

TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Journal of the Texas State Convention: Assembled at Austin, Feb. 7, 1866. Adjourned April 2, 1866. [Austin, TX.]: Printed at the Southern Intelligencer Office, 1866.*

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.

Mr. Hurt moved to adjourn until 9 o'clock to-morrow morning. Lost.

An ordinance, "making valid the laws and acts of officers therein mentioned, and for other purposes," was taken up, and read.

On motion, the rule was suspended, and the ordinance taken up section by section, to receive amendments.

Mr. Paschal proposed to amend 1st section as follows :

Third line, after Constitution add "and laws," and after State add "as now amended or."

Fifth line, after State add "except so far as they relate to the sale or disposal of the public lands, University fund, or common school fund."

Seventh line, after "State" add "here declared valid."

Eighth line, after Constitution add "and laws." Same line, substitute "they" for "it." Strike out the proviso at the end.

On motion of Mr. Hart, the Convention adjourned till 9½ o'clock to-morrow, pending the amendment of Mr. Paschal.

WEDNESDAY, March 28th, 1866.

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

Mr. Waul offered the following resolution :

Whereas, there are many ordinances of vital interest to the people of the State of Texas reported by committees, and ready for the action of this Convention; and whereas, an adjournment to-day would defeat said ordinances, and render a large portion of the work heretofore performed unavoidable; therefore,

Resolved, That so much of a resolution as designates this as the day for the final adjournment of the Convention, be and the same is hereby rescinded.

Mr. Waul moved to suspend the rule, and take up said resolution. Carried.

Mr. Davis of Cherokee offered to amend as follows :

Provided no new business of a general character shall be considered by this Convention.

Withdrawn.

The question being on the adoption of the resolution, the Yeas and Nays were ordered, and stood :

Yeas—Messrs. Armstrong, Ball, Camp of Goliad, Dalrymple, Davis of Cherokee, Gentry, Giddings, Gurley, Hancock, Hen-

derson, Hill, Hunt, Hurt, Johnson of Tarrant, Jones of Bexar Lane, Ledbetter, Lindsey, Mabry, McCormack, Nelson, Norton, Norris, Parker, Parsons, Perry, Phillips, Porter, Ranck, Record, Reeves, Roberts, Runnels, Saufley, Selman, Shepard, Shields, Shuford, Slaughter, Smith of Lamar, Thompson, Tyus, Varnell, Walker, Waul, Whitfield, Woods, and Young—48.

Nays—Messrs. Bacon, Beall, Benge, Bradshaw, Bumpass, Camp of Upshur, Davis of Webb, Degener, Flanagan, Hart, Jones of Bastrop, Middleton, Murchison, Randolph, Richardson, Saunders, Shaw, Smith of Colorado, Taylor of Fannin, Taylor of Houston, and Thomas of Cameron—21.

Resolution was adopted.

Mr. Jones of Bastrop asked to be excused from further attendance on the Convention after to-day.

And the question being, shall the gentleman be excused, and being put, the House refused to excuse.

Mr. Richardson moved that he be excused from further attendance on the Convention after 11 o'clock to-night.

Carried

Mr. Randolph, chairman of committee on Engrossed and Enrolled Ordinances, made the following report :

COMMITTEE ROOM, March 28th, 1866.

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

The committee on Engrossed and Enrolled Ordinances have examined an ordinance defining the Constitution of the State of Texas; an ordinance providing for the election of State officers, and fixing the time for the meeting of the Legislature; an ordinance appropriating money to pay the salary of Governor Houston; and an ordinance for the relief of James M. Green and others, and find them correctly enrolled, and properly signed. Respectfully submitted.

Report accepted.

Mr. Gentry introduced the following ordinance :

AN ORDINANCE,

Requiring the Assessment and Collection of Taxes, for the Year 1866.

SEC. 1. *Be it ordained by the Delegates of the people of Texas in Convention assembled,* That the Assessors and Collectors of the several counties of the State are required to assess a tax of twenty cents on the hundred dollars worth of property, as a State tax for the year 1866.

SEC. 2. That the several counties may assess and collect, for county purposes, one half of the amount of the poll and other tax herein levied by the State.

SEC. 3. That a poll tax of one dollar shall be levied upon all the male inhabitants within the State, between the ages of 21 and 55 years.

SEC. 4. That a tax of twenty-five cents be levied and collected for each dog in this State. The taxes herein levied shall be collected and returned by the 1st day of August, 1866; and the Comptroller shall take all necessary steps, and prescribe rules to insure the prompt and efficient collection of the same.

SEC. 5. There shall be assessed and collected of each and every person pursuing the occupation of hawker or peddler of goods, or other articles not manufactured in this State, an annual direct tax of one hundred dollars, in each and every county in which he may pursue such occupation; of each and every person or firm keeping a billiard table, an annual direct tax of one hundred dollars for each and every table so kept; of each and every person or firm keeping a nine or ten-pin alley, an annual direct tax of sixty dollars, for each and every alley so kept; of each and every person or firm keeping a hotel, cook shop, restaurant, or eating house, for pay or emolument, an annual direct tax of thirty-two dollars for each and every such establishment; of each and every person or firm keeping a race-track, an annual direct tax of eighty dollars; of each and every person or firm pursuing the occupation of real estate broker, ship broker, merchandise or cotton broker, or any commission business, an annual direct tax of forty dollars for each and every such establishment; of each and every person or firm occupied in the business of auctioneering, an annual direct tax of forty dollars; of each and every person pursuing the occupation of pawn broker, an annual direct tax of forty dollars.

SEC. 6. That in order to facilitate the business necessarily incident to the office of Comptroller of Public Accounts, that officer is hereby authorized to employ such number of additional clerks as in his judgment may be necessary in properly keeping the books, and conducting the affairs of his office.

SEC. 7. That the sum of twelve hundred dollars is hereby appropriated for the purchase of books, the printing of blank rolls, purchase of stationery, and for contingencies that may arise, which are necessary to carry into effect this ordinance.

SEC. 8. That this ordinance shall be in force from its passage. Read first time.

Mr. Roberts offered the following resolution:

Resolved, That the Legislative Committee be instructed to prepare and report an ordinance, as soon as practicable, to provide for holding election for the amendments to the Constitution,

and officers of the State, and return of votes, and the matters connected therewith.

Adopted.

Mr. Hancock introduced the following ordinance :

AN ORDINANCE,

To authorize Execution to issue for the Collection of Costs in the Supreme Court and District Courts.

SECTION 1. *Be it ordained by the people of the State of Texas, in Convention assembled,* That in all cases, both civil and criminal, in the Supreme and District Courts of the State, which have been or may hereafter be finally decided by said Courts, execution may issue for the costs of said Courts, except where suspended by appeal or writ of error.

SEC. 2. *Be it further ordained,* That this ordinance shall be and remain in force from the time of its passage, subject to such action as the Legislature may hereafter take on this subject.

Mr. Hancock offered the following resolution :

Resolved, That the Treasurer be, and he is hereby required to pay B. W. Gillock the sum of two hundred and fifty-six dollars, mileage from El Paso to Austin.

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

Yeas—Messrs. Bacon, Ball, Bradshaw, Bumpass, Davis of Webb, Degener, Drake, Flanagan, Gentry, Giddings, Gurley, Hancock, Hart, Henderson, Hurt, Ireland, Johnson of Tarrant, Lane, Ledbetter, McCormack, Middleton, Murchison, Norton, Parker, Parsons, Paschal, Perry, Ranck, Reeves, Runnels, Smith of Colorado, Smith of Lamar, Taylor of Houston, Tyus, Varnell, Walker, and Waul—37.

Nays—Messrs. Anderson, Beall, Camp of Goliad, Camp of Upshur, Dalrymple, Hunt, Jones of Bastrop, Lindsey, Mabry, Nelson, Norris, Phillips, Randolph, Record, Roberts. Saufley, Selman, Shepard, Shields, Shuford, Shaw, Slaughter, Thompson, Whitfield, and Woods—25.

So the resolution was adopted.

The hour having arrived for the consideration of the special order of the day, viz : The resolution providing for the election of certain commissioners, &c., and the amendments offered thereto, taken up.

Mr. Whitfield moved to postpone the special order for half an hour. Lost.

Question being on the amendment of Mr. Flanagan, Mr. Hurt moved to lay said amendment on the table, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Anderson, Bacon, Beall, Bradshaw, Dalrymple, Drake, Gentry, Gurley, Hancock, Henderson, Hunt, Hurt, Jones of Bexar, Lane, Ledbetter, Lindsey, Mabry, Nelson, Norris, Parker, Parsons, Paschal, Perry, Phillips, Porter, Ranck, Randolph, Record, Reeves, Roberts, Runnels, Saufley, Selman, Shepard, Shields, Slaughter, Smith of Lamar, Taylor of Fannin, Thomas of Cameron, Tyus, Walker, Waul, and Whitfield—43.

Nays—Messrs. Armstrong, Ball, Benge, Camp of Upshur, Davis of Webb, Degener, Flanagan, Giddings, Hart, Ireland, Jones of Bastrop, McCormack, Middleton, Murchison, Norton, Shaw, Thompson, and Varnell—18.

Motion was lost.

Question recurring on the amendment to strike out five, and insert three, the same was put, and the amendment lost.

On motion of Mr. Taylor of Fannin, the word five was stricken out, and four inserted.

Mr. Ireland offered to amend as follows :

Strike out, "the President," and insert, "the Black Republican party."

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

Question recurring on the adoption of the resolution, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Anderson, Ball, Beall, Bradshaw, Camp of Goliad, Gentry, Gurley, Hancock, Henderson, Hill, Hunt, Hurt, Lane, Lindsey, Mabry, Nelson, Norris, Parker, Parsons, Perry, Phillips, Porter, Ranck, Randolph, Record, Reeves, Roberts, Runnels, Saufley, Selman, Shields, Shuford, Taylor of Fannin, Taylor of Houston, Walker, Waul, Whitfield, and Young—38.

Nays—Messrs. Armstrong, Bacon, Benge, Camp of Upshur, Dalrymple, Davis of Webb, Degener, Drake, Flanagan, Giddings, Hart, Ireland, Jones of Bastrop, Jones of Bexar, Ledbetter, McCormack, Middleton, Murchison, Norton, Paschal, Saunders, Shepard, Shaw, Slaughter, Smith of Colorado, Smith of Lamar, Thomas of Cameron, Thompson, Tyus, Varnell, and Woods—31.

Resolution was adopted.

The President appointed Mr. Taylor of Fannin and Mr. McCormack as tellers of the ballot cast in execution of the resolution just adopted.

Nominations being in order, Mr. Nelson nominated Mr. Beall ; Mr. Record nominated Mr. Hancock ; Mr. Hunt nominated Mr. Henderson ; Mr. Saufley nominated Mr. Phillips ; Mr. Jones of

T

Bastrop nominated Mr. Camp of Goliad; Mr. Gentry nominated Mr. Lane; Mr. Hunt nominated Mr. Shields; Mr. Ireland nominated Mr. Waul; Mr. Bradshaw nominated Mr. Porter; Mr. Murchison nominated Mr. Degener; Mr. Parsons nominated Mr. Selman; Mr. Whitfield nominated the whole Convention.

First Ballot—The vote being cast, and the ballots told, it appeared that Mr. Beall had received 11 votes, Mr. Hancock 40, Mr. Henderson 29, Mr. Phillips 19, Mr. Camp of Goliad 14, Mr. Lane 37, Mr. Shields 25, Mr. Waul 15, Mr. Porter 42, Mr. Degener 6, Mr. Selman 9; scattering, 15 votes.

Messrs. Hancock, Lane and Porter, having received a majority of the votes cast, were declared duly elected.

The names of Messrs. Selman, Beall, Camp of Goliad, and Degener were withdrawn.

Mr. Saufley moved that the rule be suspended which declares a plurality of votes shall elect on the second ballot, and that a majority be required to elect.

Carried.

The second ballot was cast, and on telling the vote, it appears Mr. Henderson received 24 votes, Mr. Shields 19, Mr. Phillips 19, Mr. Waul 4, Mr. W. E. Jones 1.

Name of Mr. Waul withdrawn by Mr. Ireland.

No one having received a majority of the votes cast, a third ballot was had, and on telling the votes, it appeared that Mr. Henderson had received 27 votes, Mr. Shields 22, Mr. Phillips 18, Mr. Jones 1.

There being no election, a fourth ballot was had, and on telling the votes, it appeared that Mr. Henderson had received 37 votes, Mr. Phillips 11, Mr. Shields 20, Mr. Jones 1.

Mr. Henderson having received a majority of the votes cast, was declared duly elected.

Mr. Norton offered the following resolution:

Resolved, That the Secretary of the Convention be required to cause the Constitution to be correctly enrolled, and that, prior to adjournment, the President and Secretary and Members of the Convention proceed to sign the same.

Resolved, That upon the adjournment sine die of this Convention, the Constitution be deposited in the office of the Secretary of State; and that any member who may not be present may authorize his name to be attached or signed to the same in said office, at any time hereafter.

Mr. Roberts offered the following resolution:

Resolved, That a committee of Revision, composed of five delegates, be appointed, whose duty it shall be to revise the busi-

ness of the Convention, and report upon and call the attention of the Convention to such matters as may be necessary to make their action upon the various subjects complete.

Adopted.

The President appointed the following named gentlemen on the committee :

Messrs. Phillips, chairman; Smith of Colorado, Perry, Shepard, McCormack.

Mr. Beall offered the following resolution :

Whereas, the different portions of Texas have very limited mail facilities, on account of which matters of public interest, emanating from this capitol, would be a long time reaching their destinations,

Resolved, That His Excellency, A. J. Hamilton, Provisional Governor of Texas, is respectfully requested to issue his Proclamation, ordering the Chief Justices of the different counties in the State to order elections in their respective counties, for the different State, district, and county officers to be elected by the people; and also to authorize the Chief Justices to have polls opened, to take the sense of the people in regard to the amendments, &c., to the Constitution, which are, by this Convention, submitted to them.

Resolved, That His Excellency be requested to furnish the members of this Convention with such Proclamation, if it be in his power to do so, before they leave Austin; and that a committee be selected by the President to wait on him for said purpose.

Mr. Paschal proposed to amend as follows :

Add after county and before officers, "and municipal."

On motion of Mr. Roberts, the resolution and amendment were referred to the committee on Legislative Department.

Mr. Nelson offered the following resolution :

Resolved, That the Secretary of this Convention, at the adjournment sine die, take charge of the journal, and have blank copies of the same printed, letting out the printing to the lowest and best bidder; that he correct the proof of and index the same; and when finished, to forward a copy to each member of this Convention, and deposit the remainder with the Secretary of State; the postage for forwarding to be paid out of the fund appropriated to defray the expenses of this body; and that the Secretary be continued in office for thirty days, to attend to said business.

Mr. Norton offered to substitute as follows :

Resolved, That the committee on Printing cause to be pub-

lished 600 copies of the journal of this Convention; one copy of which shall be sent to the Clerk of each County Court, one copy to each member of the Convention, and one copy to the library of each State, and the remainder be deposited in the State library; and that the postage and other expenses incurred in carrying out this resolution shall be paid out of the fund appropriated for defraying the expenses of this Convention.

On motion, resolution and substitute referred to committee on Printing.

Mr. Waul offered the following resolution:

Resolved, That the committee of Revision be requested to see that the Constitution and various amendments be properly enrolled.

Which was adopted.

Mr. Hurt offered the following resolution:

Resolved, That no member be allowed to speak on the same question more than five minutes; nor shall the Convention give leave to a member to extend his remarks beyond that time.

Mr. Beall offered to amend as follows:

Nor ask a question while a member is speaking

Accepted.

Mr. Hurt moved to suspend the rule, and take up his resolution. Lost.

Mr. Flanagan offered the following resolution:

Resolved, That this Convention will adjourn on Friday next, sine die.

Mr. Ireland moved to lay the resolution on the table, and the Yeas and Nays being called for, stood thus:

Yeas—Messrs. Bacon, Ball, Dalrymple, Davis of Cherokee, Drake, Gentry, Gurley, Hancock, Henderson, Hill, Hurt, Ireland, Johnson of Tarrant, Jones of Bexar, Lindsey, Mabry, Middleton, Murchison, Nelson, Norton, Norris, Parker, Parsons, Perry, Phillips, Porter, Ranck, Randolph, Record, Richardson, Roberts, Saufley, Selman, Shepard, Shields, Smith of Colorado, Smith of Lamar, Thompson, Walker, Waul, and Woods—41.

Nays—Messrs. Anderson, Armstrong, Beall, Berge, Bradshaw, Camp of Goliad, Camp of Upshur, Davis of Webb, Degener, Flanagan, Giddings, Hart, Hunt, Jones of Bastrop, Ledbetter, Paschal, Reeves, Runnels, Shaw, Taylor of Houston, Varnell, and Whitfield—22.

So the resolution was laid on the table.

Mr. Gentry offered the following resolution:

Resolved, That the expenses of the delegates elected by this Convention to proceed to Washington be paid out of the contin-

gent fund, and that the committee on Finance be requested to report, as early as practicable, an ordinance providing for said expenditures, &c.

Resolution adopted, and referred to the Finance Committee.

On motion of Mr. Davis of Webb, the Select Committee, appointed to draft an address to the President of the United States, were instructed to report without any unnecessary delay, and have address printed.

On motion of Mr. Runnels, Convention adjourned till $\frac{1}{2}$ after 3 o'clock, this evening.

$3\frac{1}{2}$ O'CLOCK, P. M.

Convention met ; roll called ; no quorum.

Absentees—Messrs. Beall, Bumpass, Burke, Dalrymple, Gentry, Giddings, Gurley, Hunt, Hurt, Johnson of Tarrant, Ledbetter, Lindsey, McCormack, Parker, Parsons, Phillips, Record, Roberts, Runnels, Saunders, Saufley, Selman, Smith of Colorado, Smith of Lamar, Thomas of Cameron, Thompson, Varnell, Whitfield, and Young.

On motion of Mr. Bacon, Convention adjourned until $7\frac{1}{2}$ o'clock P. M.

$7\frac{1}{2}$ O'CLOCK, P. M.

Convention met ; roll called ; quorum present.

Mr. Beall made following report from the Finance Committee:
COMMITTEE ROOM, March 28th, 1866.

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

The committee on Finance, to whom was referred the resolution relative to paying the expenses of the delegates appointed by this Convention to visit Washington City, have had the same under consideration, and instruct me to report the following ordinance, and recommend its passage :

AN ORDINANCE.

Be it ordained by the people of Texas, in Convention assembled, That the sum of thirty-two hundred dollars be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of defraying the expenses of the four delegates elected by this Convention to visit Washington ; and the Treasurer is hereby authorized to pay the sum of eight hundred dollars to each of said delegates, upon the presentation of their certificate of election by the Secretary of this Convention.

Read a first time.

On motion, rule suspended, ordinance read a second time, and the question being on the engrossment of the ordinance, and the Yeas and Nays being called for, stood thus :

Yeas—Messrs. Anderson, Ball, Beall, Bradshaw, Bumpass, Camp of Goliad, Camp of Upshur, Gentry, Giddings, Hill, Lindsey, Mabry, Nelson, Norris, Perry, Phillips, Porter, Randolph, Reeves, Runnels, Selman, Shepard, Taylor of Houston, Thompson, Walker, Waul, Whitfield, and Woods—28.

Nays—Messrs. Bacon, Bengé, Davis of Webb, Davis of Cherokee, Degener, Flanagan, Hunt, Ireland, Jones of Bastrop, Jones of Bexar, Ledbetter, Middleton, Murchison, Norton, Saufley, Shields, Thomas of Cameron, and Varnell—18.

So the ordinance was ordered to be engrossed.

Mr. Mabry moved to further suspend the rule, and place the ordinance on its third and final reading.

Lost.

ORDERS OF THE DAY.

The ordinance making valid the laws and acts of officers therein mentioned, and for other purposes, together with the amendment of Mr. Paschal to the first section, again taken up.

Mr. Parsons moved to lay the amendments on the table.

On motion, a division of the question was granted.

The question being on the first amendment, viz: to add after Constitution, in 4th line, the words, "and laws,"

The Yeas and Nays were ordered, and stood thus:

Yeas—Messrs. Anderson, Ball, Beall, Gentry, Giddings, Gurley, Ireland, Jones of Bastrop, Lindsey, Mabry, Nelson, Norris, Parsons, Perry, Randolph, Reeves, Roberts, Runnels, Saufley, Taylor of Fannin, Taylor of Houston, Thompson, Tyus, Walker, Waul, and Whitfield—26.

Nays—Messrs. Armstrong, Bacon, Bengé, Bradshaw, Bumpass, Camp of Goliad, Camp of Upshur, Dalrymple, Davis of Webb, Degener, Flanagan, Hart, Hurt, Johnson of Tarrant, Jones of Bexar, Lane, Ledbetter, McCormack, Middleton, Murchison, Norton, Parker, Paschal, Phillips, Saunders, Shields, Shaw, Slaughter, Smith of Colorado, Thomas of Cameron, Varnell, Woods, and Young—33.

The question recurring on the adoption of the first amendment, the same was put, and adopted.

The question being on laying the second amendment on the table, to wit: after the word State, 4th line, "as now amended or," the same was put, and lost.

Question recurring on the adoption of the amendment, the same was put, and lost.

Mr. Parsons withdrew the motion to lay amendments on the table.

Question being on the adoption of third amendment, Mr.

Paschal having the floor under the rule relating to the time allowed for speaking, and on the motion being put to allow him to continue, the same was refused.

Mr. Lindsey moved to lay the amendment on the table, and the Yeas and Nays being ordered, stood :

Yeas—Messrs. Anderson, Ball, Beall, Bradshaw, Bumpass, Camp of Upshur, Gentry, Giddings, Gurley, Henderson, Hill, Hunt, Ireland, Johnson of Tarrant, Jones of Bastrop, Lane, Lindsey, Mabry, Norris, Parsons, Perry, Phillips, Porter, Record, Roberts, Runnels, Saufley, Selman, Shepard, Shuford, Smith of Colorado, Taylor of Houston, Walker and Waul—34.

Nays—Messrs. Armstrong, Bacon, Camp of Goliad, Davis of Webb, Davis of Cherokee, Degener, Flanagan, Hart, Jones of Bexar, Ledbetter, McCormack, Murchison, Nelson, Norton, Paschal, Reeves, Saunders, Shields, Taylor of Fannin, Thomas of Cameron, Varnell, Whitfield, Woods and Young—24.

So the amendment was laid on the table.

While the vote was being taken, Mr. Saunders rose to a point of order, namely, that he claimed and had a right to the floor before the last motion was made, but that the chair refused to recognize him.

The chair decided against the point of order.

Mr. Jones of Bastrop moved to excuse Mr. Saunders from further attendance on the Convention. Lost.

Question being on adoption of the fourth amendment, the same was put, and lost.

Question being on the adoption of the fifth amendment, the Yeas and Nays being ordered, stood :

Yeas—Messrs. Armstrong, Bacon, Bumpass, Camp of Goliad, Camp of Upshur, Dalrymple, Davis of Webb, Davis of Cherokee, Degener, Flanagan, Hart, Hunt, Johnson of Tarrant, Lane, Ledbetter, McCormack, Middleton, Murchison, Norton, Parker, Paschal, Perry, Ranck, Saunders, Shepard, Shuford, Shaw, Smith of Colorado, Taylor of Fannin, Thomas of Cameron, Varnell, Waul, Woods and Young—34.

Nays—Messrs. Anderson, Ball, Beall, Bradshaw, Gentry, Giddings, Gurley, Henderson, Hunt, Ireland, Jones of Bastrop, Mabry, Norris, Parsons, Phillips, Record, Roberts, Runnels, Saufley, Selman, Slaughter, Taylor of Houston, Thompson, Tyus, Walker and Whitfield—27.

So the amendment was adopted.

Mr. Saunders, having the floor, was called to order under the ten minutes rule. Motion was made to allow him to proceed, which was refused.

Mr. Paschal withdrew his amendment, by leave.

Mr. Bradshaw offered the following amendment:

Amend the first section as follows, to wit: Provided that the following Acts, to wit: An act authorizing the Comptroller of the State to receive from railroad companies in this State the interest that may be now due or hereafter become due on their bonds, approved Dec. 16, 1863; an act amending an act authorizing the Comptroller of the State to receive from railroad companies in this State the interest that may now be due or may hereafter become due on their bonds, approved May 28, 1864; an act to authorize railroad companies to discharge their indebtedness to the special school fund with the treasury warrants and bonds and coupons of the State, approved November 15, 1864; are declared to be unconstitutional, *null and void ab initio*, and that all payments made under said acts are in legal contemplation void, and that the amount said companies owed the State of Texas prior to the 1st day of February, 1861, is yet a legal, valid, subsisting debt against said companies, in favor of the State.

Amendment not in order.

The word "it," 8th line, was ordered to be struck out, and "they" ordered to be inserted in lieu thereof.

Mr. Norton moved to amend section 3d by striking out all the third and fourth lines, and inserting, "were from the beginning null and void."

Mr. Waul moved to lay the amendment on the table.

Withdrawn.

Mr. Smith of Colorado offered to substitute as follows:

SEC. 3. Be it further ordained, that all the ordinances, resolutions and proceedings of a Convention of the people of the State, begun and held on the 28th January, 1861, and on the 2d March, 1861, together with the amendments to the Constitution adopted by said Convention for this State, are declared null and void.

Adopted.

Section 4 was read, when Mr. Paschal moved to strike out all of said section.

Withdrawn.

Mr. Hancock offered the following as a substitute for the 4th and 5th sections:

No civil or military officer of the Confederate States or State of Texas, or private person, shall be prosecuted criminally, or held to answer over in damages, for any act or acts done between the 2d day of February, 1861, and the 26th day of May, 1865, in obedience to superior military orders, or which may have been

in accordance with the Constitution and laws of the Confederate States and of Texas, then deemed to have been in force; and in all cases where executors, administrators, trustees, agents and bailees have received and paid out Confederate or State currency, the courts, in the settlement of their accounts, shall be governed by principles of justice and equity, as well for the protection of the rights of heirs and creditors, as of such executors, administrators, trustees, agents and bailees.

Mr. Davis of Webb moved to adjourn until 9, A. M., to-morrow.

Lost.

Mr. Pascbal moved to strike out all after the words "in force."

Mr. Hancock was allowed to withdraw his substitute, and offered all after the words "in force," in the withdrawn substitute, as a substitute for 4th section.

Adopted.

Mr. Hancock offered the following substitute for 5th section :

Be it further ordained, that no person shall be sued in any civil action, or prosecuted in any criminal proceeding, for any act done under and by virtue of the Constitution and laws of the Confederate States or the State of Texas, as existing during the late civil war; and no person shall, in any case, be held to answer for the act of another.

Mr. Phillips moved to adjourn till 9½ o'clock to-morrow.

Lost.

Mr. Davis of Cherokee moved to adjourn until 10 o'clock to-morrow.

Lost.

Mr. Davis of Webb moved to adjourn till 9 o'clock to-morrow; and the Yeas and Nays being ordered, stood :

Yeas—Messrs. Benge, Davis of Cherokee, Davis of Webb, Degener, Gentry, Johnson of Tarrant, Jones of Bexar, Murchison, Norton, Paschal, Perry, Phillips, Ranck, Record, Reeves, Saufley, Selman, Shepard, Shields, Taylor of Houston, Thomas of Cameron and Tyus—22.

Nays—Messrs. Anderson, Beall, Bradshaw, Bumpass, Camp of Goliad, Camp of Upshur, Flanagan, Giddings, Hancock, Hill, Hunt, Ireland, Jones of Bastrop, Lindsey, Mabry, McCormack, Norris, Parker, Parsons, Porter, Roberts, Runnels, Saunders, Slaughter, Smith of Colorado, Thompson, Waul and Whitfield—28.

So the Convention refused to adjourn.

Mr. Davis of Cherokee moved to adjourn till 9¼, A. M., to-morrow.

Mr. Thompson appealed from the decision of the chair, which was that a motion to adjourn was always in order.

Appeal withdrawn.

Question recurring on the motion to adjourn, Yeas and Nays were ordered, and stood :

Yeas—Messrs. Davis of Webb, Davis of Cherokee, Degener, Gentry, Hancock, Johnson of Tarrant, Jones of Bexar, Lindsey, Murchison, Norton, Parsons, Phillips, Record, Roberts, Saufley, Selman, Shepard, Shields, Taylor of Houston, Thomas of Cameron, Walker and Waul—22.

Nays—Messrs. Anderson, Bacon, Beall, Bradshaw, Bumpass, Camp of Goliad, Camp of Upshur, Flanagan, Giddings, Hill, Hunt, Ireland, Jones of Bastrop, Mabry, McCormack, Norris, Parker, Rannels, Saunders, Slaughter, Smith of Colorado, Thompson and Whitfield—23.

So motion was lost.

On motion of Mr. Davis of Webb, a call of the house was ordered.

Absentees—Messrs. Armstrong, Burke, Dalrymple, Drake, Gurley, Hart, Henderson, Hurt, Lane, Latimer, Ledbetter, Nelson, Paschal, Perry, Randolph, Shepard, Shaw, Smith of Lamar, Taylor of Fannin, Tyus, Varnell and Young.

Mr. Parsons moved to adjourn till 9½ o'clock to-morrow morning. Lost.

Mr. Ireland moved to adjourn till 9 o'clock to-morrow morning. Carried. Pending Mr. Hancock's substitute for 5th section.

THURSDAY, March 29th, 1866.

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

Following report was received from the Printing Committee
COMMITTEE ROOM, March 28th, 1866.

Hon. Wm. M. Taylor, President, pro tem., of Convention :

The committee on Printing and Contingent Expenses, to whom was referred resolutions in relation to printing the Journals of the Convention, have had the same under consideration, and instruct me to report the following substitute, and recommend its adoption.

WM. E. JONES, Chairman.

Resolved, 1st. That 600 copies of the Journals of this Convention shall be published, on good fair paper, with Small Pica type, forty-three lines to the page, exclusive of the paging