

### ON THIS DAY IN WEST VIRGINIA HISTORY FEBRUARY 17



**On February 17, 1863, the West Virginia constitutional convention adopted the Willey Amendment, providing for gradual emancipation.**

**CSO: SS.8.22, ELA.8.1**

**Investigate the Document: (Debates and Proceedings of the First Constitutional Convention of West Virginia, February 17, 1863, p.728-29)**

1. What was destined to happen to children born from slaves following July 4, 1863?
2. What was designed to happen to slave children who were under the age of 10 prior to July 4, 1863?
3. What was intended to happen to those who were over the age of ten but had not yet reached the age of twenty-one?

**Think Critically:** Why did western Virginia believe that gradual emancipation was the proper course in abolishing slavery instead of immediate emancipation? If slavery began in the United States in 1619, why did it take 200 years for it to become such a divisive issue? What specific events helped to make slavery an issue of public debate? Why didn't the Emancipation Proclamation have any bearing concerning the slaves in western Virginia? Why was the Willey Amendment a minimum compromise required for President Lincoln's approval for statehood?

man in the Illinois delegation and ask him to vote for it, if you have got that in." And although he had written works on the subject that bore testimony to the fact that he knew what he was talking about, he said it was the best thing he had ever examined although he had himself written books on the subject of township organization.

Now, sir, we are standing on the very threshold of the consummation of our work, with every sail set to the breeze, just ready to sail into the harbor of peace and prosperity. Why do you throw an old root in our way, to snag us as we are going in? Don't do it; I beseech you not to do it. Let us go in with flying colors. Let us have to say we did what our constituents sent us here to do. We have accomplished our work. It is for you to set the seal of your approbation on it, and the new ship of state of West Virginia proudly on the way to prosperity and honor.

MR. BROWN of Kanawha. I want to ask the gentleman if he believes the resolution states the truth when it states that the parties are entitled to compensation?

MR. POMEROY. I believe it states things it ought not to.

Mr. Powell moved to adjourn.

MR. BROWN of Kanawha. I desire to have an answer if he is willing.

MR. POMEROY. Certainly I do. I believe that is in the Constitution. I believe the resolution is superfluous and injurious in its tendencies.

MR. HALL. I desire to suggest that we do not adjourn until this discussion is through and if it is necessary to complete it, to have a night session, and if needs be to sit until sunrise. I shall feel constrained to move the previous question as early as I can get the floor on the rising of another sun. The longer we talk about this thing the farther the parties are apart.

MR. STEVENSON of Wood. I would call the gentleman to order. Let him make a motion, and we can all pitch in.

MR. POWELL. I renew my motion to adjourn.

MR. POMEROY. If the gentleman wishes to have a night session let him make the motion and test it.

MR. POWELL. I move to amend and take a recess until seven o'clock in the evening.

MR. VAN WINKLE. I am not aware of any business ready for the Convention to act on that will occupy more than an hour or so in the morning, so that we may as well continue this discussion, if it is to be continued, at our ease, instead of being here tonight. There is one more ordinance to be prepared by the Committee on Revision which relates to the mode and manner of holding the election for state officers. The committee finds it an exceedingly difficult subject. I am certain it cannot be ready to present tomorrow, and probably if it is presented should be presented in the morning as members would desire to have it printed.

MR. POMEROY. It would be exceedingly ungenerous and unkind on my part, an act I am not going to do, to endeavor, now when I have had my say so to cut off discussion.

MR. LAMB. I want to make a statement in regard to the state of business. We are not losing any time in this discussion. I do not think there is any probability that the ordinance could be ready to submit tomorrow. If we stopped this discussion, then what have we to do? The gentleman from Marion who makes the suggestion is as perfectly aware as I am of the progress made in the preparation of that ordinance.

MR. STUART of Doddridge. I rise to a point of order. If there is a motion to adjourn I want it put; if not, I make that motion. It is not debatable.

The motion was put and the Convention adjourned.

\* \* \* \* \*

LXIII. TUESDAY, FEBRUARY 17, 1863

The Convention was opened with prayer by Rev. J. L. Clark, of the M. E. Church.

After reading and approval of the journal,

Mr. Pinnell offered the following resolution:

"Resolved, That a debate on the resolution now pending close today at the hour of four o'clock and the vote be then taken."

The resolution was adopted.

666 DEBATES, WEST VIRGINIA CONSTITUTIONAL CONVENTION  
1861-1863

Mr. Stevenson of Wood offered the following for reference to the Committee on Revision:

“RESOLVED that this Convention should appoint a committee of five persons to be called the Central Committee, whose duty it shall be to appoint sub-committees in each county to act in conjunction with the committee appointed by the legislature and adopt such measures as may be necessary to insure a thorough and successful canvass on the Amended Constitution.”

MR. VAN WINKLE. The legislature appointed two of that business committee. They are now appointed in nearly every county.

MR. STEVENSON of Wood. I was not aware of the fact. I did not want to bring it before the Convention immediately but thought I would refer it to the committee and let them exercise their judgment whether to appoint such a committee or not.

THE PRESIDENT. It will be so referred.

MR. HERVEY. I desire to offer a resolution and ask that it be laid on the table and printed. Following is the resolution, which was referred to the Committee on Revision:

“Within twenty days after the proclamation of the President of the United States declaring West Virginia one of the states of the Union, the volunteers in the army of the United States, who are citizens of the State of West Virginia, shall be entitled to vote at all elections during the continuance of the war, said vote to be taken and certified as provided in the ordinance for taking the vote upon the ratification of the Amended Constitution.”

The Convention resumed consideration of the motion made by the chairman of the special committee to adopt the two resolutions reported by the committee.

MR. SINSEL. Mr. President, as I stand solitary and alone, and have been made the subject of a little fun and whims, I feel it due to myself to make a further defense.

MR. STEVENSON of Wood. I would like to inquire whether the gentleman has not already made one speech on the subject before the house. I am not certain whether he spoke to the amendment or the original resolution. If he did, I wish to inquire whether there is a rule that no member shall speak twice until each member who desires to speak shall have spoken once.

MR. SINSEL. If there is objection, of course I will give way.

the utmost kindness and am always ready to do so hereafter. If there has not been light enough thrown on the subject yet, let the gentleman go on.

MR. POWELL. I am opposed to the reconsideration of the resolution of this morning. If it had been a motion to extend the time a few minutes to allow the chairman of the committee to make a few statements, I should not have had such serious objections; but I am opposed to a reconsideration and thereby opening up a way for the resumption of general discussion. If we reconsider and allow one gentleman to speak, we must allow others, and when this debate will end no one can tell. If it was to extend the time just for the chairman of the committee to make a few remarks, I should not have such serious objection; but to reconsider I cannot consent.

MR. DILLE. I expressly announced when I moved a reconsideration it was for that purpose and that alone of permitting the chairman to close this debate. I do this because the chairman of that committee when he had the opportunity of closing the debate within the time fixed by the Convention announced that he would claim the right. The time was consumed up to the hour and he had no opportunity to do so.

MR. LAUCK. The motion to close this discussion passed unanimously. I was looking for this; calculated that would be the end of it. That was the calculation, too, on the other side. So far as the discussion has been carried on, the friends of the resolution have had an opportunity to discuss it. The chairman has perhaps made the most lengthy address to this house, but four very long speeches were made on that side. But, sir, I for one don't feel willing to extend the time. I am willing to open it up today and tomorrow and next day, and all the time; but, sir, when we all voted for that resolution this morning, I think we should abide by it.

MR. STUART of Doddridge. I want it to be understood before I vote an opportunity to these gentlemen on the committee—I believe there are five of them—we have heard from four of them at least—I sincerely hope we will not open up this discussion again, as a reconsideration would do. Like my friend from the county of Upshur, I want to leave and will have to leave and I want to pass upon these momentous questions before I go. Although I would be willing to extend to my friend from Wood every courtesy possible,

but, sir, it conflicts with my interests and the interests of others. We have had the combined argument of the committee in their report and have had four separate and lengthy arguments from members of the committee. If it was any gentleman who had not yet made a speech appealing to be heard it would be different; but it is these gentlemen who have been voluminously heard who are asking to be heard again.

On the motion to reconsider, Mr. Pinnell asked for the vote by yeas and nays. The vote was taken and resulted: Yeas, 30; Nays, 24. So the motion to reconsider was agreed to.

MR. STUART of Doddridge. I will now move the discussion close at half-past five o'clock.

MR. RYAN. I move to amend by making it five.

MR. STUART. I will accept the amendment.

The motion was agreed to.

MR. VAN WINKLE. Mr. President, I am obliged to the Convention for the consideration extended to me. My friends have brought me out into a very conspicuous place in the Convention; but I hope the Convention will not therefore infer that I expect to make any great things of a speech, or a very lengthy one.

In endeavoring to claim the usual courtesy on such occasions, or rather in notifying the Convention that I would expect it, I had most in view the rebuke of the aspersions that have been thrown on the motives of the committee and those who have acted with them. I am not going to recapitulate them or state what they were. And I could not perhaps remember all of them if I tried; but I wish to say this, sir: that the resolution that is now pending before this house, reported by the committee, was considered, and was in fact, a compromise when it was offered here. When I arrived at this place, before the opening of the Convention, I was told it would be difficult here on account of there being no provision for compensation; that by the amendment of Congress slaves in existence at the time the Constitution went into operation would be freed by the mere operation of the Constitution. It was to me, sir, a novel case. I had not known of one such happening within the United States, unless, indeed, when Massachusetts offered the few slaves that remained in her territory, I think about the time of the revolution; and when New York, after her gradual emancipation laws had been in force for at least thirty years, on the establishment of a new

constitution, freed the few slaves remaining by one act, who must have been rather old people. But I believe there was a prohibition ordained that those who had had their services should support them, that they should not be allowed to go on the counties as paupers. But there is no single instance of a state setting out for the purpose of freeing itself from slavery at one stroke. New York, New Jersey, Pennsylvania, to say nothing of the New England states all passed laws for the emancipation of their slaves, but for gradual emancipation, and they all guarded it with certain checks for the benefit of the slaves which were to become freemen and for the benefit of their citizens; but in neither of these cases did they pretend to make emancipation without compensation.

Well, sir, the very argument used on this floor so often, merely that the Constitution was sufficient; that it was there in the Constitution, that private property shall not be taken for public use without compensation, was urged. I went to see gentlemen whom I supposed to be of both parties here. I exerted myself, in conjunction with some friends, principally those of the committee in talking this matter over, in trying to get some arrangement with those who thought the interest was so large in the counties they represented that something must be done in reference to the subject. They very kindly agreed to accept instead of a constitutional provision, which even if we might with propriety have introduced it here might have been the means nevertheless of subjecting us to delay. I mean to say if that addition to the Constitution would not in fact have changed any substantial feature of it, advantage might have been taken of it to make objections, and so have injured the great object we all have in view. Now, under these circumstances, with a sincere desire to effect a compromise so to accommodate matters that there should be no hard feelings even between members of this Convention—and I desire to be thankful with all my heart that we did separate at the close of the last session with, I believe, entire absence of any ill or unkind feeling in the breast of a single member. My associates of the committee kindly co-operated in this, and I had reason to believe when I offered the proposition that a committee should be appointed to consider this matter that what the committee might do would be acceptable to gentlemen who called themselves the other side. I had hoped there was no sides in this Convention. And now what have they proposed? What is to be the consequence? We find in the Constitution we have ourselves made this provision in reference to making compensation for private property taken for public uses.

Now, sir, to quiet the doubts, to enable this Convention again to come together as a whole and to act in such a way would be to its own credit and to meet the approbation of every intelligent man throughout the entire State when he will reflect seriously upon it and examine into the circumstances connected with it, to guide themselves and go again before the people, as we are bound to do, with the endorsement of a united Convention, of a fraternal convention, as it proved itself at the former session, we offered simply a declaration of this Convention.

Now, sir, what is this declaration? It amounts to simply this, that a fact is a fact; and if gentlemen can make anything more of it I should like to know how they will do it. It simply affirms that the slaves in being when this Constitution goes into operation or are freed by its provisions, that the owners of such slaves are entitled to receive compensation from the State. Now, sir, if there is any gentleman prepared to deny that proposition, in or out of the Convention, I do not know who he is, if he has at all undertaken to look into the subject. I say, sir, I believe this confidently because if the case is as I have stated it, that it does propose on the one hand to take private property for public use, it does provide on the other hand, that if it is taken, just compensation shall be made for it. No sane man—for it requires no great degree of intelligence to perceive it—no sane mind, one that is not twisted and contorted and turned aside from everything that is good and true and right, can deny that proposition. Because, sir, to deny it would be a very solecism in language. You would have to make your words on the one hand, express a different meaning from the meaning the same words have on the other hand, and that I believe is beyond the power of logic. Now, sir, these are the circumstances under which this resolution has come before this body. Gentlemen will bear me witness that I have been endeavoring since this matter has been before the Convention to find out from them what they would have short of the absolute defeat of the resolution, and, sir, I have not had a proposition of that kind. It is true, it has talked of a substitute for it, a resolution in reference to the compensated emancipation which is under consideration in Congress under the resolutions of the President, as they are called; but, sir, that does not apply to nor affect this case. It does not meet the difficulty found on one side here; it does not meet at all the difficulty that these gentlemen representing a slave-holding interest may be assailed if no satisfactory assurance about compensation shall be given. At any rate if Congress shall be willing to make

the appropriation, on such terms as they are making others, I suppose the slaves all through their country will be freed by a given year; and unless the aid tendered to the State will be so managed as then to make the compensation. But that has nothing to do with this. And yet gentlemen have talked so much about slave holders wanting to perpetuate slavery. Where does the resolution come from that proposes to free the whole State of all the slaves in it? Why, sir, gentlemen who have been talking of that kind of philanthropy for years, who have seen that slavery was an injury to the State; who have supposed the continuance of it here would be an injury to our best interests. They have not been willing to accept this concession from those who they say are standing up here for the slaveholders; will not enter into the spirit of harmony and compromise in which it was offered and adopt this resolution by which they may satisfy their immediate constituency. I hear talk of the slaveholder; of his haughtiness; that a man must not saddle his own horse. Sir, I repudiate the doctrine. There may have been cases in the east; but I appeal to any man around me here if he ever saw anything of the kind in western Virginia. I know the answer will be, as it has been given to me by my friend on the right, from every quarter. Why, they are as good at least as any of our citizens. Doubtless they have their faults, and it may be true that a majority of them have gone over to secession. I should regret very much if they have; but those who in the face of the inducements held out have remained faithful are doubly worthy the consideration of this Convention. Now, sir, again, it is simply proposed to make a declaratory resolution. One gentleman from Kanawha has proposed to strike out the words which confined the compensatory feature to the State; but finally the gentleman from Monongalia who has had the very burden and worry of all this battle and who has stood up in the Senate of the United States and fought your battle there; who is daily assailed in the press of your city; this gentleman also, as one of the committee asks you to pass this resolution; and he himself in the same spirit of compromise, has offered a resolution in still more general terms, but I do not find that this is received with any more consideration or favor at the hands of gentlemen than the one originally offered by the committee.

Sir, I take the liberty to say here that I was opposed to the insertion of the emancipation clause in the Constitution at last session believing it would lead to the indulgence of negro feelings of which we have had some specimens here this afternoon. It never

entered my mind for a moment that the perpetuity of slavery in this State would be a consequence of excluding it there. Sir, we all saw it was dying out, and we thought the insertion of the clause, which we did as a compromise forbidding the importation of slaves from outside would be sufficient to assure the gradual extinction of the system. And therefore there was but one voice throughout this whole commonwealth but what acknowledged its willingness that slavery should cease within its borders. I wish to take the opportunity to say this here: when I found we could obtain the assent of Congress on no other terms than those which are to be put into our Constitution now, I wrote to the gentleman from Monongalia and other friends in Congress to tell them to urge it with that in. I was willing, when I thought that was the only condition on which it could be had, to take it; and I promise now that wherever that gentleman may be assailed for placing that clause in the bill before the Senate, I shall feel it my duty to defend him.

Now, sir, we have no objections to the emancipation clause itself. These gentlemen whom it is attempted to deride because they have a few slaves to help them are willing this Constitution should go on; and what do they ask? Any extraordinary provisions for the benefit of the slaveholder; any provision that the free holders (those who have been called that) even the "abolition" party—the original anti-slavery men, the Garrison set who have led the movement for abolition before there could be said to have been a political party on the subject, has not their cry always been "compensation?" Where did the project originate? It originated in the North, sir, and so it has been that good intelligent men there opposed slavery; but I do not know that they have ever proposed to take the slave without compensation.

The matter more immediately in hand is this: what are the evils to flow from the adoption of this resolution, in the modified form offered by the gentleman from Monongalia, if you please? I have listened to these debates with all the attention I could but I have failed to learn of any reason but that it was likely to injure this cause before the people. I have been told if you told these people, who have been longing for the new State, you can have it but these slave owners will have to be compensated by a little taxation, they will fly the track and have nothing to do with it. It is about thirty years since I came to reside in western Virginia. I profess to know something about the people of that region. I have been intimate with them in almost every relation, and I tell you that is not the character of the people of western Virginia. They are

emphatically a thinking people. Although they may not have the acuteness of the "yankees" yet for good sense—common sense—I will put them against any other people that I ever was acquainted with; and if the advantages of education which people have in other states had been afforded the people of western Virginia, I have not the slightest doubt they would have been among the superior people of this country. I have more confidence in them than that. I have had to appeal to them on various occasions. In 1850 I was one of the candidates—proposed to be one—for the constitutional convention that met at Richmond in that year. The district from which I and the other delegate were to be elected consisted of seven counties. The majority in the seven was enormously Democratic. I went around the few days I had to spare, after I finally consented and was met very frequently with the remark from them when I had occasion to ask them about it: we have determined that this shall not be a political strife; and in my district, and I believe in every one but one or two in the state they did of their own accord divide honors as it were, between the two parties. Now, sir, don't tell me a people who when they see their interests require it will sacrifice party feelings on the altar of their country will be frightened from what they think just and right by a few dollars of taxes. Another instance fresh in the minds of all here. You may bring up a common political election. All our elections for Congress until within the last three or four years have been in that way. In our section we had nothing to expect from Congress. We did expect to receive patent office reports and things of that kind, but that is as far as it went. Well, then, of course, when a candidate was put up for Congress they voted according to their party sentiments. But when it fell to the people of West Virginia to be called to vote upon the question whether their state should be razed from the Union, what became of party and every other consideration except patriotism then? Sir, in my county I asked one of the best calculators there how much majority will we be able to give? He said 1200. We held the election, and the vote at the court house was some nine or ten or twelve hundred. I asked him again before the return had come in. "Well," he says, "Van, I reckon it will get to 1500." Well, sir, it went to 1700. I was at Clarksburg a little before the election. I inquired how the county was going. Smith thought it was going to be 400. Another said 700 and another, who was very sanguine said he thought they would get 800. Well, it went a thousand. Why, sir, no man knows the strength and uprightness in the hearts of this people until he gets better acquainted with

them than we seem to be. I will trust them on this question, which comes home, like that did, to their hearts, and bosom. Where their interests are at stake, they are true to their interests; and I will trust them on every occasion to be true to those interests; and I will understand that those interests are in danger. I will trust them now, sir, if we should be under the necessity of voting millions for the sake of doing an act of sheer justice. There is no man that is so eloquent as to persuade me that any considerable portion of the people of West Virginia would reject this new State, which they have been so long seeking. It is a question they understand. No, sir, they are not going to reject it for the sake of a few dollars and cents. You tell me of other difficulties involved in the Constitution—these issues and those issues—all of them. Sir, they have already been disposed of. This Convention, which has been compelled to listen to a lecture on its conduct from a member hardly warm in his seat—I don't care to go into particulars; to hunt up this or that argument and compare them specially; but I place myself on the general considerations involved in this matter. It proposes simply to signify the willingness of this people to do an act of justice, to give that assurance to this community that these people are ready to do an act of justice. And where is the man that will stand up here and tell me the people of West Virginia are not willing to do this whenever demanded at their hands? Sir, I should for myself, while I continue to be one of that people scorn the imputation. I know them better. Again, sir, nothing was ever gained by concealing the truth, and if everything could be gained in this case by concealing the truth, it is already too late. Sir, these debates, with every idea on every proposition to consider this subject has gone forth, and these debates have gone with it. Do gentlemen suppose this idea sprung up here; that the payment of compensation was never heard of until this Convention assembled? Why, this thing was talked of among the populations most interested in this subject long ago. How, then, are you going to keep it from the people? You are not, I am sure. I can say it for every member, they are not going before the people with a lie on their lips. If they are asked if this Constitution does not require that compensation shall be made for these slaves, they are not going to reply that it does not. And don't you think that question will not be asked? Now, sir, prepare yourselves to show that compensation is an act of sheer justice. It seems to me you may explain to them how cheaply that act of justice can be accomplished. Sir, these statistics brought forward by the gentleman who sits before me (Mr.

Lamb) are to my mind as true as they can be. I do not think the whole number to be compensated for will be 1500, and that spread over a period of 17 years, and not a dollar paid for four years. This may be something to frighten children, but depend on it, it is not going to frighten the intelligent citizens of West Virginia.

MR. WILLEY. I suppose my amendment is not now in order, there being two already?

THE PRESIDENT. The motion is to adopt the resolution to which an amendment has been offered by the gentleman from Morgan and another by the gentleman from Kanawha.

MR. RUFFNER. In order that the gentleman from Monongalia may have an opportunity of presenting his substitute, I beg leave to withdraw my amendment.

MR. WILLEY. Then I move to amend the amendment by striking out the original resolution and the amendment and substituting the following:

"RESOLVED, That in the opinion of the Convention every right to every kind of property is amply provided for and secured by the Constitution as it now stands, and that no addition or amendment thereto, in that behalf, is necessary or proper."

MR. STUART of Doddridge. If this new question is to be sprung upon us in this way, I would move to lay the second resolution and the amendments on the table; because I don't want to pass immediately on this subject without an opportunity of investigating and discussing it.

MR. POMEROY. Is it in order to make that motion until we have voted on the first resolution?

MR. STUART. My motion is in order and it is not debatable.

MR. POMEROY. Will the Chair inform me whether when two resolutions are pending before we take a vote on the first can we strike out the second or something in place of it?

MR. STUART of Doddridge. I hope the Chair will put my motion, if it is in order, to lay the second resolution and the amendments on the table.

THE PRESIDENT. The impression of the Chair is that the motion to lay on the table would not be in order until the Convention has voted on the first resolution.

MR. VAN WINKLE. It is a matter for the Convention itself to decide. The gentleman can vote for the substitute if they prefer it to the resolution offered by the committee. Why, then, the question comes up on the first resolution. The other then comes up again for its final vote.

MR. STUART of Doddridge. The gentleman from Wood—

MR. POMEROY. The Chair has decided, and I think correctly, in accordance with all parliamentary rules, that the motion of the gentleman from Doddridge is not in order until we have disposed of the first; and as the Chair has so decided, I move that the Congressional amendment be inserted in lieu of the section to be stricken out, and that the vote be taken by yeas and nays, and that we proceed to take the vote.

MR. WILLEY. The gentleman from Doddridge is perfectly in order. A motion was pending, and before it was put he moves to lay it on the table. Certainly, sir, that motion is in order; but I would say to my friend that if this substitute were adopted instead of the second resolution he would still have his substitute to be adopted by a vote the same as if the second resolution the same as if the original second resolution were pending. It only places the substitute where the second resolution stands now.

MR. POMEROY. The Chair decided that if you laid one resolution on the table, it carried the whole with it. The Chair having made that decision over again I am not disposed to question whether the Chair is right or not. It stands as the decision of this body that if you put one upon the table you carry the whole with it, both resolutions having been reported together by the committee and so taken up and considered by the Convention, with statement by the chairman of the committee and by the Chair that when we came to vote the question would be divided on demand of any member. The Chair has again decided the motion of the gentleman from Doddridge out of order. I hope gentlemen will not quibble with the decision of the Chair.

MR. STUART of Doddridge. The gentleman from Monongalia offers a substitute for the second resolution and the amendments thereto. Unless we lay that on the table now under the rule we have adopted to take a vote at 5 o'clock we are necessarily compelled to pass between the substitute and the second resolution without having examined it at all. The gentleman from Hancock



understands you have to vote on this amendment before you reach the first resolution, and his amendment is out of order because it is an amendment to the amendment. Because I desire to examine or explain before I pass upon it.

MR. SMITH. When this vote is taken it may be adopted as a substitute for the other. It then takes the place of that other and becomes the committee's second resolution. In that position then you can ask that it be printed or make such other disposition as you think proper; but in the name of common sense—

MR. STUART of Doddridge. I have to vote on the proposition of the gentleman from Monongalia as a motion to substitute without having ever examined. You vote for it as a substitute.

MR. SMITH. I imagine it is not more offensive to you than the other. You have heard it read, and I know you have got sense. I don't know whether I will vote for it after it is adopted as a substitute. I may claim the privilege of determining hereafter. But this everybody has heard read. I understand the proposition of the gentleman from Monongalia is to make it as acceptable as practicable, to make it more acceptable to the Convention.

MR. DERING. Is the gentleman in order in the motion to lay on the table?

MR. SMITH. Well, I am giving reasons why it shall not be laid on the table. It looks to me like there is a determination—but I want to be quiet and calm—a determination to thrust out everything that may come in here that may be at all acceptable but that which may please yourselves. Now, I ask it as a favor of the house to give every proposition that may be offered a fair opportunity of being heard. Don't stifle it.

MR. VAN WINKLE. I think this is all a misunderstanding. I can say for the gentlemen with whom I am acting we have no desire to prevent the first vote being taken on the first resolution. We could not prevent it if we did. There can be no harm, however, in voting whether the substitute of the gentleman from Monongalia is preferred to the report of the committee. The second vote on that will be, shall it be taken as the sense of the house? If the substitute is preferred, why then we come back as if the original two resolutions, being the one providing for emancipation and the declaratory resolution (original or substitute.)

MR. STUART of Doddridge. The time has arrived for voting.

THE PRESIDENT. For the second resolution a substitute is offered, and there is a motion to lay that substitute on the table.

MR. VAN WINKLE. That carries everything with it, sir. You cannot put a part of that on the table without putting it all.

MR. STUART. Well, I differ in opinion from my friend.

MR. VAN WINKLE. That is all I have to state. I cannot see how any advantage can be taken of the course I suggest. We vote on the resolution amending the Constitution; then vote on the second resolution reported by the Committee or the substitute for it.

THE PRESIDENT. I look upon these two resolutions as so distinct that a motion of that kind cannot be entertained.

MR. VAN WINKLE. The gentleman cannot divide my motion, which was that the two resolutions be adopted. How can they divide it?

MR. PAXTON. What is the decision of the Chair in regard to the motion of the gentleman from Doddridge?

THE PRESIDENT. It is in order.

MR. PAXTON. Then it is not debatable?

THE PRESIDENT. The doubt in the mind of the Chair was this: whether or not there ought not to have been a vote on the first resolution before the vote was taken on the motion to lay on the table.

MR. BROWN of Kanawha. I hope we will be allowed to come to a vote. I confess I preferred the resolution as originally reported, but I do not like the amendment of the gentleman from Morgan.

MR. STUART of Doddridge. If the motion to lay on the table has been entertained, I desire that motion to be put.

MR. POMEROY. Will the Chair state decidedly what the motion is.

MR. WILLEY. I ask the ayes and noes.

THE PRESIDENT. The question is this: a substitute is offered for the second resolution of the committee, and the motion is to lay that substitute on the table. If adopted the effect would be to

carry to the table also the resolution and the amendment offered by the gentleman from Morgan. Upon the motion to lay on the table the ayes and noes are demanded.

The vote was taken and the motion was agreed to by the following vote:

YEAS—Messrs. Soper (President), Brown of Preston, Boggs, Caldwell, Cook, Dering, Griffith, Gibson, Hervey, Hagar, Hoback, Irvine, Lauck, Mahon, Parsons, Powell, Paxton, Pomeroy, Pinnell, Ryan, Stephenson of Wood, Stewart of Wirt, Stuart of Doddridge, Taylor, Tichenell, Trainer, Walker, and Wheat—28.

NAYS—Messrs. Brown of Kanawha, Brumfield, Chapman, Carskadon, Dille, Dolly, Hall, Harrison, Hubbs, Lamb, Montague, McCutchen, Mann, O'Brien, Parker, Ruffner, Ross, Sinsel, Simmons, Stephenson of Clay, Sheets, Smith, Van Winkle, Willey, Warder, and Wilson—26.

MR. STEVENSON of Wood. Now, Mr. President, I move the adoption of the first resolution reported by the committee.

The following is the resolution as reported by the Secretary:

RESOLVED, That the seventh section of the eleventh article of the Constitution be stricken out and the following inserted in its place:

"7. The children of slaves born within the limits of this State after the fourth day of July in the year one thousand eight hundred and sixty-three, shall be free; and all slaves within the limits of the said State who shall, at the time aforesaid, be under the age of ten years, shall be free when they arrive at the age of twenty-one years; and all slaves over ten and under twenty-one years, shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the State for permanent residence therein."

The roll was called and the resolution adopted by unanimous vote as follows:

YEAS—Messrs. Soper (President), Brown of Preston, Brown of Kanawha, Boggs, Brumfield, Chapman, Caldwell, Carskadon, Cook, Dering, Dille, Dolly, Griffith, Gibson, Hall, Harrison, Hubbs, Hervey, Hagar, Hoback, Irvine, Lamb, Lauck, Montague, Mahon, McCutchen, Mann, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Pinnell, Ruffner, Ryan, Ross, Sinsel, Simmons, Stephenson of Wood, Stephenson of Clay, Stewart of Wood, Stuart of Doddridge,

Sheets, Smith, Taylor, Tichenell, Trainer, Van Winkle, Willey, Walker, Warder, Wilson, and Wheat—54.

NAYS—None.

ABSENT—Messrs. Hansley, and Robinson.

And on motion of Mr. Brown of Preston, the Convention adjourned.

\* \* \* \* \*

### LXIV. WEDNESDAY, FEBRUARY 18, 1863

The Convention was opened with prayer by Rev. Joseph S. Pomeroy, member from Hancock.

Following the reading of the journal, Mr. Dering moved that \$500 worth of the Amended Constitution be printed by the Executive Committee for distribution among the people. This was agreed to when

MR. VAN WINKLE reminded the Convention that the Constitution, as amended, had not yet been adopted by the Convention. He said:

We have voted on the amendment, and the question recurs now, according to parliamentary usage, on the adoption of the Constitution as amended. I therefore move it.

MR. BROWN of Kanawha. There is one thing that strikes me. It will be borne in mind that there are several provisions about the legislative department, the senate and the judiciary which embrace counties that have not come into the State. Therefore, there are clauses standing in those sections that have reference to counties under the apprehension that they would come in, and if they did the number of the house of delegates would be so much (42, 45 and so on). It occurs to me we ought to leave out those parts which really are no portion of the Constitution, just as the gentleman from Marion has suggested in regard to the 7th section for which we have substituted the Congressional section. We are not now adopting, as I understand, those clauses that relate to those counties that did not choose to come in with us, and to our people when they read it in its present shape it will create confusion. To those