bagby, Brashear, Burroughs, Clark, Cuney, Darnell, Evans, Hemphill, Henderson, Hicks, Jewett, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, McGowan, McNeill, Miller, Navarro, Rains, Tarrant, Ochiltree, Van Zandt and Young—27.

So the amendment was rejected.

The ayes and noes being called on the second amendment suggested by the same committee, to prevent the President from entering into any treaty, compact, &c., after the adoption of the Constitution by the people, stood as follows :

Ayes—Messrs. President Rusk, Armstrong of R., Baylor, Brown, Bagby, Caldwell, Cazneau, Cunningham, Darnell, Forbes, Gage, Hemphill, Hogg, Horton, Hunter, Irion, Jones, Jewett, Latimer of R. R., Love, Lipscomb, Mayfield, Miller, Navarro, Parker, Runnels, Scott, Smyth, Standefer, Stewart, Tarrant, White and Wright—33.

Noes—Messrs. Baehe, Brashear, Burroughs, Clark, Cuney, Evans, Henderson, Hicks, Latimer of L., Lewis, Lumpkin, Lusk, McGowan, McNeill, Rains, Ochiltree, Van Zandt and Young—18.

Two-thirds not having voted for the amendment, the Chair

decided that a majority could adopt it, from which decision Mr. Henderson appealed.

Mr. Mayfield moved a call of the Convention.

Lost.

The ayes and noes being called on sustaining the Chair, stood as follows:

Ayes—Messrs. Baylor, Caldwell, Cazneau, Gage, Hogg, Hunter, Navarro, Runnels and White—9.

Noes—Messrs. Armstrong of R., Bache, Bagby, Brashear, Burroughs, Clark, Cunningham, Cuney, Evans, Forbes, Hemphill, Henderson, Hicks, Horton, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Parker, Rains, Scott, Smyth, Standifer, Stewart, Tarrant, Ochiltree, Van Zandt, Wright and Young—39.

So the appeal was sustained, and the amendment declared to be rejected.

Mr. Horton moved a re-consideration of the vote engrossing the Schedule.

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

Ayes—Messrs. President Rusk, Baylor, Brown, Caldwell, Cazneau, Cunningham, Forbes, Gage, Hogg, Horton, Hunter, Love, Mayfield, Navarro, Runnels, Scott, Standifer and White—18.

Noes—Messrs. Armstrong of R., Bache, Bagby, Brashear, Burroughs, Clark, Cuney, Evans, Hemphill, Henderson, ~~Hicks~~, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Parker, Rains, Smyth, Stewart, Tarrant, Ochiltree, Van Zandt, Wright and Young—33.

Lost.

Mr. Lewis moved to suspend the rule so as to place the Schedule on its third and final reading.

Mr. Mayfield moved a call of the Convention.

Lost.

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

Lost.

Mr. Mayfield moved a call of the Convention.

Lost.

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

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

Ayes—Messrs. President Rusk, Brown, Caldwell, Cazneau,

Cunningham, Gage, Hogg, Irion, Mayfield, Navarro, Runnels and White—12.

Noes—Messrs. Armstrong of R., Baylor, Bache, Bagby, Brashears, Burroughs, Clark, Cuney, Evans, Forbes, Hemphill, Henderson, Hicks, Horton, Holland, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Parker, Scott, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, Wright and Young—37.

Lost.

The ayes and noes were then called on the suspension of the rule, and stood as follows:

Ayes—Messrs. Armstrong of R., Baylor, Bagby, Brashears, Burroughs, Clark, Cuney, Evans, Hemphill, Henderson, Hicks, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Parker, Rains, Scott, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, Wright and Young—37.

Noes—Messrs. President Rusk, Bache, Brown, Caldwell, Cazneau, Cunningham, Forbes, Gage, Hogg, Horton, Love, Navarro, Runnels and White—14.

So the rule was suspended.

Mr. Henderson moved to re-consider the vote just taken.

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

The question was then taken on Mr. Henderson's motion to re-consider, and lost.

Mr. Mayfield moved to re-consider the vote just taken.

On motion of Mr. Latimer, of R. R., the motion to re-consider was laid on the table.

Mr. Rusk offered the following as a substitute for the additional sections offered by Mr. Henderson to the Schedule :

"In order to provide for submitting the question of annexation of Texas to the United States, and the adoption of this Constitution to the people of Texas, and to provide for changing the present separate independent republican government of Texas into a State government of the American Union, a poll shall be opened at the several precincts in the now Republic of Texas, on the first Monday in October next, at which time and places the people of Texas shall vote *viva voce* for "annexation" or "no annexation." And upon the same day and at the same places, a poll shall also be opened, wherein the people of Texas shall vote for the ratification or rejection of this Constitution of the State of Texas, *viva voce*, "ratification" or "no ratification."

"Upon the first Monday in December next, an election shall be holden by ballot, for a Governor, Lieutenant Governor, and Senators and Representatives to the Legislature of the State of Texas, in accordance with the apportionment made by this Constitution.

"The President of the Republic of Texas be respectfully requested to issue his proclamation ordering the said elections, and the several Chief Justices of the respective counties of the Republic of Texas, or their associates, be, and they are hereby required to cause the said elections to be holden on the day, and at the several places designated as above; and should they fail, it shall be competent for the voters at any precinct to elect the manager and conduct said election. The said elections shall be holden as nearly as practicable, according to the rules prescribed by the laws of the now Republic of Texas, for conducting elections. Triplicate returns of said election shall be made out, one transmitted to the Secretary of State of the Republic of Texas, one to the Speaker of the House of Representatives of the Legislature of the State of Texas, and one filed in the office of the Clerk of the County Court.

"The first Legislature of the State of Texas, shall convene at the City of Austin, on the first Monday of January next, and proceed to organize under this Constitution; and after they shall have been organized, the Speaker, in the presence of both Houses, shall open the returns, cause the polls to be compared, and declare the election of the Governor and Lieutenant Governor, who shall forthwith be inaugurated, take the oath of office, and enter upon the discharge of the respective duties assigned him under this Constitution.

The said Legislature of the State, shall proceed as soon as they may deem it proper, to elect Senators to the Congress of the United States, and to provide for the election of Representatives to the Congress of the United States, in accordance with the laws of the United States and of Texas.

"It shall be the duty of the Legislature of the said State of Texas, forthwith after their organization, and they are hereby fully empowered and authorized so to do, to adopt the measures necessary thereto, and to cede to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy yards, docks, magazines and armaments, and all other means pertaining to the public defence, belonging to the now Republic of Texas, and to transfer at as early a day as practicable, the custom houses, and to place such officers as may be appointed therefor, by the government of the United States, in the receipt of all revenue to be after such transfers, derived from impost duties,

tonnage, &c., and fully to do and perform all acts and things necessary to complete our annexation to the government of the United States.

"In order that no inconvenience or collision may arise from the contemplated change of government of Texas, the President of the now Republic of Texas, together with all officers, civil and military, of said Republic, shall continue in the execution of the functions of their several offices, under the laws of said Republic now of force, not inconsistent with the joint resolution for annexation, and in the receipt of all public dues, until the acceptance of our Constitution by the Congress of the United States, and until they be superceded by the officers of the State government, to be hereafter chosen by the government and people of Texas.

"So soon as it shall be officially notified to his Excellency the President of the now Republic of Texas, that the Congress of the United States have accepted the Constitution of the State of Texas, he shall forthwith surrender to the Governor of the State, all the public archives, documents, money, property and papers, belonging to the Republic of Texas.

"On the second Monday in November next, or sooner, if the returns shall be made of the votes for and against this Constitution, it shall be the duty of the President of this Republic, to transmit to the President of the United States, two copies of this Constitution, duly authenticated, together with the evidence of its adoption, as required by the Joint Resolution of the Congress of the United States, one copy of which shall be transmitted by mail, marked upon the envelope 'Constitution of Texas,' and one by special messenger."

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

Lost.

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

The ayes and noes being called on the adoption of the substitute offered by Mr. Rusk, stood as follows:

Ayes—Messrs. President Rusk, Baylor, Caldwell, Cazneau, Gage, Hogg, Horton, Love, Mayfield and Runnels—10.

Noes—Messrs. Armstrong of R., Bache, Bagby, Brashear, Brown, Burroughs, Clark, Cunningham, Cuneys, Darnell, Evans, Forbes, Hemphill, Henderson, Hicks, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Moore, Miller, Navarro, Parker, Rains, Scott, Standifer, Stewart, Tarrant, Ochiltree, Van Zandt, Wood, White, Wright and Young—42.

So the substitute was rejected.

The report of the revising committee was taken up, and the grammatical corrections concurred in.

Mr. Brown offered the following as an additional section :

"That the Ordinance passed by the Convention on the 4th of July, assenting to the overtures for the annexation of Texas to the United States, shall be attached to this Constitution, and form a part of the same."

Which was adopted.

The Schedule was then read a third time and passed.

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

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### WEDNESDAY MORNING, Aug. 27, 1845.

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

Present—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bagby, Bache, 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, Rains, Runnels, Scott, Smyth, Standifer, Stewart, Tarrant, Ochiltree, Van Zandt, White, Wood, Wright and Young.

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

Mr. Gage presented the following Protest, which was ordered to be spread upon the journals :

*To the Hon. the President of the Convention:*

SIR,—Availing myself of the right allowed to me by the rules of the Convention, I respectfully ask leave to present my most solemn protest against the adoption of the six last articles of the Schedule to the Constitution, as well as the manner in which they were passed. The subject of changing the present Government of Texas to that of a State Government, was referred by the Convention to a large and respectable committee, who had reported an ordinance for that purpose, which was not taken up by the Convention, but the present articles introduced, having never been before the Convention at all, were offered in a body as

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