

TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

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

Content downloaded from

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

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

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

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

On motion of Mr. Cunningham, the amendment of the committee, together with the 15th section of the report, was referred to the committee on the judiciary.

The following is an additional section proposed, by the committee, to section 16:

"In all actions pending in the district courts, whether in law or equity, either party, upon application, shall have the right of trial by jury.

"In all actions, arising out of contracts, before any inferior tribunal, when the amount in controversy shall exceed _____ dollars, either party, upon application, shall have the right of trial by jury.

"In all cases where justices of the peace, or other judicial officers of inferior tribunals, shall have the right to fine or imprison for any violation of a penal statute, the accused shall have the right of a trial by jury."

Which, on motion of Mr. Love, was referred to the judiciary committee.

On motion of Mr. Cazneau, the report and amendments were laid on the table, and the secretary ordered to make out a fair copy of said report, embodying the amendments.

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

Wednesday, July 30, 1845.

Half-past 8 o'clock, A. M.

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

On motion of Mr. Young the report of the judiciary committee, made on yesterday, was re-referred to the same committee.

On motion, the report of the committee on printing, of July 26th, requiring the bond of the public printer to be given to Thos. J. Rusk, President of the Convention, and the resolution of said committee, requiring the Secretary of this body to superintend the printing and distribution of the Journals, &c., were taken up and adopted.

Mr. Hemphill offered the following resolution:

Resolved, That it is expedient to insert in the Constitution the following clause: "No provision of this Constitution shall be so construed as to authorize the passage of any law, by which a citizen of either of the states of the Union shall be excluded from the enjoyment of any of the immunities and privileges to which he is entitled under the Constitution

of the United States," which was laid on the table one day for consideration.

On motion of Mr. Davis, the Bill of Rights was taken up.

In the 2d section Mr. Evans moved to strike out "except for public services," which motion was lost.

In the 6th section, Mr. Forbes moved to strike out the words "and in all publications injurious to female reputation, the facts thereof shall not be inquired into, but shall be deemed false and libellous;" upon which the ayes and noes were called for and were as follows:

Ayes—Messrs. President, Armstrong of J., Armstrong of R., Bagby, Bache, Brashear, Brown, Clark, Cunningham, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Holland, Hunter, Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, McNeill, Parker, Power, Rains, Scott, Smyth, Standefer, Tarrant, White and Young—33

Noes—Messrs. Anderson, Baylor, Caldwell, Cazneau, Davis, Evans, Hoge, Horton, Irion, Jewett, Jones, Latimer of L., Lusk, Mayfield, Runnels, Ochiltree and Wright—17.

So the clause proposed was stricken out.

On motion of Mr. Mayfield, the following words were stricken out of the same section, "but in other cases the truth shall not avail as a defence," upon which the ayes and noes were called, and were as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Baylor, Bache, Brashear, Caldwell, Cazneau, Clark, Darnell, Evans, Everts, Gage, Hemphill, Hicks, Horton, Holland, Hunter, Irion, Lewis, Lumpkin, Lusk, Mayfield, McNeill, Parker, Power, Runnels, Tarrant, Ochiltree, White and Wright—31.

Noes—Messrs. Armstrong of R., Bagby, Brown, Cunningham, Davis, Forbes, Henderson, Hogg, Jewett, Jones, Latimer of L., Latimer of R. R., Lipscomb, McGowan, Rains, Scott, Smyth, Standefer and Young—19.

So the clause was stricken out.

Mr. Smyth offered the following substitute for the 6th section: "In prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the jury shall have the right to determine the law and facts under the direction of the Court, as in other cases." Which was adopted.

Mr. Cunningham offered the following substitute for the 14th section, "no person being unable to pay shall be imprisoned for debt."

Mr. Scott offered the following substitute to the substitute offered by Mr. Cunningham: "That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after de-

throwing up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law."

Mr. *Lipcomb* said: That if the substitute of the gentleman from Montgomery (Mr. Scott) should be adopted, the debtor might be imprisoned in the mean time, whether he had given up all his property or not. The legislature can at all times pass laws which will punish debtors who commit fraud, without running the risk of punishing the innocent.

Mr. *Scott* said: The balance of trade is against us now, but it may be in our favor after a while. He had no idea that the legislature would pass a law, at present, for the imprisonment of the debtor. Public opinion is against it; perhaps the public good does not require it. But he wished the legislature to have the power to give the writ of *ca. sz.*, if hereafter thought beneficial.

Mr. *Henderson* said: He thought not only public prejudice, but humanity were against it. But he differed with the gentleman from Washington with regard to the operation of the substitute of the gentleman from Montgomery. He did not believe, with him, that every man would be imprisoned for debt. A man might be imprisoned for fraudulent concealment, or he might be arrested while the suit was pending, but not imprisoned; for he has the liberty of giving bail. And he would venture to say that there is no honest man in Texas, who cannot give bail. There is no man who is unable to pay, however much of a scoundrel, but would be able to give security for his appearance to abide the determination of the suit.

Mr. *Ochiltree* said: There is not an article in the Constitution of which I should feel more proud, than of this 14th article in the Bill of Rights. The philanthropists of the age have been endeavoring for twenty-five years to bring about this desideratum. When our Constitution was adopted, with the provision which it contains, it was hailed as going farther than that of any State in the Union. I venture to say it is broader and stronger in securing the person of the debtor from incarceration than any other upon earth. But it has not entirely reached the evil. I cannot here, under any circumstances, support any provision which, by the ingenuity of counsel, may be so construed, as to allow of incarcerating the body of the debtor. The gentleman from Washington has suggested an ample protection to the creditor. If there is fraud, punish the crime, but never misfortune.

There is no hardship in this article. It is not retroactive in its effect. It is intended to apply to the future position of our citizens; and if the creditor entrusts his effects to the debtor, it will be with the full knowledge that he can never resort to the remedy against his person. I hope it will remain as it is. I do say it will stand forth as the proudest moment of the philanthropy of this Convention.

Mr. *Cunningham* said: I wish to see some restriction placed upon this section. The gentleman from Nacogdoches tells you, that the abolition of imprisonment for debt is a desideratum long sought for by philanthropists. There have been some who have taken this ground; but these philanthropists have not been found in the Conventions or Legislatures of the different States of the Union. They have all, with all their wisdom, imposed some restrictions upon the principle; they have all recognized in some manner the imprisonment of the person for debt. The gentleman tells you that the clause in our present Constitution was hailed throughout the United States by the philanthropists, as having gone a step further than any other. Now the clause which I have offered as a substitute is precisely the same as this of our Constitution — That I think is going too far; the Legislatures of the different States of the United States, agree that it is going too far. He says the Legislature may pass laws punishing frauds. He knows very well that it is impossible to pass laws which will punish fraud. The ablest Judges in England have said that it is impossible to define fraud; how can you punish for an act which is not defined? It assumes such a variety of shapes that it cannot be defined; therefore it cannot be punishable.

Mr. *Anderson* said: I am opposed to imprisoning a man first, and trying him afterwards. I am opposed to punishing misfortune as a crime. Human ingenuity has never yet been able to discern how to obtain redress in this manner. The adoption of this clause, I believe, will act as a preventive, and do away with all necessity for such a remedy. It will check, to a great extent, the credit system. With a clause of this kind, men will be careful in trusting individuals, where they expect no redress from the laws of the country. I have often been forcibly struck with the story of the Indian, who in walking through the streets of some city, saw a public jail, and being informed of its use, remarked that he thought it a poor place for people to kill deer to pay their debts with. I think so, too. I am radically opposed to imprisonment for debt, because it is repugnant to free institutions; I view it as a relic of barbarous times, and one of the foulest disgraces of the age. I am opposed to anything which restricts the rights of individuals without producing a great and general good. The liberty of the person is man's proudest and greatest natural right. I am therefore in favor of the section as it now stands, believing it as I do, one of the brightest features of the Bill of Rights.

Mr. *Lipscomb* said: There will always be found to be two antagonistic interests entering deeply into legislation; those of the creditor and the debtor. The interest of the creditor is supported by the wealth of the country, and money is power. Hence this interest has always arrayed on its side the best professional skill which can be obtained. Believing, as I do, that, in this country particularly, the great interest is

that of the debtor class, and not the creditors. I am disposed to throw what little influence I may possess in favor of the debtor class. We have legislated, as though the whole interest of the country was a commercial interest. Commercial men will never give up any hold; they will exact the eye or the tooth, or draw the last drop of blood, if necessary for the payment of their debt. If we pass this amendment, what a chance will it not give to the legislature to say, there is nothing in the Constitution to prevent holding a man to bail for debt; and it is not, as may be said by the gentleman from San Augustine, always an easy matter to get bail. Strangers come in with a great deal of property; they are sued as they come in, and held to bail. What would prevent the legislature from passing such laws? As the law now stands, a man may be held to bail, and compelled to give up every cent of property or go to jail before his case is tried. I wish to deprive commercial men of the power to obtain such laws. At the same time, however, I am disposed to go as far as any man to punish fraud. It is said that it is impossible for the lawyers of England to understand fraud. Jurists, however, can understand it. They all have said, that fraud is a mixed question of law and fact. What prevents its being punishable? If a man puts the money of his creditor in his pocket, cannot the fact be inquired of by a jury, and is not the jury compelled to say whether there was fraud in so doing?

Mr. Brown said: I am entirely willing in all cases of public offences, that the person shall be made responsible to the law. But I am unwilling that, for the mere violation of a contract, for a mere refusal or inability to pay, one citizen should become a slave at the will and caprice of another. I am perfectly satisfied, sir, that any offence against law or public morals, connected with the situation of a debtor, may be made by the passage of a statute to punish frauds: and thus society will be as effectually guarded against the consequences of such actions, as if the imprisonment of the debtor were allowed. But I would have it a public offence: I would have the testimony taken before the grand jury of the country, indictment found, and the fact finally decided by a judge and a petit jury. Let the person committing it be subject to the law as other offenders; but do not place it in the power of a malicious creditor to arrest a man and put him in duress. It has been said that fraud could not be defined: I know of no authority to that effect. I know that cases of fraud are very various, very numerous, and that all the instances could not be defined. But whether a man has acted in good or bad faith, is a question which a jury can as well determine as any question in the world. Only one species of fraud has been spoken of: where a person possessing the means of discharging his debts, refuses to do so. Let the matter go before the jury, let the indebtedness be established, and his ability to pay also established; then is there not a plain case of fraud to which the court can fix a penalty? And so with every species of fraud.

I would have all public offences stand upon the same footing, and tried in the same way. I am entirely unwilling that any discrimination should be made, which, with the show of a prosecution of justice, might gratify private malice and vindictiveness. I never would consent to construe accident or misfortune into crime. And even in those cases in which confidence has been abused, trust betrayed, and property taken, and no satisfaction is made where the power to make it exists, I would have it remedied as other criminal cases, and not by a clause in the Constitution, which may place one citizen, whether acting fairly or unfairly, entirely at the mercy of another.

Mr. Cunningham said: In order to punish any offence, it is necessary that it should be particularly described in the law books. If fraud is left undefined, and still punishable, I look upon it as the very acme of tyranny; a law left within the bosom of the judge. I am satisfied that no law can be made to punish fraud.

The ayes and noes being called on the substitute offered by Mr. Scott, and stood as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Bagby, Burroughs, Caldwell, Cunningham, Forbes, Hemphill, Henderson, Hicks, Latimer of R. R., Lumpkin, Parker, Scott and Wright—16.

Noes—Messrs. Armstrong of R., Baylor, Bache, Brashear, Brown, Cazneau, Clark, Darnell, Davis, Evans, Gage, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Lewis, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Power, Rains, Runnels, Smyth, Standifer, Tarrant, Ochiltree, White and Young—35.

So the substitute was rejected.

The question on Mr. Cunningham's substitute was put and rejected.

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

Ayes—Messrs. President, Anderson, Armstrong of J., Baylor, Bache, Brown, Caldwell, Cazneau, Clark, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Lewis, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Parker, Power, Rains, Runnels, Smyth, Standifer, Tarrant, Ochiltree, White and Young—42.

Noes—Messrs. Armstrong of R., Bagby, Burroughs, Cunningham, Hicks, Latimer of R. R., Lumpkin, Scott and Wright—9.

So the 14th section was adopted.

Mr. Henderson offered the following as an additional section, to come between the 14th and 15th sections:

"The Legislature may pass such laws as they may deem necessary to punish debtors for fraudulently disposing of, or concealing their property to avoid the payment of their debts."

Upon which the ayes and noes were taken, and are as follows:

Ayes—Messrs. Armstrong of R., Bagby, Baylor, Bache, Caldwell, Cazneau, Everis, Forbes, Gage, Hemphill, Henderson, Hicks, Jewett, Latimer of R. R., Lumpkin, Lipscomb, Parker, Power, Scott, Smyth, Tarrant, White and Wright—23.

Noes—Messrs. President, Anderson, Armstrong of J., Brown, Burroughs, Clark, Cunningham, Darnell, Davis, Evans, Hogg, Horton, Holland, Hunter, Irion, Jones, Kinney, Latimer of L., Lewis, Lusk, Mayfield, McGowan, McNeill, Rains, Runnels, Standifer, Ochiltree and Young—28.

So the additional section was rejected.

Mr. *Jewett* moved to strike out the 16th section, relating to the prohibition of emigration. He said that the prerogative, he believed, was not disputed, of restraining emigration from a State, whenever it should be thought proper and necessary. He thought emergencies might arise, particularly in Texas, when persons might be disposed to emigrate beyond the Sabine to avoid personal danger. In time of war, invasion or rebellion, it might be highly necessary for the State to exercise this power.

Mr. *Hemphill* said he would second the motion. He saw no reason for placing a restriction of this kind in the Constitution. There is no probability of our perceiving what contingencies may arise in the course of our history. The events of this very day and hour show us that such a provision should not be inserted in our Constitution. We are still at war with Mexico; we do not know at what time we shall have an invasion; we do not know when it may be necessary to prevent persons emigrating to avoid the war, or taking their property or means over to the enemy. It will be impossible, if this section is adopted, to prevent any individual from going away, and taking his property and goods with him; because it would be no offence, though we were actually in a state of war, or on the point of going to war. Individuals might not only go across the Sabine to place themselves in safety, but some might actually go over to the enemy. And furthermore, we have nothing to do with this matter because it is a power which belongs to the United States. It is no advantage in our Constitution; I consider it perfectly superfluous in every respect; a gratuitous display of philanthropy, for which there is no necessity at present, and which may do injury hereafter.

The section was stricken out.

Mr. Evans moved to strike out the 19th section. He objected to the clause, as altogether anti-republican in its spirit. It represents the functionaries of the government as a superior order of men, and the people as their inferiors. It secures the right of the people to assemble in a peaceable and respectful manner, so as not to offend the functionaries of the government; it secures the right of the people to do certain things, provided they are respectful. Now he held that the people are the sovereigns, and the functionaries of the government their servants. He held that the people had the right to assemble, whether peaceably or not, provided it were for the public good, and no functionary could interfere with them. He wanted the people to stand out in their full and ample majesty.

The Convention refused to strike out.

Mr. Anderson moved to insert "citizens of this State." Lost.

Mr. Brown moved to strike out "in a peaceable manner, to assemble together for their common good; and"—leaving the people to judge of the necessity for their assembling together. Lost.

Mr. Forbes offered the following as a substitute for the 20th section: "No department of the government shall have the power of suspending the laws of the State."

Mr. Mayfield said: He did not apprehend that there was any great danger that the amendment would pass. Yet he thought himself called upon in a few words to state the reasons which would induce him to vote against it. We may individually and collectively be called upon, perhaps in a short time, to burnish our arms, and march to the defence of our country from an invading foe. In such a case, he was unwilling for one to see those who might see proper to remain at home, in place of hazarding their lives in defence of their country, institute suits against the soldiers who might be thus employed, to oppress them or their families. In the history of all States, a condition of things may arise, where public policy and utility would require the suspension of laws and of their execution, till a state of quiet and repose could be brought about. He wished therefore to leave this matter as it is in the report. Without pointing to instances where the safety of the State itself might demand such a suspension for the time being, he would content himself with a single remark; there might be a general call to defend the country, and, when called from their homes, the people would wish to leave no Shylock behind, taking his judgments and executions against those who were battling for the country.

Mr. Forbes said: The remark has already been made here, that there are too classes, creditors and debtors. But he thought that, in Texas,

the debtors were the wealthy, and the creditors the poor men: He was willing, however, to provide for the case contemplated by the gentleman; he was willing to insert a proviso, that, during periods of war, the Legislature should have power to suspend the laws. But it is known to all, that the power of suspending the laws, has not only been improperly used by the Legislature, but we have seen the executive of the country suspend a positive law of the land.

Mr. *Hemphill* said: Unless the power were given the Legislature, to make a provision of this kind for a short time, he should vote against the section altogether. Because emergencies might arise, especially during military operations, to render it necessary. As for example, such as have occasioned the suspension of habeas corpus for the safety of a city. He did not suppose there was any gentleman here who would doubt that General Jackson acted right when he suspended the laws in New Orleans. He hoped the Legislature would make a suitable provision.

The substitute was rejected, and the section adopted.

Mr. *Mayfield*, in behalf of a portion of the committee on general provisions, reported back to the Convention the preamble to the Constitution, with amendments, which was laid on the table, to come up among the orders of the day.

Mr. *Hunter* offered the following to come in as an additional section after the 17th section:

"Those who conscientiously scruple to bear arms in the public defence, shall not be compelled to do so, but may be required to pay an equivalent for personal services."

Mr. *Lusk* moved to strike out the words "pay an equivalent for personal service," and insert "furnish a substitute." Rejected.

The ayes and noes being called on Mr. *Hunter's* amendment, stood as follows:

Ayes—Messrs. *Bache*, *Cunningham*, *Evans*, *Hunter*, *Latimer* of *R.* *Love*, *Lusk*, *Lipscomb*, *Power*, *Tarrant*, *Ochiltree* and *White*—12.

Noes—Messrs. *President*, *Anderson*, *Armstrong* of *J.*, *Armstrong* of *R.*, *Baylor*, *Bagby*, *Brown*, *Buttroughs*, *Caldwell*, *Cazneau*, *Clark*, *Darnell*, *Davis*, *Everts*, *Forbes*, *Gage*, *Hemphill*, *Henderson*, *Hicks*, *Hogg*, *Horton*, *Holland*, *Irion*, *Jewett*, *Jones*, *Kinney*, *Latimer* of *L.*, *Lewis*, *Lumpkin*, *Mayfield*, *M'Gowan*, *M'Neill*, *Miller*, *Parker*, *Rains*, *Runnells*, *Scott*, *Smyth*, *Standefet*, *Wright* and *Young*—41.

So the amendment was rejected.

Mr. *Mayfield* moved to strike out the words "or cruel," in the 11th section. Lost.

Mr. Ochiltree offered the following as an additional section, to come in after the 12th section :

"That the free citizens of this state shall have a right to keep and bear arms for their common defence, provided the Legislature shall have the right to pass laws prohibiting the carrying of deadly weapons secretly."

Mr. Evans objected that this would give the right to carry bowie knives.

Mr. Hogg inquired whether it would secure the right of taking deadly weapons about the person?

Mr. Ochiltree said: He was as much opposed to that as any body. How shall it be remedied? The legislature has the right to say, they shall not be carried secretly. But certainly he was not to be prevented from carrying them if he thought it necessary. If this is not inserted, there is no telling how far the legislature, in their extreme philanthropy may go. They may go to the extent of saying, that a man shall not wear them under any circumstances. He might be compelled to allow himself to be assassinated, or his property to be invaded, by being denied the use of necessary weapons. We might be placed in the condition of the people of Ireland, and a large portion of England, who are denied the right of having fire arms about their houses. One of the first principles of freedom, is the right to bear arms. It is true, it may have been prostituted to the worst of purposes; but it is too great a right to deny on that account. Such cases always attend the settlement of new countries; and public opinion will reform the abuse after a while. Under a similar provision, precisely, the legislature of Alabama has prescribed the carrying of weapons secretly, and the supreme tribunals have decided that it is not an infraction of the Constitution.

Mr. Baylor fully agreed with the gentleman, that the right to bear arms is essential to freedom. For it is the policy of governments to disarm the people, that they may have the opportunity to oppress them. This great right ought to be guaranteed; but it is subject to great abuse. The gentleman has correctly stated the decision of the Supreme Court of Alabama. But there is a conflict upon this subject. The Supreme Court of Kentucky decided, in a similar case, that the legislature could not pass any law upon the subject. For if it had the right to proscribe one mode of wearing arms, it had the right to proscribe another; and thus it might finally defeat the great end and object.

Mr. Hemphill said: That the object of inserting a declaration that the people shall have a right to bear arms is, that they may be well armed for the public defence; it is in order that the law regulating the militia should be kept up. It is not a supposition which can arise in

a country where the common law prevails, that it is necessary to bear arms for protection against a fellow citizen.

Mr. Hemphill offered the following as a substitute for Mr. Ochiltree's amendment:

"A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

Mr. Ochiltree moved a call of the Convention.—Lost.

The ayes and noes being called, on the adoption of Mr. Hemphill's substitute, stood thus:

Ayes—Messrs. President, Bagby, Bache, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Forbes, Gage, Hemphill, Henderson, Hicks, Hunter, Irion, Latimer of L, Latimer of R. R., Lewis, Love, Lusk, Lipscomb, Mayfield, M'Neil, Miller, Standefer, White and Wright—30.

Noes—Messrs. Armstrong of J, Armstrong of R., Baylor, Evans Hogg, Horton, Holland, Jewett, Jones, Kinney, Lumpkin, M'Gowan, Power, Rains, Scott, Smyth, Ochiltree, and Young—19.

So the substitute was adopted.

Mr. Hogg offered the following amendment:

"Provided, that the Legislature may pass laws to suppress the practice of bearing arms concealed, in the private walks of life."

Mr. Jones said: He should vote for the amendment, and then against the whole section, believing it unnecessary.

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

Ayes—Messrs. President, Bagby, Baylor, Bache, Brashear, Caldwell, Clark, Evans, Everts, Forbes, Gage, Hemphill, Hogg, Horton, Holland, Hunter, Jewett, Jones, Latimer of L, Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeil, Power, Parker, Scott, Smyth, Ochiltree, White and Young—34.

Noes—Messrs. Anderson, Armstrong of J, Armstrong of R., Burroughs, Cazneau, Cunningham, Davis, Henderson, Hicks, Irion, Mayfield, Miller, Rains, Runnels, Standefer, Tarrant and Wright—17.

So the amendment was adopted.

Mr. Armstrong offered the following as a substitute for the additional section, as amended:

"Every citizen shall have the right to bear arms in the lawful defence of himself and the state." Adopted.

Mr. Hemphill moved to amend the additional section, by inserting before the word "bear," "keep and." Adopted.

Mr. Everts offered the following amendment:

"Provided the Legislature shall have power to prevent the carrying of concealed weapons, under such restrictions as may be prescribed." Rejected.

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

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Burroughs, Caldwell, Cazneau, Cunningham, Davis, Everts, Gage, Henderson, Hicks, Hunter, Irion, Latimer of L., Lewis, Mayfield, McNeill, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochilree, Wright and Young—33.

Noes—Messrs. Clark, Darnell, Evans, Forbes, Hemphill, Hogg, Horton, Jewett, Jones, Latimer of R. R., Love, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Power and White—18.

So the section was adopted.

Mr. Mayfield moved to lay the Bill of Rights on the table. Lost.

On motion of Mr. Cazneau, the Bill of Rights was ordered to be engrossed.

Mr. Mayfield offered the following resolution:

Ordered: That the Convention, for the future, shall hold but one session per day, which shall be held between the hours of half past 8 o'clock, A. M., and 4 o'clock, P. M., of each day, (Sundays excepted.)"

Which was read and laid on the table one day for consideration.

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

Thursday, July 31st, 1845.

Half past 8 o'clock, A. M.

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

On motion of Mr. Davis, the report of the Executive Committee was taken up.

Mr. Young moved to amend the 2d section, by inserting after the word "electors," the words "of the State." Adopted.

The section, as amended, was then adopted.