

TEXAS | **Tarlton Law Library**
LAW | Jamail Center for Legal Research

Citation: *Debates of the Texas Convention. Wm. F. Weeks, Reporter. Houston: Published by J.W. Cruger, 1846.*

Content downloaded from

Tarlton Constitutions 1824-1876 (<http://tarlton.law.utexas.edu/constitutions/>)

The text of these documents is in the public domain. That is, the original words and content are freely usable.

The images of the documents are copyrighted material; the copyright is held by the Tarlton Law Library. The copyrighted images may be used only with permission. Permission is granted to use the copyrighted materials in the classroom for educational purposes. Downloading, printing, publication, public display or otherwise using any of the copyrighted images, including on the web or in a forum other than a classroom, requires permission from Tarlton. Requests for permission to use these materials should be submitted online to rarebooks@law.utexas.edu.

If you are uncertain whether you need permission to use these materials, please contact us at rarebooks@law.utexas.edu.

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

Insert, after the word "election," in 11th line, "any such qualified elector who may happen to be in any county, city, or town, other than that of his residence at the time of an election, or who shall have removed to any county, city, or town, within six months preceding the election, from any county, city, or town, in which he would have been a qualified elector, had he not so removed, may vote for any state or district officer, or member of Congress, for whom he could have voted in the county of his residence; or the county, city, or town, from which he may have so removed."

Adopted.

Mr. Jewett offered the following amendment, to come in after the word "elector," in the 11th line, and after Mr. Scott's amendment :

"And all free male persons, with the exceptions above stated, who are, *bona fide*, inhabitants of Texas at the time of the adoption of this Constitution by the people, or the acceptance thereof by the Congress of the United States of America, shall be entitled to, and enjoy, all the rights and immunities of citizens of the State."

Mr. Forbes moved to refer the section and amendments to the judiciary committee. Lost.

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

Tuesday, Aug. 12th, 1845.

Half past 8 o'clock, A. M.

The convention met pursuant to adjournment.

Prayer by the Chaplain.

Mr. Hemphill, chairman of the judiciary committee, made the following report :

COMMITTEE ROOM, Aug. 11th, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention :

The committee on the judicial department of the government, to whom was referred the 18th section of the article on the general provisions of the constitution, have had the same under consideration, and have instructed me to report the following substitute for the said section, viz :

18. It shall be the duty of the Legislature to pass laws more clearly defining the rights, duties and obligations of the partners in marriage in relation to their separate and their common property, authorizing also a suitable provision, out of the estate of the deceased wife or husband for the surviving partner where the husband or wife may have died rich, leaving the survivor in necessitous circumstances, due regard being had to the children of the deceased.

19. No law shall ever be passed, vesting in the husband, by virtue of the marriage, the separate property of the wife, as now recognized by law, or depriving her of the portion of the common property to which she is now entitled, nor shall the separate property of either partner ever be made liable for the debts of the other, contracted before marriage.

20. The legislature shall provide for recording in the proper office, (under suitable penalties for non-performance,) duly authenticated schedules of the separate property of the wife within not more than twelve months after the marriage or the acquisition of the property.

All of which is respectfully submitted to the honorable convention for adoption.

JOHN HEMPHILL,

Chairman.

A minority of the said committee made the following report:

To the Hon. THOS. J. RUSK,

President of the Convention:

A minority of the committee on the judiciary, to whom was referred the 18th section of general provisions of the constitution, report, that they dissent from the report of the majority of said committee in that respect, and recommend the following as a substitute for the said 18th section to be adopted by the convention.

JOHN ARMSTRONG.

R. E. B. BAYLOR.

Substitute for the 18th Section.

"The property owned by the wife at the time of her marriage, and such property as shall enure to her during coverture, by gift, will, or descent, shall be her own separate property, and one-third part of the property of her husband at the time of his death, including the homestead, shall remain to the widow during her widowhood.

Laws shall be passed providing for the registration of the wife's separate property.

Mr. Runnels, chairman of the legislative committee, made the following report:

Committee Room, Aug, 12, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention :

The legislative committee to whom was referred the section to come in after the 6th section of the general provisions, have had the same under consideration, and have instructed me to report the same, with the following amendments, to wit :

" Provided that nothing in this section shall be so construed as to effect the claims of persons against the Republic of Texas as heretofore existing," and recommend its adoption.

H. G. RUNNELS,
Chairman.

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

Mr. Everts offered the following resolution :

Resolved, That a committee of _____ be appointed to enquire into the propriety of dividing Texas into two congressional districts, agreeably to the act of the Congress of the United States of 1842, upon that subject, in order to elect two representatives for the State of Texas until the year 1853.

Mr. Everts said : I wish to call the attention of the house to this subject, that this convention may provide the means of being represented in Congress as soon after our admission as possible. The act of Congress of 1842 fixes the ratio of representation at 70,680. That act requires each State to be divided into as many districts as she is entitled to representatives under the ratio of apportionment. Before the passage of that act each State regulated its own districts in various modes. The ratio of representation at 70,680 I believe would give Texas two representatives. The same act provides that any State having a residuum over one half of 70,680 shall be entitled to two representatives. The constitution of the United States, with regard to the subject of representation, provides that each State shall be entitled to one representative, irrespectively of the amount of population. So that if the population of Texas shall amount to 106,000 souls, three-fifths of her black population counted in, Texas will be entitled to two representatives under the present apportionment. I am aware that some gentlemen in this convention believe that we are entitled by the terms of annexation to two representatives, inasmuch as the amendments to the resolutions in Congress declared that if we went in by treaty as contemplated, we should be enti-

tled under the treaty to two representatives, I think we are by population entitled to two. It does seem to me that the State should be districted, and that it should be provided for by this convention, that there may be no delay in this matter; that, so soon as the legislature shall meet, we may elect two Senators, and that at the first election for Governor these two representatives may be elected, and elected too, agreeably to the act of Congress of 1842. As we fix the apportionment now, or, as representation is determined now, it will have to remain till 1853. In 1850, the government of the U. States will take the census. In 1852, the apportionments will be made under the new census. In 1853, the elections to Congress will come on under the apportionments made after the census of 1850.

On motion of Mr. Mayfield, the rule was suspended, the blank filled with seven, and the resolution adopted.

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

ORDERS OF THE DAY.

The 21st section of the general provisions being the special order of the day, was, on motion of Mr. Jewett, laid on the table.

On motion of Mr. Caldwell, the report of the committee on the legislative department, was taken up.

Mr. Jewett's amendment to the 1st section offered on yesterday, being first in order, was read by the secretary.

Mr. Brown moved to refer the section, with the amendment, to a select committee, with instructions to report to-morrow.

Mr. Davis said: It seems to me unnecessary to make the reference, We have the right to say who shall be citizens of the State of Texas. I suppose there is no doubt that such persons as we make citizens of Texas, will be citizens of the United States upon our admission.

Mr. Ochiltree said: I differ from the gentleman from Liberty with regard to his premises. I hold this truth to be incontrovertible, that every person who is a citizen under the constitution of the Republic of Texas, at the time of the admission of Texas into the United States, and the final consummation of annexation, will be a citizen of the United States, by the act of admission. But I cannot agree with the gentleman in the doctrine that every man whom we declare a citizen by the constitution, we are now framing, will be a citizen of the United States.— There is a wide difference. Because, though we are living under the constitution of the Republic of Texas, by a sort of political fiction we are adopting a constitution as an integral portion of the U. States. It would be absurd to say, that by the constitution we are now framing we could create citizens for the federal government.

Mr. *Davis* said: We have omnipotent powers as a State. We have the right to declare who are citizens and who are not; and the United States government has no right to interfere with it. As a separate, distinct and independent government, we certainly have the right to say who shall be citizens of this government; and if we have the right to say so, have we not the right to say so in our Constitution? I do not believe that a territory originally belonging to the United States could make persons citizens who have not resided in the country the length of time required by the laws of the United States. But, sir, in the situation in which we are, separate, distinct and independent, the laws of the United States upon the subject of naturalization, having no power, effect or influence over us at this time, cannot control us.

Mr. *Mayfield* said: The true principle, I think, is this: Every country, in the acquisition of new territory and population, by virtue of that acquisition, renders the population of that territory her own citizens. I think when we trace the history of all nations, and more particularly that of England, we shall find that in all acquisitions of states or nations, effected either by treaty, conquest, or other mode, the citizens who become annexed or transferred to the substantive power, are immediately entitled to all the rights, privileges and immunities belonging to those of the mother or substantive state. The provisions upon this subject in the Louisiana treaty of 1803, in that for the acquisition of Florida, and more recently in the Ashburton treaty, will be recollected by all. The small portion of citizens, who, under the latter treaty, fell within the line of Maine, were and are at this day considered citizens of the U. States, although they have never taken the oath of allegiance in conformity with the laws. I think the principle for which I contend, is justified by the experience of ages, and the dictates of wisdom, policy and justice.

Mr. *Lusk* said: Legal gentlemen seem to differ in opinion as to what is a citizen and the power to make one; and I should like to have the report of a committee upon the subject. I do hope the House will refer the section. I doubt whether we can get out of it to-day or not, there is so much difference of opinion among the smart men who talk a great deal. I trust it will be referred with all its amendments to a committee composed of men of legal information and good men.

Referred with all amendments, to a select committee, composed of Messrs. Brown, Everts, Lipscomb, Hemphill, and Latimer of Red River.

In 2d section, Mr. Love moved to amend by transposing the words' not altering the sense. Carried.

The section was then adopted.

In 4th section, Mr. Forbes moved to strike out the word "district" in 2d line. Lost, and section adopted.

In 5th section, Mr. Cuney moved to strike out "two years," and insert "one year," in 2d line.

Mr. *Love* said: I am very much in favor of the amendment proposed by the gentleman from Austin. I think necessity will require frequent sessions for several years. And on the score of economy, I think that gentlemen are mistaken. I do not see any difference in expenditure in those states which have biennial sessions. The Legislature of Tennessee, which meets biennially, is in session four months, while that of Kentucky, which meets annually, is in session only two months. I think it indispensably necessary to meet annually for the next four or five years to come. If you look over the statute book and see the mass of legislation, and consider the necessity of changes in our system, you will see that annual sessions are necessary. I do not even hope that this principle will prevail, but I am confident myself that it is a just and correct one, as well as economical, and that it will be so found after experiment. By frequent sessions, the people have the control over their servants, and that it is the best preservative of their liberties. I will call for the ayes and noes, for the purpose of recording my vote.

Mr. *Young* said: I hope the question will be divided. I will vote for striking out, for the purpose of inserting three years instead of two.

Mr. *Hemphill* said: I do not see any thing in this provision which regulates the number of sessions that shall be holden: it only provides that members shall be elected biennially. There are several states which have biennial elections, though they have annual sessions. I am in favor of that system, because I think it less liable to the evils of change. Members at the first session will become acquainted with their duties; and I think at the second session they will be obliged to change and modify many laws passed at the first. They are to pass laws having but one object, which is to be expressed in the title: they will find difficulty in this, particularly those who have been accustomed to the system heretofore pursued.

Mr. *Moore* said: A gentleman in favor of striking out "two years," stated his belief that nothing will be gained on the score of economy, and mentions the Legislatures of Tennessee and Kentucky as instances. He omits, however, to notice the very important item of *mileage*, which often amounts to almost as much as the pay, when the Legislature is in session but a few weeks. We adopt a section in this Constitution by which we provide that the laws now in force shall remain in force until changed. I believe that every member is aware that most of the laws

now in force have been found to act beneficially, and that no injury will result from their continuing in force for two years. They can be amended gradually; and no doubt it would be the better way. Another advantage is to be gained by electing members for two years. The first year a member is hardly prepared to perform his duty advantageously; at the close of the session he is tenfold better qualified than at the outset. A member who is re-elected is considered in most instances as far better qualified to perform his duties than at his first session.

Mr. Baylar said: The question under consideration, Mr. President, is one which I think of considerable moment; and I have reflected a great deal upon it. In any aspect there will be evils which will present themselves. But it is our duty, it seems to me, to adopt that side which presents the least. It cannot have escaped any man who has reflected upon the course of legislation in states under a popular government, that one of the greatest evils of the day is excessive legislation. In all probability, if we were to try the biennial sessions, we should avoid confusion to some extent. But I take it to be a self-evident proposition, that every country requires just so much and no more legislation, and if it has wise lawgivers, they will never transcend that boundary line. If this is true, and those who have legislative power placed in their hands are governed by this principle, it is a matter of little moment whether the sessions of the Legislature are annual or biennial. I know that to some extent we should avoid this excessive legislation and the consequent confusion which necessarily prevails, if we adopt biennial sessions. But, sir, I do not like the principle. I cannot become entirely satisfied with it. Look at the history of other governments pretending to democratic principles. England commenced at first with two or three years, and at last she elects her members of the House of Commons for seven years. I fear that this would be the entering wedge, which, in the course of time, when we shall all be gathered to our fathers, may lead on to a similar state of things. It is a great principle in our form of government, that the more direct and immediate the responsibility of the servants of the people to the people themselves, the more certain it is that the will of the people will prevail, and the more certain that if evils are introduced, the people will and can correct them. I am certain that annual elections make this responsibility more direct; that they are more democratic; but whether this mode is attended with evils sufficient to counterbalance its advantages, is a question that each gentleman must decide for himself. There is another single reflection which I will throw in, and close the few brief remarks which I have thought it my duty to make. Just in the ratio that we lengthen the time for which we elect any individual to any office, whether the chief magistracy, or in the legislative department, we weaken his responsibility to the people; and the struggle for office will be more brutal. If elections occur annually, and aspirants are to retain office but a short time, our popular elections in all probability will not be so turbulent or violent.

Mr. *Lusk* said: I have a great deal of confidence in the opinions of the gentleman who preceded me, but on this question I am compelled to differ from him. It is said, in favor of frequent elections, that if we get bad men in, we can get them out directly. But, sir, on the other hand, if we elect members for two years, voters will be looking directly to that fact, and will try and get the best men, because if they elect them for two years, they cannot so soon get them out. I am in favor of electing members for two years, and of biennial sessions; and I wish to put it in the power of the Governor, in case of necessity, to call the Legislature together. And I would then confine the members of the Legislature to action upon the propositions suggested by him as connected with the emergency. I believe it the interest of the country to have few elections, as more conducive to civility and quiet.

Mr. *Jones* said: I am opposed to the amendment for two reasons, which it is due to myself to express. In the first place, on account of economy. But that is not the principal reason. The past history of our country has satisfied me, as well, I believe, as a large majority of the people, that we have had too much legislation. Annual elections with us have proved a great evil, instead of a blessing. It is a well known fact, that in this country of so extended a domain, many enactments, before being promulgated, have been repealed by subsequent Legislatures. The gentleman from Fayette tells you that it is a matter of no importance, whether you make the sessions annual or biennial: the expense will be precisely the same; so much and no more legislation is necessary for the welfare of the country. But if the gentleman takes a view of the extent of the country, and the great proportion of expenditure resulting from mileage, which, assuming sixty-four as the number of members, would amount to over four thousand dollars, he will see that it will make a great difference on the score of economy.

Mr. *Caldwell* said: As I shall vote against striking out, I feel it my duty to give my reasons. In addition to these already given, I have others. When the Legislature meets so very frequently, you will find that body taking upon itself authority which ought of right to belong to other departments. It is sometimes called upon, on account of the cheapness to individuals to interfere in matters with which it has nothing to do. On account of this cheapness, parties frequently apply to the Legislature to act judicially; and you will find that one-half the time of the session, when it meets so often, is occupied in enacting relief laws. If the session comes on but once in two years, you will find that the Legislature will authorize a judicial tribunal to extend relief to these applicants when they make out a statement of facts. Otherwise, they will take the mode which is cheapest to themselves, but most expensive to the country. If sessions are less frequent, instead of acting the part of auditor and comptroller, the Legislature will invest the auditor and

comptroller with the power to settle accounts; and in the case of claims for land, it will vest the judicial tribunals with the power of granting relief without any additional expense to the country. If the sessions are annual, instead of sitting less than thirty days, the Legislature will sit sixty at least in every year.

Mr. *Brown* said: I shall oppose the motion, because I do not see any reason in nature why the Legislature should meet once a year, more than why it should meet once a month. I think the gentleman from Fayette is mistaken in his argument. It will be found, I think, that the preservation of our liberties has very little to do with short terms or long terms. The truth is, that whenever the people of this Republic get tired of their liberty, they will throw it down and take up some other form of government. I think that all we have to do in this matter is, to adopt some convenient and expedient system. I think if representatives are elected for two years, all the requisite responsibility to the people will be secured, and there will be time enough to transact all the business that will have to be done.

Mr. *Love* said: I have heard some doctrine asserted in the argument upon this question which is certainly new to me. I say, sir, that the more frequently we recur to the people, the fountain of power, the more pure will be the laws which are made, and the better will they be administered. To avoid difficulties we may give the Senate a longer term, and the Executive a veto power, as a check and control over the licentiousness of popular impulse. It is argued that, in order that the people may be properly served, the terms of office must be made long. This is a novel doctrine to me. Even in the Congress of the United States, though members are elected for two years, they must hold annual sessions. What would be the effect of adopting the system contended for? The governor may call the Legislature together if he chooses; and you are placing the rights and wishes of the people in the hands of a single man. Now, I believe, and assert again, that the immediate representatives of the people should come before them often to account for what they have done. As a rule, the representative who does his duty will be elected again; and, as a rule, if he does not do his duty, he will not be re-elected. The gentleman from Colorado corrected the gentleman from Fayette; he is in a great error himself. It will be found that every British patriot since the term of seven years was adopted, has taken a stand with those who labored to reduce it. Who sustain it? The king and the nobles. Every eminent patriot, Burke, Grattan, Curran, that whole class of men, did take a stand in favor of triennial elections, and continued in favor of them, until severally bought off by the government. I advocate the motion from a sense of right, God knows I am not disposed to cater for public opinion upon any subject, or to take any course in which my principles do not bear me out,

Although there should not be a single solitary member vote for it besides myself, I shall record my voice in its favor.

Mr. *Parker* said: I have long been of the opinion, Mr. President, that the Legislature should meet but once in two years. Arguments have been adduced here to show the propriety of annual sessions. But, sir, the change of government now about to take place, must show every gentleman the necessity of economy, when it will be recollected that so soon as our Constitution shall have been received and accepted by the Congress of the United States, we lose our impost duties, and the State government must depend for its support solely upon direct taxation. That fact, and the disposition I have seen evinced upon this floor, for cutting out an extravagant State government, are sufficient of themselves to convince me of the expediency of biennial sessions. New members are unacquainted with parliamentary usages, often ignorant of the grand principles of law making, and incapable of enacting such laws as will benefit the people. If your elections, then, are annual, and your State Legislature meets annually, it will, at every session, be filled by new members. They will have to do something; they will repeal laws; they will enact laws, which will govern the people, whether right or wrong. As was wisely remarked by the gentleman from Fayette, over much legislation has been one of the greatest calamities of this nation. It is a fact, that justices of the peace at this day are acting under laws that are repealed; such is the condition of the country, and so inefficient are the means of transportation, that the people of Texas often do not get the laws of the country, passed by one Congress, until portions of them have been repealed by another. There has not been a Congress under the Republic, but has repealed sections and parts of sections, acts and parts of acts. Our statutes present a mass of confusion. Then, in point of policy, is it not best to take this expense off the people, when we have to look for the future to the direct taxes? It seems to me that the propriety and expediency of the system of biennial sessions must present themselves to the mind of every gentleman. It would save a heavy expense to the people of the country, and the officers of the government would have the laws in time to know what they are. I hope gentlemen upon this floor will duly reflect upon this subject.

Mr. *Evans* said: I shall vote with the gentleman from Galveston to strike out, with the view of moving a re-consideration of the vote upon a provision introduced a few days ago under the head of General Provisions. I draw all my notions of republican government, not so much from governments actually existing, as from political writers and philosophers. Upon the subject of economy, I find no gentleman upon this floor that will go with me so far as I wish to go. I do not claim any credit upon that score. But, sir, the idea of economy will not influence my vote in fixing this matter. We might, if we saw proper, have an

aristocratic government, and a very cheap one. A kingly government is very cheap; representative governments are always dear. That is the price we pay for our liberties. I will vote with the gentleman from Galveston for striking out; and if the motion succeed, I will then move again to confine the Legislature strictly within the line of their legislative duties.

Mr. Ochiltree said: I am certainly in favor of the proposition of the gentleman from Galveston to a certain extent. I look upon it as entirely impossible to get along with biennial sessions, at least until the year 1850. At the last session of Congress at Washington, the members were as laborious and industrious as those of any I have witnessed in the Republic; and they passed, during a session of two months and five days, I think, but seven, and at the extent, but nine general laws. In looking over the General Provisions which we have adopted, I find that the Legislature will be imperatively called upon to pass sixteen laws of a general character; and I have no idea that the General Provisions will require one-twentieth part of the legislation necessary. On the score of economy, I have no idea that we shall save any thing by biennial sessions. Our laws have to undergo a total, radical change. If we have annual sessions till 1850, that will give us two additional sessions of the Legislature; and I am well satisfied that the advantages of this plan will amply compensate for the increased expense. I believe it utterly impossible to get along with biennial sessions for four or five years to come; but after that time I am not prepared to express an opinion. I hope the house will consider this matter well.

Mr. Caldwell said: The gentleman from Nacogdoches appears to be thoroughly convinced of the absolute necessity of annual sessions till 1850, because, as he says, we are compelled to enact the laws consequent upon the adoption of our Constitution. Why, sir, we have made it discretionary with the Legislature to pass these laws, and it may not be necessary for years to come, as the laws upon all subjects already in force, will remain in force until repealed. I am still of opinion, that if the Legislature meets every year, more than one-half of the time will be taken up by private business. And I am satisfied that, with annual sessions, taxation will be so burthensome, that the people cannot and will not bear it. I am satisfied that it is the popular wish to have biennial sessions; the people are tired and worn out with the present system.

Mr. Mayfield said: I have listened with care to the arguments of the gentlemen who have taken different sides upon this question. And I have come to the conclusion, after the best reflection I could give to the subject, that the safest criterion is, to trust as often as possible to the collective wisdom of the people, and that the judgment of the people at all times, so far as the interest and safety of the State are concerned, is

to be relied upon with greater confidence than that of any individual or set of statesmen or philosophers that could be selected. If you leave to the free judgment of the people all subjects that affect their rights or interests, in nineteen cases out of twenty, you will find their judgment correct. If this is a sound principle in government, we should refer all questions affecting the rights, interests and prosperity of the State as frequently as possible to the people. It is objected, however, that annual sessions are expensive, and will be consumed in passing relief bills. This objection appears to me to be entitled to no weight, because if relief bills are to be acted on, I am satisfied that as much time will be consumed by them in biennial sessions, as there would be in annual sessions. It is insisted, too, that men cannot become learned or inducted into the science of legislation, until they have served a term of years; that they must be thus schooled and educated, before they can give an enlightened vote, or make a sensible speech. If so, we should provide in the Constitution for a class of men to be educated to legislate for us. We should take the business entirely out of the hands of the people, and give it exclusively to a class not indoctrinated and learned in legislation. But, coming back to the true principle, I will admit that frequent changes in legislation are productive of evils; yet these evils the people themselves have the power of correcting, whenever they become onerous. If the majority are satisfied of an error, they should have the earliest opportunity of correcting that error. Because laws are repealed, evils do not necessarily follow. They are repealed, because the public voice is raised against the incorporation of such acts in the body of the laws; and not because the Legislature must do something. If then errors have been committed in legislation, and things have been introduced into the statute book which should not have a place there, is it not right that they should be removed at the earliest day practicable? And what, I ask, when you make a correct calculation, would be the difference in expense between the two systems? I think that annual sessions will be found most expedient, when we consider the accumulation of business to be performed on account of the change in the condition of the country. Every day and every hour will present, perhaps for half a century to come, new questions of vital importance, not only to our country, but to the whole American continent.

The question upon striking out was then taken.

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

Yeas—Messrs. Baylor, Bache, Brashear, Cuney, Evans, Everts, Hunter, Latimer of L., Love, Lipscomb, Mayfield, McNeill, Ochiltree and White—13.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg,

Horton, Holland, Irion, Jewett, Jones, Latimer of R. R., Lewis, Lumpkin, Lusk, McGowan, Moore, Navarro, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt, Wright and Young—42.

So the question on striking out was lost.

Mr. Runnels offered the following amendment:

Add to the 5th section, "the sessions of the Legislature shall be biennial, at such time as the Legislature shall designate."

Mr. Henphill moved to strike out "biennial," and insert "annual" in the amendment. Lost.

Mr. Van Zandt moved to amend the amendment by striking out after the words "time as," and inserting "shall be prescribed by law," which amendment was adopted; and the amendment as amended was adopted.

Mr. Oshiltree offered the following as a substitute for the section as amended:

"Until the year 1850, the members of the House of Representatives shall be chosen by the qualified electors, and shall serve for the term of one year from the commencement of the general election, and no longer, and the sessions of the Legislature until that time shall be annual; after the year 1850, the members of the House of Representatives shall serve for the term of two years and no longer, and the sessions of the Legislature shall be biennial: Provided that the Governor shall have the power to convene the Legislature upon extraordinary occasions."

Mr. *Henderson* said: I hope the substitute will not be adopted. I had rather reverse it. For the next five years we shall be poorly able to meet the expenses of the government; it would be well during that time to be as economical as possible. I would rather say that after that time the Legislature shall meet annually.

Mr. *Mayfield* said: I hope the substitute will prevail. It is, I believe, a well settled maxim, that the price of liberty is eternal vigilance. If we cannot get it for all time to come, let us get it till 1850, during which time the most important questions will be submitted to the consideration of the Legislature.

Mr. *Lewis* said: I feel perfectly assured that there is no necessity for a single remark upon my part, even if it could exert any influence upon this House. I know that the good sense of this body, after having witnessed the course of legislation in this country for the last five years, will never seek annual sessions again. There was a time when they were necessary; when as a republic we had relations with foreign powers. It was then necessary for the Congress to meet annually, for the

purpose of making such laws as might be required by the state of such relations. It is true that the Congress of the United States meets annually. The necessity of annual sessions there must be obvious to every one. They are necessary to regulate intercourse with foreign states; necessary to pass laws for the purpose of carrying on the external and the internal commerce of the country.

Look, sir, at the annals of legislation in this country for the few last years. A gentleman has well remarked that a certain Congress passed but nine laws of a general character; while the relief laws passed by the same Congress, fill a volume. And, sir, are we to be cursed for the next five or six years with annual legislation of this sort? Are we to be cursed with the annual sessions of a body taking from the judicial tribunals matters which belong to them, and passing relief laws at an expense to the country of several hundred dollars per day? It is insisted that we must; and it is said too that the liberties of the people cannot be preserved without a frequent reference to the people. Sir, annual elections not only create confusion, but they have a demoralising effect upon the people. They break up the social relations which should ever exist in a community, and personal antipathies and personal predilections will regulate elections by the people. But if you give them this election but once in two years, they will look upon the station as a more dignified one, and will be more particular in placing men there. They will take care to select the most talented and the best qualified men to take care of their interests.

On motion of Mr. Davis, a call of the Convention was ordered, and on motion of Mr. Moore, the call was suspended.

The ayes and noes were called for, on the adoption of the substitute.

Mr. Jewett said: I shall vote against it, because I wish to keep this little State government, if we can, fast anchored in the harbor of economy. I think, as sufficient power is left to the governor to meet emergencies, it would be best to have the people elect their Representatives for two years. I do not wish to cut loose from a safe anchorage.

Mr. Cuney said: Opposed as I am to incorporating in this Constitution a provision for biennial sessions of the Legislature, as being not only unwise and inexpedient, but at war with the true principles of a republican and representative government, and regarding the amendment of the gentleman from Nacogdoches as an abandonment of the position taken by me in offering to amend by striking out "two years," and inserting "one," which the Convention refused to adopt, I shall vote *no*.

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

Ayes—Messrs. Bache, Brashear, Everts, Hemphill, Hunter, Irion, Mayfield, Navarro, Ochiltree and White—10.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Baylor, Bagby, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Forbes, Gage, Henderson, Hicks, Hogg, Horton Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, McGowan, M'Neill, Moore, Parker, Rains, Runnels, Scout, Smyth, Standefer, Tarrant, Van Zandt, Wright and Young—43.

So the substitute was rejected.

Mr. Clark offered the following amendment, as a substitute for the section:

“Members of the House of Representatives shall be chosen by the qualified electors, and their term of office shall be two years, from the day of the general election.”

He said that the expression “shall serve” appeared to him to be imperative.

The amendment was rejected.

Mr. Forbes moved to insert the word “biennially” after the word “chosen.” Lost.

Mr. *Caldwell* said: It appeared to him that the Convention should have stricken out the expression “shall serve,” as proposed by the gentleman from Harrison.

On motion of Mr. Anderson, the vote rejecting the substitute offered by Mr. Clark was reconsidered, and the amendment adopted.

The section as substituted was then adopted.

Mr. Forbes offered the following as an additional section, to come in after the 5th section.

“The regular sessions of the Legislature shall not exceed sixty days, and any legislative enactment passed after the expiration of such sixty days shall be null and void; and when convened upon extraordinary occasions by the Governor, its action shall be confined to the object for which the Legislature shall be assembled, but this provision shall not apply to the first session of the Legislature held under the Constitution.”

Mr. *Forbes* said: He would now offer as an additional section, what he intended as an amendment to the 5th; his object, however, had been partially met by the several amendments adopted by the Convention. They had not, however, gone far enough. If an economical adminis-

tration of the government, and exemption from too much and bad legislation, required that the sessions of the Legislature should be biennial, in order to make sure of this great end, it is necessary that we should go yet farther, and limit the time of the sessions. If it was right to declare in the Constitution, that the Legislature should meet but once in two years, it was equally so to say that their sessions should not be extended beyond a certain number of days; for without the latter provision, the first was a nullity. The first step was the beginning, the second the completion of a good work. For without the restriction provided for in this section, instead of having the Legislature sitting every year some thirty or sixty days, we shall have a biennial session extended to three or four months. Such would be the inevitable result, and the only object gained would be the saving of a few dollars mileage; the curse, of bad and excessive legislation, would still be entailed upon the country.

The latter part of the section had reference to extra sessions. This restriction, Mr. F. thought of the first necessity. The Convention had decided by a large vote that the great interests and general welfare of the country would be promoted by having biennial instead of annual sessions. In order, however, to provide for extraordinary occasions, extra sessions of the Legislature could be called by the Governor. This was an important, indeed necessary provision. But it ever had been and would be abused; unless guarded against by the Constitution. This was not a bare assertion, but a fact shown and illustrated, in the history of every extra session of our own Congress. Mr. F. said he need not remind the Convention of the action of the late called session. Unless you confine the Legislature to the particular objects for the consideration of which they are assembled, general and private legislation will always be gone into, and the important objects for which they have been assembled, made secondary to party and sectional purposes, and the object contemplated to be reached in the 5th section will be completely defeated. Mr. F. hoped the Convention would see the importance and necessity of the provisions embraced in this section.

Mr. Anderson offered the following amendment to the amendment, to come in after the words "sixty days," in 2d line, "Unless a press of business would require a longer session."

Mr. Forbes said: He hoped the amendment of the gentleman from Galveston would not prevail. The object was apparent to defeat the section. Mr. F. was not disposed to thrust his views upon the Convention, but he claimed and should ever exercise the right of presenting and advocating any measure which he deemed important to the public interest. Nor had he ever attempted to defeat any measure by indirect or untair means. When any proposition was made, it should rest upon its merits. If it contained any, it was entitled to the consideration of the House. If it was objectionable, it should be exposed in a proper man-

ner. To attack any measure in this indirect and covert way, was not only unfair but discourteous. If the gentleman from Gonzales was opposed to the section, why did he not meet it fairly? why did he not state his objections? why did he not point out how, or in what manner the public interests would be injured? why did he not show that it was not necessary to effect an object, deemed by the Convention of the first importance? This was the way to meet the question fairly, and he hoped the amendment would be rejected, and that the additional section would be permitted to stand upon its own merits, and adopted or rejected, and not be borne down by amendments.

The amendment was rejected.

Mr. Mayfield moved to amend by striking out "sixty days," and inserting "thirty days." Lost.

The ayes and noes being called on the adoption of the additional section, stood thus:

Ayes—Messrs. Baylor, Brashear, Burroughs, Cuney, Forbes, Hunter, Latimer of L, McGowan, Runnels, Ochiltree and White—11.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Brown, Bache, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Evans, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Irion, Jewett, Jones, Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Mayfield, McNeill, Moore, Navarro, Parker, Rains, Scott, Smyth, Standefer, Tarrant, Van Zandt and Young—40.

So the additional section was rejected.

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

4 o'clock, P. M.

The Convention met pursuant to adjournment.

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

Committee Room, Aug. 14th, 1845.

To the Hon. THOMAS J. RUSK,

President of the Convention:

The committee on the Judiciary, to whom was referred a resolution authorizing the Legislature to erect new States out of the Territory of Texas 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, have had the same under consideration, and have instructed me to report and recommend the following as a substitute, viz:

The Legislature of this State is authorized to consent to the formation of new States out of the Territory of the State; and said new States are to be formed in accordance with the terms and conditions of the second section of the Joint Resolution for annexing Texas to the United States.

And the same is respectfully submitted.

JOHN HEMPHILL,
Chairman.

Mr. Parker, chairman of the committee on printing, made the following report:

Committee Room, Aug. 12, 1845.

To the Honorable THOS. J. RUSK,
President of the Convention:

The committee on printing, who were authorized by a resolution of this convention of the 19th ult to have one thousand copies of the Ordinance of the fourth of July, accepting the propositions of the Congress of the United States; also, of the resolution of the same body of the 7th of said month, authorizing and requiring the President of the United States to occupy Texas with the forces of the United States, printed in the Castilian language, have the honor to report:

That they have performed said duty, having authorized Mr. George Fisher, the interpreter and translator to the convention, to superintend the work and distribute the same to those persons of the Republic of Texas inhabited by the people for whose benefit and in whose behalf the said documents were printed: They further beg leave to report, that the said interpreter and translator, in the discharge of his duty, has given the distribution to the said documents in the manner and form set forth in his report upon the subject, which report is hereby accompanying, and made a part of this report.

Your committee would respectfully suggest the propriety of referring to the committee on the legislative department to enquire into the expediency of apportioning to the inhabitants of that part of the Santa Fe territory which, in the opinion of this convention, is properly included in, and of right belongs to the Republic of Texas, two representatives and one senator of the future State of Texas.

Your committee would also respectfully suggest the propriety and

the necessity of translating the constitution of the future State of Texas, so soon as the same shall have been adopted—as also any ordinance that may be adopted by this convention—into the Castilian language; and that a sufficient number of the same be printed and promulgated for the use and information of that part of the citizens of Texas inhabiting the western frontier with the view of their re-organizing according to the provisions of the said constitution, from an independent national government to that of a state of the American Union.

All of which is respectfully submitted.

ISAAC PARKER,

Chairman.

Which reports were laid on the table to come up among the orders of the day.

Mr. Mayfield, chairman of the select committee to whom was referred the sections of the legislative department, in regard to the apportionment of representatives, made the following report:

COMMITTEE ROOM, Aug. 12th, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention:

The majority of the select committee to whom was referred the 3d, 9th and 30th sections of the report of the committee on the legislative department, together with the subject of the census, after consideration thereon, and viewing the subject in all its bearings, have instructed me to report as follows:

1st. That the legislature shall, at its first session under the constitution, provide by law for taking an enumeration of the free population of the State, after which the basis of representation in the house of representatives shall be governed by such enumeration.

2d. Until such an enumeration shall be made, the number of representatives in the house shall be forty-six, except as hereinafter provided for, to be chosen as follows: one for each county, and one for every five hundred qualified voters therein, and after the first enumeration the house of representatives shall consist of not less than forty-five, nor more than ninety members, and apportioned according to population.

3d. That the Senate shall consist of not less than nineteen nor more than thirty-three members, shall be apportioned as hereafter provided, and shall be chosen by the qualified electors of the senatorial district. I am also instructed to report that a majority of the committee agree to

the propriety of laying off one new county to be taken from the territory of Nacogdoches, Robertson and Fannin counties, and give to it one representative until the first enumeration; and, also, that Bexar be allowed, until such time, one additional representative.

All of which is respectfully submitted.

J. S. MAYFIELD,
Chairman of Select Committee.

Substitute reported by the Committee.

9. The whole number of Senators shall, at the next session, after the several periods of making the enumeration, be fixed by the legislature, and apportioned among the several districts, to be established by law, according to the number of qualified electors; and shall never be less than nineteen, nor more than thirty-three.

30. The legislature shall at their first meeting, and in the year one thousand eight hundred and fifty, and in not less than every four nor more than every eight years thereafter, cause an enumeration to be made of all free inhabitants (Indians not taxed, Africans and descendants of Africans excepted) of the state, designating particularly the number of qualified electors, and the whole number of representatives shall, at the several periods of making such enumeration be fixed by the legislature, and apportioned among the several counties, cities or towns entitled to separate representation, according to the number of free population in each, and shall not be less than forty-five nor more than 90.

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

The report of the committee on the legislative department was taken up.

On motion of Mr. Van Zandt, the 6th section was stricken out.

In 7th section, Mr. Moore moved to strike out the word "now," where it occurs before "Republic."

Carried.

Mr. Davis moved to strike out "year" and insert 'six months.'

Lost.

On motion of Mr. Runnels, the word 'and,' in 3d line was stricken out and 'or' inserted.

On motion of Mr. Henderson, the word 'to,' before 'twenty one,' was stricken out.

The section was then adopted.

Mr. Anderson offered the following amendment :

Add to 8th section 'and the election for Governor and members to the Legislature shall be held at a different time from the elections for county officers.'

Rejected, and the section adopted.

On motion of Mr. Horton, the vote adopting the amendment of Mr. Runnels to the 8th section, to strike out 'and' and insert 'or,' was reconsidered, and the question on striking out and inserting lost.

*The 9th section was laid on the table.

Mr. Gage offered the following as an additional section to come in after the 8th :

Until after the first enumeration and apportionment, under this constitution, the following shall be the apportionment amongst the several districts and counties of this state: The counties of Fannin and Lamar shall elect one senator, Red River and Bowie one, Harrison one, San Augustine and Shelby one, Nacogdoches, Rusk and Houston two, Sabine and Jasper one, Liberty and Jefferson one, Harris and Fort Bend one, Montgomery one, Robertson and Brazos one, Galveston and Brazoria one, Washington and Milam one, Fayette and Bastrop one, Travis and Gonzales one, Austin, Matagorda and Colorado one, Jackson, Victoria and Goliad one, Refugio and San Patricio one, and the county of Bexar one senator.

The county of Montgomery shall elect four representatives, the counties of Red River, Harrison, Nacogdoches, Harris and Washington shall elect three representatives each; the counties of Fannin, Lamar, Bowie, Shelby, San Augustine, Rusk, Houston, Sabine, Liberty, Robertson, Galveston, Brazoria, Fayette, Colorado, Austin, Gonzales and Bexar, two representatives each; the counties of Jasper, Jefferson, Brazos, Milam, Bastrop, Travis, Matagorda, Jackson, Fort Bend, Victoria, Refugio, Goliad and San Patricio, one representative each.

Mr. Burroughs moved to lay the additional section on the table.

Lost.

On motion of Mr. Mayfield, the additional section was laid on the table to come up with the report of the select committee upon the same subject.

Mr. Hogg offered the following as an additional section :

The first Legislature shall be composed of thirty-seven representatives and thirteen senators, and no more, until an enumeration of the inhabi-

tants shall be made, and an apportionment made of representation upon the basis of free population, provided that the house of representatives shall not consist of less thirty seven members, nor more than one hundred members, and that the senate shall not consist of less than thirteen members, nor more than fifty, which said enumeration and apportionment shall be made by the year 1850, at such time and under such regulations as the legislature may by law direct, and until the said enumeration and apportionment shall be made: The county of Fayette shall be entitled to one representative, the county of Fort Bend to one representative, the county of Galveston to one, the county of Harris to two, the county of Harrison to two, the county of Houston to one, the county of Lamar to one, the county of Liberty to one, the county of Montgomery to three, the county of Nacogdochee to two, the county of Red River to two, the county of Shelby to one, the county of Washington to two, the county of San Augustine to one, the county of Rusk to one, the county of Sabine to one, the county of Robertson to one, the counties of Gonzales and Goliad to one, the county of Travis to one, the county of Austin to one, the county of Bastrop to one, the county of Bexar to one, the county of Bowie to one, the county of Brazoria to one, the county of Colorado to one, the county of Fannin to one, the counties of Brazos and Milam to one, the counties of Jasper and Jefferson to one, the counties of Matagorda and Jackson to one, and the counties of San Patricio, Refugio and Victoria to one representative.

Until the said enumeration and apportionment shall be made, the counties of Galveston and Harris shall be entitled to one senator, the county of Montgomery to one senator, the counties of San Augustine, Sabine and Shelby to one senator, the counties of Nacogdoches and Houston to one senator, the counties of Austin, Washington and Colorado to one senator, the counties of Harrison and Rusk to one senator, the counties of Fannin and Lamar to one senator, the counties of Red River and Bowie to one senator, the counties of Liberty, Jefferson and Jasper to one senator, the counties of Brazoria, Matagorda and Fort Bend to one senator, the counties of Robertson, Brazos, Milam and Travis to one senator, the counties of Bexar, Goliad, San Patricio, Refugio, Jackson and Victoria to one senator.

Which was laid on the table, to come up with the report of the select committee before mentioned.

In section 10, Mr. Evans moved to strike out all after the word "term" and insert "two years." Lost.

Mr. Baylor moved to strike out "four years" and insert "three years" in regard to the term of service of Senators. Lost.

Mr. Cuney offered the following, as a substitute for the 10th section:
Senators shall be chosen by the qualified electors for the term of three

years, and on their being convened in consequence of the first election, they shall be divided by lot from their respective districts into three classes, as nearly equal as can be; the seats of the first class shall be vacated at the end of the first year, and of the second, at the expiration of two years, and of the third class, at the end of three years; so that one-third thereof shall be chosen annually thereafter.

Rejected, and the 10th section adopted.

Mr. Everts moved to strike out the 11th section.

Lost, and the section adopted.

In 12th section Mr. Hemphill moved to strike out the word "separated" and insert "divided." Lost.

The section was then adopted.

On motion of Mr. McNeil, all after the words "thirty years," in 13th section was stricken out.

Mr. Lusk moved to strike out "30" and insert "25 years." Lost.

On motion of Mr. Hemphill, the words "by the Congress of the United States" were inserted after the word "Constitution," in 2d line.

Mr. Everts moved to strike out the word "accepted," and insert "approval," before the words "of this Constitution," in 2d line. Lost.

The section as amended was then adopted.

In 14th section, on motion of Mr. Bache, the words "a majority of" was stricken out, where they occurred before the words "two-thirds."

The section was then adopted.

Section 15 adopted.

Mr. Hemphill gave notice that at the proper time, he would move a reconsideration of the vote striking out the following portion of the 16th section, viz: "excepting such parts as in its judgment may require "secrecy" in regard to publishing the proceedings of the Legislature.

The 16th section was adopted.

The 17th section adopted.

Mr. Van Zandt moved a reconsideration of the vote adopting the 17th section. Lost.

On motion of Mr. Clark, the word "of" in the 18th section, 1st line, was stricken out.

The section was then adopted.

The 19th section was adopted.

Mr. Hemphill offered the following amendment:

Add to 20th section "except in such cases as in the judgment of the Legislature may require secrecy."

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

Ayes—Messrs. Brashear, Caldwell, Cazneau, Cunningham, Darnell, Everts, Gage, Hemphill, Henderson, Hicks, Hogg, Jewett, Latimer of L., Lumpkin, Navarro, Parker, Rains, Scott, Standefer, Wright and Young—21.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Clark, Cuney, Davis, Evans, Forbes, Horton, Holland, Hunter, Irion, Jones, Latimer of R. R., Lewis, Love, Lusk, Mayfield, McGowan, McNeil, Moore, Power, Runnels, Smyth, Tarrant, Ochiltree, Van Zandt and White—32.

So the amendment was rejected.

The section was then adopted.

Mr. Hunter moved to reconsider the vote adopting the 14th section.
Lost.

21st and 22d sections adopted.

Mr. Everts moved to strike out the 23d section.

Lost, and the section adopted.

24th section adopted.

In 25th section, Mr. Mayfield moved to strike out the following: "nor shall the members thereof [Legislature] be capable of voting for a member of their own body, for any office whatever, except it be in such cases as is herein provided for.

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

Ayes—Messrs. Caldwell, Evans, Everts, Gage, Hemphill, Henderson, Jewett, Lumpkin, Mayfield, Navarro, Tarrant, Ochiltree and Wright—13.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Baylor, Bagby, Bache, Brashear, Burroughs, Clark, Cuney, Darnell, Davis, Forbes, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lusk, McGowan, McNeil, Mopre, Parker, Power, Rains, Scott, Smyth, Standefer, Van Zandt, White and Young—38.

So the motion was lost.

Mr. Mayfield moved to insert, after the word "place" the words "of their creation;" and after the word "whatever" the words "of their creation;" so as to read, "be eligible to any office or place of their creation."

He said: I look upon the principle as a correct one, that the Legislature ought not to create offices, and fill them with its own members. But with regard to those which are incidental to the organization of a government or the administration of the laws, or connected with political institutions, if men happen to be members of the Legislature, I think that is no reason why they should be debarred from filling such stations, while they may possess all the virtues and qualifications which would enable them to fulfil the duties of any of those offices with honor to themselves, and great advantage to the country. By retaining the section in its present shape, the country may be deprived of the highest virtue and the most signal talents to be found in the State.

Mr. *Moore* said: I hope the section will remain as it is. It would be unwise to give the Governor the privilege of bribing the members of the Legislature. Is it not as much bribery to promise office to members as to offer them any certain amount of money? Yet it is more indirect, and the bribe is more likely to be received. Gentlemen must be aware of the uproar made in Congress a few years ago, when a law was introduced taking from the President the power of appointing any member of Congress. They might be induced by offers of office, to vote for measures, when they might not be otherwise disposed to do so.

Mr. *Mayfield* said: Perhaps the gentleman from Harris is more familiar with the past history of the country with regard to its legislation and the bribes which have been offered, than I myself can possibly anticipate. Now, sir, I think the correct rule of action to be this: to speak plainly and do what is just, without eternally warring against windmills, sins and crimes. I, for one, it is true, do not believe in the infallibility of human nature; I believe it is made susceptible to temptation and error; but I have not so poor an opinion of my fellow men as to believe that all are corrupt, and that the palms of their hands are at all times itching for gold. I believe in their frailty; I believe in their corruptibility; but I believe, too, at the same time, that a man can stand firm and immovable in his integrity, that there are men to whom the offer of a golden bribe can present no temptation. But the gentleman seems in his imagination to attach something criminal and infamous to every thing which is not guarded at all points. And must we then have these restrictions imposed to govern and rule us in after times as well as the present day. I know not, I care not what temptations may have thrown themselves in the way of the gentleman from Harris. I am satisfied that my countrymen will be likely at all times to select their public servants from that class of men who possess, not only integrity, but the necessary ability and qualifications to perform the duties of any station to which the voice of the country may call them. For my own part, I am upon principle opposed to all prohibition in this Constitution, restricting the Legislature of the country in after times from the exercise of their judg-

ment, as well in matters of legislation, as in matters of free choice where the interest of the State is involved. I am also opposed to directions being given to the Legislature. I believe that, in the next twenty-five years, those who will occupy the places which we now fill among men, will be more advanced in the arts and sciences, better skilled in political law and the principles of government, and more thoroughly imbued with all the learning which ennobles and dignifies man, than we are at the present day. Entertaining these opinions, I am against all these trammels and restrictions. I am against directing those who are to follow us; because I believe that the great landmarks of freedom are laid down so plainly and so well understood upon the happy soil of America, that we have nothing to do but to leave our posterity untrammelled, and they will transmit to those who are to follow them, these republican institutions as pure and unalloyed as they receive them from us.

Mr. Moore said: The gentleman has admitted the very principle which I advanced. I judge of mankind for the future by the past. And we have found men here in former days who have had this itching palm for gold. I say that we must judge of the future by the past. All legislators must act upon this principle, or they will act wrong. If we are willing to place such full confidence in the honor and virtue of those who are to succeed us, there is no need of this Constitution. If all the men who are to come after us shall be honorable, virtuous and just, they will need no Constitution, and no laws. As the honorable gentleman from Fannin has stated, laws are necessary evils. Laws are only necessary because men are evil. What does all past experience tell us? I know, and that gentleman knows well, that men are as easily bribed by office as by money; and more easily, because all Americans are educated with such a detestation of the traitor Arnold, who was bribed by money, that they spurn gold whenever it is offered as a bribe.

Sir, will all the talent of the country be concentrated in our representative halls? No, sir. I say, let members fill out the terms for which they are elected, as I believe it to be their solemn duty to do. They are placed there for that purpose by the people, who believe them to be the best qualified for the station. Let other offices be filled by the citizens of the republic at large. I believe there will always be enough men to fill them with ability, and who will discharge their duties with integrity.

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

Ayes—Messrs. President, Bagby, Burroughs, Caldwell, Cazneau, Darrell, Evans, Everts, Gage, Hemphill, Henderson, Jewett, Lumpkin, Lusk, Mayfield, McNeil, Navarro, Standefer, Tarrant, Ochiltree and White—21.

Noes—Messrs. Armstrong of J; Armstrong of R, Baylor, Bache, Brashear, Clark, Cunningham, Cuney, Davis, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jones, Latimer of L., Latimer of R. R., Lewis, Love, McGowan, Moore, Parker, Power, Rains, Scott, Smyth, Van Zandt and Young—29.

So the motion was lost.

Mr. Everts moved to strike out all after the word "term" in 3d line.

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

Ayes—Messrs. President, Bagby, Caldwell, Cazneau, Darnell, Evans, Everts, Gage, Hemphill, Henderson, Mayfield, McNeil, Navarro, Power, Smyth, Standefer, Tarrant, Ochiltree and White—19.

Noes—Messrs. Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Burroughs, Clark, Cunningham, Cuney, Davis, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, McGowan, Moore, Parker, Rains, Scott, VanZandt, and Young—30.

So the motion was lost.

On motion of Mr. Bache, the following words were stricken out: "after the first session of the Legislature after his election and," between the words "shall" and "during," in 4th and 5th line, also the words "the remainder of," in 5th line.

The section was then adopted.

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

Wednesday morning, Aug. 13th, 1845.

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

The chair announced the following committees, to wit:

Upon Everts' resolution to inquire into the propriety of dividing Texas into two congressional districts—Messrs. Everts, Young, Davis, Lewis, Horton, Caldwell and Miller.

Upon Ochiltree's resolution to supervise the several articles of the Constitution—Messrs. Ochiltree, Lipscomb, Hemphill, Smyth, Runnels, Mayfield, Henderson, Baylor and Tarrant.

Mr. Kinney, at his request, was granted leave of absence during the remainder of the session.