

TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Journal of the Reconstruction Convention: which met at Austin, Texas. Texas.*

Constitutional Convention (1868-1869). Austin, TX: Tracy, Siemering & Co., printers, 1870.

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.

CAPITOL, AUSTIN, TEXAS,
August 19, 1868.

Convention met pursuant to adjournment.

Roll called. Quorum present. Prayer by the Chaplain. Journal of yesterday read and adopted.

Mr. Pedigo, Chairman of the Committee on Counties and County Boundaries, made the following report :

COMMITTEE ROOM,
Austin, Texas, August 18, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on Counties and County Boundaries, to whom was referred a memorial from certain citizens of Wood, Hopkins, Hunt and Van Zandt counties, praying the establishment of a new county, to be called the county of Raines, out of portions of the territory of said counties of Wood, Hopkins, Hunt and Van Zandt, have had the same under consideration, and a majority of the committee have instructed me to report the accompanying declaration creating the county of Raines, to the Convention, and recommend its adoption.

All of which is respectfully submitted.

H. C. PEDIGO,
Chairman.

Mr. McCormick, from the Committee on Contingent Expenses, offered the following report and accompanying declaration :

COMMITTEE ROOM,
Austin, August 19, 1868.

To the Hon. E. J. DAVIS,
President of the Constitutional Convention :

SIR: The Committee on Contingent Expenses have instructed me to report the accompanying resolution, asking the Commander of the Fifth Military District to approve that part of the declaration heretofore passed by the Convention, making an appropriation of one hundred and twenty-five thousand dollars for the expenses of the Convention, which failed to secure the approval of the commander of said district when said declaration was passed.

The committee are informed that so much of the appropriation that was so approved is already exhausted, and that the balance of said appropriation, to-wit, the sum of twenty-five thousand dollars, will be sufficient to meet the expenses of the present session of the Convention.

The committee therefore respectfully recommend the passage of the accompanying resolution.

A. P. McCORMICK.

WHEREAS, The declaration passed the Convention on the —— day of June, 1868, making an appropriation of the sum of one hundred and twenty-five thousand dollars for the per diem pay and mileage of the members of the Convention, and for the per diem pay of the officers, and for the printing and contingent expenses of the Convention, was only approved to the extent of one hundred thousand dollars by the Commander of the Fifth Military District; and

WHEREAS, The said sum of one hundred thousand dollars is exhausted, and the labors of the Convention are not yet completed; therefore,

Be it resolved by the delegates of the people of Texas in Convention assembled, That the Commander of the Fifth Military District be and he is hereby, respectfully requested to make his order approving the remainder of said appropriation, and authorizing the Comptroller to draw upon the Treasurer for said balance of twenty-five thousand dollars, or so much thereof as may be necessary, to meet the per diem pay and mileage of the members, and the printing and contingent expenses of the Convention, in the same manner and on the same terms as to vouchers, on which the one hundred thousand dollars was ordered to be paid.

Mr. McCormick moved a suspension of the rules for consideration of the resolution.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Board, Boyd, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Caldwell, Carter, Constant, Curtis, Downing, Fayle, W. Flanagan, Fleming, Foster, Goddin, Grigsby, Hamilton of Travis, Harris, Hunt, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Keuchler, Kirk, Lindsay, Lippard, Mackey, McCormick, Mc-Washington, Mundine, Munroe, Pedigo, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Wright—55.

Nays—Messrs. President, Bledsoe, Cole, Degener, Gaston, Harn, Long, Morse, Muckleroy, Newcomb, Oaks, Patten, Thomas, Whitmore, Yarborough—15.

So the rules were suspended.

Resolution read second time and agreed to.

Mr. Smith of Galveston moved that the rules be further suspended to put resolution on its passage.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Armstrong of Lamar, Bell, Bledsoe, Board, Boyd, Brown, Bryant of Grayson, Buffington, Butler, Burnett, Caldwell, Carter, Constant, Curtis, Downing, Fyale, Flanagan, W. Flanagan, Fleming, Foster, Gaston, Goddin, Grigsby, Hamilton of Travis, Harris, Harn, Hunt, Johnson of Harrison, Johnson of Calhoun, Kealy, Keigwin, Kendal, Keuchler, Kirk, Lindsay, Lippard, Long, Mackey, McCormick, McWashington, Mundine, Munroe, Pedigo, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Talbot, Varnell, Vaughan, Watrous, Wilson of Brazoria, Williams, Wilson of Milam, Wright—54.

Nays—Messrs. President, Armstrong of Jasper, Bryant of Harris, Cole, Degener, Evans of McLennan, Gaston, Leio, Morse, Muckleroy, Newcomb, Oaks, Patten, Smith of Marion, Sumner, Thomas, Whitmore, Yarborough—18.

So the Convention refused to suspend the rules, four-fifths not voting in the affirmative.

Mr. Hunt, from the Committee, made the following report, with accompanying declaration :

COMMITTEE ROOM,
Austin, August 18, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: Your Committee on State Affairs, to whom was referred a declaration offered by Mr. Armstrong of Jasper, asking for the relinquishment of the State tax of Jefferson county for the year 1868, for the purpose of repairing the courthouse of said county, have had the same under consideration, and from the facts presented believe the relief sought should be granted, and to this end report the accompanying substitute in place of the original declaration, and ask that it be adopted.

H. C. HUNT,
Chairman pro tem.

A DECLARATION

Relinquishing the ad valorem State tax of the county of Jefferson for the year 1868.

SECTION 1. *Be it declared by the people of Texas in Convention assembled,* That Brevet Major General J. J. Reynolds, Commanding the Fifth Military District, be, and he is hereby requested to relinquish to the county of Jefferson eight hundred and twenty-one dollars and sixty-nine cents, the same being the ad valorem tax of said county, assessed for the year 1868, to be used in repairing the courthouse of said county, recently damaged by lightning.

Mr. Armstrong, of Jasper, moved a suspension of the rules for the consideration of this declaration.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Boyd, Brown, Buffington, Burnett, Caldwell, Carter, Constant, Degener, Downing, Evans of McLennan, Fayle, Flanagan, Foster, Gaston, Goddin, Grigsby, Hamilton of Travis, Harn, Horne, Hunt, Johnson of Calhoun, Jordan, Kealy, Keigwin, Kendal, Kirk, Leib, Lindsay, Lippard, Long, McCormick, McWashington, Morse, Muckleroy, Mundine, Newcomb, Oaks, Patten, Pedigo, Phillips of San Augustine, Posey, Schuetze, Scott, Slaughter, Stockbridge, Talbot, Thomas, Varnell, Watrous, Whitmore, Wilson of Brazoria, Wilson of Milam, Wright—58.

Nays—Messrs. President, Bryant of Harris, Curtis, Fleming, Harris, Rogers, Ruby, Sumner, Yarborough—9.

Rules suspended.

Resolution read and agreed to.

Upon motion, the rules were further suspended.

Resolution read and adopted.

Mr. Caldwell, from the special committee to whom was referred a communication and declaration of Governor E. M. Pease,* respecting the State Penitentiary, made the following majority report :

Hon. E. J. DAVIS,

President of Convention :

The special committee to whom was referred the Governor's

*For communication and declaration see yesterday's proceedings.

message touching the Penitentiary, have instructed me to report the declaration accompanying the message back to the House, and recommend its passage, with the following amendment:

CALDWELL,
Chairman.

That the first clause of the declaration shall read as follows :

That the Provisional Governor of the State is hereby authorized and required, without unnecessary delay, to lease the State Penitentiary, with the labor of the convicts, for a period of not less than five nor more than ten years, to any suitable person or persons who may be competent to hold office under the Fourteenth Amendment of the Constitution of the United States; the said lease to be upon the conditions and liabilities hereinafter named.

CALDWELL,
Chairman.

Mr. Burnett made the following minority report :

Austin, Texas, August 19, 1868.

Hon. E. J. DAVIS,
President of the Convention :

SIR: The undersigned, one of the special committee to which was referred the Governor's message in reference to the leasing of the State Penitentiary, while he is favorable to the passage of the ordinance or declaration proposed by his Excellency, yet opposed in the committee, and now dissents from the amendment proposed by the committee to the effect that persons who may not be competent to hold office under the Fourteenth Amendment of the Constitution of the United States, shall be precluded from bidding for the lease.

I regard the matter of the lease as a question simply of business and individual enterprise, and doubt the justice or propriety of restricting competition to those who are not registered voters. I do not believe that it was contemplated by the adoption of the Fourteenth Amendment that the disabilities imposed should impair or affect the social or business relations of the citizen, but, solely the political rights of those who came within its provisions.

The lessee or lessees would, of course, be bound to comply with the terms of the lease in their spirit and letter, and if this were done, it would seem to be a matter of little consequence whether he or they were not competent to hold office, especially when it is remembered that the disabilities imposed by the Fourteenth Amendment are hoped to be only temporary. Again, the Governor did not

see fit to recommend that the bidders should be thus restricted, and it is well known that there are many loyal men in our State who are precluded from holding office, as the report of the Committee on Political Disabilities will bear witness.

I therefore respectfully recommend that the proposed amendment be not agreed to, and that the ordinance or declaration as it stands be adopted.

Very respectfully,
JAMES R. BURNETT.

Mr. Caldwell moved a suspension of the rules to take up declaration.

The Convention refused to suspend the rules.

Mr. Smith, of Galveston, offered the following resolution :

Resolved, That henceforth, until this Convention may take recess, it shall not be in order for more than one speech to be made on each side of any main question; and all other speeches shall be limited to five minutes, and hereafter the yeas and nays shall not be called except on the main question.

Mr. Smith moved that the rules be suspended for consideration of the resolution.

The Convention refused to suspend the rules.

Mr. Kirk offered the following

DECLARATION.

A resolution requesting the Commanding Officer of this district to order the relinquishment of the State tax assessed for the year A. D. 1868, in the county of Erath, to said county, for the purpose of supplying all the records of said county, which were recently destroyed by fire.

Be it ordained and declared by the people of Texas in Convention assembled :

That Brevet Major-General J. J. Reynolds, commanding the Fifth Military District, be respectfully requested to order the relinquishment, to the county of Erath, of the State tax assessed in said county for the present year A. D. 1868, for the purpose of supplying all the records of said county recently destroyed by fire.

Referred to the Committee on State Affairs.

Mr. Patten offered the following resolution :

Resolved, That this Convention take a recess from Saturday, twenty-second of August, at twelve o'clock, to first Monday in January next.

Mr. Patten moved that the rules be suspended for consideration of the resolution.

The Convention refused to suspend the rules.

Mr. Armstrong of Lamar offered the following resolution :

Resolved, That all reports and resolutions hereafter made or offered shall be presented to the Convention at its afternoon session, and that after the reading of the journals, each morning, the Convention shall proceed at once to the consideration of the business of forming a constitution.

Mr. Burnett moved that the rules be suspended to take up the resolution.

Rules suspended.

The question recurred upon the adoption of the resolution.

It was adopted.

The President announced that the business in order was the report of the Committee on General Provisions,* and upon the question to lay the substitute of Mr. Schuetze to section forty-three upon the table.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Bledsoe, Board, Bryant of Harris, Buffington, Burnett, Caldwell, Carter, Constant, Fayle, Flanagan, W. Flanagan, Grigsby, Hamilton of Travis, Harn, Hunt, Johnson of Harrison, Jordan, Kendal, Leib, Lindsay, Lippard, McCormick, McWashington, Muckleroy, Munroe, Newcomb, Oaks, Phillips of Wharton, Posey, Rogers, Schuetze, Scott, Slaughter, Smith of Galveston, Sumner, Talbot, Watrous, Whitmore, Williams, Wilson of Brazoria, Wright—42.

Nays—Messrs. Armstrong of Jasper, Bell, Boyd, Brown, Bryant of Grayson, Cole, Degener, Downing, Evans of McLennan, Fleming, Foster, Gaston, Harris, Horne, Johnson of Calhoun, Kealy, Keigwin, Kuechler, Long, Mackey, Morse, Mundine, Phillips of San Augustine, Stockbridge, Varnell, Wilson of Milam, Yarborough—27.

So the substitute was laid upon the table.

Mr. Bryant of Grayson offered the following substitute for section forty-three :

* For report, see page 236.

No minister of the Gospel, or priest of any denomination whatever, who accepts a seat in the Legislature as Representative, shall, after such acceptance, be allowed to claim exemption from military service, road duty, or serving on juries by reason of his said profession.

Mr. Flanagan moved to lay the substitute upon the table.

Motion withdrawn.

Mr. Smith of Galveston moved to lay the substitute upon the table.

The Convention refused to lay the substitute upon the table.

The question recurred upon the adoption of the substitute for section forty-three.

The yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Board, Brown, Bryant of Grayson, Cole, Degener, Downing, Fleming, Foster, Goddin, Harris, Harn, Johnson of Calhoun, Kealy, Keigwin, Kuechler, Long, Mackey, Morse, Muckleroy, Mundine, Newcomb, Oaks, Patten, Phillips of San Augustine, Rogers, Ruby, Schuetze, Talbot, Thomas, Varnell, Whitmore, Wilson of Milam, Wright—38.

Nays—Messrs. Bryant of Harris, Buffington, Butler, Burnett, Caldwell, Carter, Constant, Curtis, Fayle, Flanagan, Hamilton of Travis, Harn, Hunt, Johnson of Harrison, Jordan, Kendal, Kirk, Leib, Lindsay, McCormick, McWashington, Munroe, Phillips of Wharton, Scott, Smith of Galveston, Smith of Marion, Sumner, Watrous, Williams, Wilson of Brazoria, Yarborough—31.

So the Convention adopted the substitute for section forty-three.

Mr. Buffington offered the following section :

Members of the Legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation : I, (A. B.) do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____ according to the best of my skill and ability, agreeably to the Constitution and laws of the United States, and of this State. And I do further solemnly swear (or affirm) that since the adoption of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, within this State or out of it ; nor, have I sent or accepted a challenge to fight a duel with deadly weapons ; nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending. So help me God.

Mr. Smith of Galveston offered the following amendment :

Add after the word "weapons," in the — line "or commit an assault with deadly weapons."

The amendment was accepted.

The question recurred upon the adoption of the section as amended.

It was adopted.

Mr. Thomas offered the following amendment :

"And I do further solemnly swear that I am not disabled from holding office by the 14th article of the Constitution of the United States."

Mr. Evans, of McLennan, moved to lay the matter upon the table, subject to call.

Carried.

Mr. Evans, of McLennan, introduced the following as a new section :

SECTION —. That the inferior courts in the several counties in this State shall have the power, upon a vote of the qualified voters of the respective counties, to assess and provide for the collection of a tax upon the taxable property of said county, to aid in the construction of internal improvements ; provided, that said tax shall never exceed two per cent. upon the value of said property.

Mr. Sumner moved to lay the proposed section upon the table.

Upon which the yeas and nays were demanded and resulted thus :

Yeas—Messrs. Board, Brown, Bryant of Grayson, Harn, Sumner, Thomas—6.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bell, Bledsoe, Boyd, Bryant of Harris, Butler, Burnett, Caldwell, Carter, Cole, Constant, Curtis, Downing, Evans of McLennan, Fayle, Flanagan, W. Flanagan, Fleming, Foster, Goddin, Grigsby, Hamilton of Travis, Harris, Horne, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Keuchler, Kirk, Leib, Lindsay, Lippard, Long, McWashington, Morse, Muckleroy, Munday, Munroe, Newcomb, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Scott, Slaughter, Smith of Marion, Stockbridge, Watrous, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—58.

So the Convention refused to lay the proposed section upon the table.

Mr. Thomas moved to amend by inserting the words "two-thirds of" between the word "of" and "the."

Mr. Bell moved to lay the amendment upon the table.

Upon which the yeas and nays were demanded, and resulted thus :

Yeas—Messrs. Bell, Butler, Burnett, Carter, Downing, Flanagan, W. Flanagan, Foster, Hamilton of Travis, Harris, Johnson of Harrison, Jordan, Kirk, Leib, Lindsay, Mackey, McWashington, Munroe, Patten, Phillips of San Augustine, Phillips of Wharton, Posey, Ruby, Scott, Smith of Galveston, Smith of Marion, Talbot, Watrous, Wilson of Brazoria, Wright—30.

Nays—Messrs. President, Armstrong of Jasper, Armstrong of Lamar, Bledsoe, Board, Boyd, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Cole, Constant, Curtis, Evans of McLennan, Fayle, Goddin, Grigsby, Johnson of Calhoun, Kealy, Keigwin, Kendal, Keuchler, McCormick, Morse, Muckleroy, Mundine, Newcomb, Oaks, Rogers, Slaughter, Stockbridge, Sumner, Thomas, Varnell, Whitmore, Wilson of Milam, Yarborough—37.

So the Convention refused to lay the amendment upon the table. The question recurred upon the adoption of the amendment.

It was adopted.

Mr. Munroe offered the following amendment :

Amend by inserting after the words "internal improvements" the words "and in the establishment and support of public schools."

Amendment withdrawn.

Mr. Lindsay offered the following as a substitute :

The Legislature shall authorize the several counties of the State, in their corporate capacity, to submit a question of taxation to the qualified voters thereof for purposes of internal improvements; provided, however, that no tax greater than two per cent. shall be thus raised at any one submission.

Mr. Evans, of McLennan, moved to lay the substitute upon the table.

Carried.

Mr. Armstrong, of Lamar, offered the following amendment :

"And for any county purposes which may be deemed necessary by said court."

The amendment was adopted.

The question recurring upon the adoption of the section as amended, the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bledsoe, Brown, Bryant of Grayson, Bryant of Harris, Buffington, Butler, Caldwell, Carter, Constant, Curtis, Degener, Downing, Evans of McLennan, Fayle, Flanagan, Foster, Grigsby, Hamilton of Travis, Harn, Hunt, Johnson of Harrison, Jordan, Kealy, Keigwin, Kendal, Kuechler, Leib, Lippard, Long, McWashington, Muckleroy, Mundine, Newcomb, Oaks, Patten, Phillips of San Augustine, Phillips of Wharton, Posey, Rogers, Ruby, Slaughter, Smith of Galveston, Smith of Marion, Stockbridge, Talbot, Watrous, Whit-

more, Williams, Wilson of Brazoria, Wilson of Milam, Wright, Yarborough—54.

Nays—Messrs. Armstrong of Jasper, Bell, Board, Boyd, Burnett, Cole, W. Flanagan, Goddin, Harris, Johnson of Calhoun, Lindsay, Mackey, McCormick, Morse, Sumner, Thomas, Varnell—17.

So the Convention adopted the section.

Section forty-four, of the report of the Committee on General Provisions, being under consideration, Mr. Hamilton, of Travis, moved a call of the House.

Call sustained.

Messrs. Vaughan and Gaston were excused on account of sickness.

Mr. Hamilton, of Travis, moved the previous question.

Under the rules the Convention adjourned until four o'clock.

AFTERNOON SESSION.—FOUR O'CLOCK.

Roll called; quorum present.

Mr. Muckleroy introduced the following protest:

To Hon. E. J. DAVIS,

President of the Convention:

Sir: We take this method of remonstrating to the forming of the Eighteenth Judicial District. The citizens of our counties have not been consulted, and we are satisfied it will be productive of confusion and dissatisfaction, and we solemnly protest against the action of the Convention, and desire that the same be spread on the journals of this House.

Very respectfully,

DAVID MUCKLEROY, .
N. H. GASTON,
MARSHAL GLENN.

August 19, 1868.

Mr. Yarborough offered the following resolution:

Resolved, That it shall be the duty of the Legislature of this State to enact laws for the punishment of unlawful cohabitation between the sexes of the human family, and to provide for the support of illegitimate children of this State that are born after the adoption of this constitution.

And further resolved, That it shall be the duty of said Legislature to enact such laws for the punishment of vagrancy as they may think best for the good of the community, and also to define what shall constitute vagrancy.

Referred to the Committee on General Provisions.

Mr. Kealy offered the following resolution :

Resolved, As it appears to be the duty of the President to take the chair every day precisely at the hour to which the Convention shall have adjourned, it shall also be the duty of the members of this Convention to be in their seats at the hour so-called, and answer to their names when called by the secretary, except those who have leave of absence. After the roll being called, no member shall leave his seat to exceed five minutes at a time, to absent himself from the House, unless with permission from the president.

Laid over under the rules.

Mr. Hamilton, of Travis, asked leave of absence for the enrolling clerk of the Convention for twelve days, commencing two days ago.

Leave granted.

Mr. McCormick asked leave of absence for Mr. Grigsby.

Leave granted.

Mr. Kealy moved a suspension of the rules to take up his resolution.

The Convention refused to suspend the rules.

The president announced the special order of the afternoon was the report of the Select Committee upon Railroads, and the question was the adoption of the substitute offered by Mr. Caldwell for the report.

Mr. Degener moved the previous question upon the adoption of the report of the Select Committee.

Previous question seconded.

Mr. Caldwell moved a call of the House.

Call sustained.

Absentees—Armstrong of Jasper, Brown, Carter, Johnson of Calhoun, Pedigo, Rogers.

Mr. Caldwell moved a suspension of the call of the House.

Call suspended.

The question recurring, "Shall the main question be now put?" the yeas and nays were demanded and resulted thus :

Yeas—Messrs. President, Armstrong of Lamar, Bledsoe, Brown, Butler, Burnett, Carter, Degener, Downing, Evans of McLennan, Fayle, Foster, Hunt, Jordan, Kuechler, Lippard, Long, New-

comb, Oaks, Patten, Rogers, Ruby, Slaughter, Smith of Marion, Talbot, Thomas, Vaughan, Whitmore, Wilson of Milam—29.

Nays—Messrs. Armstrong of Jasper, Bell, Board, Boyd, Bryant of Harris, Buffington, Caldwell, Cole, Constant, Curtis, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harris, Harn, Horne, Johnson of Harrison, Kealy, Keigwin, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Morse, Muckleroy, Mundine, Munroe, Pedigo, Phillips of San Augustine, Phillips of Wharton, Posey, Schuetze, Scott, Smith of Galveston, Stockbridge, Sumner, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—45.

Messrs. Bryant of Grayson, Lindsay and Yarborough were excused from voting.

So the Convention refused to order the main question.

Mr. Thomas moved that the whole subject be postponed until the second Monday in January, 1869.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Brown, Bryant of Grayson, Butler, Burnett, Constant, Curtis, Degener, Downing, Fayle, Foster, Goddin, Harris, Hunt, Jordan, Keigwin, Keuchler, Lindsay, Lippard, Long, Morse, Munroe, Newcomb, Patten, Posey, Rogers, Smith of Marion, Talbot, Thomas, Vaughan, Williams, Wilson of Milam, Yarborough—36.

Nays—Messrs. Armstrong of Lamar, Bell, Board, Buffington, Caldwell, Carter, Evans of McLennan, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Muckleroy, Mundine, Oaks, Pedigo, Phillips of San Augustine, Phillips of Wharton, Ruby, Schuetze, Scott, Slaughter, Smith of Galveston, Stockbridge, Varnell, Watrous, Whitmore, Wilson of Brazoria, Wright—39.

Messrs. Bryant of Grayson and Sumner declined voting.

Excused.

The Convention refused to postpone.

Mr. Caldwell moved the adoption of the substitute.

Mr. Degener moved to lay the substitute upon the table.

Upon which the yeas and nays were demanded and resulted thus:

Yeas—Messrs. President, Armstrong of Jasper, Bledsoe, Boyd, Brown, Bryant of Harris, Buffington, Butler, Burnett, Cole, Constant, Degener, Downing, Evans of McLennan, Fayle, Foster, Goddin, Harris, Hunt, Jordan, Keigwin, Keuchler, Lindsay, Lippard, Long, Morse, Munroe, Newcomb, Oaks, Patten, Posey,

Rogers, Ruby, Slaughter, Smith of Galveston, Smith of Marion, Talbot, Thomas, Vaughan, Whitmore, Wilson of Milam, Yarborough—42.

Nays—Messrs. Armstrong of Lamar, Bell, Board, Caldwell, Carter, Curtis, Flanagan, W. Flanagan, Fleming, Gaston, Hamilton of Travis, Harn, Horne, Johnson of Harrison, Kealy, Kendal, Kirk, Leib, Mackey, McCormick, McWashington, Muckleroy, Mundine, Pedigo, Phillips of San Augustine, Phillips of Wharton, Schuetze, Scott, Stockbridge, Varnell, Watrous, Williams, Wilson of Brazoria, Wright—34.

Messrs. Bryant of Grayson and Sumner declined voting.

Excused.

So the Convention laid the substitute upon the table.

Mr. Smith, of Galveston, moved to reconsider the vote laying the substitute upon the table.

Mr. Degener moved to lay the motion to reconsider upon the table.

On motion, the Convention adjourned until to-morrow morning at 9 o'clock.

CAPITOL, AUSTIN, TEXAS,
AUGUST 20, 1868.

Convention met pursuant to adjournment.

Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

Mr. Carter moved that the rules be suspended to take up the report of the Committee on Contingent Expenses, appropriating twenty-five thousand dollars for payment of the expenses of the Convention.

Upon which the yeas and nays were demanded, and resulted thus:

Yeas—Messrs. Bell, Board, Boyd, Buffington, Butler, Burnett, Caldwell, Carter, Constant, Curtis, Fayle, W. Flanagan, Foster, Goddin, Grigsby, Hamilton of Travis, Harn, Harris, Johnson of Harrison, Johnson of Calhoun, Kealy, Kendal, Mackey, McCormick, McWashington, Munroe, Pedigo, Posey, Rogers, Ruby, Schuetze, Smith of Galveston, Smith of Marion, Stockbridge, Sumner, Talbot, Varnell, Vaughan, Watrous, Williams, Wilson of Brazoria, Wilson of Milam, Yarborough—43.

Nays—Messrs. President, Armstrong of Jasper, Bledsoe, Bry-