On motion of Mr. Wortham, a Senate bill for the relief of James C. Dillingham was taken up, read first time, and referred to committee on Private Land Claims.

On motion, the House adjourned until 9 1/2 o'clock, A. M., Monday.
Mr. Ross, one of the committee on State Affairs, reported, recommending the indefinite postponement of the petition of the citizens of Kerr county. Also, reported, asking that the petition of the citizens be referred to committee on Indian affairs. Report adopted.

Mr. Hubbard, chairman of committee on Slaves and Slavery, reported, recommending the passage of the bill to prevent playing games of chance with slaves.

Mr. Davis of Hays, as chairman of joint committee on propriety of calling convention to frame new Constitution, reported a bill to call a convention to make a new Constitution. Bill read first time.

Hon. M. D. K. Taylor,

Speaker of the House of Representatives:

The joint committee of the House and Senate, to whom was referred a joint resolution, &c., &c., beg leave to report, that in considering the premises, they have felt it to be their duty first to inquire into the power of the Legislature to call a convention, for if there be not power, then neither expediency or necessity can have any influence in arriving at a conclusion.

In this enlightened day, and after so many precedents by other States, they could not suppose that any one could deny so plain a principle, had not the objections already been inquired into by previous sessions of the Legislature.

That the people are the source of all power under our form of government is not denied by any one; that they exercise their powers through representatives of their own creation is equally clear; that they may limit the powers of their representatives is also sound theory, everywhere illustrated in practice. And while the people may delegate the exercise of certain powers to certain bodies of magistracy, and yet no such powers can be delegated irrevocably, the most that the strongest advocates of Legislative power could properly urge, would be that the resumption of the powers should be with the consent or acquiescence of their representatives and chief magistrate.

The powers of the government of Texas, not conferred upon other bodies of magistracy, or expressly withheld in our bill of rights and the constitution, are upon general principles, and by express grant vested in the Legislature. As a consequence, it follows that the Legislature may surrender back to the people the right to meet in mass or to send delegates to a convention, to change their organic laws, this is the weakest view in favor of the right which can be stated. In the Rhode Island case, the principle stated by the supreme court of the United States, was
that the people may always change their constitution with the consent of the existing government, and that such a change without that consent, would be valid if the government afterwards acquiesced or submits to such a revolution. All that was wanting in that case, was consent or acquiescence. Any other rule would lead to the absurdity that a constitution which is a mere organic law, the creature of the people, is superior to the creator.

But it is urged that as the constitution provides one mode of amending, therefore, all other modes of amendment are excluded. But this argument simply denies the joint power of the Legislature and the people over their government. It is saying to the grantees, that even with your own consent your grantees cannot return to you a delegated trust. It overlooks the fact, that the very object of a convention is to frame a new constitution, not to amend an old one. It assumes in fact, that the people can surrender their rights in such a manner that they never can again resume them. It leads to the absurdity that had the constitution said it should never be amended, or had it provided no mode of amendment, then it would have become more unchangeable than the laws of the Medes and Persians. The assumption is at war with the whole genius, theory and practice of our government. It is also contradicted by the universal history of the country.

In the early settlements of the colonies, they looked alone to their charters as the basis of their organic laws, constitutional conventions were a part of the fruits of our independence, few of the early constitutions provided any mode of amendment, and those which did, had the very notion of successive acts of the Legislature, and yet it is believed that all of the original States, and very many of the new States, have adopted new constitutions through the agency of conventions called by the Legislature, and no evil consequences have ever yet resulted from such conventions. It is seriously apprehended that the argument against the power really proceeds from the want of confidence in the people.

The committee having arrived at the conclusion that the argument against the power is utterly groundless, they pass to the question of the necessity of amending the constitution, that it is not considered infallible is apparent from the fact that it has already been amended in the great matter of committing the election of the judiciary to the people, and, also, in the proposed amendment of that amendment providing for the temporary appointments of judges to prevent a delay of justice. Other
important amendments have been attempted, the last proposing to make the school lands available by selling them, the use by lease, provided for in the constitution being impracticable; the failure of these amendments does not prove their inutility, or that they are not necessary, but the difficulty, if not the impossibility of amending in the mode which is due more to the printers of newspapers, or the inattention or wilfulness of election judges may defeat to say nothing of the inattention of the people to a proposed isolated amendment. Indeed, it is believed that it would now be impossible to ascertain in the manner provided in the constitution, the voice of voters for representatives upon a proposed amendment of the constitution, upon a single election day certainly it cannot be hoped that even the election judges will be sufficiently careful to ensure an amendment, should the people favor it. The conclusion, therefore, is that if our constitution is to be changed, it must be through the agency of a convention, which would be cheaper than the repeated efforts by the Legislature. It also has the advantage of selecting delegates for the single purpose of improving our present constitution, no combination with Legislative measures and expedients. The sanction of the people, both in the choice of delegates pledged to certain means, and upon the ratification or rejection, and dispatch in securing the benefits of necessary changes.

But are changes necessary? The majority of the committee hold that they are. Indeed, it would be wonderful if the quadrupling and expanding of our population within fourteen years, and the experience of that time had not developed the necessity of changes. As already remarked, the want of power to fill vacancies in judgeships where they recur so often in many instances to a denial of justice. It is now conceded by our supreme court, and every practitioner in it, that an increase of force upon the bench, and some limitation or improvement in the right of appeal, are absolutely necessary. The sale of the school lands are demanded. The provision in regard to apportionment is so meager and vague as to leave a door for very great abuse. The prohibition against banking is legislative in its character, and should not be in the constitution.

There is a necessity that some vast interest should be placed beyond legislative control, and that the rights of the homestead should be so clearly defined as to leave no room against its consummation, which would otherwise render it useless. It is also believed that the power of manumitting slaves in the State, should be taken away. These are subject matters upon which
there is very general agreement. There are various others which
might properly be submitted to the people.

All arguments as to the danger of such a course have no
weight with the majority of the committee. Believing that the
people are eminently capable of wise self-government, they have
no distrust of their wisdom in selecting their delegates, or in
ratifying or rejecting their action.

The committee would respectfully offer the accompanying bill
and recommend its passage.

J. W. DAVIS,
Chairman of House Committee.

Messrs. Dickson and Dale dissenting.
Mr. Dickson gave notice of a majority vote on constitution.
On motion of Mr. Davis the rule was suspended, the report
taken up and made the special order of the day for 9th January
next.

Mr. Dennis, chairman of committee on State Affairs, reported
a bill to authorize county court of Comal county to levy a
special tax, and recommended its passage. Bill read first time.

Mr. Hubbard introduced a bill to regulate the fees of chief
justice and county clergies of this State. Read first time and
referred to Judiciary committee.

Mr. Mills introduced a bill to repeal articles 783, 789, 790,
and 791 of the penal code. Read first time and referred to
Judiciary committee.

Also, introduced a bill to prevent judgments from becoming
dormant. Read first time and referred to Judiciary committee.

Also, introduced a bill to amend article 790 of penal code.
Read first time and referred to Judiciary committee.

Mr. Flewelling introduced a bill to incorporate "Live Oak
Female Seminary." Read first time and referred to committee
on Education.

Mr. McKnight offered the following resolution:
Resolved, That the committee on arrangements of the inaugu-
ration be requested to examine into the condition of the gallery
of the hall, and if they find that it is not safe, they are hereby
authorized to have it put in a safe condition. Adopted.

M. Lewis of M., presented the circular of officers and members
of sundry agricultural societies. Referred to committee on
Agriculture.

Mr. Navarro offered the following resolution:
Resolved, That the committee on printing be requested to
inquire into the cause of the delay in the delivery of the Spanish
and German translation of the Governor's message ordered by
this house. Adopted.
ORDERS OF THE DAY.

The following Senate's bills were taken up, read and disposed of as indicated, to-wit:

The bill to incorporate the Gulf Fair Coast Association, located at Victoria. Read first time and referred to committee on Stock and Stock Raising.

The bill amendatory of, and supplemental to the act incorporating the Sabine and Galveston Bay Railroad and Lumber Company. Read first time and referred to committee on Internal Improvements.

And the bill to incorporate Starrville Union Academy. Read first time and passed to second reading.

House bills: The bill to amend fourth section of the act allowing discounts and set-offs, taken up and the Senate's amendments concurred in.

The bill to incorporate the Hook and Ladder Company No. 1, and Liberty Fire Company No. 2, of the city of Houston, taken up and amendments by the Senate concurred in.

And the bill for the relief of purchasers of University Lands, together with substitute by the Senate, taken up and the substitute adopted, and read first time and passed to second reading.

The hour having arrived the special order, to-wit:

The bill to incorporate the Eastern Texas Railroad Company, together with report from committee on Internal Improvement, and substitute by said committee was taken up, the substitute adopted and read second time.

Mr. Horton proposed to amend section second by inserting between the words "Nacogdoches and Henderson," the words within "a one-half mile of." Adopted; and by striking out "section fourteenth," and insert five additional sections. Adopted; and the bill ordered to be engrossed.

On motion of Mr. Clark, the rule was suspended and the bill read third time and passed without a dissenting voice.

On motion of Mr. Perry, the bill for the relief of E. Humphreys, together with report from committee, was taken up and bill read second time and ordered to be engrossed.

Mr. Perry moved a further suspension of the rule that the bill might be passed. Lost; and the bill passed to third reading.

On motion of Mr. Walker the rule was suspended and the bill to pay expenses of Captain Tobin's company, with report from committee on Finance, proposing amendments, was taken up, bill read second time, and the amendments adopted.
Mr. Franklin proposed to amend by inserting after the words "fully authenticated" the word "authorized." Adopted; and the bill ordered to be engrossed by the following vote:


NAYS—Messrs. Fosse and Whitmore.

On motion of Mr. Hall, the rule was further suspended, the bill read third time and passed.

Mr. Crooks, chairman on Engrossed Bills, reported correctly engrossed the bill for the relief of H. C. Lazenby. Report adopted.

The House's bill to incorporate the Texas Masonic Institute, with amendments by the Senate was, taken up, and the amendments concurred in.

The Senate's bill for the relief of W. P. Timbrell. Read first time, and referred to committee on Private Land Claims.

Senate's bill ordering return of Fisher & Miller's Colony certificates. Read first time and passed to second reading.

Mr. Ross moved that the House go into committee of whole on bill to raise revenue by direct taxation. Lost.

Senate Bills: Bill authorizing heirs, representatives or relatives of deceased persons to sue for and recover damages, where death of such persons has been caused by negligence, culpable or wrongful act of another. Read first time and referred to Judiciary committee.

Bill to change and adjust the western boundary lines of the counties of Uvalde and Dawson, and the eastern boundary line of Kinney county. Read first time and referred to committees on Counties and County Boundaries.

Bill to incorporate Salado College in Bell county. Read first time and referred to committee on Education.

Bill to grant pension to Charles Sheppard. Read first time and passed to second reading.

House Bills: Bill to amend article 955, of the Code of Criminal Procedure. Read third time and passed.
Bill making appropriation to pay the Attorney General and District Attorneys the cost due them under article 952d, of the Code of Criminal Procedure. Read third time and passed.

Bill granting pre-emption privileges to actual settlers, together with proposed substitute taken up.

Mr. Wauder moved that the bill be postponed till fourth of January next. Lost by the following vote:


On motion of Mr. Martin, Messrs. Culberson and Clark were added to committee on Probate Laws.

Mr. Epperson offered an additional section.

On motion of Mr. Dale, laid on the table by the following vote:


Mr. Munson proposed to amend by inserting three hundred and twenty acres in lieu of two hundred, and an additional section.

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

A division of the question being called, the question recurred on the proposed amendment to strike out "two hundred acres"
and insert "three hundred and twenty acres," which was laid on the table.

The question then being on laying the additional section on the table. The same was tabled by the following vote:


Mr. Davis of B., offered a substitute.

Mr. Crooks moved to adjourn till 3 o'clock P. M. Lost by the following vote:


The question recurring upon laying the substitute on the table. The same was put and the substitute laid on the table by the following vote:

YEAS—Messrs. Speaker, Armstrong, Benevides, Bogart, Branch, Caddell, Crooks, Clark, Dale, Darnell, Daniels, Davis of H., Dickson, Dougherty, Duncan, Elliott, Francis, Hall, Harrison of V. Z., Haynes, Henry, Houghton, Hubbard, Lewter, Lynch, Manly, Martin, McCutcheon, Middleton, Mills, Mundine, Munson, Nelson, Norton, Owens, Parker, Perry, Redwine, Shannon,


On motion, the House adjourned till 7 o'clock, P. M., pending the substitute.

7 O'CLOCK, P. M.

House met pursuant to adjournment—roll called, quorum present—the substitute pending when the House adjourned was adopted.

Mr. Fosner proposed to amend by adding an additional section, to wit:

Section—No person shall be entitled to the provisions of this act who belongs to any religious sect or association, political party or organization, whose object is to abolish the institution of slavery as it now exists in the State.

Mr. Bogart moved to lay the amendment on the table. Lost by the following vote:


Mr. Martin moved the previous question, which was seconded.

[Mr. Baxter in the chair].

The House refused to order the main question by the following vote:

Mr. Towns offered the following amendment:

"And every person settling upon the public domain shall make an affidavit before some officer authorized to administer oaths, that he does not belong to such sect or party, or organization, and that he is not opposed to slavery."

Adopted by the following vote:


[The Speaker resumed the chair.]

The House adjourned till 9 ½ o’clock, A. M., to-morrow, pending the amendment.

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House of Representatives,

Tuesday, Dec. 20th, 1859.

House met pursuant to adjournment—roll called—quorum present—journal of yesterday read and adopted.

Mr. McKnight presented the petition of Mrs. Elizabeth Stanley. Referred to committee on Private Land Claims.

Mr. Towns presented the petition of German Free School Association of city ofAustin. Referred to committee on Education.

Also, presented the petition of Elizabeth and James Robinson. Referred to the committee on the Judiciary.

Mr. Wrede presented the petition of the citizens of Mason county. Referred to committee on State Affairs.