

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.

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, Standefer, 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

amendments to the Schedule upon its second reading. Consideration, discussion, and amendments, were cut off through their passage, by the previous question. As soon as the last article was adopted, the previous question, as usual, was called for and carried, and the articles, without being read over, were ordered to be engrossed and referred to a committee, and in four hours reported back to the Convention with two important proposed amendments, one of which restrained the President from making treaties with foreign powers. This amendment was passed by a vote of 33 ayes to 18 noes, upon which a question of order was raised, that it required a majority of two-thirds to pass it. The President of the Convention decided that a majority was sufficient for its adoption, from which decision an appeal was taken to the Convention, who decided that a vote of two-thirds was required to pass the amendment; thus by indirect means defeating the express will of a majority, and leaving in the hands of the President a power incompatible with our relations and obligations to the United States.

I protest against the article,—1st, because they leave the whole power over the question of annexation in the hands of the President and his Cabinet, who it is notoriously known, were opposed to the terms of annexation as proposed, and were only forced to act by the imperious demands of the people.

2d. Because it retains the present government, with its host of useless officers, who are drawing money from the pockets of the people without performing any material service.

3d. Because this government, which should have given place to a State government, will cost annually near two hundred thousand dollars more than a State government would have done.

4th. Because the people would have had full confidence in a State government, coming as it would, directly from them; whereas, they have none in the present government.

For these reasons, as well as many more which I have not time to give, I solemnly protest against the passage of said articles, and ask that this protest be entered on the journals.

D. GAGE.

I concur and join in the above protest, as well for the reasons assigned, as for many other valid ones that may be given.

J. S. MAYFIELD.

The committee of revision, W. B. Ochiltree chairman, to whom was referred the Ordinance relative to colonization contracts, reported the same back to the Convention, with various corrections of phraseology, &c., which corrections were concurred in by the Convention.

Mr. Love moved to strike out the words "in their inception," in the first section of the Ordinance.

Carried.

On motion of Mr. Love, the word "or" was stricken out, and the word "fraudulent" inserted.

In the 3d section of the Ordinance, Mr. Love moved to strike out the word "such," and also the words "in its inception."

Mr. Mayfield moved to amend, by adding the words "or any person claiming, by or through them, or either of them," after the word "contractors."

Carried.

Mr. Lipscomb offered the following as an additional section :

"And the Legislature are hereby restrained from extending any contract for settling a colony, and from relieving any contractor from the failure of the conditions, or the forfeiture accruing from non-compliance with the contract." Adopted.

Mr. Forbes moved the previous question.

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

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

Ayes—Messrs. President Rusk, Bache, Burroughs, Caldwell, Clark, Cunningham, Forbes, Hemphill, Hicks, Hogg, Horton, Holland, Lewis, Lusk, Moore, Navarro, Runnels, Stewart, Scott, Van Zandt and Wood—21.

Noes—Messrs. Anderson, Armstrong of R., Bagby, Baylor, Brashear, Brown, Cazneau, Evans, Hunter, Jewett, Jones, Latimer of L., Latimer of R. R., Love, Lumpkin, Lipscomb, Mayfield, McGowan, McNeill, Parker, Smyth, Standefer, Tarrant, Ochiltree, White, Wright and Young—27.

So the motion for the previous question, was lost.

Mr. Wright moved to strike out the last section of the Ordinance.

Mr. Forbes moved a call of the Convention.

Lost.

The ayes and noes being called on Mr. Wright's motion to strike out; stood as follows:

Ayes—Messrs. Armstrong of R., Baylor, Bagby, Evans, Jones, Latimer of L., Latimer of R. R., Love, Lumpkin, Lusk, Lipscomb, Mayfield, McNeill, Parker, Runnels, Scott, Smyth, Standefer, Stewart, Tarrant, White, Wright and Young—25.

Noes—Messrs. President Rusk, Anderson, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham,

Forbes, Gage, Hemphill, Hicks, Hogg, Horton, Holland, Lewis, McGowan, Moore, Navarro, Ochiltree, Van Zandt and Wood—24.

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

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

Ayes—Messrs. President Rusk, Armstrong of R., Burroughs, Caldwell, Gage, Hemphill, Hicks, Hogg, Horton, Hunter, Jewett, Latimer of L., Lewis, Lumpkin, Lusk, Lipscomb, Navarro, Parker, Rannels, Scott, Smyth, Standefer, Stewart, Ochiltree, Wood, Wright and Young—27.

Noes—Messrs. Anderson, Bagby, Baylor, Bache, Brashear, Brown, Cazneau, Clark, Cunningham, Evans, Forbes, Holland, Jones, Latimer of R. R., Love, Mayfield, McGowan, McNeill, Moore, Tarrant, Van Zandt and White—22.

So the Ordinance passed.

Mr. Love offered the following as an additional article :

“There shall be one General Land Office in the State, where all the original land titles of the Republic shall be registered, and such subordinate offices as the Legislature may from time to time establish.”

On motion, the rule was suspended.

Mr. Anderson moved to insert after “state,” the words “which shall be at the seat of government.”

Adopted.

Mr. Rusk offered the following amendment :

Strike out the words “all the original land titles of the Republic,” and insert “all titles which have heretofore emanated, or may hereafter emanate from government.”

Adopted.

Mr. Caldwell moved to strike out “shall,” and insert “may,” where it requires the titles to be registered.

Lost; and the article ordered to be engrossed.

On motion, the rule was further suspended, article read a third time and passed.

Mr. Hemphill offered the following article :

“The Legislature shall, at its first session, provide for the application of the vacant lands within the limits of the State, or so much of the same, as may be necessary to the payment of the debts and liabilities of the Republic of Texas.”

On motion of Mr. Anderson, the article was laid on the table.

Mr. Evans, from a select committee, made the following report:

COMMITTEE ROOM, August 27, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention :

The committee to whom was referred the resolution directing an enquiry into the land system of Texas, the amount of appropriated and unappropriated domain, various kinds of titles and claims located and unlocated, amount of forfeited lands, and lands owned by foreigners, and amount of patented lands, and in what countries, &c., have considered of their duties, and report :

Much of the information contemplated by the resolution, the committee was unable to obtain, for want of time, and on account of some defects in the Land Office laws, which will appear by the accompanying letter from the Commissioner of the General Land Office. From this and other communications of the Commissioner—from an inspection of the records in the General Land Office, and other reliable sources of information, the committee are enabled to estimate the superficial extent of Texas at

| | | |
|---|---|----------------|
| - | - | 397,319 sq. m. |
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The total amount of this, which has been appropriated, the committee estimate as follows :

| | | |
|--|--------|---|
| Amount issued by various boards of Land Commissioners, and recommended as genuine by commissioners appointed to detect fraudulent land certificates, | 30,019 | “ |
|--|--------|---|

| | | |
|---|--------|---|
| Amount issued and reported as spurious, | 38,018 | “ |
|---|--------|---|

| | | |
|--|-------|---|
| Amount issued by War Department as bounty and donation claims, | 9,844 | “ |
|--|-------|---|

| | | |
|--|-----|---|
| Amount issued by government, and sold in land scrip, | 578 | “ |
|--|-----|---|

Total amount issued by authorities of Mexico, which appear upon the records of the General Land Office, 34,500 square miles; of this amount, as far as the records show, there appears to be valid claims to the amount of

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|---------------------------------|--------|---|
| | 19,500 | “ |
| Amount estimated to be invalid, | 1,500 | “ |

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|--|--------|--|
| | 99,459 | |
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| | | |
|--|---------|----------------|
| Amount brought forward, | 99,459 | 397,319 sq. m. |
| Amount issued by crown of Spain, and by authorities of Mexico, located, or designed to be located within the old boundaries of Texas, of which there is no record or evidence in the General Land Office, | 7,000 | " |
| Amount claimed by the several empresarios, under the colonization laws of Coahuila and Texas, | 1,388 | " |
| Amount included within the limits of the several grants to contractors under the colonization laws of Texas, | 46,000 | " |
| Amount granted to counties and universities for education, | 1,457 | " |
| The committee feel authorized to take into the estimate the appropriated lands in New Mexico or Santa Fé, and other Mexican States on the Rio Grande. Upon an inspection of maps, and a fair estimate of the population, the committee believes that 66,000 square miles, a low estimate of lands on the east side of the Rio Grande. This country is claimed by Mexico and by the joint resolutions, the adjustment of all questions of boundary is left to the United States. Still the country does rightfully belong to, and is properly included within, the limits of Texas, and the committee has full confidence that the United States will secure this country to Texas; yet it is reasonable to believe, that the United States, in doing this, will secure the inhabitants of the country in the just possession of their lands. | 66,000 | " |
| Add the Cherokee claim, which is about | 2,000 | " |
| These several amounts swell the appropriated domain to | 236,803 | 236,803 " |
| Which deducted from the total, leaves to Texas in public and unappropriated domain, | | 160,516 " |

These estimates, it is believed, approximate very nearly to truth. There is left to Texas an unappropriated country not sufficiently large to subsist the various tribes of Indians now inhabiting this country.

Texas will, doubtless, despoil the Indians of this country, whenever it shall be needed for the occupancy of civilized man.

But upon a survey of the progress of settlement in the southern and western States of the American Union, this country cannot be reached in the next quarter of a century. Should the regular overflow of population press upon this frontier at that period, and should the Indian title be then extinguished, another quarter of a century must elapse before it can be filled up. Taking an average of the last period, the public domain of Texas cannot be sold at an earlier date than 1882. If it can be sold at that time for \$1,25 per acre, the price of public lands in the United States, the public domain of Texas will be worth in the year 1882, \$128,462,400.

If the accounts of traders and travellers are entitled to credit, one half of this country is suitable for the occupancy of the agriculturist. Deducting then one-half for sterile wastes and mountain ranges, the present worth of this fund, at 6 per cent., will not meet the public debt of Texas.

I would seem to the committee, to be the imperious duty of the Convention to reclaim from the unjust and fraudulent possession of the contractor, and unprincipled speculator, those large districts and tracts of country.

L. D. EVANS, Chairman.

On motion of Mr. Darnell, the report was laid on the table for the present.

On motion of Mr. Hemphill, the article offered by himself, applying the vacant lands to the payment of public debts, &c., was taken up.

Mr. Hemphill moved a suspension of the rule.

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

Ayes—Messrs. Baylor, Bache, Brown, Caldwell, Cunningham, Darnell, Evans, Forbes, Hemphill, Hogg, Horton, Hunter, Love, Lipscomb, Moore, Navarro, Parker, Rains, Smyth, Standefer, Stewart and White—22.

Noes—Messrs. President Rusk, Anderson, Armstrong of R., Bagby, Brashear, Burroughs, Cazneau, Clark, Gage, Jewett, Jones, Latimer of L., Lumpkin, Mayfield, McGowan, McNeill, Rannels, Tarrant, Ochiltree Wright and Young—21.

Two-thirds not having voted for a suspension, the motion was lost.

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

Lost.

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

Lost.

On motion of Mr. Cunningham, an enrolling committee of three was appointed to examine the enrolled copy of the Constitution.

Mr. Evans offered the following article :

The Legislature shall prescribe such rules of evidence as will guard and protect the State and the tenant or settler in possession against unjust, forged, fraudulent, forfeited, void or voidable land claims, against claims owned or claimed by aliens, and against illegal locations or surveys.

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

4 O'CLOCK, P. M.

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

The Chair announced the following special committee to superintend the enrolling, &c., and printing of the Constitution :—Messrs. Hemphill, Smyth and Caldwell.

On motion of Mr. Jewett, the resolution for the compensation of the Reporter, was taken up.

On motion of Mr. Rusk, the first blank was filled with "\$5 per diem;" and,

On motion of Mr. Anderson, the second blank was filled with "four hundred dollars."

The ayes and noes were then called on the adoption of the resolution, and stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bache, Burroughs, Caldwell, Cazneau, Cunningham, Evans, Forbes, Gage, Hemphill, Henderson, Hogg, Horton, Holland, Jewett, Jones, Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Navarro, Parker, Runnels, Smyth, Standefer, Stewart, Tarrant, Ochiltree, White and Wood—38.

Noes—Messrs. Bagby, Clark, Hicks, Latimer of R. R., Rains, Scott and Young—7.

Mr. Love offered the following resolution :

Resolved, That Thomas J. Rusk, the President of the Convention, has the approbation and the thanks of the Convention, for the promptness, fidelity and impartiality with which he has

discharged the arduous and responsible duties of his office; and that he carries with him in his retirement the confidence and respect of the Deputies of the Convention.

On motion, the rule requiring the resolution to lie on the table one day for consideration, was suspended, and the resolution *unanimously* adopted.

On motion of Mr. Anderson, the resolution of yesterday, requiring the Secretary of the Convention to procure a well bound book, and record the Journals of the same, &c., was taken up and read.

Mr. Lipscomb offered the following as a substitute :

Resolved, That Joseph Waples be, and he is hereby authorized to record the Journals and proceedings of the Convention in a bound book; and that he be paid at the rate for said services, as was allowed for copying and superintending the printing of the Journals of the last Congress, out of the appropriation for defraying the expenses of the Convention,—the same when completed to be deposited in the office of the Secretary of State.

Which was rejected.

Mr. Young offered the following as a substitute :

Resolved, That the Secretary of the Convention be instructed to have bound in one volume, the Journals and Ordinances of this Convention, and file the same in the Department of State, and that he receive therefor the sum of dollars.

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

Ayes—Messrs. Evans, Latimer of R. R., Bagby, Rains, Scott and Young—6.

Noes—Messrs. Anderson, Armstrong of R., Baylor, Bache, Caldwell, Cazneau, Clark, Cunningham, Forbes, Gage, Hemp-hill, Hicks, Hogg, Horton, Hunter, Jewett, Latimer of L., Lewis, Love, Lumpkin, Lusk, Mayfield, McGowan, McNeill, Miller, Moore, Navarro, Parker, Runnels, Smyth, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt and White—36.

So the substitute was rejected.

The question was then taken on the original resolution, which was adopted.

On motion of Mr. Bache, the resolution of yesterday, giving extra compensation to the Post Master of Austin, for his services during the session of the Convention, was taken up.

Mr. Bache moved to fill the blank with \$100.

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

Ayes—Messrs. President Rusk, Anderson, Armstrong of R.,

Bache, Caldwell, Cazneau, Forbes, Hemphill, Hunter, Irion, Jewett, Jones, Lewis, Love, Lipscomb, Mayfield, McGowan, McNeill, Miller, Navarro, Rains, Stewart, Tarrant, Ochiltree and White—25.

Noes—Messrs. Baylor, Burroughs, Clark, Cunningham, Evans, Gage, Hicks, Hogg, Horton, Latimer of L., Latimer of R. R., Lumpkin, Lusk, Moore, Parker, Scott, Smyth, Standefer, Wright and Young—20.

So the blank was filled with \$100, and the resolution was adopted.

Mr. Jewett offered the following resolution:

Resolved, That the Secretary shall superintend the distribution of the volume of the Reports to be prepared by the Reporter of the Convention, and that two hundred and fifty volumes of the Reports be printed.

On motion, the resolution was laid on the table.

Mr. Lewis offered the following resolution:

Resolved, That after the adjournment of the Convention, all accounts which may be authorized by the Convention to be contracted, such as printing, &c., and which cannot, from the nature of the circumstances, be signed and countersigned by the President and Secretary of the Convention before the President should leave, a certificate of the Secretary alone shall be sufficient evidence of the correctness of the account, and the Treasurer of the Republic will pay upon the same.

Resolved, further, That the Secretary of the Convention shall, as soon as the Journals are published, distribute to each member of the Convention, to the Chief Justices of the several counties, to each member of the 9th Congress of the Republic of Texas, to the President and Heads of the Departments of the Republic of Texas, and to the President and Heads of Departments of the United States, a copy of the same; and in order to facilitate the distribution of the journals in the East and North, the Secretary is authorized to convey by private means, to the town of Washington, the number of copies required for that section of the country.

And the Secretary is further required, so soon as the records of the Convention are brought up, to deposite the same, together with the enrolled copy of the Constitution and the Ordinances adopted; also, the printed journals remaining after the distribution as above, in the office of the Secretary of State of the Republic of Texas:

On motion, the rule was suspended.

Mr. Forbes moved that the members of the 9th Congress be stricken out. Lost.

On motion of Mr. Cazneau, the resolution of Mr. Ochiltree of yesterday, giving extra compensation to the officers of the Convention, was taken up.

Mr. Scott moved to strike out "\$5" and insert "\$4."

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

Ayes—Messrs. Bache, Bagby, Clark, Cunningham, Hicks, Hogg, Jones, Lewis, McNeill, Parker, Rains, Scott, Stewart, Smyth, Standefer and Young—16.

Noes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Brashear, Burroughs, Caldwell, Cazneau, Forbes, Hemphill, Henderson, Horton, Hunter, Irion, Jewett, Latimer of L., Latimer of R. R., Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, Navarro, Ochiltree and White—26.

Lost.

The question was then taken upon the adoption of the resolution, and carried.

Mr. Rusk moved that the interpreter be allowed four dollars per diem.

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

Ayes—Messrs. President Rusk, Armstrong of R., Baylor, Brashear, Cazneau, Evans, Forbes, Hemphill, Hunter, Irion, Jewett, Jones, Love, Mayfield, McGowan and Parker—16.

Noes—Messrs. Anderson, Bache, Bagby, Burroughs, Clark, Cunningham, Darnell, Henderson, Hicks, Hogg, Horton, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, McNeill, Rains, Scott, Smyth, Standefer, Stewart, White, Wright and Young—25.

Lost.

On motion of Mr. Darnell, the resolution authorizing Mr. Burroughs to receive the pay of Mr. Oliver, &c., was taken up and adopted.

On motion of Mr. Burroughs, the Convention adjourned until 8 o'clock, P. M.

8 O'CLOCK, P. M.

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

Mr. Mayfield offered the following resolution:

Resolved, That the Doorkeeper be allowed the sum of one dollar per day for furnishing water, &c., for the use of the Convention, to be paid out of the contingent fund of the same.

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

Mr. Parker offered a resolution, allowing mileage from the city of Houston, to George Fisher, interpreter.

Mr. Young moved to amend, by inserting the names of Dr. John S. Ford, Dr. S. Peters, Edwin Morehouse, and Daniel Culp.

Which amendment was adopted.

The question was then taken on the resolution, which was rejected

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

Lost.

Mr. Cazneau moved to adjourn until half-past 7 o'clock to-morrow.

Lost.

On motion, the Convention adjourned until 7 o'clock to-morrow morning.

THURSDAY MORNING, Aug. 28, 1845.

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

Present—Messrs. President Rusk, Anderson, Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Evans, Forbes, Gage, Hemphill, Henderson, Hicks, Horton, Hogg, 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, Standefer, Stewart, Tarrant, Ochiltree, Van Zandt, White, Wright, Wood and Young.

The journal of the preceding day was read and adopted.

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

Hon. THOS. J. RUSK,

President of the Convention :

We, the undersigned, members of the select committee on the land titles, &c., of the Republic, not having had sufficient time,

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

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