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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.

Mr. Mayfield, chairman of the select committee upon the subject of the apportionment of representation, reported the following as a portion of his report made on yesterday.

Until the first enumeration as provided for by this Constitution, the senatorial districts shall be as follows, to wit: The counties of Fannin and Lamar shall constitute the 1st district, and elect one Senator: Red River and Bowie, the second, and elect one Senator: Harrison, the third, and elect one senator: San Augustine and Shelby the fourth, and elect one Senator: Nacogdoches, Rusk and Houston, the 5th, and elect two Senators: Sabine and Jasper, the sixth, and elect one Senator: Liberty and Jefferson, the seventh, and elect one Senator: Harris and Fort Bend, the eighth, and elect one Senator. Montgomery the ninth, and elect one Senator. Robertson and Brazos, the tenth, and elect one Senator: Galveston and Bazorla, the eleventh, and elect one Senator: Washington and Milam, the twelfth, and elect one Senator: Fayette and Bastrop, the thirteenth, and elect one Senator: Travis and Gonzales, the fourteenth, and elect one Senator: Austin, Matagorda and Colorado, the fifteenth, and elect one Senator: Jackson, Victoria and Goliad, the sixteenth, and elect one Senator. the county of Bexar, the seventeenth, and elect one Senator.

After some business relating to the extra mail, the Convention, on motion of Mr. Bagby, took up the

ORDERS OF THE DAY.

On motion of Mr. Gage, the subject of the apportionment of representation in the report of the committee on the Legislative Department was taken up.

Mr. Van Zandt moved to take up the 9th section, settling the basis of representation in the Senate.

Mr. Darnell moved to go into committee of the whole on the question of representation in the Senate. Lost.

The question was then taken on Mr. Van Zandt's motion to take up 9th section, which was carried, and the original section and the substitute were read.

Mr. Mayfield said: It is perhaps my duty as chairman of the select committee, to state the views which I understand to have controlled the majority in submitting the substitute. There are some gentlemen upon this floor, and I frankly confess that I am one of the number, who, if it were thought practicable to carry it, although we do not wish to cast straws against the wind, would have contended for the federal basis of representation; and were this basis before us for consideration, I admit that I would vote for it. We are in favor of that basis, because we be-

lieve it calculated to guard and support one of the main institutions of this country, to wit. that of slavery; because we believe that it would, if adopted, in all future legislation, afford a proper protection to that great interest, and in some degree present a check to those who might seek to infringe upon it, or to destroy the institution itself. Upon an investigation, however, we are induced to think that perhaps a majority in the Convention do not entertain these opinions; and those who do, are not disposed to press their consideration. Yet at the same time, they are desirous to secure some provision, whereby the most important institution of the land may in all time to come have the necessary protection and shield thrown around it. Hence this protection was made and voted for by a large majority of the committee. Another proposition was also submitted, to base representation upon the free population of the State. That proposition received the modification which appears in the substitute offered for the 9th section: that representation in the lower house should be based upon free population, but in the senatorial branch the appointment should be made according to the number of qualified electors in the several senatorial districts. It was the view of the committee, as I understand, to present this as a medium ground upon which all parties perhaps would meet. If the proposition to adopt the federal basis is thought too strong, that to adopt the basis of free population is perhaps equally ultra: and as a medium between the two extremes; one branch at least, it is thought, should be based upon qualified electors. This, it seems to me, is just, when we look at the great interests of the country, and find that in all probability the time will come when not only serious inroads, but violent attacks will be made upon the most important institutions of the land: and when that day may come, and these attacks may be made, I think it our duty, as wise men, to endeavor as far as in our power to guard these institutions which we believe indispensable to the safety and prosperity of the State. Now I hold myself, and perhaps I may as well state it on this occasion as any other, that in the abstract, the institution of slavery is just. I hold further, that the true policy and prosperity of this country depend upon the maintenance and prosperity of that institution: for we occupy a land, the climate, soil and productions of which are of such a character as imperiously to demand, beyond all countries perhaps on the habitable earth, the employment of slave labor and slave capital. When then we look forward to the future grandeur and prosperity of our country, after the development of this land and the manifestation of its riches to the world, when our institutions shall stand proud and erect in the face of creation, then amongst others, the institution of slavery will be properly and duly maintained here, and regulated by all those human principles which experience and the great advancement of the age may demand. We occupy a country, the fertile soil of which yields a great number of the most valuable productions of the earth; one, sir, which even in its infancy, is now attracting greater attention among the people of the United States and

throughout Europe, than any other upon the globe. England has expended her millions in the attempt to develop the resources of countries much more uncongenial than Texas to the production of the great staples of the world. Proper economy and wisdom in legislation are alone necessary to enable this country now and for all future times to compete with every country and every clime in furnishing the main staples necessary to the manufactures of Europe as well as the United States. When we look to our sugar lands, to our rice and indigo lands, and especially to the vast territory of this country susceptible of producing one of the main staples of the world, cotton, we clearly see that our prosperity must at all times rest upon the proper employment of slave labor and capital. When we take into consideration our geographical position, our climate, and our soil, capable of furnishing a larger amount of exports than those of any nation upon earth, it is evidently our policy to look to the main staples of the country, and to give them proper protection and encouragement in establishing the organic law of the State. Commerce must flourish in this country only as the agricultural interest of the State is protected and fostered. All the various branches of industry are wholly and entirely dependant upon the one great and permanent interest, the agricultural interest of the State. Is it not just and politic, is it not wise, then, to protect this great and permanent interest? I trust the Convention will give this most important and prominent branch of industry at least this poor protection: and that the principle established in the substitute will be adopted.

Mr. *Lewis* said he could see no good reason why there should be a difference made between the senatorial and representative branches of the Legislature. He would therefore propose to amend the substitute of the committee to the 9th section, by striking out the words "qualified electors" in 3d line and insert "of free inhabitants, Indians not taxed, Africans and descendants of Africans excepted."

Mr. *Runnels* said: I hope the amendment will not prevail. As I have before made some remarks upon this subject, I will be as concise as practicable. I hold it to be essential that in one branch of the Legislature the principle of equality in the rights of suffrage should be maintained and secured to the people. This principle, sir, is partially secured by the report of the committee: and I had hoped that there would have been a spirit of concession evinced with regard to one branch of the Legislature. If, by the voice of a majority of this Convention, representation in the popular branch is based upon free population, those who are opposed to this principle and who advocate the basis of qualified electors, must submit. But it seems to me, under the circumstances, that a spirit of conciliation should prevail, to a limited extent at least. Now, sir, if this principle with regard to the basis of representation, is carried out in both branches of the Legislature, there is no gentleman

who will reflect for a moment, but will be bound to admit, that the elective franchise in one portion of the country will be disproportionate to that of another. Situated as we are, with regard to the geographical position of the country, it is demanded by the soundest principles of justice and equality, that the elective franchise should be extended to every portion of the community. It does seem to me that any objection to this basis in the senatorial branch is carrying the doctrine to the extreme. It seems to me that the basis of qualified electors is more peculiarly demanded in our country than in our sister states. We are peculiarly situated; we require and demand something of the kind for the protection of the great interests of the country. I hold it to be an indisputable fact that a principle which will give protection to the institution of slavery will operate alike beneficially upon every county in this Republic at this time represented upon this floor. This, then, being my opinion, I believed that stronger means of protection than those afforded by the section were necessary. I am still of the same opinion: but being convinced that the majority of this Convention do not agree with me, I have been disposed to abandon the position. I had no peculiar interest in advocating these doctrines, nor have my constituents, any further than those of any other gentleman. I believe the basis which I advocated necessary for the protection of the interests of the State at large; I believe its adoption would have a salutary effect with regard to the immigration of the description of property to which I have alluded. If we had a strong guarantee, even stronger than this which I contend for, by means of representation in the Senate, I believe it would induce immigration of that species of property, and add greatly to the wealth and prosperity of the country. But, sir, strip this Convention of every vestige of protection of this kind, and you leave no inducement to such immigration. Many of the slave-holding states have public domain yet unoccupied and uncultivated, and emigrants will remain there, on account of the greater security of their property. The immigration of that species of property will not only develop the resources of the country, but will enhance the value of the lands owned by individuals in this country, which, without it, must remain a drug upon their hands for half a century to come. With these views, I advocate the basis of representation as reported by the committee.

Mr. *Everts* said: I shall vote for the report of the committee. For myself, I would prefer the basis of free population; and I am decidedly opposed to the federal basis. But being disposed to yield my individual preference upon this subject, in consideration of the wishes and views of those who are anxious thus to throw protection around the institution of slavery, I, for my own part, will vote cheerfully for the proposition of the committee, and I do hope it will be adopted.

Mr. *Davis* said; I will detain the house but for a moment. I myself am opposed to the federal basis of representation. But I am willing

to vote for the substitute proposed by the committee. Gentlemen have fears: I have no doubt they are honest in them, though I think it probable there is not so much danger upon the subject of that species of property as some suppose. But I am willing to concede thus much to those gentlemen. I wish it, however, distinctly understood, that I am opposed to the federal basis of representation.

Mr. *Hemphill* said: In relation to the federal basis, I will say distinctly that I would be in favor of it, if it could possibly obtain. I am in favor of representing property, and especially slave property. I am in favor of it in this State in particular. I think the institution of slavery ought to be more carefully guarded in this State than in any other in the Union. But I shall vote for qualified electors, instead of population as the basis of representation here, not because I believe it will give any particular guarantee to the institution of slavery, but because, on account of our extended frontier, exposed at all times to the incursions of the Indians and perhaps hostile Mexicans, the proportion of qualified electors will be great in some portions of the country compared with population, while in those parts which enjoy peace and quiet, the number of women and children will preponderate.

Mr. *Love*, after some remarks inaudible to the reporter, proceeded as follows:

When the federal basis was originally adopted, it was thus fixed, as we know, not because there was any immediate danger that violent hands would be laid upon slavery; but because, from a knowledge of human nature, it was foreseen that the time would come when assaults would be made upon that institution. Now, I would ask, had it not been for this guarantee, would slavery have existed at this time, and the Union been preserved? It is very evident that the course of education and feeling in the Northern States, at least would have destroyed slavery, or produced a dissolution of the Union. Gentlemen do not believe that slavery is in danger in Texas, because now all have the same ideas. But the future will show. A large portion of our white population will be upon our borders in the West. And there are many sections of Texas which to-day have slaves profitably employed, that in process of time will abandon that species of labor, and at last the planting sections alone will find them profitable and useful. Take any section of the United States north of 33°, and, sir, in a few years the people will find slave-labor unprofitable. While there is no immediate danger to be apprehended, still at the same time a guard should be thrown around the institution, not only for present security, peace, and quiet, but for future protection from assault. I listened the other day to the argument of the gentleman from Liberty, and I think he is totally mistaken in the opinion that all the prominent men of the North are opposed to any war upon slavery. I do know, that even at this day the abolitionists themselves

had the power in the State of New York to control the election of President. And what has been the effect upon Texas? There is no one here who does not know, that had not the abolitionists, in the freak of the moment, opposed the election of Mr. Clay, he would have been the President, and we should not be here assembled at this day. Look at the influence of education. From the time an infant at the North can disp the word *slavery*, he is taught to abhor it; and every tale he is told, every book he reads, deepens the impression. You know that the power of such influences never leaves us, so long as life remains. It grows with our growth and strengthens with our strength. And unless we throw a guard around that institution here in the Constitution, it is destined to be entirely overthrown, with or without our consent. I think the gentleman is equally mistaken with regard to the British government. She has made war upon slavery; and for what reason? No because the institution is immoral; but because she saw that the United States was her only great rival in commerce and manufactures, and that by striking a blow at slavery in the United States, she was using the only means in her power to prostrate her flourishing competitor. As I said before, I do not believe that there is any immediate danger now with regard to this subject. But I tell you, sir, that unless we become part and parcel of the United States, ten years will not have elapsed before we shall find ourselves outvoted at the ballot box.

Gentlemen say it is the republican doctrine, that population should prevail. I deny it, sir. In Alabama they made population the basis, and why? Because there was a vast white population in some sections of the country, who had but few slaves; they had the power of numbers, and fixed a basis by which they might retain the preponderance. It was the same thing in Mississippi. How is it in Virginia? That State is divided into three districts, represented by electors. An arbitrary division was made for the protection of property, and time has shown its wisdom. Even now the State of Virginia is upon the eve of calling a Convention; several of the papers assert that slavery ought to be abolished. Go to the Northern States, there you find the principle to be in favor of protecting towns, on account of the manufacturing interests of the country.

Look at the effect upon us in the lower country, of adopting this principle of population. It operates un-equally with regard to representation. Then, if you tax by the head, what do you do? My friend from Harrison said that women and children ought to be represented, because you can try them for crime. Then, if the argument is good, and if they are to be represented, they ought to be taxed by the head. Now, you give us representation according to population, and tax us according to the number of qualified electors. I do not question the power of this Convention to fix any basis the majority may choose; but power is one thing, and right another, morally speaking. I will not complain, because every man in giving his vote upon the subject, will vote upon

principle, and as he thinks best for the country. But I trust they will consider how unequally this principle will operate upon us, defenceless we are at best; having no security for our slave property but the moral force arising from right, and the moral force given by the protection of law. I venture to say that Brazoria county in ten years will pay more taxes than any portion of the State of equal extent. It will be one great plantation, one great slave quarter. Let gentlemen consider another fact; that the people of that section of the country have, by the taxes they have paid, supported your government, which, but for their obedience to the laws and desire to maintain government, would have been long since literally dissolved. They have not only paid taxes upon every thing imported, but have been compelled to pay taxes upon every thing they ate. There has not been a year but every citizen of Galveston and the coast counties has been forced to pay a high and onerous tax upon every mouthful he ate, with the single exception of beef, which came from your prairies. I trust gentlemen will act upon principles of justice; though I will admit that this is a small matter at present. Let these people not have it to say, that they have been sacrificed to power, without right or reason. That will be the feeling with a great portion of the people, if you do this act, as I think, manifestly unjust towards them. I am now done with the subject, as far as I am concerned, for once and all. Though in bad health, I could not decline offering a few brief remarks upon a subject of so deep and abiding an interest to the country.

The question being on the adoption of the substitute offered by the gentleman from Montgomery,

Mr. Moore said: I consider the amendment applicable to the whole country; I believe that every portion of it which is now settled will be affected by it. I believe that the best interests of the country require the basis of qualified voters. It has been objected, that by adopting this, we throw out the women and children. Sir, I would do all in my power to sustain the rights of woman. Honored, ever honored be woman! If she was first to cause man to fall from his high estate, she is now first to lead him back to the Paradise he had lost. She nurtures and sustains us in infancy; she diffuses joy around us in manhood; she comforts and cherishes us in old age. I would be the last to restrict one of her privileges. I would regard all her rights as sacred. But are we doing her injury by fixing the basis contended for? No, sir. When we rest representation upon the basis of qualified electors, we rest it upon the true basis; and in so doing we represent the women and children, whom it is every man's duty to protect, aid, and support.

With regard to the little clique of abolitionist, let me tell gentlemen not to believe this clique so small, or the evil so slight as they seem to think. I have been but recently in the Northern States; I have seen

the abolitionists gathered together in mass meetings; I have found them a powerful party. I have found ministers of the gospel using the pulpit as the means of giving circulation to the foulest calumnies. Six years ago, in travelling at the North, you could scarcely find one in a hundred entertaining these opinions, but in my recent tour I found great numbers opposed to me upon this subject. Sir, there is mischief to an immense extent gathering there. And it is our duty as legislators of this land, to guard well its institutions. I speak from personal observation, and I trust therefore that my intimations may be heard and regarded. The abolition journals of the North now state that they are glad Texas is annexed, because, say they, it will place the question of slavery in some degree under their control. They say, that all they have to do is to encourage emigration from the North, and they can soon out vote us. They say, as we only vote about 13,000, all that is necessary is to raise a sum of money to aid young men in moving to the country. Similar views have been openly expressed in London. Now, these evils are upon us, and it becomes the duty of our assembled legislators here to guard well our institutions against the gathering storm.

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

Ayes—Messrs. Armstrong of R., Bagby, Burroughs, Clark, Evans, Gage, Hogg, Holland, Latimer of L., Lewis, Lumpkin, Parker, Power, Scott, Smyth, Van Zandt and Young—17.

Noes—Messrs. President, Anderson, Armstrong of J., Baylor, Bache, Brashear, Brown, Caldwell, Cazneau, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Hemphill, Henderson, Hicks, Horton, Hunter, Irion, Jewett, Jones, Kinney, Latimer of R. R., Love, Lusk, Lipscomb, Mayfield, McGowan, McNeil, Miller, Moore, Navarro, Rains, Runnels, Standefer, Tarrant, Ochiltree, White and Wright—40.

So the motion was lost.

The question was then taken upon the adoption of the substitute.

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

Ayes—Messrs. President, Armstrong of J., Bagby, Baylor, Bache, Brashear, Brown, Caldwell, Cazneau, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Hemphill, Henderson, Hicks, Horton, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of R. R., Lewis, Love, Lipscomb, Mayfield, McGowan, McNeil, Miller, Moore, Navarro, Power, Rains, Runnels, Standefer, Tarrant, Ochiltree, White and Wright—44.

Noes—Messrs. Armstrong of R., Burroughs, Clark, Evans, Gage,

Hogg, Latimer of L., Lumpkin, Lusk, Parker, Scott, Smyth, Van Zandt and Young—14.

So the substitute was adopted.

Mr. Hogg moved to strike out "19," and insert "13."

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

Ayes—Messrs. Armstrong of R., Brashear, Burroughs, Bagby, Hicks, Hogg, Horton, Irion, Jones, Latimer of L., Lumpkin, Lusk, McGowan, McNeil, Parker, Power, Rains, Scott, Smyth, Standefer, Ochiltrie and Young—22.

Noes—Messrs. President, Anderson, Armstrong of J., Baylor, Bache, Brown, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Holland, Hunter, Jewett, Kinney, Latimer of R. R., Lewis, Love, Lipscomb, Mayfield, Miller, Moore, Navarro, Tarrant, Van Zandt, White and Wright—36.

So the motion was lost.

Mr. Latimer of L. moved the previous question.

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

Ayes—Messrs. Anderson, Armstrong of J., Baylor, Bache Brown, Cazneau, Cunningham, Cuney, Davis, Everts, Forbes, Hemphill, Horton, Hunter, Jones, Kinney, Latimer of L., Lipscomb, Lusk, Mayfield, Miller, Moore, Navarro, Power, Tarrant, White and Wright—27.

Noes—Messrs. President, Armstrong of R., Brashear, Burroughs, Bagby, Caldwell, Clark, Darnell, Evans, Gage, Henderson, Hicks, Hogg, Holland, Irion, Jewett, Latimer of R. R., Lewis, Love, Lumpkin, McGowan, McNeil, Parker, Rains, Runnels, Scott, Smyth, Standefer, Ochiltrie, Van Zandt and Young—31.

So the motion for the previous question was lost.

The question was then taken on Mr. Young's motion to strike out "19," and insert "15," and on motion of Mr. Parker, a division of the question was made.

The ayes and noes were then called on striking out "19," and were as follows:

Ayes—Messrs. Armstrong of R., Bagby, Brashear, Burroughs, Evans, Gage, Hicks, Hogg, Horton, Irion, Jones, Latimer of L., Lumpkin, Lusk, McGowan, McNeill, Parker, Power, Rains, Scott, Smyth, Standefer, Ochiltrie and Young—24.

Noes—Messrs. President, Anderson, Armstrong of J., Baylor, Bache, Brown, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Forbes, Hemphill, Henderson, Holland, Hunter, Jewett, Kinney, Latimer of R. R., Lewis, Love, Lipscomb, Mayfield, Miller, Moore, Navarro, Runnels, Tarrant, Van Zandt, White and Wright—34.

So the motion to strike out was lost, and the section adopted.

On motion of Mr. Van Zandt, the 30th section, together with the substitute of the committee, were taken up.

On motion of Mr. Van Zandt, the words "entitled to separate representation," in 7th and 8th lines of the substitute were stricken out.

Mr. Caldwell moved to insert "forty-eight" between the words "hundred" and "and," in 2d line; and also in 2d line to strike out the words "not less than every four nor more than." Carried.

Mr. Brown moved to strike out the words "free population" wherever they occur, and insert "qualified electors"

Mr. *Brown* said: He believed that the general disposition of the House had been in favor of a compromise upon this subject; but the course adopted amounted to no compromise at all. He would as soon have this principle prevail in both branches as in one, if property was to be entirely excluded. He believed that in representation persons and property should be combined. This was the basis recommended by the sages and patriots and statesmen distinguished in American history; it was a principle from which we should not depart. How could we consistently support our claim to representation in the national councils for three-fifths of our negroes, if we discard the principle at home? To be able to contend for our constitutional rights under the Federal Constitution, it was necessary to preserve that principle here. He had had no idea that any thing would have been recommended so obnoxious to that portion of the House who agreed with him upon this subject. If a compromise was to be had, he had thought at least that the federal basis would have been retained in one branch, or taxation and numbers combined. He looked upon it as necessary for the preservation of our property, liable as well to be taken away by direct laws of emancipation, as by the indirect method of taxation. The members of this Convention represented people of the same opinions, the same ancestry, language and manners, and the same institutions. Slavery existed alike in every section of the country represented upon this floor; and the contingencies against which he would guard were such as would arise hereafter. The basis of qualified electors in both branches was the only thing to his mind which could even bear the aspect of a compromise. There would be no improper preponderance given to the wealthy classes. The property of this country was distributed among all classes of the

community; it was in the hands of nineteen-twentieths of the population. To be secure against depredation, property must have its due share of representation in the government. There was a species of property here, which would be owned by one part of the country and not by another; a species of property which might fall under excessive taxation, as well as by a law of abolition. All the people of Texas were now interested in this institution, and would like to see a principle inserted in the Constitution, which should provide for its continuance, until time should show that there was no economy in the institution itself.

Mr. *Horton* said: Either the gentleman from Colorado or he himself was laboring under a mistake with regard to the report. He had pleased himself with the idea that gentlemen from the lower, the eastern and middle States of the country would support the substitute offered by the committee. And now, after having adopted the substitute containing the measure for which they were contending, for gentlemen to turn round and say, we do not thank you for it, or we will strike out this principle, he looked upon as hardly reconcileable with a good conscience. This was a measure in which the country was generally concerned, and he should feel himself bound to support it. He would say that he felt under obligation to those gentlemen who had magnanimously supported it in the morning, and if it should be in his power to make any return, he should feel no hesitancy in doing it.

Mr. *Lusk* said: He certainly understood it as a compromise. A few days since, when it was probable the basis of free inhabitants would be adopted in both houses, a compromise was proposed, and he understood that the friends of the federal basis were willing to put up with that of electoral voters in one house.

Mr. *Darnell* moved to adjourn to 4 o'clock P. M.

Lost.

Mr. *Forbes* said: Like the gentleman from Colorado, he looked upon this as no compromise at all, and not worth contending for; and so far as he was concerned, he felt perfectly willing to see a reconsideration, and representation entirely based upon free white population.

Mr. *Runnels* said: he should regret to be considered as having assented to any thing like a compromise in this matter. But he certainly thought that something had been accomplished. He had not, however, expressed a determination not to vote for the motion of the gentleman from Colorado. He felt it due to his constituents to do so.

Mr. *Anderson* said: He still entertained the same opinion with re-

gard to the basis of representation, which he had expressed when the subject first came up. He was no party to any compromise, if any had been made, and he could not perceive any good which could result from such a course as this. He would cheerfully vote for a reconsideration, and make free white population the basis in both branches of the legislature.

Mr. *Darnell* said: Before the question is taken, I wish to refer to the position in which some gentlemen would seem to attempt to place those who advocate the principle of free population. It is argued that the interest of the slave holder, his rights and privileges, are alone to be regarded in fixing the basis of representation; that negro property alone is to be represented. Sir, have we asked representation for our horses, our cows, or other property? No sir; we seek to adopt one principle for all, and that is justice. We wish representation to be based upon the people, the white people, the people who have rights which should be regarded in a deliberative body. Now, sir, what can the legislature effect with regard to negro property? Can they say that the owners shall dispose of it, or that it shall be excessively taxed? There is no power given to the legislature to do this. Have we not declared that taxation shall be according to the *ad valorem* system? The legislature cannot tax one species of property higher than another. Why, then, do gentlemen contend that the legislature may strip them of this property? Now, Mr. President, the man who owns his horses, his cows and his oxen, is as liable to be affected by legislative action as the man who holds his negroes. You must change the constitution before you can affect the slave population of the country. And how are you to affect it? By the qualified electors: The power is not given to the legislature to abolish slavery: there is no way in which it can be done except by calling a convention. Sir, I contend that right and justice loudly demand that the population should be represented, the free white population of Texas, who claim protection at the hands of the legislature. As regards the federal basis, it is fixed by the constitution of the U. States in the Congress; but when you come to the state legislature, I ask gentlemen to point me to one state which has adopted that basis. We contend for that which we conceive to be just, proper and right. And we cannot be accused of furthering the views and policy of the abolitionists. For the constitution we are now fixing, places it beyond the power of the legislature to meddle with the subject in any manner whatever.

Mr. *Lipscomb* said: It was well known that he was dissatisfied with the basis of representation which had been adopted. But he was satisfied to support this as the best compromise which could be obtained.— He should vote *no*.

Mr. *Ochiltree* said: He wished it distinctly understood, that occupying precisely the position of the gentlemen from Washington and Fayette, he should vote *no*.

Upon which the ayes and noes being called on Mr. Brown's motion to amend, stood as follows:

Ayes—Messrs. Anderson, Bache, Brashear, Brown, Cuney, Forbes, Hemphill, Jones, Love, Miller, Power, Runnels and White—13.

Noes—Messrs. President, Armstrong of R., Bagby, Baylor, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Evans, Gage, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Latimer of L., Latimer of R. R., Lumpkin, Lusk, Lipsecomb, Mayfield, McNeill, Navarro, Parker, Rains, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, Wright and Young—41.

So the motion was lost.

The section as substituted was then adopted.

On motion of Mr. *Ochiltree*, 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 report of the select committee being first in order, apportioning the representation in the senatorial branch of the legislature, till the first enumeration as provided for in the constitution.

Mr. Forbes moved that the house resolve itself into committee of the whole on the subject.

Lost.

Mr. Parker offered the following amendment to the section:

"The counties of Nacogdoches and Rusk, to one senator; the county of Houston and the judicial county of Burnet, as now defined by law, to one senator. The election of senator in this district, shall be under authority of, and returns made to the county of Houston."

Messrs. *Ochiltree* and *Hogg* made some remarks indistinctly heard by the reporter.

Mr. *Parker* said: The gentleman from Nacogdoches states that the adoption of the amendment proposed by myself, would be giving a sen-

ator to Houston county, voting only 521, while the county of Nacogdoches, with so large a vote, would be entitled to but one senator. The gentleman is mistaken in his calculation. The judicial county of Burnet was taken off the upper end of Houston county, and that part of Nacogdoches lying east of Trinity up to the Fannin county line. It is represented here that there 300 voters in that part of Nacogdoches county which never belonged to Houston county. Now, sir, what is the great difference in the vote of the two districts, of which the gentleman so bitterly complains? The counties of Nacogdoches and Rusk voted for President 1000, or about that number; Houston voted 521, and the 300 votes within the limits of Burnet county, make 821. Look, sir, at other senatorial districts, and you will find much greater differences as regards the number of voters. Are there not districts which do not vote even 521, the vote of Houston county? Why, then, does the gentleman object to the division of the district? It will give convenience and satisfaction to the people.

Mr. Parker moved to lay the amendment offered by himself on the table. Lost.

Mr. Young offered an amendment to Mr. Parker's amendment, as follows:

"The county of Nacogdoches, one senator; and the counties of Houston and Rusk, one senator."

Which was rejected.

Mr. Parker's amendment was then taken up and rejected.

Mr. Cuney offered a substitute for the additional section proposed by the committee, which is as follows:

"Fannin and Lamar, one senator; Red River and Bowie, one senator; Harrison, one senator; Shelby and San Augustine, one senator; Jefferson and Liberty, one senator; Nacogdoches and Rusk, one senator; Houston, Brazos and Robertson, one senator; Montgomery, one senator; Harris, one senator; Galveston, one senator; Brazoria and Matagorda, one senator; Austin and Fort Bend, one senator; Washington and Milam, one senator; Travis and Bastrop, one senator; Fayette and Colorado, one senator; Jackson, Gonzales and Victoria, one senator; Refugio, Goliad and San Patricio, one senator; Bexar, one senator; Sabine and Jasper, one senator."

Upon which the yeas and nays were called, and stood thus:

Yeas—Messrs. Brashear, Caldwell, Cazneau, Cuney, Forbes, Hemphill, Henderson, Horton, Jones, Loze, Lipscomb, McGowan, Miller, Moore, Runnels and Smyth—16.

Noes—Messrs President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brown, Clark, Cunningham, Darnell, Davis, Everts, Gage, Hicks, Hogg, Holland, Hunter, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Mayfield, McNeil, Navarro, Parker, Power, Rains, Scott, Standefer, Tarrant, Van Zandt, White, Wright and Young—38.

So the substitute was rejected.

Mr. Forbes offered the following as a substitute to the section report ed by the committee, by striking out all after the words "as follows, to wit:" and inserting "the counties of Brazoria and Fort Bend, one senator; Matagorda, Jackson and Victoria, to one senator; Austin and Colorado, to one senator; Washington, to one senator; Fayette and Gonzales, to one senator; Bastrop and Travis, to one senator; Bexar, Goliad, Refugio and San Patricio, to one senator; Robertson, Brazos and Milam, to one senator; Montgomery, to one senator; Harris, to one senator; Galveston, to one senator; Liberty and Jefferson, to one senator; Jasper and Sabine, to one senator; San Augustine and Shelby, to one senator; Houston, Rusk and Nacogdoches, to two senators; Harrison, to one senator; Red River and Bowie, to one senator; Lamar and Fannin, to one senator."

Mr. Van Zandt moved to lay the additional section and substitutes on the table for the present.

Mr. Kinney said: This is to me a perplexing and irritating subject. Constant reference is made to the Western country, to its depopulated counties, to the sparseness of its votes. If gentlemen who have made these allusions had been with me for the last few years, they would not wonder at these things. These remarks have called up recollections which make me feel sore; consequently I do not like to say any thing upon the subject. I do not suppose that any remarks I could make would change one single vote. Notwithstanding that, I feel it my duty in justice to myself to say a few words upon the subject; to explain the reasons why there are not more voters in that section of the country, and why some counties which send representatives, give only five votes. Some of the members of this Convention will recollect that Refugio, a county which at the last Presidential election gave but five or ten votes, could, in 1840, have given three hundred. There were circumstances which drove this population away from that county, or which prevented them from holding the elections at the precincts established by law. With regard to the district which I have the honor to represent, I think the proposed apportionment a very unjust one. The counties of Bexar, Goliad, Refugio and San Patricio, by the substitute, are to be entitled to but one senator; and I see by the calculation that three of these counties

are represented as having but ninety-two votes. Why, sir, the little rancho in which I reside can give two hundred or three hundred to day; voters, too, who have been long in the country; many of whom have fought, bled and suffered for the benefit of their country. I can state truly, sir, that San Patricio county, to-day, is able to turn out at least one thousand voters, and Refugio at least three hundred, as I am able to prove. I do not state this with the expectation of reaping any advantage from the fact. As has been said upon another question, if you take any gentleman's word for it, all of them have a great many voters in their respective counties. I only state facts, which I am able to prove. It is on this account I say that this apportionment is unjust. Any county situated upon the frontier, which has been obliged to fight the common enemy of the country, has had to suffer for it. Sir, in reflecting upon the misfortunes of this section, I am reminded of a story I heard not long since, of a young lady who was taken by the Indians. Her parents were very respectable, and before she was taken prisoner she had been a welcome visitor in the most fashionable circles of the country. After the lapse of one or two years she returned home; and to her very great surprise and mortification, the young ladies of her acquaintance would not come to see her; they said she had been with the Indians, and had been disgraced. The misfortunes she had suffered among the Indians were not great enough, but she must be deprived of the society she had been accustomed to enjoy before her captivity. Our condition seems to be a similar one. War, pestilence and famine, we have endured; and now we are to be deprived of our voice in the councils of the country. I might go on and make many remarks, which I believe would not be uninteresting, in relation to the history of the country, but I deem it unnecessary. It will be seen, by reference to the past difficulties of Texas, that during the Indian war, the Cherokee war upon the frontiers of the East, the inhabitants of the West, who were not very numerous at the time, were the first to volunteer and go to the assistance of their brethren in putting down the Indians. In consequence of the assistance given by the Western people, the enemy was driven out of the country, and the population of that section increased to a very great extent. I do not make these observations to cast any reflection upon the inhabitants of the Eastern country. But I would only remind gentlemen, that if we had had their assistance to have driven off the common enemy, and given our people perfect security, we could have had a large population. I will mention one other fact. It is known to a great many persons in this Convention, that in 1835 and 1836, the town of Goliad, in the county of Goliad, contained something like fifteen hundred inhabitants. The distress consequent upon the war has driven these people away. There is not a single vote now in the town of Goliad. Is it right, because these misfortunes have fallen upon us, to take away from Goliad her representation? In Refugio, there was a population of seven hundred at the same time, which, from the same cause, was driven away from

that part of the country. I ask further, if it is right that they should be deprived of their representation, in consequence of events which have benefited the East, by which a great part of their population has been forced to retire to the East, to escape being butchered by the enemy? It is the same case with San Patricio. I only make these remarks to show the injustice of taking away our rights, on account of misfortunes which we have not brought upon ourselves, and the curse of which should not fall upon our heads alone. If the East has not been able to fight our battles, she should at least show her generosity, and give us equal representation in the councils of the nation.

The motion to lay on the table was lost.

Mr. Anderson moved the previous question.

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

Yeas—Messrs. Anderson, Armstrong of R., Bagby, Baché, Cunningham, Davis, Gage, Kinney, Latimer of L, Lusk, Lipscomb, Moore, Navarro, White and Wright—16.

Noes—Messrs. President, Baylor, Brashear, Brown, Caldwell, Cazneau, Clark, Cuney, Darnell, Everts, Forbes, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Latimer of E. R., Lewis, Love, Lumpkin, Mayfield, McGowan, McNeill, Miller, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt and Young—40.

So the motion for the previous question was lost.

The question was then taken on Mr. Forbes's substitute, which was rejected.

On motion of Mr. Jones, the section reported by the select committee, was referred to a select committee of six, to be composed of members from the eastern, middle and western portions of the country, with instructions to report to-morrow morning.

On motion of Mr. Mayfield, the committee were instructed to fix the maximum number of Senators at nineteen.

Mr. Hogg said: He would move another request, if not instruction to the committee, to show the number of votes in each senatorial district and county, for the information of the House.

Carried.

Mr. Hemphill said: He thought it would be well for the committee, if they could, to ascertain the causes why some of the Western counties

had not given a larger number of votes at the last Presidential election. Refugio and San Patricio, for instance, where he attended court in 1840, contained a large, industrious and respectable population. Soon after, their property was destroyed, their women were subjected to the brutal licentiousness of the soldiery, and the men were carried off to the Rio Grande, or fled into the interior. He wished the facts to be stated, wherever it was found that the deficiency had been caused by the incursions of the enemy, when the government was not able to protect the population. He moved that the committee be so instructed.

Mr. *Tarrant* said: He had voted in the majority for the reference. From the disposition evinced by gentlemen, he now believed it would result in no good, and would move a reconsideration of the vote. He believed it would create a great deal of discussion, without answering any valuable purpose.

Mr. *Caldwell* said: I hope it will not take place, and that the farther instruction proposed by the gentleman from Washington will be given. If this information cannot be obtained by to-morrow, the order is peremptory to the committee to report to-morrow, and of course they will not report it. But I am satisfied that it can be obtained, and desirous that some report should be made upon the subject; for I regard it as highly necessary that this House, in making the apportionment, should ascertain what the number of voters really was at the time of the Presidential election. That would be a better criterion to go by than the actual vote given. For if the committee ascertain that in a given county there could have been three hundred votes, but for the inability of the government to extend the protection necessary to hold the elections, of course it is not the intention of this Convention to cut it off from representation. It has often been said, that a portion of country represented upon this floor and the floor of our Congress, has no voters. And why, sir? Because the forces of the government could not extend the necessary protection to the officers holding elections in that section, so that the people could approach the polls; therefore their votes have never been counted. I hope that the inquiry will be made, and that these portions of the country will be properly represented.

Mr. *Lipscomb* said: I dislike to occupy the time of the Convention; but I trust that if any instructions are given to the committee, this proposed by my colleague will also be given. One of the instructions asked for, seems to have an awful squinting towards cutting off these counties from representation. I wish the information to be obtained, so that it may be known hereafter how gentlemen have voted, and the grounds upon which they have voted. I live in a section of the country which has never been broken up at all, but near enough to the frontier to have my sympathies excited for the population, driven from their homes and

never yet permitted to return; though now, thanks to the great event that has called us together, they have a more cheering prospect before them.

Mr. *Hogg* said: The gentleman from Washington, I suppose, alludes to the instructions proposed by me, as having the awful squinting of which he speaks. I, sir, have as much sympathy as that gentleman can, or ever did have for the West. I will refer gentlemen to my vote in Congress upon the bill to release a certain section from taxation. But I view this government as about to be changed into a State government, and I believe that the people have the right to be represented according to population. I believe that the United States will throw around the Western people the protection necessary to their comfort and happiness. I am as far as any man from wishing to cut them off from their due representation. What I desire is simply that representation should be given to the people of Texas according to population. If the information demanded by the gentleman from Bastrop and Washington can be procured, I shall be anxious to have it, I can then render my account to my constituents and the people of the East. But if nine counties in the West, voting only 814 votes, are to be entitled to nine representatives, and three counties in the East, voting 1355, are to be entitled to only three representatives, I have not sympathy enough in me to say that the people of Texas shall be thus unequally represented. I am willing to do any thing for the protection of that country which justice may demand. But affairs are now about to assume a different aspect; the people of that section will be protected by the United States forces. If gentlemen can show any good reason why the Western country should come in and be represented in this disproportionate ratio, I am willing to submit to it. But wishing, as I do, to see representation as nearly as possible proportioned to population, I am unwilling to see such an apportionment adopted. I may be considered illiberal, but I believe that the duty I owe to my country imposes upon me the course I shall take in this matter.

Mr. *Tarrant* said: I did not make the motion for the purpose of cutting off any information in relation to the West. I am as willing to support the Western country as any man. I am perfectly willing that we should get all the information we can, that we may act knowingly upon the subject. As the motion has opened the door for several speeches, which I did not expect, I will now withdraw it.

Messrs. *Runnels*, *Cazneau*, *Moore*, *McNeil*, *Ochiltree* and *Tarrant* were appointed the Select Committee.

Mr. *Mayfield* said: I deem myself called upon to submit a few remarks in support of the motion of the gentleman from Washington. If

I understand the question, it presents itself upon a motion of the gentleman from Nacogdoches (Mr. Hogg), to instruct the committee to submit to the Convention the number of electoral votes cast at the last Presidential election: and the motion of the gentleman from Washington contemplates that the committee should be instructed also in their report to show the condition of the depopulated counties, and the causes which have produced that condition, and the probability of an increase in their population within the next few years. Sir, is it not just that the committee should present these facts to the consideration of the Convention? Is it not highly necessary that they should inquire into these facts, these causes and results, which are not entirely in the possession of every gentleman upon this floor? I had flattered myself that upon this occasion, the particular subject now under consideration would not have been brought forward. But as it is now before us, I conceive it an act of justice to myself, and particularly to the people of that portion of the country who have suffered most and expended the greatest amount of money in the support and maintenance of the country, to present the subject in its proper light before this Convention. I hold it then, sir, to be right and proper that the committee should inform this body of those facts which every man should know. Justice demands that they should explain the causes which have produced the depopulation so often alluded to, and which has excited the sympathy of gentlemen upon this floor. I regret, sir, that it is so late in the evening that I cannot devote that time to the subject which it intrinsically merits. Sir, when we come to compare notes, when we come to look at the true history of the country, we shall find that even these depopulated counties, which have excited some degree of sympathy in the bosom of the gentleman from Nacogdoches, have contributed more in blood and treasure in sustaining the country, than those which now boast of their vast numbers. He himself comes from the midst of a gallant and magnanimous people, who have been distinguished for their chivalry at all times from the earliest day in our history down to the present period. I feel satisfied, sir, that they entertain a true and abiding sympathy for those who have battled so often and expended so much in the cause of their country. They are an honorable people. I have lived among them, and without egotism I may say, that I have joined them in the battle field. But, sir, at the same time, I would ask, if those people, and particularly those who now boast of their numbers, have contributed the most in supporting and sustaining the country? Sir, we are now entering, if I may use the expression, a great political millennium, we are adopting a great political amnesty, and forgetting the past, we are seeking to adopt such measures as will give general satisfaction to the country. And should we not give to those who have periled most and sacrificed most an equal voice until such time as they may be enabled to be properly represented in the legislative halls of their country? The West, the suffering West. I speak only my own sentiments, but in so doing, I am satisfied that I

speak those of every man from the western bank of the Brazos to the eastern shore of the Rio Grande; the west asks no gratuities: she only stands up here and demands justice from the country, in conformity with her claims and the services she has rendered. When you come to trace the past history of the country, from what source has it derived its chief support? Consult the statutes of the country, look over the reports of the various secretaries of the treasury, and they will tell the tale. Consult the records of the war office, and what portion of the people have poured out their blood more freely than those of the west? It is but a few years since these sections which are now boasting their vast population were asking the protecting arm of the government to expel from among them an enemy which was depriving them of their substance, and retarding emigration and the occupation of their soil. The vast territory comprising these populous districts was not many years ago supported and sustained, not only by money advanced by the people of the west, but by the blood of some of her very best patriots. That country, then in danger, where the mother could scarce repose without pressing her infant with convulsive grasp to her bosom, now rejoices in peace, prosperity and happiness; and the west has contributed her blood and her treasure to bestow upon it these blessings. What, let me ask, has been her own condition, although her treasure has flowed as freely as the winds on the rippling brook, though the blood of her citizens has stained every prairie and savannah in that country? Has her frontier been reclaimed, have her depopulated towns been re-established? Has the great East, and I ask it without reflecting upon her people, either by money or the strong arm, driven the foe from our borders, and said to the inhabitants of the West, there is your habitation, there your home; go to it, and repose in peace and prosperity? No, sir. Up to this time, such has not been the action of this government. The west has been the constant theatre of the incursions of the enemy, either Indians or Mexicans; from the coast to your extreme North-western border, she has been constantly subjected to the marauding assaults of the foe. With all these embarrassments surrounding them, the people of this section have ever battled against the common enemy, and have paid the exactions of the government without a murmur. And now let me ask, if upon this day of jubilee and general amnesty, is it not just that this people should have some voice in the legislation which is not only to affect them but their remotest posterity? Can they not demand it as an act of justice, and not as a gratuity?

I hope, Mr. President, that the amendment proposed by the gentleman from Washington, will be adopted.

Mr. Young moved to adjourn to half-past 8 o'clock, to-morrow morning. Lost.

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