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FORTIETH DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, October 21, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. T. B. Lee, Rector of St. David's Church at Austin.

On motion of Mr. Scott, Mr. Norvell was excused for to-day.

Mr. Mills presented the petition of sundry citizens of Huntsville, in Walker county, on the subject of ex-convicts from the penitentiary, prohibiting them from remaining in Walker county after release.

Referred to Committee on Penitentiary.

Mr. McKinney presented the petition of Dugald McAlpine on the subject of public schools.

Referred to Committee on Education

Also, the petition of same person on the subject of wills.

Referred to Committee on Judiciary.

The Chair announced the following select committee on the ordinance of Mr. Martin, of Hunt, on the subject of poll-tax:

Messrs. Kilgore, Holt, Darnell, Chambers and Burleson.

Mr. Abernathy offered the following resolution:

Resolved, That weights and measures shall be uniform throughout this State, and a standard of the same may be established anywhere that application may be made

Referred to Committee on General Provisions.

Mr. Darnell submitted the following report:

COMMITTEE ROOM,
AUSTIN, October 20, 1875. }

To the Hon. E. B. Pickett, President of the Convention:

A majority of your Committee on Public Lands and Land Office, to whom was referred the article previously reported by them on the subject of public lands and land office, and various amendments offered to the same, together with various other resolutions, beg leave to say that they have considered the subject, and instruct me to report the accompanying article

Respectfully submitted,

N. H. DARNELL, Chairman.

“ARTICLE—

“Sec 1. There shall be one General Land Office in the State, which shall be at the seat of government, where all land titles

which have emanated, or may hereafter emanate from the State, shall be registered, except those titles the registration of which may be prohibited by this constitution. It shall be the duty of the Legislature, at the earliest practicable time, to make the Land Office self-sustaining, and from time to time the Legislature may establish such subordinate offices as may be deemed necessary.

“Sec. 2. All unsatisfied genuine land certificates barred by section 4, article 10 of the constitution of 1869, by reason of the holders or owners thereof failing to have them surveyed and returned to the Land Office by the first day of January, 1875, are hereby revived. All unsatisfied genuine land certificates now in existence shall be surveyed and returned to the General Land Office within five years after the adoption of this constitution or be forever barred; and all genuine land certificates hereafter issued by the State shall be surveyed and returned to the General Land Office within five years after issuance, or be forever barred; *provided*, that all land certificates heretofore or hereafter issued shall be located, surveyed or patented only upon vacant and unappropriated public domain, and not upon any land titled or equitably owned under color of title from the sovereignty of the State, evidence of the appropriation of which is on the county records or in the General Land Office.

“Sec. 3. The Legislature shall have no power to grant any of the public lands of this State to any railway company, except upon the following restrictions and conditions: First, that there shall never be granted to any such corporation more than sixteen sections of land to the mile, and no reservation of any part of the public domain for the purpose of satisfying such grant shall ever be made, Secondly, that no land certificates shall be issued to such company until they have equipped, constructed and in running order, at least twenty-five miles of road, and on the failure of such company to comply with the terms of its charter, or to alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land shall be forfeited to the State and become a portion of the public domain, and liable to location and survey, and the Legislature shall have no power to extend the time or grant relief to any company obtaining a grant of land or land certificates, after the adoption of this constitution.

“Sec. 4. No certificate for land shall be sold at the Land Office except to actual settlers upon the same, and in lots not to exceed one hundred and sixty acres.

“Sec. 5. All lands heretofore or hereafter granted to railway

companies, where the charter or law of the State required, or shall hereafter require, their alienation within a certain period, on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been, or shall not hereafter be, alienated in conformity with the terms of their charters and the laws under which the grants were made, are hereby declared forfeited to the State and subject to pre-emption, location and survey, as other vacant lands. All lands heretofore granted to said railway companies to which no forfeiture was attached on their failure to alienate are not included in the foregoing clause, but in all such last named cases it shall be the duty of the Attorney General, in every instance where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the State, and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings in the county where the seat of government is situated, to forfeit such lands to the State, and if such alienation be judicially ascertained to be fraudulent and colorable as aforesaid, such lands shall be forfeited to the State and become a part of the vacant public domain, liable to pre-emption, location and survey.

“Sec. 6. To every head of a family without a homestead there shall be donated one hundred and sixty acres of public land, upon the condition that he will select and locate said land, occupy the same three years and pay the office fees due thereon. To all single men eighteen years of age and upwards, shall be donated eighty acres of public land, upon the terms and conditions prescribed for heads of families.

“Sec. 7. The State of Texas hereby releases to the owner or owners of the soil all mines and minerals that may be on the same, subject to taxation as other property.

“Sec. 8. Persons residing between the Nueces river and the Rio Grande, and owning grants for lands which emanated from the Government of Spain or that of Mexico, which grants have been recognized and validated by the State by acts of the Legislature, approved February 10, 1852, August 15, 1870, and other acts, and who have been prevented from complying with the requirements of said acts by the unsettled condition of the country or by other causes, shall be allowed until the first day of January, 1880, to complete their surveys, and the plots thereof, and to return their field notes to the General Land Office; and all claimants failing to do so will be forever barred; *provided*, nothing in this section shall be so construed as to validate any titles not already valid, or to interfere with the rights of third persons.”

On motion of Mr. Darnell two hundred copies of the report and article were ordered printed.

Mr. Brown offered the following resolution :

Resolved, That the Secretary of State, so far as he can, is requested to furnish to the Convention a list of all railroad charters granted since the commencement of the Legislature of 1866, under which no road has been built.

Resolved further, That he is requested to transmit to the Convention a list of all companies, of whatsoever nature or kind, incorporated under the act "Concerning Private Corporations," approved December 2, 1871, and the various acts amendatory of or supplementary thereto.

Adopted.

BUSINESS ON THE TABLE.

Report and article on Revenue and Taxation taken up, and, on motion of Mr. Fleming, was postponed to, and made special order for, 10 o'clock to-morrow.

Mr. Russell, of Wood, moved to reconsider the vote engrossing the article on railroads.

Mr. Graves moved to lay the motion on the table.

Lost.

The motion of Mr. Russell, of Wood, was carried.

Mr. Mills proposed to amend line 29, section 3, by striking out the words, "or some officer designated by law," and insert "Governor."

Adopted.

Mr. Crawford offered the following amendment :

"No railroad company organized under the laws of this State, shall consolidate by private or judicial sale, or otherwise, with any railroad company organized under the laws of any other State, or of the United States."

Offered as a substitute for section 6.

On motion of Mr. Mills, the main question was ordered.

Question on the substitute of Mr. Crawford for section 6 was put, and substitute adopted.

The article was then ordered engrossed.

Mr. Graves moved to reconsider the vote, and lay the motion on the table.

Carried.

[Mr. Stockdale in the chair.]

Separate section on "County School Lands," on its third reading, was taken up and read the third time.

Mr. Darnell offered the following amendment :

After the word "settlers" in line 11, insert: "Said lands shall

be sold on a credit of not less than ten years, the purchaser paying interest at the rate of not more than ten per cent. per annum, and the proceeds thereof when sold shall be held by such county alone as a trust fund for the benefit of schools; said proceeds, when collected in money, to be invested in bonds of the State of Texas, or of the United States, and only the interest thereof to be used and expended annually."

Mr. Gaither offered the following proviso to the amendment:

"*Provided*, That a payment of one-fifth of the purchase money be required on all sales of said lands."

Mr. Scott offered the following as a substitute for the two amendments:

After the word "part," in line 6, insert "to actual settlers on ten years credit, with ten per cent. interest."

Mr. Robertson, of Bell, offered the following amendment to Mr. Scott's substitute:

"*Provided*, That the principal may be paid by the foreclosure at any time, and the amount invested in State or United States bonds, as hereinbefore provided."

Accepted by Mr. Scott as a part of his substitute.

Mr. Chambers moved to refer the article and several amendments to a select committee of five.

Mr. Chambers withdrew his motion to refer.

Mr. Reagan offered the following:

Amend by inserting after the word "settlers," in line 11, the words: "said lands shall be sold on a credit, and payment made in ten equal annual installments, with interest on such sums as may be due, at the rate of eight per cent. per annum, secured by a lien on such lands."

Mr. Scott accepted this as a substitute for his substitute.

Mr. Fleming moved to lay the amendments and substitutes on the table.

Carried by the following vote:

YEAS—Allison, Abernathy, Arnim, Blake, Ballinger, Barnett, Burleson, Cook of Gonzales, Douglas, Davis of Brazos, Davis of Wharton, Erhard, Ford, Flournoy, Fleming, Ferris, German, Gaither, Graves, Holt, Henry of Smith, Henry of Limestone, Haynes, King, Kilgore, Killough, Lockett, Lacy, Lynch, McLean, Martin of Navarro, Martin of Hunt, McCabe, Morris, Mills, Mitchell, McCormick, Murphy, Nunn, Ramey, Reynolds, Rentfro, Robeson of Fayette, Spikes, Sessions, Smith, Stayton, Wade, Whitehead, Wright, Waelder—52.

NAYS—Brown, Blassingame, Bruce, Crawford, Chambers, Cooke of San Saba, Cline, Dillard, DeMorse, Darnell, Johnson

of Franklin, McKinney of Denton, Nugent, Pauli, Reagan, Russell of Harrison, Russell of Wood, Scott, Weaver, Whitfield—20.

Mr. Nugent proposed to amend by striking out of line 6 the words "in whole or in part," and insert "in tracts not exceeding three hundred and twenty acres;" also strike out "one hundred and sixty," line 9, and insert "three hundred and twenty."

Mr. Wade offered the following as a substitute for the amendment:

Strike out all from the word "county," in line 7, to the word "said," in line 11.

On motion of Mr. Dillard, the amendment and substitute were laid on the table.

Mr. Cline offered the following amendment:

Strike out the sentence beginning in line 5 and ending in line 7, and insert the following:

"The county school lands shall be sub-divided into equal portions, not exceeding one hundred and sixty acre tracts, whereof the alternate tracts may be sold at public auction, on such terms and conditions as may be prescribed by law. The Commissioners' Court of the county owning said lands may lease said tracts on such conditions as may be authorized by law. When any such tract may be sold, one-fourth the price shall be paid cash, and the balance in six equal annual payments, with ten per cent. from date of sale, and secured by lien on the land."

On motion of Mr. Mills the amendment was laid on the table.

On motion of Mr. Dillard the main question was ordered.

The question on the final passage of the section was then put, and the same passed by the following vote:

YEAS—Allison, Abernathy, Arnim, Brown, Blake, Ballinger, Barnett, Burleson, Bruce, Chambers, Cook of Gonzales, Douglas, Dillard, Dohoney, Davis of Brazos, Davis of Wharton, Erhard, Ford, Flournoy, Fleming, Ferris, German, Gaither, Graves, Holt, Henry of Smith, Henry of Limestone, Haynes, Johnson of Franklin, Johnson of Collin, King, Kilgore, Killough, Lockett, Lacy, Lynch, McLean, Martin of Navarro, Martin of Hunt, McCabe, Morris, Mills, Mitchell, McKinney of Denton, McKinney of Walker, McCormick, Murphy, Nunn, Nugent, Reagan, Ramey, Reynolds, Robeson of Fayette, Russell of Wood, Spikes, Scott, Sessions, Smith, Stayton, Whitehead, Wright, Weaver, Whitfield, Waelder—65.

NAYS—Abner, Blassingame, Cooke of San Saba, Cline, Cardis, DeMorse, Darnell, Pauli, Rentfro, Russell of Harrison, Wade—10.

On motion of Mr. Brown, the Convention adjourned to 2:30 o'clock P. M.

EVENING SESSION—2½ o'clock.

Convention met pursuant to adjournment; roll called; quorum present.

Mr. Abernathy moved to reconsider the vote passing the section on county school lands, and to lay the motion on the table
Carried.

Article —, "Bill of Rights," on its third reading and final passage, taken up and read third time.

Mr. Waelder moved to strike out section 1, "Boundaries."
Carried.

Mr. McCormick moved to reconsider the vote just taken, and to lay the motion on the table.

Carried.

Mr. Dohoney offered the following amendment:

Amend section 8 by inserting before the word "in," in line 40, the words "every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press."

Adopted.

Mr. Stockdale offered the following as a substitute for section 12:

"Sec. 12. The writ of *habeas corpus* is a writ of right. The right to have this writ, from the proper court or judge, shall never be suspended, except by act of the Legislature. The Legislature shall never suspend this right, except there be such hostile invasion of the State, by organized, armed force, as shall put in peril the safety of the State, or such rebellion within the State as shall make it necessary in order to preserve the authority of the State government; and only in these cases, in reference to arrests upon charges, made upon oath, of treason, conspiracy to commit treason, or some other offense, defined by law, against the authority of the government. Nor shall any person be held in arrest upon a charge of offense against the authority of the government, except upon a judicial warrant. When the right is suspended in accordance with the foregoing condition, then a person in arrest under judicial warrant, may be held in a place of safety, and removed, as circumstances may require, by the Executive or under his authority, and shall be so safely held without the benefit of trial, bail, or mainprize until the act sus-

pending the right shall be repealed or shall expire by its own limitation.

“Every suspension of the right to the writ of *habeas corpus* by act of the Legislature shall be for a time certain, not to exceed months.”

On motion of Mr. Dillard, it was laid on the table.

Mr. Ballinger offered the following amendment:

Section 23, line 105, next before the word “regulate” insert “prohibit and.”

On motion of Mr. Nugent, laid on the table.

Mr. Stockdale offered the following as a substitute for section 28:

“Sec. 28. No law or laws of this State shall be suspended except by the Legislature, which may only suspend in the same manner as laws are made or repealed. Whenever a law is suspended it shall be for a time certain.”

Mr. Wade proposed to amend the amendment by inserting after “Legislature” the words, “by a two-thirds vote.”

Lost.

Mr. Stockdale’s substitute was lost.

Mr. Cline proposed to amend by striking out of section 21 the words, “and the estates of those who destroy their own lives shall descend or vest, as in case of natural death.”

Lost

Mr. King proposed to amend as follows:

Amend section 1, line 3, by striking out the words, “subject only to,” and insert in lieu thereof, “limited only by.”

Mr. Sansom offered the following substitute for the amendment:

At the end of line 3, section 1, insert “limitations imposed by.”

Mr. Crawford offered section 1 of the original article, as it was reported by the committee, for section 1 of the engrossed article

Mr. Gaither moved to adjourn.

Lost.

On motion of Mr. Fleming, the main question was ordered.

Mr. Sansom’s substitute lost.

Mr. King’s amendment lost.

The question then, on Mr. Crawford’s substitute, was put and substitute lost by the following vote, it requiring a two-thirds vote to amend:

YEAS—Allison, Abernathy, Barnett, Burleson, Crawford, Cook of Gonzales, Cardis, Dillard, DeMorse, Darnell, Davis of Brazos, Henry of Limestone, Haynes, Kilgore, Killough, Lynch, Martin

of Hunt, McKinney of Denton, McKinney of Walker, Norvell, Nunn, Reagan, Robertson of Bell, Spikes, Scott, Whitehead, Wright, Whitfield—28.

YAYS—Arnim, Abner, Brown, Ballinger, Blassingame, Bruce, Chambers, Cooke of San Saba, Clne, Douglas, Dohoney, Davis of Wharton, Erhard, Ford, Flournoy, Fleming, Ferris, Gaither, Graves, Holt, Henry of Smith, Johnson of Franklin, Johnson of Collin, King, Lockett, Lacy, McLean, Martin of Navarro, McCabe, Morris, Mills, Mitchell, McCormick, Murphy, Nugent, Pauli, Reynolds, Robeson of Fayette, Russell of Harrison, Russell of Wood, Sessions, Smith, Stockdale, Stayton, Sansom, Weaver, Waelder—47.

The article —, “Bill of Rights,” was then finally passed by the following vote:

YAYS—Allison, Abernathy, Arnim, Brown, Ballinger, Blassingame, Barnett, Burleson, Crawford, Chambers, Cook of Gonzales, Cooke of San Saba, Cardis, Douglas, Dillard, DeMorse, Dohoney, Darnell, Davis of Brazos, Davis of Wharton, Erhard, Ford, Flournoy, Fleming, Ferris, German, Gaither, Graves, Henry of Smith, Henry of Limestone, Haynes, Johnson of Franklin, Johnson of Collin, King, Kilgore, Killough, Lacy, Lynch, McLean, Martin of Navarro, McCabe, Morris, McKinney of Denton, McKinney of Walker, McCormick, Murphy, Norvell, Nunn, Nugent, Reagan, Robertson of Bell, Robeson of Fayette, Russell of Wood, Spikes, Scott, Sessions, Smith, Stockdale, Stayton, Sansom, Wade, Whitehead, Wright, Weaver, Whitfield, Waelder—66.

NAYS—Abner, Clne, Lockett, Mills, Mitchell, Pauli, Reynolds, Rentfro, Russell of Harrison—9.

On motion of Mr. King, the Convention adjourned until 9 o'clock A. M. to-morrow.

FORTY-FIRST DAY.

HALL OF REPRESENTATIVES, }
AUSTIN, TEXAS, October 22, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. T. B. Lee, of St. David's Church, at Austin.

Journal of yesterday read and adopted.

Mr. Wright presented the petition of the Paris bar asking the passage of an ordinance validating certain acts of justices of the peace in Lamar county.