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in second line, and inserting, "be and the same is hereby added to the public school fund."

Mr. Record moved to reconsider the vote refusing to adopt his amendment, as divided.

The question being on the reconsideration, the same was put, and lost.

The question recurring on the adoption of the amendment of Mr. Norton, Mr. Whitfield offered the following amendment:

"Provided, that the white children and those of African descent shall not be taught in the same school."

On motion, Convention adjourned till 9½ o'clock on Monday morning, pending the amendment of Mr. Whitfield.

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MONDAY, March 19th, 1866.

Convention met pursuant to adjournment; prayer by the chaplain; roll called; quorum present; journal of yesterday read and adopted.

Mr. Davis of Webb, one of the committee on Finance, presented the following report:

COMMITTEE ROOM, March 17, 1866.

*Hon. W. M. Taylor, President pro tem. of the Convention:*

The committee on Finance, to whom was referred an ordinance to authorize the payment of debts contracted for the support of the Asylums of the State, and other purposes, direct me to report as follows:

The committee, after due investigation, consider all of this class of indebtedness, (incurred between the 28th day of January, 1861, and the date of the surrender to the United States forces,) as being substantially within the prohibition contained in the 3d Section of the ordinance passed by this Convention on the 14th inst. State Warrants were issued under the then existing authorities at a scaled rate of value sufficient to cover all the indebtedness. In regard to any claims subsequent to the surrender for supplies furnished the Asylums, the committee are of opinion that these have been, or will be provided for, by the Provisional Governor of this State, or by the United States Government. The committee accordingly ask leave to return said ordinance, with a recommendation that no action be taken thereon by this Convention.

Received, to come up in order.

Mr. Beall made the following report from the committee on Finance:

*Hon. W. M. Taylor, President pro tem. of Convention :*

The committee on Finance, to whom was referred the petition of J. H. Hutchins and accompanying ordinance, requiring the Legislature to pay all claims of State officers and clerks of the various civil departments of State, have had the same under consideration, and instruct me to report, that it is the unanimous opinion of the committee that the claims therein sought to be paid are among that class contemplated by the 3d Section of an ordinance "declaring the war debt void and for other purposes, and see no reason why the claims referred to should be an exception to the general rule, and therefore cannot recommend the passage of the ordinance.

Received, to come up in order.

Mr. Randolph made the following report from committee on Enrolled and Engrossed Ordinances :

*Hon. W. M. Taylor, President pro tem. of the Convention*

SIR : The committee on Enrolled and Engrossed Ordinances have examined an ordinance creating a Criminal Court for the counties of Galveston and Harris, and find the same correctly engrossed.

Report accepted.

Mr. Roberts, chairman of the Judiciary Committee, made a report as follows :

COMMITTEE ROOM, March 18th, 1866.

*Hon. W. M. Taylor, President pro tem. of the Convention :*

The Judiciary Committee, to whom was referred the resolution of the delegate from Tarrant county, (Mr. M. T. Johnson) in relation to relief to be given to executors and administrators who have received Confederate money, have had the same under consideration, and have instructed me to recommend that the Convention shall take no action thereon. It would be a direct interference with the rights of parties, in such manner as would open the doors to frauds to an extent not now to be foreseen.

Received, to come up in order.

Mr. Record offered the following resolution :

*Resolved,* That a committee of nine be appointed to report a suitable address to His Excellency, Andrew Johnson, President of the United States of America.

Adopted.

In execution of which resolution, the President pro tem appointed the following committee :

Mr. Record, chairman ; Runnels, Norton, Walker, Hancock, Jones of Bexar, Roberts, Smith of Colorado, Phillips.

Mr. Shepard offered the following ordinance :

## AN ORDINANCE.

*Be it ordained by the people of the State of Texas in Convention assembled,* That it shall be the duty of the Attorney General of the State to bring suits, at the city of Austin, against all persons who may have received United States bonds, or other character of liability or property belonging to the State of Texas, under contracts, real or pretended, with the military board or other authority of the State, where damage has resulted, or cause of action accrued to the State, by reason of a failure of such person, or persons, to comply with such contracts, for the recovery of any and all sums as under the rules of law and equity may be due and recoverable; the Attorney General shall also institute suits against any and all persons who may have drawn moneys from the Treasury of the State since the 5th day of August, 1865, for services, real or pretended, rendered since the 28th day of January, 1861, prior to the 5th of August, 1865, and recover back the same, unless the party can show some special equity which entitled him or them to retain the same; and a lien is hereby created on the property, money, and effects of all persons who may be found legally liable on such contracts, or may have drawn money illegally from the Treasury, to secure the payment of all such sums of money. Either party shall have the right to appeal to the Supreme Court as in other cases.

Read first time, and referred to committee on General Provisions of the Constitution.

On motion of Mr. Allen, Mr. Phillips was added to the Legislative Department Committee.

Mr. Mabry offered the following ordinance:

*Be it Ordained, by the State of Texas in Convention assembled,* That no Court of this State shall take cognizance of any suit, or suits, against any county of this State, to recover any debt contracted by any of said counties incurred in support of the late civil war; nor shall the people of any county be taxed to pay any such debts.

Read first time, and referred to committee on Finance.

Mr. Hunt moved to excuse Mr. Ireland indefinitely, on account of illness in his family, and the Yeas and Nays being called for, stood thus:

Yeas—Messrs. Armstrong, Bacon, Ball, Beall, Bengé, Bumpass, Camp of Goliad, Camp of Upshur, Davis of Webb, Degener, Flanagan, Gentry, Giddings, Hill, Hunt, Hurt, Lane, Latimer, Lindsey, McCormack, Murchison, Nelson, Norton, Norris, Perry, Porter, Randolph, Reeves, Richardson, Runnels, Saunders, Shepard, Shields, Slaughter, Smith of Colorado, Smith of La-

mar, Taylor of Fannin, Taylor of Houston, Thompson, Tyus, Varnell, Woods, and Young—43.

Nays—Messrs. Allen, Anderson, Bradshaw, Davis of Cherokee, Drake, Henderson, Jones of Bastrop, Mabry, Parsons, Phillips, Roberts, Saufley, Shaw, Walker, Waul, and Whitfield—16.

So the leave was granted.

On motion of Mr. Norton, Mr. Bacon was added to the committee on Finance.

Mr. Selman introduced the following :

#### AN ORDINANCE,

*On the subject of Mines, Minerals, Salines, &c.*

SEC. 1. *Be it ordained by the people of the State of Texas in Convention assembled,* That all mines, minerals, salines, oil springs, or wells, and all precious metals or minerals heretofore discovered or used, or which may hereafter be discovered, shall be and the same are hereby declared to be the property of the rightful owner of the land on which the same may be situated.

Read first time, and referred to committee on Condition of the State.

Mr. Hancock, chairman of the committee on General Provisions of the Constitution, by leave, made the following report :

COMMITTEE ROOM, March 17th, 1866.

*Hon. W. M. Taylor, President pro tem. of the Convention :*

The committee on General Provisions of the Constitution, to whom was referred an ordinance relative to the salt lake known as "El Sal del Rey," have had the same under consideration, and direct me to report the following substitute for the same, and recommend its passage :

*Section, to be added to General Provisions of the Constitution.*

That the State of Texas hereby releases to the owner of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of taxation as the Legislature may impose. All Islands along the Gulf coast of the State, not now patented or appropriated by locations under valid land certificates, are reserved from location or appropriation in any other manner, by private individuals, than as the Legislature may hereafter direct.

Read first time, and passed to the orders of the day.

Question pending at the hour of the last adjournment, viz : the amendment of Mr. Whitfield to the 7th Section, Art. X, Education, of the Constitution, again taken up, and the question being on the adoption of said amendment, when the President declared the same to be out of order.

Mr. Camp of Goliad offered the following substitute for Section 8:

SEC. 8. The moneys and lands heretofore granted for the endowment and support of Universities, is hereby appropriated to the public school fund.

On motion of Mr. Hurt, the substitute was laid on the table. Mr. Davis of Webb offered the following amendment to the 4th Section, to come in after the word "children," in the 4th line: "and it shall be the duty of the Legislature to encourage schools among these people."

Adopted.

Mr. Parsons offered the following amendment:

Amend Section 8 by striking out all after the word "shall," in 2d line, and insert the words "be transferred to the public school fund; and the Legislature may, at any time it may deem it expedient, appropriate so much of such public school fund as may be necessary for the erection and support of one or more Universities."

On the motion of Mr. Henderson to lay the amendment of Mr. Parsons on the table, the Yeas and Nays were called for, and stood thus:

Yeas—Messrs. Allen, Anderson, Armstrong, Bacon, Ball, Benge, Bradshaw, Bumpass, Dalrymple, Davis of Webb, Davis of Cherokee, Degener, Drake, Gentry, Hancock, Henderson, Hill, Hurt, Johnson of Titus, Jones of Bastrop, Latimer, Ledbetter, Mabry, McCormack, Murchison, Nelson, Norris, Perry, Phillips, Randolph, Reeves, Roberts, Runnels, Saunders, Shepard, Shields, Shaw, Smith of Colorado, Taylor of Houston, Thompson, Tyus, Varnell, Walker, Waul, Whitfield, and Young—46.

Nays—Messrs. Beall, Camp of Goliad, Camp of Upshur, Flanagan, Giddings, Hunt, Middleton, Norton, Parsons, Porter, Ranck, Richardson, Saufley, Slaughter, Smith of Lamar, Taylor of Fannin, and Woods—17.

So the amendment was laid on the table.

Mr. Gentry offered the following as an additional Section to the Article:

SEC. 9. The four hundred thousand acres of land that have been surveyed and set apart, under the provisions of a law approved 30th of August, A. D. 1856, for the benefit of a Lunatic Asylum, a Deaf and Dumb Asylum, a Blind Asylum, and an Orphan Asylum, shall constitute a fund for the support of such institutions, one-fourth part for each; and the said fund shall never be diverted to any other purpose. The said lands

may be sold, and the fund invested under the same rules and regulations as provided for the lands belonging to the school fund; the income of said fund only shall be applied to the support of such institutions, and until so applied, shall be invested in the same manner as the principal.

On motion of Mr. Saunders, the Doorkeeper, Mr. Flournoy, was excused for the day on account of illness.

The question recurring on the adoption of the additional Section offered to the Article by Mr. Gentry, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Allen, Armstrong, Ball, Bengé, Bradshaw, Bumpass, Camp of Goliad, Camp of Upshur, Davis of Webb, Degener, Drake, Gentry, Hancock, Hart, Henderson, Hunt, Johnson of Tarrant, Lane, Latimer, Ledbetter, Lindsey, Mabry, McCormack, Middleton, Murchison, Nelson, Norton, Norris, Parker, Perry, Ranck, Randolph, Record, Reeves, Richardson, Runnels, Saunders, Shepard, Shields, Smith of Colorado, Taylor of Houston, Tyus, and Young—43.

Nays—Messrs. Anderson, Bacon, Beall, Burke, Dalrymple, Flanagan, Giddings, Hunt, Jones of Bastrop, Parsons, Phillips, Roberts, Saufley, Shaw, Smith of Lamar, Taylor of Fannin, Walker, Waul, Whitfield, and Woods—20.

So the amendment was adopted.

Mr. Mabry offered the following amendment to Sec. 8 :

Amend to read, after the word Universities, in 3d line, “and until the University, or Universities, are located and commenced, the principal and the interest arising from the investment of the principal shall be invested in like manner.”

Adopted.

Mr. Roberts offered the following amendment :

After 1st line, 7th Section, “provided the taxes levied shall be distributed from year to year, as the same may be collected.”

And Mr. Norton, having the floor, was called to order by the President under the ten minute rule, and the question being, shall the gentleman have leave to proceed, and being put, the leave was granted.

The question recurring on the amendment of Mr. Roberts, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Allen, Anderson, Armstrong, Bacon, Ball, Beall, Bradshaw, Bumpass, Burke, Camp of Goliad, Camp of Upshur, Dalrymple, Davis of Webb, Degener, Drake, Flanagan, Gentry, Giddings, Hancock, Hart, Henderson, Hill, Hunt, Hurt, Johnson of Tarrant, Johnson of Titus, Jones of Bastrop, Jones of Bexar, Lane, Latimer, Ledbetter, Lindsey, McCormack,

Middleton, Murchison, Nelson, Norris, Parker, Parsons, Perry, Phillips, Ranck, Randolph, Reeves, Richardson, Roberts, Runnels, Saunders, Saufley, Shepard, Shields, Shaw, Smith of Colorado, Smith of Lamar, Taylor of Houston, Thompson, Tyus, Varnell, Walker, Waul, Whitfield, and Woods—62.

Nays—Messrs. Benge, Davis of Cherokee, Mabry, and Norton—4.

The amendment was therefore adopted.

The question recurring on the amendment of Mr. Norton, the same was ruled out of order.

Mr. Parsons moved to strike out the 9th Section of the Article.

On motion, laid on the table.

Mr. Norris offered the following as an addition to Section 10 :

And the counties which have not had the lands to which they are entitled for educational purposes located, shall have the right to contract for the location, surveying, and procuring the patents for said lands, and of paying for the same with any portion of said lands so patented, not to exceed one-fourth of the whole amount to be so located, surveyed and patented, to be divided according to quality, allowing to each part a fair proportion of land, water, and timber.

Mr. Davis of Webb offered the following amendment to Section 9 :

Strike out from commencement down to word instruction, on 2d line, inclusive, and insert, "an officer, to be styled the Superintendent of Public Instruction, shall be elected by the people at the general elections of State or county officers, and in case of vacancy, the Government shall appoint to fill the same until a successor can be duly elected and qualified."

And the question being on the adoption of said amendment, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Burke, Camp of Goliad, Dalrymple, Davis of Webb, Davis of Cherokee, Drake, Flanagan, Hart, Henderson, Hill, Johnson of Titus, Lane, Latimer, Middleton, Nelson, Norton, Parker, Parsons, Perry, Porter, Reeves, Richardson, Saunders, Saufley, Selman, Shields, Shuford, Slaughter, Smith of Colorado, Tyus, and Young—31.

Nays—Messrs. Allen, Anderson, Bacon, Beall, Benge, Bumpass, Camp of Upshur, Degener, Gentry, Giddings, Hancock, Hunt, Hurt, Johnson of Tarrant, Jones of Bastrop, Jones of Bexar, Ledbetter, Lindsey, Mabry, McCormack, Murchison, Norris, Phillips, Roberts, Runnels, Shepard, Shaw, Taylor of Houston, Thompson, Varnell, Walker, Waul, Whitfield, and Woods—34.



So the amendment was lost.

The question recurring on the amendment of Mr. Norris, Mr. Davis offered the following amendment to 9th section :

After the word times, on 3d line, add the words "and he shall have superintendence and management of common schools."

Mr. Shields proposed to substitute the amendment of Mr. Davis by inserting the words "and common schools," after the word fund, in 5th line.

Substitute accepted by Mr. Davis, and adopted by the House.

Mr. Roberts offered the following amendment :

In line first, Sec. 9, strike out the words, "the Legislature shall elect," and insert the words, "the Governor, by and with the advice and consent of two-thirds of the Senate, shall appoint."

Adopted.

Mr. Davis of Cherokee offered the following amendment, to come in at the end of 9th section :

Provided the Legislature shall appoint a Board of Scholars to examine and report on the qualification of all candidates for the position of Superintendent.

On motion, laid on the table.

The question recurring on the amendment of Mr. Norris to the 10th section, and being put, the same was adopted.

Mr. Gentry moved the previous question. Seconded.

And the question being, shall the main question be now put, the same was submitted to the House, and the main question was ordered.

The main question being the engrossment of the Article, was put, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Allen, Anderson, Armstrong, Bacon, Ball, Benge, Bumpass, Burke, Camp of Goliad, Camp of Upshur, Dalrymple, Davis of Webb, Degener, Drake, Gentry, Giddings, Hancock, Henderson, Hill, Hunt, Hurt, Johnson of Titus, Jones of Bastrop, Jones of Bexar, Latimer, Ledbetter, Lindsey, Mabry, McCormack, Middleton, Murchison, Nelson, Norris, Phillips, Ranck, Randolph, Reeves, Richardson, Roberts, Saunders, Saufley, Shepard, Shields, Shaw, Smith of Colorado, Taylor of Houston, Thompson, Tyus, Walker, Waul, Whitfield, and Woods—52.

Nays—Messrs. Beall, Bradshaw, Davis of Cherokee, Flanagan, Hart, Johnson of Tarrant, Norton, Parker, Parsons, Perry, Porter, Runnels, Selman, Smith of Lamar, Taylor of Fannin, Varnell, and Young—17.

So the Article was ordered to be engrossed.

Mr. Gentry moved a suspension of the rules, to put the Article on its final passage, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Allen, Anderson, Bumpass, Camp of Goliad, Dalrymple, Drake, Gentry, Johnson of Titus, Jones of Bastrop, Ledbetter, McCormack, Richardson, Saunders, Thompson, and Whitfield—15.

Nays—Messrs. Armstrong, Bacon, Ball, Beall, Bengé, Bradshaw, Burke, Camp of Upshur, Davis of Webb, Davis of Cherokee, Degener, Flanagan, Giddings, Hancock, Hart, Henderson, Hill, Hunt, Hurt, Johnson of Tarrant, Jones of Bexar, Latimer, Lindsey, Mabry, Middleton, Murchison, Nelson, Norton, Norris, Parker, Parsons, Perry, Phillips, Porter, Ranck, Randolph, Record, Reeves, Roberts, Runnels, Saufley, Selman, Shepard, Shields, Shuford, Shaw, Smith of Colorado, Taylor of Fannin, Taylor of Houston, Tyus, Varnell, Walker, Waul, Woods, and Young—55.

So the Convention refused to suspend the rule.

Mr. Mabry moved to suspend the rule, and take up an ordinance validating counties which have been created with an area less than 9000 square miles.

Lost.

An ordinance to provide for the payment by the State of the sums of money due the perpetual public school fund, taken up.

Mr. Bumpass made motion to lay it on the table.

Withdrawn.

Mr. Runnels moved to lay the ordinance on the table.

Withdrawn.

On motion of Mr. Allen, ordinance referred to the Finance Committee.

On motion, Convention adjourned until 3 o'clock, P. M.

3 O'CLOCK, P. M.

Convention met ; roll called ; quorum present.

The ordinance reported by the committee on Indian Affairs was taken up.

Mr. Davis of Webb moved to strike out all of Section 1, and that portion of Sec. 2 which refers to making a treaty with the tribes of Indians mentioned in Sec. 1.

Motion sustained.

Mr. Lindsey offered the following resolution as a substitute for the ordinance :

*Resolved*, That G. H. Giddings be furnished with a copy of the resolution passed by this body in relation to Indian matters, and that he be requested to press upon the President the necessity of

reoccupying the line of posts between Red River and Rio Grande as early as possible.

Lost.

Mr. Saunders offered the following resolution as a substitute for the ordinance :

*Resolved*, That the Provisional Governor of the State of Texas be requested to call into service a regiment of mounted troops, for the immediate protection of the frontier.

Lost.

Mr. Jones of Bexar offered the following amendment :

*To come in at the end of 2d Section.*

And said Commissioner is authorized to signify to the General Government the consent of the State of Texas that a treaty may be made by the Government, by which the privilege of hunting, for a limited number of years, on the unoccupied territory of the State west of the 100th parallel of longitude, may be conceded to the Choctaws, Chickasaws, and Cherokees, upon condition that these tribes will aid in protecting the frontier of Texas, and give information of the movements of hostile bands ; and that said Commissioner be instructed to give information particularly of the hostile operations of the Kickapoo tribe, now settled in Mexico, upon the south-western settlements of this State.

Mr. Allen offered the following substitute for the ordinance and proposed amendments :

*Resolved*, That the Provisional Governor be requested to have organized at least four companies of mounted Rangers, to be raised in the frontier counties, and have them stationed at such points along the line of frontier as will afford the most efficient protection to the people.

On motion of Mr. Ranck, the whole subject was referred to a select committee of five.

Upon which motion the President appointed the following committee :

Mr. Ranck, chairman ; Messrs. Norris, Lindsey, Drake, Jones of Bexar.

On motion, the Convention adjourned until to-morrow, at 9½ o'clock.

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TUESDAY, March 20th, 1866.

Convention met pursuant to adjournment ; prayer by the chaplain ; roll called ; quorum present ; journal of yesterday read and adopted.