

Mr. Boyle rose to a point of order, which at the suggestion of the Speaker was reduced to writing in the following words:

That this house cannot call the yeas and nays except it be by a majority of members present, as the house has not yet adopted the Rules of the previous House of Delegates or any other rules.

The Speaker decided that the point of order raised by the gentleman of Carroll County assumed a fact, the existence of which he denied, namely, that this body is the house of delegates. In the opinion of the Speaker, it could not be considered the House of Delegates until such time as it had appointed all officers of a house, and fortified itself with the means of securing an observance of its decrees;—as yet it was merely a deliberative body, and as such, to be governed by the rules usual in such cases. He considered it the right of any member of a deliberative body in the absence of any positive rule to the contrary, to insist upon the question being taken by yeas and nays, it being one of the means by which the sense of the members on any proposition was to be ascertained. It is usual however, in all thoroughly organized legislative bodies, to adopt some positive rule to guard against the factious or capricious movements of a few members. One of the standing rules of the last House of Delegates confers upon any seven members the right to insist upon the yeas and nays; this rule like similar rules, doubtless was adopted to guard against the kind of movements to which he alluded. Until therefore this body determined what number of members should have the right to demand the yeas and nays, he considered it to be his duty to recognize in each member the right to make the demand.

The yeas and nays were then taken on the motion of Mr. Nichols to adjourn, and appeared as follows:

AFFIRMATIVE.

Messrs. Hopewell
R. M. Gale
J. H. Gale
Sutton of K.
Morsell
Duke
Laveille
Walker
Ristean
Poultney
Hook
Randall

Handy
Dashiell
Stone
Boggs
Eccleston
Nichols of Dor.
Traverse
Richardson
Bayne
Tuck
Maccubbin
Hamilton

Johnson
Dennis
Powell
Cathell
Forman
Nichols of Car.
Downs
Darby
Braddock Jr.
Gott
Gittings
Shaw—36.

NEGATIVE.

Messrs. Dorsey
Owens of A. A.
Sellman
Simmons
Staley

Geyer
Biser
Presstman
Starr
Lyday

Grove
Hammond
Willis
Sherwood
Lowe