

The question being then taken by yeas and nays, the motion was agreed to—yeas 41, nays 33—as follows:

*Yeas*—Messrs. Goldsborough, President; Abbott, Annan, Audoun, Baker, Barron, Berry, of Baltimore county, Brooks, Carter, Cushing, Daniel, Davis, of Washington, Dellinger, Ecker, Farrow, Galloway, Greene, Hatch, Hoffman, Hopper, Keefer, Kennard, King, McComas, Murray, Negley, Nyman, Parker, Pugh, Purnell, Ridgely, Russell, Schley, Schlosser, Scott, Sneary, Stirling, Stockbridge, Swope, Sykes, Valliant—41.

*Nays*—Messrs. Belt, Bond, Brown, Chambers, Crawford, Cunningham, Dail, Davis, of Charles, Dent, Duvall, Gale, Henkle, Hollyday, Horsey, Jones, of Cecil, Jones, of Somerset, Lansdale, Larsh, Lee, Marbury, Markey, Mayhugh, Mitchell, Miller, Morgan, Mullikin, Parran, Peter, Smith, of Dorchester, Todd, Turner, Wilmer, Wooden—33.

The question was upon the adoption of the order.

Mr. MILLER. It is perfectly well known that under the present constitution the executive has the power to pardon all offences which have been committed against the laws of the State. The order which is now under consideration is a recommendation that the governor should exercise the executive clemency in behalf of a certain class of offenders. If the governor should take this order as an imperative direction, or look upon it as imposing a sort of imperative obligation upon him, the duty thereby imposed would go to this extent. It is perfectly well known that a great many offences of this class have been perpetrated by a portion of the colored people of the State. Under existing laws those negroes, instead of being confined in the penitentiary or jail, have been ordered to be sold for a term of years, and purchasers have made their purchases of those negroes, and have paid their money for them. Do you wish that this convention should recommend to the governor the pardon of such cases as those? If the convention desires to go that far they can do so. I merely desire to call the attention of the convention to the extent to which the order goes.

Mr. PUGH. I look upon this order as meaning simply what it states in words. It is simply a recommendation to the governor. And I cannot for the life of me see how this convention could do less than simply recommend to the governor that these people, in the opinion of this convention, are no longer criminals, as this convention has decided that slavery shall no longer exist in this State.

Mr. JONES, of Somerset. Except for crime.

Mr. PUGH. Certainly. This is simply a recommendation to the governor. He is not bound by it. It is simply an expression of opinion upon the subject. It may not be noticed. An expression of opinion made by this convention, upon a former occasion, to

the President of the United States and military commanders, was not noticed much. This is merely an expression of opinion on the part of this convention in regard to this class of offences. The governor will act as he deems best. This is not binding upon him. It is simply a recommendation to him, calling his attention to the fact. The governor, in spite of anything we might do here, has the right to pardon all criminals. We neither add to nor take from that right by the adoption of this order. If circumstances appear to him such as to justify the exercise of executive clemency, he can exercise it. For my part I think it is perfectly proper for the convention to pass this order.

The PRESIDENT announced that the hour had arrived for proceeding to the order of the day, being the final reading of the constitution as a whole.

On motion of Mr. ABBOTT,

The order of the day was postponed until eleven o'clock.

Mr. JONES, of Somerset. The circumstances under which the executive is to exercise this prerogative of pardoning criminals are regulated by law. Application for the pardon must be made. The application must be published in the newspapers, objections are to be filed by a particular day, and then the governor acts upon the application according to his discretion, and what is due to public justice and the good order of society. This order conflicts with the law, by recommending to the governor to violate these provisions of the law, and to order a wholesale delivery of a certain class of offenders. I think we better leave the matter where it is. Cases will come before the governor upon their merits; and in view of all that has been done the governor, no doubt, will discharge his duty faithfully. I am opposed to this interference with the law which regulates the mode in which the governor shall exercise the prerogative of pardon.

Mr. STIRLING. It strikes me that my friend from Somerset (Mr. Jones) is a little inaccurate in regard to the operation of that part of the constitution which affects the pardoning power. The constitution does say that the executive, before granting any pardon, shall give notice that he is about to take the case up, and in regard to any applications for pardon, shall keep them on file so that they may be inspected by the general assembly. But the constitution never meant to say that the governor should never pardon any one, except when he was requested to do so. It never meant to take away from the governor the power to initiate the proceeding upon his own motion. If one person petitions for a pardon the governor may set the case down for a hearing. But if nobody petitions for it, the governor, knowing that public opinion is in favor of it, can still exercise his authority in that respect. The ex-