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

Friday, Aug. 8th, 1845.
Half past 8 o'clock, A. M.

The Convention met pursuant to adjournment, and was opened with prayer by the Chaplain.

The Committee on General Provisions, Isaac Van Zandt, chairman, made the following report, which was laid on the table, to come up with the orders of the day.

Committee Room, Aug. 8th, 1845.

To the Hon. THOMAS J. RUSK,

President of the Convention:

The Committee on General Provisions have had under consideration two resolutions which were referred to them, on the subject of slaves: after mature deliberation, they have instructed me to submit the following as a substitute for both, and respectfully recommend its adoption:

ISAAC VAN ZANDT,
Chairman of the Committee.

Substitute.

The Legislature shall not have power to pass any laws for the emancipation of slaves without the consent of the owner; nor shall the owner emancipate his slaves without the consent of the Legislature, unless he sends them beyond the limits of the State. The Legislature shall pass laws to prohibit cruelty to slaves, and unusual punishments.

2d. In the prosecution of slaves for crimes of a higher grade than petit larceny, the Legislature shall have no power to deprive them of a trial by an impartial jury, in the District Court.

The same Committee made the following report:

Committee Room, Aug. 8, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention:

The Committee on General Pravisions of the Constitution, to whom was referred two resolutions proposing to vest the Legislature with power to prohibit the circulation of lithographed, and other bills of individuals and companies, as money, have had the same under consideration, and

have instructed me to report the following substitute, and respectfully recommend its adoption.

ISAAC VAN ZANDT,
Chairman.

Substitute.

The Legislature shall prohibit individuals from issuing bills, checks, promissory notes, or other paper, to circulate as money.

Which was laid on the table, to come up among the orders of the day.

Mr. Jewett moved a reconsideration of the vote adopting the additional section offered by Mr. Runnels, on yesterday, to come in after the 6th section, requiring the Legislature to provide by law, for the compensation of all officers, &c., and prohibiting them from granting extra compensation to any such officer, &c.

Which motion was laid on the table.

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

ORDERS OF THE DAY.

The amendment of Mr. Lewis to the 31st section of the report of the Committee on General Provisions, providing that "no money shall ever be borrowed on the faith of the State," being first in order was taken up.

Mr. Lewis moved to refer the amendment to a select committee. Lost.

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

Ayes—Messrs. Armstrong of J., Bache, Brashear, Burroughs, Cazneau, Cuney, Davis, Gage, Hogg, Hunter, Lewis, Lumpkin, Parker, Power, Runnels, Standefer and Ochiltree—17.

Noes—Messrs. President, Anderson, Armstrong of R., Baylor, Bagby, Brown, Caldwell, Clark, Cunningham, Darnell, Evans, Everts, Forbes, Hemphill, Hicks, Horton, Howard, Holland, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Love, Lusk, Lipscomb, McGowan, M'Neill, Miller, Moore, Navarro, Rains, Scott, Smyth, Tarrant, Van Zandt, White, Wright and Young—39.

Rejected.

Mr. Armstrong of J., moved to strike out all after the word "dollars," in 2d line, 31st section. Lost.

Mr. Anderson moved to insert, after the word "dollars," "at any one time," in 2d line. Lost.

Mr. Armstrong of J., moved to strike out the words "except in case of war." Lost.

Mr. Forbes moved the previous question.

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

The main question being the adoption of the 31st section as amended, the ayes and noes were called for.

Mr. *Ochiltree* said: He should vote *aye*, for the purpose of moving a reconsideration, with a view to offer a substitute.

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

Ayes—Messrs. President, Anderson, Armstrong of R., Bagby, Bache, Brashear, Brown, Burroughs, Cazneau, Clark, Cunningham, Darnell, Forbes, Hicks, Horton, Howard, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Love, Lusk, Lipscomb, McGowan, McNeil, Miller, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Tarrant, Ochiltree, Van Zandt, White, Wright and Young—40.

Noes—Messrs. Armstrong of J., Baylor, Caldwell, Cuney, Davis, Evans, Everts, Gage, Hogg, Hunter, Lewis, Lumpkin, Runnels, and Standefer—14.

So the section was adopted.

Mr. Hogg offered the following amendment to the 32d section:

Add, at the beginning, "The Legislature shall at the first session thereof, and may at any subsequent session, establish new counties, for the convenience of the inhabitants of such new county or counties, provided that." Which amendment was adopted.

Mr. Hicks offered the following amendment to the 32d section:

Add, after the word "contents," in 3d line, "nor shall any county site be removed, unless two-thirds of the qualified voters of such county shall vote for such removal." Rejected.

Mr. Tarrant offered the following amendment, to come in in 3d line after the words "square miles," "except the county of Bowie."

Mr. *Tarrant* said: The county he represented was so situated that it was hard to be divided, and could not have 900 square miles; it must lack some fifty or sixty. It would be impossible to cross Sulphur fork so as to take in a sufficient quantity. He therefore moved to except the county of Bowie. He would not have made the motion, had it not been a matter of great consequence to that county, which at present was entirely too large.

The amendment was adopted.

Mr. Everts moved to strike out all after the word "contents," in 3d line, 32d section. Lost.

Mr. Lipscomb moved to amend by adding, after the words "square miles," the words "unless by the consent of two-thirds of the Legislature." Adopted.

The section, as amended, was then adopted.

Mr. Davis moved to strike out the 33d section.

He said: I hold the doctrine to be well established, that a State has the right to exercise jurisdiction throughout her chartered limits. If we adopt this, it would be believed that she could not exercise jurisdiction throughout her chartered limits without the consent of the United States. I hold that it is not necessary, if we acquire territory, to pass any act of the Legislature extending the jurisdiction of the State. I see no necessity for asking permission of the government of the United States, to extend our jurisdiction; because as soon as we acquire territory, jurisdiction extends of course. I hold that separate communities cannot exist within the limits of a State.

The motion was lost.

Mr. *Rusk* moved to reconsider the vote refusing to strike out the 33d section. He said: I make the motion now for the purpose of saving time. I sincerely wish that the future Constitution of Louisiana had remained locked up until our labors were over. We have received no benefit from it, and have come very near incorporating some articles which would have been ruinous to Texas. We can reflect for ourselves, and are capable of forming a Constitution for ourselves. I see a difficulty in regard to the Western boundary of Texas. Mexico has insisted upon this very Colorado as the true boundary, and will hereafter perhaps contend for the Nueces. It will be gravely asked, why did we put this article in the Constitution, unless as a tacit admission that we have no claim to the Rio Grande; why did we insert an article authorizing our acquisition from the United States of this very territory? We claim the right to the Rio Grande, we claim the entire limits defined in 1836. We have maintained ourselves in that territory. The Mexican generals in treating with us ordered their troops to go beyond the Rio Grande; that was a tacit acknowledgment of our claim to that boundary. If we adopt this in our Constitution, will it not be a tacit acknowledgmet that we have not a just claim to that territory? I may be in error; but I trust the Convention will not adopt it, because they find it in the Constitution of Louisiana.

Mr. *Hemphill* said: He hoped it would be thrown out; it might do harm, but could not do any good.

After some slight discussion, the vote was reconsidered.

Mr. Rusk then moved to strike out the 33d section.

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

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Gage, Hemphill, Hicks, Hogg, Horton, Howard, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lusk, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standifer, Tarrant, Ochiltree, White, Wright and Young —52.

Noes—Messrs. Evans, Hunter, and Van Zandt—3.

So the section was stricken out.

Mr. Bache offered the following as an additional section, to come in as the 33d section

"The Legislature shall have power to erect new States out of the territory of this State, of convenient size, not exceeding four in number, in addition to this State, whenever sufficient population may authorize such erection, agreeably to the provisions of the Constitution and laws of the United States, to be admitted as separate States into the Union."

Mr. Hemphill moved to refer the additional section to the Committee on General Provisions. Lost, and

On motion of Mr. Rusk, referred to the Committee on the Judiciary.

On motion of Mr. Hemphill, the report of the Committee on General Provisions was laid on the table for the present.

Mr. Hemphill, chairman of the Committee on the Judiciary, made the following report:

Committee Room, Aug. 8, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention:

The Committee on the Judiciary, to whom was referred the propriety of declaring in the Constitution, that "all persons who left the country for the purpose of evading a participation in the revolution of 1836, or who refused to participate in it, or who aided or assisted the Mexican enemy, shall forfeit all rights of citizenship, and such lands as they may hold in this State," have instructed me to report against the expediency of inserting such a provision in the Constitution. The ordinary powers

of legislation will authorize the adoption of the necessary means for the investigation of this and other classes of forfeitures, and such disposition and appropriation of them as may be most conducive to the ends of public justice and advancement of the common welfare.

All of which is respectfully submitted.

JOHN HEMPHILL,
Chairman.

The same committee made the following report:

Committee Room, Aug. 8, 1845.

The Committee on the Judiciary, to whom was referred the propriety of inserting, among the General Provisions of the Constitution, the following section, viz: "The legal effects of all marriages now, or heretofore subsisting, shall, for the future, be held and taken to be the same as though such marriages had been good and valid from the beginning: *provided*, that nothing herein contained shall work any revocation of vested rights," have had the same under consideration, and have instructed me to report, that the adoption of the provision would be unnecessary and inexpedient. The laws already legalise and confirm marriages where the rites of matrimony have been celebrated by bond, or by officers supposed to be not properly authorized for that purpose.

The Legislature, in the exercise of its ordinary powers, will have competent authority to legalise marriages not already confirmed; and in many particulars, to establish, by proper regulations, the rights, duties and obligations arising from the contract of marriage.

And your committee pray to be discharged from the further consideration of the subject.

JOHN HEMPHILL,
Chairman.

The same committee also made the following report:

Committee Room, Aug. 8th, 1845.

The Committee on the Judicial Department of the Government, to whom was referred a resolution instructing them to inquire into the propriety of authorizing the Legislature to establish separate chancery courts, whenever it shall be deemed expedient to do so, have had the same under consideration, and have instructed me to report—that the present system of administering justice in the same court, according to principles of both law and equity, or either, as the circumstances of the controversy may demand, has been long established—is well understood, and possesses too many advantages to be lightly abandoned; they therefore deem it inexpedient to confer on the Legislature, the authority

contemplated by the resolution; and pray to be discharged from the further consideration of the subject.

JOHN HEMPHILL, Chairman.

All of which reports were laid on the table, to come up among the orders of the day.

Mr. Gage moved to take up the first report relative to forfeitures.—Lost.

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

Mr. Horton offered the following, as a substitute for the 34th section:

"*Mode of amending the Consitution.*

"The Legislature, whenever two-thirds of each house shall deem it necessary, may propose amendments to the Constitution; which proposed amendments shall be fully published in print, at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next general election which shall be held for representatives, to open a poll for, and make a return to the Secretary of State, for the time being, of the names of all those voting for representatives, who have voted on such proposed amendments: and if, thereupon, it shall appear that a majority of all the citizens of this State, voting for representatives, have voted in favor of such proposed amendments, and two thirds of each house of the next Legislature shall, after such election, and before another, ratify the same amendments by yeas and nays, they shall be valid to all intents and purposes, as parts of this Constitution: *Provided*, that the said proposed amendments shall, at each of the said sessions, have been read on three several days in each house."

Mr. *Horton* said: I admit that this is not abstracted from any portion of the Constitution of Louisiana. The object of introducing it as a substitute is simply this: We anticipate a very considerable emigration to this State. By and by factions may spring up, become well organized, and endeavor to alter some feature of the Constitution which we desire to preserve if possible. This section will give greater stability to the Constitution. It will provide against any excitement which may be gotten up among the people, and give them time to correct any error into which they may fall.

Mr. *Van Zandt* said: I am not exactly satisfied with either proposition: but between the two, I prefer the section as reported.

Mr. *Baylor* said: I hope the proposed amendment will be made. I think it is calculated to give greater stability to the government, and we know that it is one of the great considerations in forming a republican

government, not only to secure the great and essential principles of liberty and protection of the person and property, but at the same time to give that stability so desirable in popular governments. Again: I think it will be found in practice better calculated to secure a certain interest concerning which almost every gentleman in this House has manifested such an extreme sensibility; I mean the great slave interest. If we have the population which we expect, two thirds of the population may be very small slaveholders, and perhaps one-third will not be the owners of a slave at all. A provision of this kind was adopted in Alabama, after great deliberation.

Mr. *Brown* said: If I could have believed that such a motion would have been successful, I would have moved to strike out the whole of the 34th section, and left no means in the power of the people of altering the Constitution except by calling a Convention. I would have it so that when an attempt is made to change the Constitution in one respect, they should at least incur the hazard of changing it *in toto* In the Virginia Convention, it was proposed to make a provision of this kind for changing the Constitution; the subject was discussed, and the vote stood 68 to 23, and among those who voted against it were the names of Madison, Marshall, and a host of distinguished sages and patriots. They had such a proposition before them; they rejected it, and left the Constitution without any means of alteration except a Convention. I had no hopes that any motion of the sort to which I have alluded would prevail; I therefore did not make it. The next thing to that is to make it as difficult as would be consistent with reason and the necessity of things to make a change in this Constitution. And the proposed amendment seems preferable to the section as reported.

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

Mr. *Bache* said: I shall vote against the amendment; because I have no idea of giving a veto power to the Legislature against the people.

Mr. *Tarrant* said: Though I would prefer another provision, yet as this interposes some degree of difficulty in the way of altering the Constitution, I shall vote *aye*.

The ayes and noes being called, on the adoption of the substitute, were as follows:

Ayes—Messrs. President, Anderson, Armstrong of R., Baylor, Bagby, Brown, Burroughs, Caldwell, Cazneau, Cunningham, Cuney, Davis, Everts, Forbes, Gage, Hemphill, Hicks, Hogg, Horton, Howard, Irion, Jewett, Kinney, Latimer of L., Lewis, Love, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Power, Rains, Runnels, Scott, Standefer, Tarrant, Ochiltree and Wright—40.

Noes—Messrs. Armstrong of J., Bache, Brashear, Clark, Darnell, Evans, Hunter, Latimer of R. R., Lumpkin, McNeill, Parker, Smyth, Van Zandt and White—14.

So the substitute was adopted.

Mr. Anderson offered the following amendment to the substitute:

"And the same amendment shall not be made oftener than once in every five years".

Mr. *Anderson* said: It imposes some restriction as to time. It is necessary to throw as many difficulties in the way as the nature of the case will admit of. Experience has shown the necessity of restrictions of this kind.

Mr. *Lipscomb* said: I hope no such provision will be adopted. I am afraid that after doing our best, we shall make but bungling work of the Constitution. The people may discover, before they vote upon this Constitution, that there are great objections to it, and that many amendments ought to be made; but they will vote for it, so anxious are they to get into the Union, with all its sins and imperfections upon its head. And I am in favor of leaving it to the people to make these amendments. I would prefer to have no other mode of alteration except by way of Convention. But I so much fear imperfections of this kind, that I hope no restriction will be imposed, further than is absolutely necessary.

Mr. *Anderson* said: All admit that sudden changes are injurious to the community. I am well aware that there may be defects in the Constitution, but it is a question whether it would not be better to bear the evils resulting from them, than to risk those which might possibly creep in. This provision would prevent confusion in the Legislature. I do not stickle for the period of five years; but I think some such restriction necessary.

The amendment was rejected, and the section, as substituted, adopted.

Mr. Evans offered the following, as an additional section, to come in after the 34th section:

"for the purpose of securing to the people, a safe mode of changing or improving their Constitution, the Legislature shall, every ten years, submit to a vote, a proposition to convene a Convention; and if a majority of the qualified voters of the State are in favor of a Convention, the Legislature shall provide for convening a Convention."

Rejected.

Mr. Navarro offered the following, as an additional section, to come in as the 35th section:

"No soldier shall, in time of peace, be quartered in the house, or within the enclosure of any individual, without the consent of the owner; nor in time of war, but in a manner prescribed by law."

Adopted.

Mr. Evans moved to strike out the first section, under the head of *impeachment*. Lost.

On motion of Mr. Young, the first section was adopted.

Mr. Evans moved to strike out the 2d section. Lost.

On motion of Mr. Runnels, all after the word "Senate," in the 3d line of the 2d section, was stricken out, and the section as amended was adopted.

In 5th section, Mr. Howard moved to strike out all after the word "impeachment" in 3d line. Lost.

Mr. Forbes moved to strike out the words "their functions," and insert "the functions of their office." Lost.

Mr. Love moved to strike out the words "their functions," and insert "the duties of their office." Carried; and the 5th section as amended was adopted.

In the 6th section, 2d line, Mr. Evans moved to strike out the word "other." Lost.

Mr. Everts moved to insert the word "county," after the word "state," in 6th section. Lost.

On motion of Mr. Forbes, 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 Convention took up the report of the select committee, D. Gage, chairman, to whom was referred the 7th section of the General Provisions; and the following amendments recommended by said committee, were adopted:

In the 1st line, strike out the words "at large;" and strike out the entire section after the word "law," in the 3d line

The Convention took up the report of the committee on General Provisions, upon the subject of vesting the Legislature with power to prohibit the circulation of lithographed bills, &c., as money.

Mr. Hemphill moved to insert, after the word "individuals," the words "or corporate bodies." Carried.

The substitute, as amended, was then adopted, to come in after the 28th section.

Mr. Evans offered the following, as an additional section, to come in between the 6th and 7th sections:

"The Legislature shall never legislate upon any private claims—individual or separate case; no relief law, special law, or individual law, shall ever be passed; no resolution expressing the opinion of the Legislature, or eulogizing abstract principle, party, or individual, shall ever be adopted."

Rejected.

Mr. Evans moved to strike out the 1st, 2d, 3d, 4th and 5th sections, and the word "other," in the 6th section, under the head of "impeachment:" which motion was seconded by Mr. Ochiltree.

Mr. Runnels moved to re-consider the vote adopting the 1st section, under the head of "impeachment."

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

Ayes—Messrs. Anderson, Bache, Brashear, Caldwell, Cazneau, Evans, Everts, Gage, Hunter, Latimer of R. R, Lewis, Love, Lusk, McGowan, McNeill, Power, Runnels, Standifer and Ochiltree—19.

Noes—Messrs. President, Armstrong of J., Armstrong of R., Baylor, Bagby, Burroughs, Clark, Cunningham, Cuney, Davis, Forbes, Hemphill, Hicks, Hogg, Horton, Howard, Holland, Irion, Jewett, Kinney, Latimer of L, Lumpkin, Lipscomb, Moore, Navarro, Parker, Rains, Scott, Smyth. Tarrant, Van Zandt, White, Wright and Young—34.

So the Convention refused to re-consider.

On motion of Mr. Van Zandt, the Convention took up the sections on the subject of slaves, reported by the committee on General Provisions, to come in after the 18th section.

Mr. *Lusk* said, he wanted it inserted that no owner shall be permitted to emancipate his slaves, without providing that they shall not become a charge upon the community.

Mr. *Moore* said: The object of the gentleman is attained by the provision that owners shall no emancipate their slaves without the consent of the Legislature. It is to be supposed that the Legislature will not permit it without such provision.

Mr. *Lewis* said, he thought the object was not provided for. He thought that if emancipated slaves were to remain in the State, the owner should be required to make provision to maintain them.

The substitute offered by Mr. Runnels was adopted.

Mr. *Hemphill* said: There is a part of that section relating to the trial of slaves which I do not like well. If they were to rise in insurrection, I think it would be difficult to comply with that provision of the section, unless you make some extraordinary provision for the District Courts sitting at a different time from now. In case of insurrection, it would be necessary to establish a court differently constituted from the District Court. It is almost impossible, at present, to punish a white person, and it would be equally so to punish a slave, with the same privileges. In relation to the clause which speaks of cruelty, I think it better to use a different mode. In some of the States, as Alabama for instance, owners are obliged to treat their slaves with humanity, and provide for them necessary food and clothing. As to cruelty, there are very different degrees of it.

Mr. Hemphill offered the following amendment to the substitute: after the word "laws," strike out the words "to prohibit cruelty to slaves, and unusual punishments," and insert in lieu thereof, the words "to oblige the owners of slaves to treat them with humanity, and to provide for them necessary food and clothing."

Mr. *Runnels* said: Providing for the trial of slaves in the District Court would amount to giving them no trial at all. They will be hung without it, as in many of the States, in case of insurrection. Unless a summary mode of trial is provided in such cases, the innocent will be punished for the guilty. I will offer an amendment.

Mr. Hemphill's amendment was adopted.

Mr. Van Zandt moved to insert after the word "larceny," the words "except in cases of insurrection;" which was adopted.

Mr. *Hemphill* said. I will move to strike out all after the words "impartial trial." If I cannot get the whole, I will move to strike out that part relating to the District Courts A very singular state of things exists in relation to slavery. In one respect, slaves are property, and in another, they are human beings. It is not to be supposed that the same laws apply to them which apply to white persons. In many points of view they are property, as much as horses and cattle. I think if we say any thing at all about the justice to be meted out to slavery, it is sufficient to say that they shall have an impartial trial. In the State from which I come, they have as impartial justice as any where in the world. They are tried by two magistrates, and from three to five freeholders. They have no indictments, but a plain statement of facts; and all the principles of law, except the technicalities, are as much observed as in other trials.

Mr. Hemphill offered the following, as a substitute for the 2d section of the report of the committee on General Provisions, under the head of slaves:

"The Legislature shall provide by law, for the punishment of offences committed by slaves; but they shall have no power to deprive them of an impartial trial."

Mr. *Van Zandt* said: I shall oppose the motion. I believe that humanity and every other consideration requires that we should secure to our slaves a proper trial. A simple provision in the Constitution, that they shall have an impartial trial, leaves it entirely open; and I believe we had better say nothing upon the subject at all. I believe that the only way to secure them an impartial trial is the ordinary course in the District Court. I have lately witnessed a case in my own county; six or seven slaves were accused of murder, and four of them were brought up for trial and convicted, and three were executed. I believe that the affect upon the negroes was fourfold greater than it would have been, if they had been taken up by the citizens and executed without going through the ordinary forms of trial. I believe this provision a good one; it is one which is in force at present in this country, and one which I hope will not be changed.

Mr. *Lipscomb* said: I view the subject in a different light from the gentleman from Harrison. I believe that by inserting this clause providing for a trial in the District Court, we shall not only endanger ourselves, but that kind of property. I have known a great many such trials in the District Court. The first law on the subject made in Alabama, granted the slaves the same trial as white persons in the District Courts. As witnesses, they are about the court house, and hear every thing that is going on, and some things calculated to raise inquiries which may disturb their peace and contentment in their condition. It is impossible for them to be told that they are equal to their masters there, without being led to inqnire why they are not equal every where else? These considerations induced a change in the law. I am not so familiar with the operation of the new law, not having been upon the bench since that time. But I believe it gives general satisfaction there, as it does in the other slave states. When we grant them an impartial trial, we do all that humanity can require. It is said they cannot have that, because they are helpless and belong to a different class from those who try them. But the interest of the master is a most powerful defence thrown around them. When a slave is tried for crime, his owner's interest is involved; and that owner will see that he has an impartial trial. The interest of all slaveholders is enlisted, that they shall not be condemned upon slight pretext. I believe slavery to be a permanent institution. I believe that it rests with ourselves to make it permanent. It is for the interest of the owner, and the happiness of the slave, that the latter should know his inferiority to the white man in every relation of life.

Mr. *Ochiltree* said: I hope, Mr. President, that the amendment offered by the gentlemaa from Washington will not be adopted. As the gentleman from Harrison says, I believe that humanity, policy, and the best interests of society demand that it should not be adopted. I think I see in the motion of the gentleman from Washington, the traces of early prejudices and habits of life. It is perhaps because it is a feature of the institutions of his native state, and from feelings connected with that chivalric little state, that he is induced to support this proposition. I think there are many reasons why it should not prevail. Whilst I would most watchfully guard against any interference whatever with this particular class of property, whilst I would snuff in the tainted breeze the most distant approach of such interference, whilst I would throw round our peculiar institutions all possible guards to protect them against malign influences, I yet hope and trust that we shall not forget that these creatures are human beings, that they are entitled at least to some of the common privileges of mankind, and that they should not be denied, when their lives are to pay the forfeit of crime, the privilege of being tried by a man learned in the law, and a jury not entirely made up of individuals prejudiced against them. I, sir, have witnessed this contemptible mockery of the trial of slaves before a magistrate: I have seen these unfortunate beings arraigned before men ignorant of the first principles of law, and the elementary rules governing trials; individuals greatly aggravated at the crimes alleged to have been committed by the negroes before them, and obstinately believing that the best interests of society demanded their immediate extermination. I have seen them condemned and hung, when I have thought them as innocent as they possibly could be of any crime on earth Who is there that does not recollect the dreadful scenes which were witnessed in the State of Mississippi some years ago, when hundreds were thus hastily tried and sent at once unanointed and unannealed into the presence of their Maker?

I have never seen the relations between master and slave in a better condition than in the State of Alabama. I have never seen elsewhere the distinction more marked, or a system more conducing to peace and quiet on the part of the slaves, and confidence and security in the white population. Under the Constitution of that State, the Legislature has assumed the authority to provide for the trial of slaves before the judges of the county counts and two associate justices, to which plan I would have no objection here, if we had a corresponding system of courts, six of the jury are required to be slaveholders. It was thought competent in the Legislature of Alabama to pass a law of this sort, and it will be competent in ours. if the provision which I prefer is adopted in this Constitution, to provide that slaves shall have the right of challenge, that they shall have the right of being tried by individuals who have not formed and expressed an opinion touching their guilt or innocence: that they shall not be tried for their lives by individuals who will take with them into the jury box all these prejudices to which so many are un-

fortunately subject with regard to this particular species of property. I appeal to my course upon this floor, to the observation of every one within the sound of my voice, to bear testimony to my strong and abiding desire to guard this class of property with the strictest vigilance. But I trust in God that this Constitution will guarantee them a fair trial when their lives are at stake, that they will not be denied the common privilege of being brought before a judge learned in the law, and a jury summoned by the sheriff of the county, with the right of challenge, who will solemnly sit upon their case and render a righteous verdict. This will have a most powerful effect upon the slave population at large. They will see that if they commit offences, impartial and rigorous justice will be meted out to them. But the most morbid and dangerous feelings only will be excited in their bosoms, if they are to go through the mere mockery of a trial before an incompetent magistrate and a prejudiced jury, upon a mere statement of facts; if they are to be hastily taken out and hung, in many instances without a show of guilt. I hope and trust the section will be allowed to remain as it is.

Mr. *Davis* said: Mr. President, If slaves are to be tried before the District Court in cases of insurrection, they never will be tried at all. Gentlemen say there is no danger that negroes will not have a fair and impartial trial. Now, sir, I have seen them tried; and I have never yet seen a negro put upon his trial, when his master has not stood behind his back, with his purse open, and employing the best lawyers in the country to defend him. Man will be governed by his interest. I think it may be left to the discretion of the Legislature to organize a court to try them. I do not think it proper or prudent that they should be tried by the District Judges. They may lie in jail 12 or 15 months before their trial can be had. I think an impartial trial can be had. It is the interest of the masters to give them a fair trial, and they will be governed by their interest in this matter. Why not say that an intelligent jury should be summoned; and I presume that the Legislature will make provision for such a jury, and if a District Judge cannot be obtained, and there is no county court, to have these trials before an intelligent justice of the peace. Learned counsel would be employed, and the trial would be as fairly conducted as that of the white man in the District Court. I say that it is the interest of the slaveholder to protect the slave, and it is the interest of the individual owner, unless in case of flagrant outrage, to have a slave acquitted; even if he is not disposed to keep him, he may send him off and sell him. If slaves are to lie in jail from term to term of the District Cour, the expense to the State of keeping them will be enormous. I think the Legislature should have the right to organize a proper court to give them a summary trial. I entertain the opinion confidently that they can have a fair and impartial trial under such a court as would be organized by the Legislature.

The ayes and noes were called on the amendment, and stood as follows:

Ayes—Messrs. President, Armstrong of J., Armstrong of R., Bache, Brown, Caldwell, Cuney, Davis, Gage, Hemphill, Hicks, Jewett, Lumpkin, Lusk, Lipscomb, M'Neill, Parker, Runnels, Scott, Tarrant, and White—21.

Noes—Messrs. Anderson, Bagby, Baylor, Brashear, Burroughs, Cazneau, Clark, Cunningham, Evans, Everts, Forbes, Henderson, Hogg, Horton, Howard, Holland, Hunter, Irion, Latimer of R. R., Lewis, M'Gowan, Moore, Navarro, Power, Rains, Smyth, Standefer, Ochiltree, Van Zandt, Wright and Young—31.

So the amendment was rejected.

Mr. *Runnels* offered, as a substitute to the section of the committee, the clause in the Alabama Constitution, under the head of slaves.

He said: It is founded in humanity. If there is not some summary mode of trial adopted, in the time of excitement the people will take the law into their own hands, and inflict death upon the innocent as well as the guilty. The Legislature will no doubt act with wisdom, and give the slave a fair and impartial trial, at the same time protecting the owner.

Mr. *Moore* said: We are told at this time by our friends in the United States, that the clause in our Constitution relating to slavery will be attacked when presented to the American Congress. How much better will it be to adopt one that has been adopted by that Congress—one which has passed the ordeal! I believe we cannot select one more perfect than this, which has been fully tried and found beneficial.

Mr. *Lusk* offered the following proviso:

"Provided the Legislature shall not have the power to authorize any person to emancipate their slaves, unless they send them out of the State."

He said: If they are emancipated, I want to send them to some other country, to Africa or elsewhere. I am opposed to having free negroes here. If we have abolitionists among us, as has been frequently suggested upon this floor, by the assistance of those in the north, they may pay the money and buy up the slaves of a whole county, turning them loose upon society. I shall vote against the whole section, unless it embraces some provision of this kind.

Mr. *Runnels* said he would accept the proviso.

Mr. *Van Zandt* said, if accepted, he should wish the whole section rejected.

Mr. *Runnels* said, he would not accept it, but let the question be taken.

The proviso was rejected, and the substitute offered by Mr. Runnels was adopted.

Mr. Van Zandt moved to substitute the 2d section offered by Mr. Runnels, by adopting the 2d section of the report of the committee on General Provisions, in lieu thereof.

Mr. *Runnels* said: I hope the motion will not prevail. I will assure the gentleman, and those who think with him, that if they adopt the mode they seem disposed to adopt, it will produce a state of things injurious to the State as well as the owner, under high excitement, many innocent beings will be punished.

Mr. *Van Zandt* said: I have seen cases, for I was raised in a slave country, where slaves have been arrested upon a slight rumor—convicted upon testimony which would not have been sufficient in the case of a white man, and executed. Every one knows how easy it is to get up these reports against slaves. Although we have provided that various courts may be established, we do not know whether the Legislature will establish even county courts. They may adopt a system by which every planter may have half his slaves swept off. In cases of murder and arson, at least, slaves ought to be entitled, for the benefit of the slave holder himself, to a fair trial in the District Court. I call for the ayes and noes.

Mr. *Hemphill* said: I do not see the necessity of a trial in the District Court, that negroes may be fairly tried who may be charged with murder or arson. If such a provision is made, they will never be taken before the District Court, but they will be hung before they get there. In the county of Washington, a negro was lately hung without a trial. I venture to say that if a negro should be taken up for burning down a house to night, he never would be tried before the District Court; he would be hung before sunset to-morrow. Whereas, if a tribunal were established for a summary trial, he would have the benefit a trial, and perhaps would be able to prove to the satisfaction of the court and jury that he is not guilty. In this country, where we have no jails, we have never been able to secure a proper administration of criminal justice, even where white persons are committed; much less shall we be able to do so, if all slaves accused of crime are obliged to be kept in jail at the expense of the county or state. I desire that justice shall be properly administered to slaves; but there are a great many difficulties, and I am not perfectly clear in my own opinion as to the best method. I think, however, that the clause from the Alabama constitution sufficiently provides for this matter, leaving it to the Legislature to provide the court.

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

Ayes—Messrs. Bagby, Baylor, Burroughs, Caldwell, Clark, Darnell, Evans, Everts, Forbes, Gage, Henderson, Hogg, Horton, Holland, Hunter, Irion, Latimer of R R, McGowan, Rains, Standefer, Odiltree, Van Zandt and Young—23.

Noes—Messrs. President, Armstrong of J., Armstrong of R., Bache, Brashear, Brown, Cazneau, Cuney, Davis, Hemphill, Hicks, Howard, Jewett, Lewis, Lumpkin, Lusk, Lipscomb, M'Neil, Moore, Navarro, Parker, Power, Runnels, Scott, Smyth, Tarrant, White and Wright —28.

So the motion was lost; and the section as offered by Mr. Runnels, was adopted.

The article reported by Mr. Davis, from the select committee, in relation to the Land Office, was taken up.

Mr. Van Zandt moved to strike out the words "as to make it support itself, without becoming a charge to the state, and shall."

Which motion was carried, and the words stricken out.

Mr. Moore moved to strike out "four" and "six," and insert "three."

Mr. *Davis* said: Were it not for the convenience of the people, I would care nothing about this provision now. But it is absolutely necessary for the convenience of the people of this State that there should be at least four land offices. The majority of the committee were in favor of from four to six until the year 1850. The year 1850 was put in with a view to the territory of Santa Fe. I hope no amendment will be made; but that the convention will reconsider and adopt the whole section.

Mr. *Caldwell* said: I hope the convention will have some mercy upon the people of Texas. I think it hard that I myself should be taxed to pay for making title deeds to other people. I have never received one which I have not had to pay for. Why all others should not be taxed as well, I cannot see. I do hope it will be made as light as possible. I am glad there is not to be a land office in every county; two are as much as we can possibly bear—I am satisfied they will create an immense expense.

Mr. *Love* said: this is a matter in which I feel a great deal of interest, as I believe that the rights and interests of the people are connected with it beyond any other subject before us. Whilst I am willing to do every thing that is necessary for the convenience of the people, I wish to move in this matter with a great deal of care. I have visited the Land Office, and conversed with the commissioner, and was pleased to find every thing in good condition. I think that every gentleman who will go there, will see the impossibility of any great subdivision in the Land Office. To give time for reflection upon the subject, I will move to adjourn.

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

Saturday, Aug. 9th, 1845,
Half past 8 o'clock, A. M.

The Convention met pursuant to adjournment.

Prayer by the Chaplain.

Mr. Ochiltree offered the following resolution:

Resolved, That the judiciary committee be instructed to examine Decree No. 308, of the laws of Coahuila and Texas, by which S. M. Williams, as empresario, is authorized to create a bank, to be called "The Commercial and Agricultural Bank;" and to report to this Convention whether, in their opinion, unless prevented by a constitutional restriction, the said bank will be authorized to be established.

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

Mr. Armstrong of R., moved to re-consider the vote adopting the clause under the head of slaves; which motion was laid on the table.

On motion of Mr. Hemphill, the report of the judiciary committee, made on yesterday, on the subject of forfeitures, was taken up.

Mr. Cunningham moved to lay it on the table.
Lost.
Mr. Van Zandt moved to lay it on the table until Monday next.
Lost.

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

Ayes—Messrs. President, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Darnell, Davis, Everts, Forbes, Hemphill, Henderson Hicks, Hogg, Horton, Howard, Irion, Jones, Kinney, Love, Lusk, Lipscomb, McGowan, McNeil, Miller, Moore, Navarro, Power, Rains, Runnels, Scott, Smyth, Standifer, Tarrant and Ochiltree. —37.

Noes—Messrs. Anderson, Armstrong of J., Armstrong of R., Bagby, Clark, Cunningham, Evans, Gage, Holland, Hunter, Jewett, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Parker, Van Zandt, White, Wright and Young—20.

So the report was adopted.

The report of the judiciary committee on the subject of marriages made on yesterday, was taken up.