

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.

Clark, Cunningham, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Horton, Howard, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McNeill, Miller, Moore, Navarro, Parker, Rains, Scott, Smyth, Standefer Tarrant, Ochiltree, Van Zandt, White and Young—47.

Noes—Messrs. Hicks, Hogg, Kinney, Love, McGowan, Power and Runnels—7.

So the section was adopted.

The 29th section was adopted.

In 30th section, on motion of Mr. Rusk, the blank was filled with 20, so as to read, "no corporation hereafter to be created, shall ever endure for a longer term than 20 years, &c.

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

Thursday Morning, Aug. 7, 1845.

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

The Convention met pursuant to adjournment.

Prayer by the Chaplain.

Journals of yesterday read and adopted.

Mr. Scott filed the following

PROTEST,

Which was ordered to be spread upon the journals, as follows:

The undersigned, having voted in the minority on the adoption of the section of the General Provisions, authorizing the Legislature to set apart for debtors, free from forced sale, [besides other property] two hundred acres of land, including the homestead, or lots not exceeding \$2,000 in value, begs leave to file this his protest against the passage of the same, and have it entered upon the journals. The undersigned thinks he is as much under the influence of feelings of humanity as most of those in this body, who have the welfare of the unfortunate, apparently so dear to them: such motives he respects, and when the truly unfortunate debtor can be protected by law, he deems it the sacred duty of the lawgiver to extend such protection, provided more good than evil is effected thereby. The legislator must deal in general rules, not make special laws for individual cases; and if the result of any such general laws will most probably be the promotion of evil rather than the attainment of good, every

honest lawgiver is in duty bound to avoid such laws. If he does not act thus, he betrays his trust to God and to his country. The strong probability is, that the Legislature will go in favor of the debtor the full extent of the authority granted by this section; no one can doubt this who is in the least degree familiar with the course of our legislation for the last six or eight years. Every law affecting the relation of debtor and creditor has, during that time, gone to favor and protect the former. The creditor who has trusted his hard earned substance to the honesty and integrity of his fellow, relying upon the law for the protection of his rights, when he asks for admission at the temple of justice, is spurned from its portals with the stern reply—"Begone, you unfeeling wretch, you deserve no aid!" No matter what arts have been used, not criminal by law; no matter what principle of morality has been violated by the debtor, in the attainment of his creditor's substance, when the latter seeks his rights, all our laws speak to him in terms of rebuke. The man who is thus deprived of his substance by art, fraud and cunning, is as much aggrieved as if his property had been feloniously taken from him. The man who steals my property, acquires no title thereby, and is condemned by the law; the man who obtains it by falsehood and cunning, acquires a title, and has the sympathy and countenance of the law. Should the mere means of obtaining the same end, cause such an immense difference in its results? The undersigned thinks it should not, and takes this method of publicly avowing his opinion. There are no doubt cases in which the misfortunes of a debtor may render him unable to pay his debts in money or property, but the undersigned, from his experience and observation, is satisfied that in a large majority of instances the honest debtor can either pay his debts in money or property, or have the sympathy of his creditor if he will do so; this is unquestionably the case in nearly every instance where the debtor has acted with honesty, industry and economy. It is the duty of the lawgiver to promote the growth of these last named virtues, and it is consequently a breach of duty to do any thing which in its consequences may retard or strangle that growth.

The 200 acres to be exempt from sale may be worth a very large amount, and still be exempt; the means that an honest debtor should apply to the payment of his debts may be applied by a dishonest one to improving this land, rearing manufacturing establishments, buildings for rent, and in many other ways, until it may amount to a princely fortune. Then will not this section, in all probability, hold out a strong temptation to dishonesty? The undersigned thinks it will, and his observation leads him to believe that many persons in this State will most vilely abuse this beneficent provision; and he ventures to predict that three dishonest debtors to one honest and unfortunate one will be benefited by it; and as such he solemnly protests against its passage. All human action is impelled by rewards and punishments. The laws cannot reward good actions; but they can and should punish bad ones—not re-

ward them. As a general rule, it is bad conduct in a member of society to violate his fair contract, and when he does so, his conduct should be frowned upon. Let the law exempt no species of property from forced sale, while an honest debt is unpaid; let the fact of failure to pay be *prima facie* evidence of fraud and dishonesty in a debtor; let the creditor have the power to arrest and detain his person, until all his estate is surrendered for the satisfaction of his debts, and you will hold over the debtor a powerful inducement for honesty of action, and you will take from him a powerful one to a contrary course, as at present held out by our laws. It is admitted that an honest and unfortunate debtor may occasionally be unjustly arrested and detained, but it should be borne in mind that such cases would be but few; and the undersigned thinks that the amount of good that would result by this check to dishonest conduct, would far outweigh the evil caused to the honest and unfortunate debtor;—sincerely entertaining this opinion, the undersigned voted against that clause in the Bill of Rights exempting from imprisonment the person of a debtor; and he still thinks that the language of the law should be to the debtor: "pay your just debts, or give up all your means of doing so, and your person and future acquisition shall be exempt from your creditors." Let the laws speak thus, and much of the fraud, cunning and duplicity that stalks abroad among us, in so much that the name of Texas has almost become, in other countries, a by-word and term of reproach, will disappear, and man, purified and regenerated, will harmonize in some degree with the works of nature, in this beautiful and fairy land.

But it is said that the credit system is an evil, and that our laws are calculated and designed to overthrow it. The undersigned, dissenting from the premises, freely admits the conclusion; but at the same time he must be permitted to say, that it is more manly in the lawgiver to strike openly and boldly at the evil; and not in a covert, insidious and ineffectual manner—a manner that does not eradicate the evil, but lays open the door to an immense amount of fraud and dishonesty. Let the law-maker, if he wishes it, not make the debtor, by acting dishonestly, the means of overturning that system, but let him preserve the morals of the community, and by some other means effect the desired end. It should not escape our recollection, that the instrument we are framing will attract the gaze of most civilized and enlightened nations; that it has to pass the ordeal of that austere and intelligent body the United States Congress; and that it has been with much difficulty that our friends there have successfully supported our cause. It should also be recollected that our Legislature, unrestricted by us, would have full power to act upon this and all such subjects. Is it not then unwise and impolitic to incorporate in our fundamental law, a provision (whatever may be its humanity) somewhat novel in its character, unknown to other kindred instruments, and one which upon its very face bears the impress of insolvency and bad faith.

(Signed)

JAMES SCOTT.

Mr. Lipscomb offered the following resolution :

Resolved, That the President of the Convention be authorized to appoint some person to record the journals and proceedings of the Convention in a bound book, and when completed, to deposit the same in the office of the Secretary of State, and that the person so appointed shall receive such compensation as is usually given for recording, the same to be paid out of the appropriation to defray the expenses of the Convention.

Laid on the table one day for consideration.

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

ORDERS OF THE DAY.

The report of the Committee on General Provisions being first in order was taken up.

Mr. Gage offered the following as an additional section, to come in after the 28th section.

"The Legislature shall provide by law for exempting from taxation two hundred and fifty dollars' worth of the household furniture or other property belonging to each family in this State."

Which was, on motion of Mr. Young, laid on the table.

Mr. Lipscomb offered the following as an additional section, to come in after the 30th section.

"No private corporation shall be created, unless the bill creating it shall be passed by two-thirds of both houses of the Legislature."

Mr. Rusk offered the following amendment to the additional section, which was accepted by Mr. Lipscomb.

"And two-thirds of the Legislature shall have power to revoke and repeal all private corporations, by making compensation for the franchise."

On motion of Mr. Rusk, the additional section, as offered by Mr. Lipscomb, was laid on the table for the present.

On motion of Mr. Rusk, the vote adopting the 29th section was reconsidered.

Mr. Rusk then moved to strike out the 29th section. He said: this is a matter, the operation of which I do not understand. The inconveniences which would result from Legislative grants, such as those which might be necessary for educational and other purposes, would be a minor matter compared with the flood of evils which might be introduced by

these two sections. It will be recollected by those conversant with the fact, that a general law of this kind was enacted in the State of New York. Under that law there was scarcely a single county which did not incorporate a bank, and some as many as four or five. The result was illimitable confusion and the greatest injury to the community. I have been informed that so great are its evils throughout the State of New York, that the people have been some time endeavoring to call a Convention to get rid of them, and enable them to extricate themselves from this mountain of difficulties. What would be the result of a general law authorizing certain individuals to do certain things, and to be considered a body corporate, with the full right to trade, to hold real estate, to purchase and sell, and the like? Some four or five speculators, who wish to make a fortune by their wits, and not by their labor, will get together and form a corporation, and we shall have a Bucksport Land Company, or something of that sort. They will operate largely, contract debts, and flood the country with their scrip. When the evil has grown up to an insupportable height, when the community has been swindled, the Legislature will repeal the grant, by a majority of two-thirds. There may be thus formed in Texas a thousand corporations, land-selling, lot-selling, manufacturing corporations, by which nobody will suffer but the community. I think it better to pursue a medium path. It is no recommendation that these provisions come from the Constitution of Louisiana; we do not know all the circumstances which exist there. The only benefit here would be, that the Legislature would not be troubled with applications for private corporations; and that is a little matter compared with the evils which may result from this action.

The ayes and noes were called upon the motion to strike out, and are as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Gage, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Kinney, Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, M'Gowan, M'Neill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scout, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White and Young—51.

Noes—Messrs. Bache, Brashear and Evans—3.

So the section was stricken out.

On motion of Mr. Rusk, the vote adopting the 30th section was reconsidered, and on his motion the section was stricken out.

Mr. Caldwell moved to reconsider the vote adopting the 28th section for the purpose of offering the following as a substitute for said section:

"No corporate body shall hereafter be created, renewed, or extended, with banking or discounting privileges, except by the consent of two-thirds of the Legislature, and the act of incorporation shall not take effect until the same be approved by two-thirds of the Legislature returned by a general election after the passage of the act."

Mr. *Caldwell* said: I propose this with more confidence than I would have done at an earlier hour, seeing the House disposed to reconsider the hasty action of yesterday. If we consider the people capable of self-government, most certainly the amendment which I propose may be deemed wholesome and salutary; if they are incapable of self-government, the section had better stand as it is. I propose in that amendment to prevent all hasty legislation, to interpose a complete barrier against the corrupt influences which may be brought to bear upon any one Legislature, and to alter these provisions with the same solemnity demanded for an alteration of the Constitution, as provided for in the bill as it now reads. As it now stands, I think the people could arrive at the same end by altering the Constitution. The proposition I there make is to carry out the calm and deliberate will of the people, without interfering with that instrument. I think that after two-thirds of the Legislature have passed upon such an act, and the people have considered the subject for one or two years, and another Legislature have approved it, we may fairly conclude that the calm and deliberate judgment of the nation is in favor of something of the sort. There is no danger that our country will be overrun with banking institutions, like some of the Southern States. I am very much afraid, that by cutting them off entirely, our country will be flooded with promissory notes of private individuals. These matters of expediency should be left to the people, and if they decide upon a measure, after calm deliberation, they should have it. No corrupt or foreign influences can be brought to bear in this matter, as I propose it.

Mr. President *Rusk* said: I am very sorry that I cannot vote for the reconsideration. I would always prefer to do so, where the question is at all of a doubtful character. And I feel, too, that I am not acting quite so generously as I would wish to do. But this subject of banking in all its forms I am opposed to. If it took five years to obtain such a provision, I should still be opposed to it. Influences would be brought to bear upon every Legislature in succession, till the whole country would be flooded. So far as I am concerned, I desire to see such a provision incorporated in the Constitution, that we never can have a bank.

Mr. *Davis* said: I would like to gratify the gentleman who moved the reconsideration, but upon this occasion I cannot. I am bound to oppose the reconsideration: first, upon principle; and secondly, because I feel myself instructed upon this point by the citizens of the county which

I have the honor in part to represent. If it should be demanded by necessity at any time, to create a Bank for the State of Texas, it seems to me that the question should be presented to the people of the State of Texas, and let them take action upon it by way of an amendment of the Constitution. And I never want to see a bank established until the people have acted upon the subject. It would be insulting the understanding of this Convention, were I to call their attention to the wide spread ruin and destruction, which have resulted in the United States from the establishment of banks. I will not detain the business of the House by doing so. I think that every individual here has made up his mind upon the subject. If the substitute is adopted, we shall find men of intelligence and capital hovering around the Legislature of the country, And I would ask you if it will not be as easy to buy up the members of the Legislature of Texas, as those of the Congress of the United States? We have seen individuals of high standing, men supposed to be of sterling merit, changing their opinions in relation to the Bank of the United States, in consequence of an intimation that five, ten, or twenty thousand dollars could be loaned to them. Might not the same course be pursued in the State of Texas? I entertain the opinion that the members of the Legislature of Texas will not be more virtuous than the members of the Congress of the United States. A little exertion can be made, and you will find the two thirds in favor of such an act. They will go back, mount the stump, and make speeches before the people upon its necessity and propriety; and if they succeed in convincing the people, at the next session there will be two thirds again, and the bank will be established. Gentlemen talk about tying up the hands of the people. Sir, I would be in favor of prohibiting the people of Mississippi from making a bank to all eternity.

Mr. Kinney said: I will in the first place confess, that this subject of banks is one which I do not very well understand. However, in the course of my life I have seen both the advantages and disadvantages of banking institutions. But I will not pretend to speak of the good or evil which may arise from them. I shall only advert to the liberality which I see exhibited in this House, with regard to matters which concern the people and the country at large. I see gentlemen here very liberal in reconsidering those things which they themselves think beneficial to the public; they do not leave them to the people, but decide upon them themselves. I ask you, even if we here as individuals, considered this an improper institution, which would injuriously affect the public at large, whether it would be wrong in itself, if the great mass of the people should consider it right? Who will suffer by it? Who rule? Who have the right to rule? Is it not the majority? And by the adoption of the substitute offered by the gentleman from Bastrop, I cannot see that any injustice will fall upon the head of any one. It does seem to me that there is a great deal of illiberality displayed upon

this subject. As I say, there are a great many objections to these institutions, and they have also done a great deal of good. There are a great many objections to laws which have been passed upon other subjects, materially affecting the interests of the people, and there are also advantages connected with those laws. I believe it would be impossible hereafter to carry on the fiscal affairs of this country without some institution of this kind. What will be the result of a provision of this kind? Mr. Mills or Mr. Kinney will issue his individual notes, and if his credit is good, they will become the circulating medium, and this will give rise to more frauds upon the community than the system here attacked. There are obligations and guarantees to the people given by these institutions, which are created by them, which render them a great deal more secure than any individual could be. I know of banking institutions which went into existence long before I was born, in the State of Pennsylvania, which have never to my knowledge failed to pay any note or liability, and which have been kept up from the commencement to this day. I know that by means of those institutions many have been enabled to place themselves in affluence. I have heard men say, who are as much opposed to banking institutions as any in this body, that they have amassed most of their fortunes by means of the advantages which they have received from banks. But they go against banking as a principle, because others have not done as well as they. It does seem to me that gentlemen are going too far in prohibiting the people from establishing such institutions hereafter as they may deem advisable and best. I would be opposed myself to establishing a bank; there I go as far as any; but I will not say that the people shall not do what they conceive for their interest, but shall do what I think for their interest. I think by adopting the substitute of the gentlemen from Bastrop, we shall leave the question entirely open to the majority of the inhabitants of the country hereafter to act upon. I do not wish by my voice to say to the majority of the yeomanry of the country, that they shall not rule.

Mr. *Van Zandt* said: I hope the motion to reconsider will not prevail. I am opposed to banking upon general principles; but at the same time I am willing to confess that perhaps the time may arise in the history of the country, when the best public interest may demand the charter of an institution of some kind, with banking privileges. I believe, however, that this case is amply provided for in the 34th section. If the time should ever come when stern necessity shall call for a bank charter, the people will be aware of that fact, and quick to discern it. Gentlemen seem to be of opinion that this matter is to be discussed before the people as an isolated question. Now, sir, there will be other questions which may control the elections; there may be the question of Whig and Democrat, or others which may be powerful enough to control the elections, regardless of a question like this. But if the public necessity demands such a charter, the people will be aware of it, and

when called upon to cast their votes, directly for or against it, their views will be ascertained beyond the possibility of a doubt. Then, I say, that the method by way of amendment to the Constitution is far preferable as a test of the popular voice than that proposed in the substitute of the gentleman from Bastrop. No one can deny, that an important question coming up on the eve of a great election, may be wholly swallowed up.

Mr. President *Rusk* said: I will trouble the House only for a single moment, I dislike to be charged with illiberality; I think that as far from me as any thing is. I cannot, however, extend my liberality so far as to open a question which has been decided, and upon which we should again come to the same conclusion. I must, therefore, vote against the reconsideration of the 28th section, the adoption of which, I think, will be closing the door against fraud and corruption, and will prevent much human suffering. I think, as a member of the Convention and the community, that it is due to myself, the country, and the people themselves, to restrain them from doing any thing which would result in their injury. The gentleman from San Patricio says that many individuals have been benefitted by banks. Thousands upon thousands, sir, have been ruined by them. I consider it a bright page in the history of General Jackson, that he had the honor of giving the blow which will eventually destroy them upon this continent. And I wish by no vote of mine, here or elsewhere, to authorize the institution of a bank, which may benefit a few individuals, but will carry, here as elsewhere, ruin, want, misery and degradation in its train.

Mr. *Brown* said: I am very sorry that I am under obligation to oppose the motion to re-consider. The only criterion which will govern my action here, is the right or wrong of a matter, and not whether at the present or any future time it will be agreeable to the people. For if I believed that the voice of my constituents would demand a measure to which I am opposed, I would resign my place in this Convention, and give them an opportunity to act through some other person. I will not assent to any principle or doctrine which I believe to be radically wrong, hurtful to the government, and subversive of all the good morals of society. I look upon the banking principle as injurious to the good morals of the community. I look upon it as an artifice invented by the cunning, to practise frauds upon the ignorant. I am forever opposed to the establishment of any institution which cannot be revised by the people; and I defy any one to find a republican government in which the people can tell whether a bank is rightfully or wrongfully administered. The principle which will govern my vote is the soundness or unsoundness of a provision, and not its popularity with the people hereafter. I will go further and oppose the 34th section also. As the section now stands, I would absolutely prohibit banks, and would leave no method for the establishment of these institutions, except by a radical change of

the whole Constitution. The Constitution is a unit, and the hazard of a change throughout should be incurred, or with my vote it should not be changed at all. I regard the principle proposed to be substituted as a wrong one, and I do not regard any majorities hereafter; and even looking to that at present, if it were necessary for me to vote for the amendment of the gentleman from Bastrop, in compliance with the will of my constituents, I would refuse to perform the act.

Mr. *Lusk* said: I shall vote against the re-consideration, though I would like to extend the courtesy. But this subject is one with regard to which I am under a promise to my constituents. In a public address from the stump, I declared to the people if elected, I should be opposed to banking in any manner or style. I believe that a majority of the people, if they wish a bank, can have a Convention and authorize one. The gentleman from Bastrop is placing it, I think, further out of the power of the people than I am.

The ayes and noes being called on the re-consideration, were as follows:

Ayes—Messrs. Caldwell, Cazneau, Evans, Hicks, Hogg, Kinney, Love, Lumpkin, McGowan, Navarro, Power, Runnels and White—13.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brown Burroughs, Clark, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Gage, Hemphill, Henderson, Horton, Howard, Holland, Hunter, Irion, Jewett, Latimer of L., Latimer of R. R., Lewis, Lusk, Lipscomb, McNeill, Miller, Moore, Patker, Rains, Scott, Smyth, Standifer, Tarrant, Ochiltree, Van Zandt and Young—43.

So the motion was lost.

The additional section offered by Mr. Lipscomb, was then taken up.

Mr. Brown offered the following amendment, which was accepted:

The State shall not be a part owner of the stock or property belonging to any corporation.

The additional section was then adopted.

Mr. Runnels offered the following as an additional section, to come in after the 6th section:

The Legislature shall provide by law, the compensation of all officers, servants, agents and public contractors, not provided by this Constitution, who are to be paid from the treasury of the state, and shall not grant extra compensation to any such officer, servant, agent or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same, nor grant, by appro-

priation or otherwise, any amount of money out of the treasury of the state to any individual on a claim, real or pretended, when the same shall not have been provided for by pre-existing law.

Which was adopted.

Mr. Evans offered the following, to come in after the 28th section :

The Legislature shall prohibit the issuing, or circulating of printed, engraved or lithographed bills, or other paper intended to circulate as money.

Mr. Hogg offered as a substitute for Mr. Evans' additional section, the following :

If any person or persons shall be guilty of tendering or passing the promissory note or notes of an individual or individuals as money, to pass or circulate as money, in lieu of gold or silver, as a circulating medium, shall be fined and imprisoned, as may be directed by law.

Rejected.

Mr. Rusk offered as a substitute for Mr. Evans' additional section the following :

The Legislature shall have the power to pass laws for prohibiting in this State the issuance or circulation of all individual, company or corporation notes as money.

Adopted.

The question was then taken on the substitute, which was adopted as an additional section.

On motion of Mr. Love, the vote just taken adopting the substitute offered by Mr. Rusk as an additional section was re-considered; and, on motion of Mr. Rusk, the substitute and the additional section offered by Mr. Evans, were referred to the committee on General Provisions.

In 31st section, Mr. Brown moved to strike out all after the word "insurrection" in 3d line: upon which

The ayes and noes were called, on the re-consideration, and stood as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby Bache, Brashear, Brown, Caldwell, Clark, Cunningham, Cunev, Davis, Evans, Forbes, Gage, Hemphill, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Moore, Navarro, Parker, Power, Scott, Smyth, Standifer, Tarrant and Young—

42.

Noes—Messrs. Baylor, Burroughs, Cazneau, Darnell, Henderson,

Kinney, McNeill, Rains, Runnels, Ochiltree, Van Zandt and White—12.

Carried.

Mr. Ochiltree offered the following substitute for the 31st section :

The Legislature of this State shall be forever inhibited from pledging the faith of the State for the purpose of procuring any amount of money by loan.

Mr. Lewis offered the following substitute for Mr. Ochiltree's substitute, which was accepted :

No money shall ever be borrowed on the faith of the State.

Mr. Forbes moved to amend by inserting the following, after the word "insurrections" in 31st section :

But in no case shall any amount be borrowed, except by a vote of two-thirds of both Houses of the Legislature.

Mr. Young moved the previous question.

The question—shall the main question be now taken? was put; upon which the

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

Ayes—Messrs. President, Armstrong of R., Burroughs, Bagby, Clark, Cunningham, Hemphill, Henderson, Horton, Holland, Irion, Jewett, Kinney, Latimer of R. R., Lumpkin, McNeil, Navarro, Van Zandt and Young—19.

Noes—Messrs. Anderson, Armstrong of J., Baylor, Bache, Brashear, Caldwell, Cazneau, Cuney, Darnell, Davis, Evans, Forbes, Gage, Hogg, Howard, Hunter, Lewis, Love, Lusk, Lipscomb, McGowan, Miller, Moore, Parker, Power, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree and White—32.

So the motion was lost.

The ayes and noes were then called on Mr. Forbes' amendment, and stood thus :

Ayes—Messrs. President, Armstrong of R., Bagby, Brown, Caldwell, Cazneau, Cunningham, Davis, Evans, Forbes, Gage, Horton, Irion, Jewett, Kinney, Love, Lumpkin, Lipscomb, McGowan, Miller, Parker, Rains, Scott, Smyth, Standefer, White and Young—27.

Noes—Messrs. Anderson, Armstrong of J., Baylor, Bache, Brashear, Burroughs, Clark, Cuney, Darnell, Hemphill, Henderson, Hogg, Howard, Holland, Hunter, Latimer of R. R., Lewis, Lusk, McNeill, Moore, Navarro, Power, Runnels, Tarrant, Ochiltree and Van Zandt—

26

So the amendment was adopted.

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

Friday, Aug. 8th, 1845.

Half past 8 o'clock, A. M.

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

The Committee on General Provisions, Isaac Van Zandt, chairman, made the following report, which was laid on the table, to come up with the orders of the day.

Committee Room, Aug. 8th, 1845.

To the Hon. THOMAS J. RUSK,

President of the Convention :

The Committee on General Provisions have had under consideration two resolutions which were referred to them, on the subject of slaves : after mature deliberation, they have instructed me to submit the following as a substitute for both, and respectfully recommend its adoption :

ISAAC VAN ZANDT,
Chairman of the Committee.

Substitute.

The Legislature shall not have power to pass any laws for the emancipation of slaves without the consent of the owner ; nor shall the owner emancipate his slaves without the consent of the Legislature, unless he sends them beyond the limits of the State. The Legislature shall pass laws to prohibit cruelty to slaves, and unusual punishments.

2d. In the prosecution of slaves for crimes of a higher grade than petit larceny, the Legislature shall have no power to deprive them of a trial by an impartial jury, in the District Court.

The same Committee made the following report :

Committee Room, Aug. 8, 1845.

To the Hon. THOS. J. RUSK,

President of the Convention :

The Committee on General Provisions of the Constitution, to whom was referred two resolutions proposing to vest the Legislature with power to prohibit the circulation of lithographed, and other bills of individuals and companies, as money, have had the same under consideration, and