

WEDNESDAY MORNING, July 30, 1845.

The Convention met pursuant to adjournment—prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, M'Gowan, McNeill, Miller, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, White, Wright and Young.

Messrs. Cuney, Moore, Navarro, Van Zandt and Wood, were absent in consequence of sickness.

The journal of the preceding day was read and adopted.

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

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

Mr. Hemphill offered the following resolution :

Resolved, That it is expedient to insert in the Constitution, the following clause : "No provision of this Constitution shall be so construed as to authorize the passage of any law by which a citizen of either of the States of the Union shall be excluded from the enjoyment of any of the immunities and privileges to which he is entitled under the Constitution of the United States;" which was laid on the table one day for consideration.

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

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

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

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Bagby, Bache, Brashear, Brown, Clark, Cunningham, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks,

Holland, Hunter, Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, McNeill, Parker, Power, Rains, Scott, Smyth, Standefer, Tarrant, White and Young—33.

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

So the clause proposed was stricken out.

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

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

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

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

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

Mr. Scott offered the following substitute to the substitute offered by Mr. Cunningham: "that the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law;" upon which the ayes and noes were called, and stood as follows:

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

Noes—Messrs. Armstrong of R., Baylor, Bache, Brashear, Brown, Cazneau, Clark, Darnell, Davis, Evans, Gage, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer

of L., Lewis, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Power, Rains, Runnels, Smyth, Standefer, Tarrant, Ochiltree, White and Young—35.

So the substitute offered by Mr. Scott was rejected.

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

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

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

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

So the 14th section was adopted.

Mr. Henderson offered the following, as an additional section, to come between the 14th and 15th sections: "the Legislature may pass such laws as they may deem necessary to punish debtors for fraudulently disposing of, or concealing their property, to avoid the payment of their debts."

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

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

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

So the additional section was rejected.

On motion of Mr. Jewett, the 16th section was stricken out.

Mr. Evans moved to strike out the 19th section. Lost.

Mr. Anderson moved to amend the same section, by inserting the words "citizens of this State." Lost.

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

The 20th section was then adopted by the Convention.

Mr. Mayfield, in behalf of a portion of the committee on General Provisions, reported back to the Convention the preamble to

the Constitution, with amendments, which was laid on the table, to come up among the orders of the day.

Mr. Hunter offered the following, to come in as an additional section, after the 17th section: "Those who conscientiously scruple to bear arms in the public defence, shall not be compelled to do so, but may be required to pay an equivalent for personal services."

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

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

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

Noes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bagby, Brown, Burroughs, Caldwell, Cazneau, Clark, Darnell, Davis, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Irion, Jewett, Jones, Kinney, Latimer of L., Lewis, Lumpkin, Mayfield, McGowan, McNeill, Miller, Parker, Rains, Runnels, Scott, Smyth, Standefer, Wright and Young—41.

So the amendment was rejected.

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

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

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

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

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

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

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

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

Noes—Messrs. Armstrong of J., Armstrong of R., Baylor,

Evans, Hogg, Horton, Holland, Jewett, Jones, Kinney, Lumpkin, McGowan, Power, Rains, Scott, Smyth, Ochiltree and Young—19.

So the substitute was adopted.

Mr. Hogg offered the following amendment:

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

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

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

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

So the amendment was adopted.

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

“Every citizen shall have the right to bear arms in the lawful defence of himself and State.”

Adopted.

Mr. Hemphill moved to amend the additional section, by inserting before the word “bear,” the words “keep and.”

Adopted.

Mr. Everts offered the following amendment:

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

Rejected.

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

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

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

So the section was adopted.

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

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

Mr. Mayfield offered the following resolution :

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

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

Mr. Mayfield moved to adjourn until half past 8 o'clock to-morrow.

The ayes and noes being called, stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of J, Armstrong of R., Baylor, Bache, Brashear, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Evans, Gage, Hemphill, Henderson, Hogg, Horton, Irion, Jewett, Jones, Latimer of L., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, McNeill, Miller, Power, Rains, Runnels, Smyth, Standefer, Tarrant and White—39.

Noes—Messrs. Bagby, Everts, Hicks, Latimer of R. R., McGowan, Parker, Scott, Ochiltree, Wright and Young—10.

So the Convention adjourned until half-past 8 o'clock to-morrow morning.

THURSDAY MORNING, July 31, 1845.

The Convention met pursuant to adjournment—prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Burroughs, Bagby, Caldwell, Clark, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Gage, Hemphill, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochiltree, Van Zandt, White, Wright and Young.

Quorum present—the journal of the preceding day was read and adopted.

Journals of the Convention, Assembled at the City of Austin on the Fourth of July, 1845, for the Purpose of Framing a Constitution for the State of Texas. - Link Page

Previous	July 29, 1845	116a
--------------------------	-------------------------------	----------------------

Next	July 31, 1845	136a
----------------------	-------------------------------	----------------------

[Return to Electronic Index Page](#)