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On motion of Mr. Irion, the Convention adjourned until half past 8 o'clock, to-morrow morning.

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Wednesday, Aug. 6th, 1845.

Half-past 8 o'clock, A. M.

The Convention met pursuant to adjournment.

Roll called—quorum present—prayer by the Chaplain—journal of the preceding day read and adopted.

Mr. Jones moved to strike out of the journal of yesterday all that part in relation to the resolution fixing the time of the meeting and the adjournment of this body.

Motion lost.

On motion of Mr. Evans, Mr. Jewett was added to the special committee appointed on yesterday, to enquire into the amount of land claims issued by this Government, &c., &c.

On motion of Mr. Davis, the Convention took up the

### ORDERS OF THE DAY.

The report of the committee on General Provisions being first in order,

Mr. *Lipscomb* moved to amend the 27th section, by striking out the words "on which taxes may be levied"; also "occupation." In support of the motion he spoke as follows.

I hold it, Mr. President, to be a sound rule, that taxation should be considered as imposed in proportion to protection. The object of taxation is to support the protection given to property; and one species of property should be as much protected as another, whether vested in land, goods, negroes, cattle, sheep, or manufactures; and the only fair and equal tax is one in proportion to the property so protected. I have no objection to the section as reported by the committee. Will it not in effect leave it to the Legislature to drop from the tax list such property as they may think proper, only guarantying equal taxation upon such property as they may think proper to tax? There would be no collision in the Legislature, if there should be an identity of interest throughout the whole State. But this evidently cannot exist. One species of interest will be fostered in one part of the country, and another in another, according to climate, soil, and other circumstances. And if it is left to the Legislature to drop any species of property which they may see fit, it will give rise to jealousies and difficulties. If the tariff in the

United States had been laid for revenue alone, if it had been an *ad valorem* duty, we should never have heard to this day of the tariff question shaking the Constitution of the United States. I believe we shall be in a similar situation; and that it would be wise to adopt this provision and avoid these evils. To the concluding part of the section I object, for this reason. I do not believe that the planter, after he has paid a tax for his property, should be taxed for the occupation he pursues. The planter's is an occupation as much as any thing else. There is no justice in it, no necessity for it, and I wish to see it stricken out. Again, the mechanic is subject to be taxed. I am unwilling that the mechanic should be taxed; I wish to hold out some encouragement to that class in the community. I believe they have contributed more largely to general improvement than any other class in the world. If it is the wish of the Convention, I am willing that lawyers and doctors, the two learned professions, should be taxed. If I thought otherwise, belonging as I do, to one of these professions, I would not ask the Convention to strike out the portion which relates to it.

On motion of Mr. Cunningham, the question was divided.

Mr. Evans said: I understand that if the amendment prevails, a tax must be levied upon every item of property, that no species will be exempt; even the widow's poultry must be enumerated. It will certainly compel the officers of government to seek out every item, no matter how poor the individual may be, or how annoying the investigation. If that is to be the effect, I am decidedly opposed to it.

Mr. Lipscomb said: I do not see the difficulties which the gentleman from Fannin imagines. I do not think that every species of property will have to be enumerated, down to chickens and the like. But the taxpayer, perhaps, will be called upon to say what he is worth, and the tax will be levied in proportion. I see no harm in this; even in poultry, I have known some to have a large amount of capital employed; fortunes have been made by it, as humble as it may seem to be to descend to poultry.

Mr. Forbes said: I presume this clause cannot be construed in any event as extending to farmers. I understand it as intended to extend to mechanics and merchants, or persons of any trade or calling. The arguments urged by the gentleman, however, are still applicable. If the farmer has five thousand dollars invested in land, he should pay an *ad valorem* duty. If the mechanic vests that amount in his particular calling, or the merchant in goods, there is certainly no reason in justice why the latter should contribute more than the farmer. All occupations are alike open to all persons. It is the very essence of free government that taxation should be uniform and equal. I think this is a discrimination

which cannot be sustained. If the amendment of the gentleman could be withdrawn, I should like to see a provision inserted, which I will present to the consideration of the Convention.

Mr. Lipscomb withdrew his proposed amendment to the latter part of the section, and offered the following as an addition to the 27th section :

"Provided that the word 'occupation' shall not be construed to embrace the right to pursue farming, or the exercise of any mechanical trade."

Amendment adopted.

Mr. Love offered the following, to come in at the end of the 27th section, after the amendment of Mr. Lipscomb:

"In assessing lands for taxation, the valuation shall be without reference to any improvement made."

Mr. Love said. One single word in relation to the amendment. It has always seemed to me unjust to tax a man at a higher rate, who has improved his land, and thus developed the wealth of the country. In my opinion, he that cultivates and improves his land, does a service to the community, and his land should be taxed without reference to the increased value put on it by his own industry. I think it the just system, that all lands should be taxed according to their unimproved value.

Mr. Henderson said: If the amendment prevail, it will operate exclusively for the benefit of the rich, and those who live in fine houses. I cannot see any sufficient reason why gentlemen who are able to build splendid mansions, should not pay taxes for the value of that improvement, as well as for any other species of property they may have. If they choose to invest their profits in this manner, instead of laying them out in negroes and other lands, why should they not pay the same?

Mr. Love said: You may put it in the amendment, that brick houses shall be taxed. It is the log cabins that I want to exempt.

Mr. Van Zandt said: This question should be decided without reference to brick houses or log cabins. The individual who has five thousand dollars worth of property to be protected, should pay five times, as much as the man who has only one thousand.

Mr. Henderson said. I think that those who have small farms will not be obliged to the gentleman from Galveston for this exemption. I am satisfied that the people would prefer to have the whole amount taxed rather than by that means to exclude the additional value which by their improvements has been put upon their plantations.

Mr. *Runnels* said: I am opposed to the whole system of *ad valorem* taxes in this country; because I believe it inapplicable in itself, and impracticable in its consequences. I am very well aware that there is no system of taxation better than that which reaches the ability of individuals to pay. The fortunes which have been acquired, and the means and sources of revenue by which fortunes are acquired, are certainly the just objects of taxation. But this system of *ad valorem* taxation, when applied to the people of this or any other planting community, savors a little too much in my opinion of the odious excise laws formerly in vogue, under which every pane of glass in an individual's house was enumerated, had a value placed upon it and was taxed. This principle seems to extend to every article of property, whether of mere convenience or comfort, or a source of revenue. With regard to the suggestion of the gentleman from Harrison, the house of a planter in the country should be taxed in the same proportion with that of a merchant in a city or town. I differ from him entirely. When the planter builds a house, it consumes his fortune; it is not for acquisition; while the individual who builds in a city or town, may invest all his capital in that way to rent. In the country, a man derives no revenue from it whatever, but on the contrary is consuming the means which he might otherwise appropriate in making a revenue. If, Mr. President, you adopt the doctrine laid down in the section under consideration, you adopt a system by which the trunk, chair, stove, table, knife and fork of every individual in the community must be estimated. I tell you it will be an odious system to the people of this country. I have some acquaintance with the nature of these things. I have not lived fifty years without learning something of the disposition of the people. This rigid scrutiny into every little trifling article, will be odious; there is no justice in it. It will be as easy for the Legislature to designate the species of property fit and proper to be taxed, as for this Constitution to do so. I think it dangerous for us to lay down a principle with regard to revenue which cannot be changed or altered. It seems to me it should be left to the Legislature and the people. This subject has not been canvassed before the people; and we are not prepared to say what system of taxation will be most approved by them. My own opinion is, that the fortune already acquired, and the means of acquiring that fortune, are the most legitimate source of revenue. I have not reflected much upon this provision, but I have thrown out these remarks as expressing my general views upon the subject.

Mr. *Lipscomb* said: I am not in the condition of the gentleman from Brazoria. This is a subject upon which I have read much, and reflected deeply; and if I am in error, I am without excuse. I am opposed to the amendment. What is taxation? All the writers concur in saying; it is the price of protection. It should be then, in proportion to the benefit we derive from it. Is protection as valuable to the man who has his

three legged stools in his cabin, as to him who has a fine house, with his ottomans and other costly furniture? The public enemy may come and destroy these improvements. It is repugnant to a rule universally agreed on by all writers on political economy. There is no other rule to which we can resort, which is uniform and equal.

Mr. *Runnels* said: I did not mean to say that I had not thought much upon the subject of raising the revenue. I have thought a good deal read something with regard to it, and from my reading and experience, I have arrived at the conclusion which I have stated, in relation to the applicability of this system to the peculiar condition and circumstances of the people of this country. I have no fine house, and I never expect to have. But I tell you, there is not a man in this, or any other planting country, who will not object and protest against being compelled to give an inventory of every article he may possess; it may be on the ground that it exposes his property, and places before the country his means and ability in a manner perhaps not agreeable to him. It is descending into little matters, in my opinion not legitimate objects of taxation. I think we ought not here to fix a system upon the people which would be odious to them. I think we had better leave it to the Legislature to ascertain the amount of revenue necessary to be raised, and the objects upon which the feelings and interests of the people at large indicate that a tax should be imposed.

Mr. *Evans* said: I do not rise, Mr. President, to make an argument upon this question, but to state the principles which will govern my vote, and briefly to notice the positions taken by the honorable gentleman from Washington. Like my friend from Brazoria, though I have thought much on the subject, yet my attention of late has not been directed to its investigation; and the subject of taxation is one which cannot well be discussed but after mature preparation. The opinions I entertain upon this question are of long standing. I dislike the section as reported, and the amendment of the gentleman from Washington, makes it absolutely odious. Still, I felt a great reluctance to bringing my opinions before the Convention, imagining that I might be greatly in the minority, and not knowing that a single deputy on this floor agreed with me, I was truly gratified and proud to find a gentleman of so much ability and experience as my friend from Brazoria (Mr. *Runnels*) advocating the opinions which I entertain upon the subject.

The gentleman from Washington goes so far as to say that every political writer contends for the principle that *taxation is the price of protection*. Now is this correct? Do all the writers so teach? And has the learned gentleman read all the writers upon this question? I have read several of these writers, and am familiar with the theories of some of them who discard this dogma. I might challenge the gentleman to a comparison of authors; I may affirm that the ablest and most liberal

writers of the present day do not place taxation upon this principle. The theory of the most enlightened writers of the present day is to tax *profits, privileges, and luxuries*. The principle contained in the section is that of absolute despotism, grinding despotism. I cannot imagine a more odious system than this. It brings the government down with a grinding weight upon the people. It exposes the closet and the chamber of the poor man to the espionage of the tax-gatherer. It operates unequally and harshly upon the poorer classes in the community. It causes them to pay a double tax. The merchant having been taxed, lays it on his goods, and the consumer pays it; and then the direct *ad valorem* tax makes it double. Taxes should be laid on incomes and luxuries, and not upon labor. If the *ad valorem* system is adopted, the collector will be as hateful to the poor in this republican government, as is the exciseman in the monarchies of Europe.

Mr. Davis offered the following amendment to the 27th section: "Provided the Legislature shall have power to exempt from taxation a certain amount of property which shall not exceed two hundred dollars to each family;" and addressed the Convention as follows.

I am satisfied that some gentlemen have had fears that a portion of the people of this country, and perhaps the portion having the majority in point of representation, would probably be without slaves, and that they might take it into their heads to impose the largest amount of taxes upon slaves; and I know that for the purpose of preventing that, some of them have thought it necessary to make a black basis of representation. Now if we lay an *ad valorem* tax, these fears are done away. I vote for the *ad valorem* tax, for the purpose of placing this species of property beyond the reach of those who may be supposed to be opposed to it. Independently of all the books which the gentleman from Fannin has ever read, I have come to my own conclusion that the *ad valorem* tax is the only equitable tax ever laid upon the people. I do consider that taxation and protection should go hand in hand; and that he who derives protection from the laws of the country, should pay in proportion to the value of his property. As it has been remarked that the old ladies may grumble about paying a tax upon their wheels and looms, I would propose that an amount of property sufficient to include the household furniture shall be exempt from taxation.

Mr. Howard said: By way of substitute, I will move to strike out all after the word "State". I think the details of taxation should be left to the Legislature, and I am opposed to this Convention establishing a rule of taxation which must govern property as long as this Constitution shall stand. We know that at present, the amount of property in the country is very small in proportion to what it will become in progress of time, I think it but fair that subsequent property holders should have a voice in the regulation of this matter.

Mr. *Hogg* said: I shall take pleasure in voting against all the amendments, reserving the right of voting for the intended motion of the gentleman from Bexar, to strike out all after the word "State".

Mr. Davis' amendment was rejected.

Mr. *Van Zandt* said: Before the question is put upon the amendment offered by the gentleman from Bexar, I rise for the purpose of requesting some gentleman who voted with the majority upon the first amendment offered by the gentleman from Washington, to move a re-consideration. I believe it was acted upon hastily, and without consideration. I believe that a slight amendment would make the bill as perfect as possible. Though I am opposed to descending into particulars, yet I believe that the citizens of this country desire a basis of action to be fixed, and that the Convention should determine whether all taxes should be levied *ad valorem* or not. I believe it necessary to fix in this Constitution a principle which shall determine the basis upon which all taxes are to be levied. I do not know that we have reason to apprehend any immediate danger with regard to this subject. But the time may come when a particular interest in this country may predominate; and as all men, when they have power, abuse it, I believe a principle should be established in the organic law, to be immutable and unchangeable. In regard to the amendment made at the suggestion of the gentleman from Washington, I believe it should not have been made. I believe that the policy of this country will require that certain species of property shall be exempt, and that certain others shall not be inquired into for the purpose of taxing them. If the section as amended is passed, what will be its effect? It will require all churches, all hospitals and schools, all school books, and every thing of that character to be taxed. It will require even the Bible upon your shelf to be taxed. It descends to the wardrobe of your wife, subjects her paraphernalia to examination, enumerates the rings upon her fingers, and values every other species of dress which she may have; it is necessary to mention them in detail: I presume it is the intention of no gentleman here to require these things to be taxed. I for one am unwilling that a species of inquisition like this should be established in our Constitution; for it is nothing more nor less than an inquisition. We may, in all probability, desire to make some internal improvements, to construct some rail-roads. It may be the policy of the country to exempt them from taxation until they get into operation; and they are not the growth of a month or a year. If it should be the disposition of the Legislature to extend them this privilege for a time, and until they are able to produce revenue, this law will cripple and shackle them. It may become necessary to open some of our rivers: it may seem to the Legislature good policy to free from taxation a certain class of vessels navigating these streams with danger, hazard and difficulty, until these obstacles



can be removed. I believe that we should leave the hands of the Legislature to some extent unshackled with regard to taxation. But at the same time, whilst leaving details to the Legislature, that it would not be improper here to establish a general principle which shall govern the subject. If the section as amended is retained, it will prevent the Legislature from freeing many things from taxation which policy would require to be exempted. The gentleman from Brazoria is mistaken as to the tax upon window glass levied in former times; the objection of the people was to a specific, and not to an *ad valorem* tax. It is impossible to adopt any system which will do entire justice to all; but this approaches nearest. I shall vote against the amendment of the gentleman from Bexar. I agree with him that we should not tie up the hands of the Legislature; but we should establish a general principle.

The question was put, upon the amendment offered by Mr. Davis, which was rejected.

Mr. Jewett, at the suggestion of Mr. Van Zandt, moved a re-consideration of the vote adopting the amendment of Mr. Lipscomb, to the 27th section.

Mr. Caldwell said: I shall vote, under my present impressions, against the re-consideration. It appears to be the object of all government to protect the weak against the strong, and to protect the minority in some degree against the majority. I see nothing in the whole Constitution so well adapted to effect these objects, as this provision as it now stands. If altered, as desired, according to my notion of the matter, it will certainly give the majority the power of taxing one species of property, and collecting the whole revenue from that species of property, when its holders may happen to be in the minority, and of exempting the majority from all taxation, although they may be receiving the largest proportion of protection. With these views, I shall vote against the re-consideration, and in favor of the section as it now stands.

Mr. Runnels said: I shall vote for the re-consideration, because I very much prefer the original section. This leaves it to the Legislature to designate the description of property which shall be taxed; it provides that taxation shall be uniform, and leaves it to the Legislature to lay a tax upon the various objects most appropriate for taxation, equality in every section of the country. I am willing to trust my interests to the Legislature of the State. I am not apprehensive that the interests of the country, at least for a number of years, can be so diversified as to effect them in any great degree. I am opposed, as I remarked before, to the *ad valorem* system; it is inapplicable to this country in its present condition, is inoperative in itself, and impracticable to be carried out. Gentlemen proposing a system which is to be entailed upon the country, should reflect upon it, and look well to its consequences. I would

ask any of the gentlemen who have proposed this system, to point out to me by what means we are to arrive at justice under it. How are we to obtain the value of the property in the various sections of the country? By what means can that value be equitably ascertained? There must be officers appointed for the purpose of valuing this property. Then I tell you, sir, that such a system, in its details, will impose an enormous expense upon the community. We have seen that governments and countries similarly situated to this, adopt the system of taxation by specific valuation. It seems to me that the Legislature, being composed of persons representing every section of the country, can best estimate the value of property, and adopt the method which will operate most generally and equitably.

Mr. Moore said: I trust the re-consideration will prevail. The section as reported, is copied from the Constitution of Louisiana; and we have reason to believe that the gentlemen who formed that Constitution, discussed this matter fully, and I believe that Convention embodied an equal amount of talent and learning with this. I am surprised to hear this system spoken of in connection with arbitrary power, and to hear it stated that the true system is to tax luxuries. Gentlemen are in error. That system of taxing luxuries was established by despots. The system here proposed is the simplest, the most beneficial to the people, the most easily applied, and the one that the people understand most readily. If this system is adopted, the assessor goes to the door of each individual, and inquires of him what is the value of his property; the individual, under oath, gives him the amount; he sets it down in the tax list, and goes away. And he goes throughout the county in a few days, and collects the whole amount. He does not go into the man's house, and examine every article, and take down his stools, furniture, &c. That is all a humbug. It is not to be expected that any such measures will be adopted by our Legislature. How is it, that this proposition is constantly brought up, as if members were afraid that the Legislature hereafter will have no sense or discretion? The intelligence of the people of Texas has been displayed in Congress heretofore. Let us then be willing to leave them some discretionary power.

Mr. Forbes said: I wish to state briefly one or two reasons against the motion. First, I think the abstract principle laid down in the section, is the only correct one which can be adopted; that all property which receives protection should contribute to the payment of the burthens of government. Again, it is clear and indisputable, that if you take away from the general assessment any proportion of property, you thereby increase the per cent. to be raised. How would this operate? I think it would clearly operate towards increasing the burthen of the poorer class in the community. If you exempt property to be invested in ornament and splendid houses, of course you take so much from the

aggregate amount, and make it necessary for the Legislature to increase the per cent. This is clear and incontrovertible. I think it just and proper that all property should pay a tax, and that a uniform and equal one. I think also that it is the duty of the Convention to take away the power of discriminating. If you give the Legislature the power to say that this or that species of property shall be exempt from taxation, they may continue to exercise it, until the whole burthen shall be laid upon a particular class of property. I think it all important that the Legislature shall not have the exercise of this power. With regard to the difficulties of carrying out this system, I think it merely imaginary. There will be no more difficulty in carrying it out in practice, than in carrying out the one now in operation. It is competent for the Legislature to direct, that a man shall say upon oath that he is worth so much; and he then pays one-half, or one quarter, or one per cent., as the Legislature may direct. It is simple, practicable, plain and just.

Mr. Scott said: I will briefly give the reasons why I shall vote against the re-consideration. As the section now stands amended, and will stand if the re-consideration does not prevail, all property will be taxed according to its value, and that value to be ascertained according to law. If it is reinstated as reported, any specific property may be taxed exclusively of others. I think the principle is a true one as laid down, that taxation is the price of protection, and that all property should be taken into consideration. I think that is incontrovertible, notwithstanding the general reading of the gentleman from Fannin. I know little about political economy; but I am satisfied that the principle is correct and irrefutable. We have heard a good deal about manufacturing establishments, about a Lowell, and abolitionists in Texas.— We will suppose that these things are not imaginary, but may really happen hereafter. Then is not this the greatest protection which the slave-holder can have? **All he wants is, that his property shall not be taxed disproportionately.** It is all I want as a slave holder; you may fix your representation as you please. This plan is adopted in Tennessee. The justices of the peace give notice to the people to come and give in their lists at a particular time. If they do not give them in, as a matter of course they are doubly taxed. The Legislature, if this plan is adopted, can prescribe that fraud in such cases shall amount to perjury. These things are not required to be done in the Constitution. I think the impracticability of this method is in the imaginations of gentlemen. What is the method here now? People go and give their property in to the assessor. Does he qualify them? I do not recollect that I have ever been qualified in my life. The assessor takes the statement upon a man's honor. I hope the re-consideration will not take place.

Mr. Runnels remarked: It must be recollected that **Tennessee is an old and well regulated community. Property has there acquired a fix-**

ed value; and I presume they have some mode of valuing property, without leaving it to the individual himself to say what he is worth: for in doing that, they would leave it to a man's own honor and conscience to say what tax he shall pay. This system was adopted in Mississippi; and I have known individuals living in the same neighborhood, and possessing plantations equal in value, to make a difference of ten or twenty dollars per acre. It was found so inconvenient there, that the State abandoned it. Now in this country what fixed value has property, consisting as it does, of negroes, land, stock and merchandize? One species of property is more active, and will be more in demand than another. In consequence, there is a surplus of land in this country; it will necessarily be reduced in value and changeable. Negro property is the most sought for, and the the most active and will be rated higher than landed property. Thus the system will not work equitably. In a country where property has a fixed value, I admit that it might operate well, and perhaps the most just system which could be adopted.

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Mr. Ochiltree said: I am glad to see a question of so much importance as the one now before the House, elicit so much attention and so much talent. I am proud to see that a subject calculated to exert so powerful an influence upon the best interests of the State at large, has received so much study on the part of the members of this body. It is a prominent question, and one to which we should pay very great attention; one upon which we should be careful not to adopt any hasty conclusions, but look well to the premises we are about to assume, and discuss dispassionately all the advantages and disadvantages connected with any particular system of taxation we may think of adopting. It is a sound position, and one, I believe, laid down by all the political economists, though like my friend from Montgomery, I may say that I have never read a book upon that subject in my life, that taxation is the price of protection. This is true, sir, taxation is the price of protection. It should therefore be uniform in its character. While I have never read any work upon political economy, I have of course thought a great deal on this particular subject, and I have always been led to the conclusion that any other system of taxation than the one founded upon the value of the property taxed, is unjust and anti republican in its character.—When a citizen possesses property, the amount of his protection is as the amount of the property he owns. He should therefore be compelled to contribute *pro rata* to the chest of the nation. And there should be no discrimination. A man has the right to employ his capital as he pleases, provided he does not injure his fellow men. And whenever an individual may think proper to indulge any whim or caprice, he should be allowed to do so to the top of his bent. I have never seen the justice of any law imposing a particular tax upon any whim, the indulgence of which does not interfere with the rights of a man's neighbors. I am therefore in favor of the uniform system. It is entirely republican in

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its character, and enables a man to lay out his money as he thinks best. It does seem to me that there have been a great many imaginary troubles thrown round the collection of taxes upon this principle. We are, to a certain extent, under any system, compelled to appoint assessors and collectors, and we must in a great measure, depend upon the honor and faith of the individuals who give in their property. There is no system to which we can resort, which will not, to a certain extent, create the system of espionage so eloquently described by the gentleman from Fannin. While I do not suppose it is intended to examine a lady's chamber, or value a man's old clothing, I would say that the assessor may go the house of the citizen and call upon him to give in the aggregate amount of his property, and I would rely with confidence upon the patriotism of the people not to attempt to avoid putting in the full amount of the property which they may have. Sir, in this country, the price of property will make the citizen, under all circumstances, extremely anxious to place himself as high in the scale of property as his neighbor. We shall not find any great difficulty in placing a uniform rate upon land, as the Legislature will have the power to classify the lands of the country. We are, and will be for years to come, a land selling people; and if we adopt a system of classification, we shall very seldom find an individual attempting to throw his land into the third rate class: he will not put his land upon the tax book as inferior to that of his neighbor.

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I am in hopes the motion to reconsider will not prevail. I see nothing objectionable in the section as it now stands.

The question being upon the re-consideration,

The ayes and noes were called, and stood as follows:

Ayes—Messrs. Bagby, Bache, Brashear, Clark, Evans, Hogg, Jewett, Moore, Runnels, Smyth and Van Zandt—12.

Noes—Messrs. President, Anderson, Armstrong of J. Armstrong of R., Baylor, Brown, Burroughs, Caldwell, Cazneau, Cunningham, Cuneey, Dinnell, Davis, Everts, Forbes, Gage, Henderson, Hicks, Horton, Howard, Hunter, Irion, Jones, Latimer of L. Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Power, Rains, Scott, Standifer, Tarrant, Ochiltree, White and Young—42.

So the motion was lost.

Mr. Love said: I dislike to trouble the House with my opinions upon the question. I myself intend to vote for striking out all that part of the section after the first clause, declaring that taxation shall be equal and uniform throughout the State. I do not doubt that we are as wise as any body which within a few years from this time will be assembled together, we may be wiser, and doubtless are so in our own estimation.

Still, I am of opinion, that when we assert the general principle in the Constitution, and guarantee to all equal rights and privileges. The details should be left to the Legislature. In objecting to the residue of the clause I do not deny the validity of the principle; the *ad valorem* system is perhaps the best mode of taxation; but I object to it, because I believe it would be unequal and unjust in its operation in this country. Suppose a man establishes a manufactory, and expends upon it 100 000 dollars. His establishment is taxed: this is all right, you say. He manufactures 100,000 dollars worth of goods, and you tax them; whatever income and profits he may realize from his industry, you tax them. Again, if the assessor takes the word of every individual for the amount and value of his property, you are nevertheless compelled to provide by law against the commission of frauds in the valuation. Now, the honest will always rate their property at its value; the dishonest, never. There may be thousands of things in land and about a house, which the assessor himself knows to be there, upon which an arbitrary valuation may be fixed. However ridiculous it may appear, it still gives an ill-natured assessor the power to harass; he might compel a little ragged urchin to drive up his chickens to be counted, or a female to exhibit her pantalettes, bustles and laces. I do not pretend to say that such things will be done. I say that they may be done, and unless human nature changes, it is likely they will be done, to gratify the spite of some malicious assessor. It is not to these minor matters I object, but to the principle of an inquisition of this kind, which compels a man to exhibit upon oath all that he possesses in every species of property. It is an imposition, which will be resisted; it can only serve to bring the laws into contempt, or produce dissatisfaction or dissension in the community. When you have said that taxation shall be equal and uniform throughout the State, what more do you want?

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I disagree with some of my friends with regard to the taxation of the poor. I have had to live, myself, in all classes of society; and I believe the poor man pays his taxes more cheerfully than the rich. I consider it a valuable privilege to the poor to be taxed. I consider it (I will not use the word democracy) anti-republican, to exempt the property of the poor man from taxation; because he naturally says, if you take from me the right to support the government, you take from me the right to participate in that government. I speak from knowledge, I speak from the class to which I allude; I have lived with them and know their feelings well. But send the tax question to one of these men, require him to unlock his chest, value the wardrobe of his family, make him bring up his chickens, geese and ducks; and I tell you he would rebel, even to the shedding of blood.

Mr. Van Zandt moved to insert in the 3d line, after the word "law," the following:

"Provided the Legislature shall have power to exempt from taxation

the buildings and appurtenances of religious, literary and charitable institutions."

Upon which the ayes and noes were called; and stood as follows:

**Ayes**—Messrs. President, Armstrong of R., Bagby, Baylor, Bache, Brown, Barroughs, Caldwell, Cazneau, Clark, Cuney, Darnell, Davis, Evans, Forbes, Gage, Henderson, Hogg, Horton, Howard, Hunter, Irion, Jewett, Jones, Kinney, Latimer of R. R., Lewis, Love, Lusk, Lipscomb, McGowan, McNeil, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Tarrant, Ochiltree, Van Zandt and Young—45.

**Noes**—Messrs. Anderson, Armstrong of J., Cunningham, Hicks, Lumpkin, Standefer and White—7.

So the amendment was adopted.

Mr. Howard moved to strike out all after the word "State," in the 1st line, 27th section.

Mr. Moore said: By the clause, as it now stands, I fear we may prevent internal improvements. The property of a canal, railroad, or turnpike, may be taxed, and thus the construction of these works may be prevented. It is a question whether we might not tax the very forts and barracks ceded to the United States. The section reads that all property in the State shall be taxed. It is important that the tools and implements of mechanics, while excavating a canal, or engaged in a similar work should be exempted from taxation. Take, for instance, the removal of the raft at the mouth of the Colorado. The very fact of this tax being levied might prevent people from going on with the work. A great many cases of this kind may arise, which we cannot call to mind now. I shall feel it my duty to vote for the amendment of the gentleman from Bexar.

Mr. Howard said: I wish to say only one word in relation to the practical operation of this section. It is a principle which I think will not be contested, that those who own the property to be taxed, when taxes are laid, should have some voice in the matter. It strikes me that fixing at this day a principle in the fundamental law of the State, imposing a burden upon all tax payers from this time out, so long as this Constitution shall last, is a manifest violation of the principles of right. It is controlling the Legislature to an extent which is not only unjust, but in its practical operation will be found extremely inconvenient. And the section as it now stands, will not only operate unjustly as a rule of taxation, but the system will be found very unproductive as a means of collecting the revenues of the country. What is it? That all property shall be taxed in proportion to its value, to be ascertained as directed by law; and that no one species of property shall be taxed higher than an-

other species of equal value. These two clauses amount to this: that every species of property, in relation to its value, shall pay precisely the same taxation. I undertake to say that you cannot find any civilized government which has adopted this rule. And further, that it is totally impracticable; that you cannot reduce it to practice, and raise any revenue under it. Is it just that the man who buys his bread at the baker's, should pay precisely as much as the man who sits down to a sumptuous breakfast, and drinks two or three bottles of champagne? It is not only unjust but impracticable. I should like to see a set of men start out upon this method, and get any amount of revenue. Does this Convention intend to say, that a billiard table should pay no higher tax than so much meat, and that brandy should pay no more than the absolute necessities of life? It strikes me we are setting out with a rule of taxation which we cannot enforce, even if we establish the abstract right. It is said that property ought to pay in proportion to protection. To some extent it is perhaps true; but it cannot be absolutely true. Because the protection of life is more valuable than that of property; and yet we cannot establish any scheme for taxing a man in proportion to his life. The true rule is to place the taxes upon the portion of the community where the burthen may be borne with the least inconvenience. This plan will be found to be not only unjust, but an absolute nullity. You cannot raise any revenue upon it, if adopted; but the government will be bankrupt in three years.

Mr. Van Zandt moved as a substitute to Mr. Howard's motion, to strike out all the section, except the last clause; which was accepted by Mr. Howard.

The ayes and noes were called for on the adoption of the amendment, and are as follows:

**Ayes**—Messrs. Anderson, Armstrong of R., Bagby, Bache, Clark, Evans, Hogg, Howard, Kinney, Love, M'Neill, Moore, Runnels, Smyth, Standefer, Tarrant, Van Zandt, White and Young—19.

**Noes**—Messrs. President, Armstrong of J., Baylor, Brashear, Brown, Burroughs, Caldwell, Cazneau, Cunningham, Coney, Darnell, Davis, Everts, Forbes, Gage, Henderson, Hicks, Horton, Hunter, Irion, Jewett, Jones, Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, M'Gowan, Miller, Navarro, Parker, Power, Rains, Scout and Ochiltree—35.

So the motion was lost.

Mr. Van Zandt moved to adjourn until 4 o'clock. **Lost.**

Mr. Armstrong moved to adjourn until 3 o'clock, **P. M.** **Lost.**

Mr. Forbes offered the following amendment, as an addition to the 27th section:



"And further provided, that such income or license tax shall not exceed in amount what would be a uniform *ad valorem* tax upon the sum taxed as income, or stock vested in such occupation, trade, or profession; but this restriction shall not extend to any calling, occupation, or business, the prohibiting or restricting of which shall be deemed necessary for the public good and morals."

Which was rejected.

Mr. Smyth offered the following as a substitute for the 27th section:

"Taxation shall be equal and uniform throughout the State, all property shall be taxed in proportion to its value, to be ascertained in such manner as the Legislature shall by law direct. The Legislature shall have power to lay an income tax and license tax upon such pursuits and occupations as they may think proper. The Legislature shall also have power to exempt from taxation, a part of all the property belonging to churches, universities, colleges, schools, and other public institutions as may be of public utility, also an amount of property belonging to every family not exceeding in value."

On motion of Mr. Caldwell, the Convention adjourned until 4 o'clock, P. M.

The ayes and noes being called on adjournment, stood as follows:

Ayes—Messrs. President, Armstrong of R., Baylor, Bache, Brashear, Caldwell, Cazneau, Clark, Darnell, Evans, Hogg, Horton, Hunter-Irion, Jewett, Jones, Kinney, Lewis, Love, Lusk, Lipscomb, Miller, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Standefer Tarrant, Van Zandt and White—33.

Noes—Messrs. Anderson, Armstrong of J., Bagby, Brown, Burroughs, Cunningham, Cuney, Davis, Everts, Forbes, Gage, Henderson, Hicks, Howard, Latimer of R. R., Lumpkin, McGowan, McNeill, Ochiltree, and Young—20.

4 o'clock, P. M.

The Convention met pursuant to adjournment.

Mr. Van Zandt offered the following as a substitute for Mr. Smyth's substitute:

Strike out all after the word "State," in 1st line to the word "the" in 4th line, and insert "all property in this State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of the Legislature may think proper to exempt from taxation."

Mr. *Van Zandt* said: I believe it will meet all the objections which have been urged to the several amendments offered; and will prevent our presenting ourselves here in a ridiculous attitude. This amendment will guard fully against the state of things supposed by some gentlemen, which might induce the imposition of a disproportionate tax on slave property. It provides that no amendment of this tendency shall be made except by a vote of two-thirds.

Mr. *Jones* said: I have listened with attention to all the arguments adduced in relation to the various amendments; and I can discover none of the difficulties imagined by the gentlemen who have addressed the Convention. I can see nothing in the provisions of the section to compel the Legislature to make it the duty of the tax-gatherer to go in and examine the wardrobe of a lady, including her bustles, pantalettes and rings. Neither do I see anything to prevent the Legislature from passing laws which will affect the collection of taxes with as much ease and as little expense as the present system. I fear that the amendment now proposed is a ruse to pack the section. I cannot discover how it would place the section in a better condition than it is. I shall vote against that and all others.

Mr. *Evarts* said: I am in favor of the *ad valorem* system of taxation above all others that I have examined or lived under. I look upon taxation as a matter of necessity. It is a duty that all men owe to their country to yield it support when called upon. I believe that in the history of legislation in the States of the American Union, no one question has been mooted which has caused so much perplexity and difficulty as this of the proper system of taxation; and almost every mode or system which the ingenuity of man could invent, has been at various periods in force and practice in those States. I believe, however, that at the present time, the system generally approved, that which works best, and which experience has shown to be the most equal and just, is the *ad valorem* system. I have lived some ten or twelve years in a State where this system was in practice, and where there were but few articles exempted from taxation. And, sir, other modes have been tried in that State, and have been found to work badly. This, in the State of Indiana, is found to be the least troublesome and expensive which could possibly be adopted. It is objected by many that we shall experience difficulty in arriving at a proper and correct system of valuation. It strikes me that it will not be difficult. Property is divided under this system, into two classes, real and personal. A commissioner is appointed to value all the land in a county, and this valuation is permanent, standing for five years. He is sworn to discharge his duty faithfully, and goes round over the county and assesses the lands, together with improvements. If individuals have fine fences and splendid buildings, their property is valued in proportion. This valuation of real property is not expensive,

occurring only once in five years. If a piece of property is transferred from A. to B., the law makes it the duty of the lawyer to register his name upon the roll of rateable polls of the county; so that there is no difficulty in ascertaining who should pay. Then if personal property is taxed, even to the wardrobe of the wife, it is given in in the aggregate. I do not see any difficulty here, and for the soul of me I cannot tell any reason why one species of property should be exempt and not another, why the silks and paraphernalia of the wife should be exempt more than any other species of property. It is no more sacred, that I know of. But when called upon to give in your personal property, you give in a statement of what you suppose yourself to be worth. If a man gives in a fraudulent list, as a general rule, it is pretty easy to be detected. There is no man taxed in your neighborhood, but you can tell whether he has committed a violent fraud. If a man has five thousand head of cattle, he might miss a cow and calf, but it would be easy at any rate to give in something like the amount. As to exemptions: I am opposed to exemptions from taxation, unless in cases of some great necessity. It is true, it would be unnecessary for the State to tax her own property, if the State of Texas should undertake to cut a canal or build a railroad. But if individuals undertake such a work, why not tax them upon the amount of stock actually paid in? I care not in what manner I may see proper to use my money, I think my government has just as much right to call upon me for my quota of taxes. I would, however, be in favor of exempting one class, that embracing school houses, meeting houses, and grave yards, and all those things which are eleemosynary in their character, or for educational purposes. I would be willing to go that far, but no farther. And I think if there is any subject upon which the hands of the Legislature should be tied up, it is this very system of taxation. Much has been said upon this floor upon the subject of protection. When the subject of the basis of representation was before the committee, some honorable gentleman wished to have the federal basis adopted. Why? For the purpose of giving protection to the peculiar institutions of the South. In reply to these gentlemen, I said, we will give you the *ad valorem* system of taxation, and your negroes will then be protected. It does seem to me that this system as a whole is the only one, which carries with it equal justice, and prevents the difficulties which usually attend the subject of taxation. I dislike upon this subject to leave any thing of importance open to the Legislature; the details of course will be left to that body to carry out the system.

Mr. President *Rusk* said: I think that the debate is drawing to a close, as it seems that the House have sufficiently manifested their preference for one of the two systems. The *ad valorem* system, as a general measure, seems to my mind to be at least less exceptionable than a specific tax. This question is one of a vexed character, and there never has been a system of taxation found to operate uniformly upon all persons

alike. There will be exceptions; and it does seem to me that the opponents of the *ad valorem* system have been driven to strange resorts. The idea of resorting to the hen house, bustles, &c., is going to extremes. Both systems have their objections. Taxation is odious in any shape or form in which it may come. The first clause, declaring that taxation shall be equal and uniform throughout the State, would authorize the Legislature to lay a specific tax; and they might exempt lands entirely, and only tax slaves. Take the uniform principle of equal taxation upon land, it is unequal in its operation. Land has never been divided into more than three classes; and the first quality upon the Gulf may be worth twenty or thirty dollars per acre, while the same quality of land elsewhere may not perhaps be worth two dollars; and the individual whose land is worth two dollars might be called upon to contribute as much as the man whose land is worth thirty. This system is subject, I think, to greater objections than the other. I think the House is determined to establish the *ad valorem* system; and they have also manifested a strong disposition to exempt some articles of taxation. This is proper and right. If we exempt the wife's paraphernalia, the ducks and chickens, &c., we shall get so much trash out of the way, without depriving the revenue of much money; and whatever may be the case with the people of Kentucky, my word for it the people of Texas will not grumble at being exempted from taxation. I should have voted for the substitute offered by the gentleman from Jasper, but the amendment of the gentleman from Harrison will answer all purposes. This provides for a departure from the general principle, to exempt a species of property entirely from taxation; and it will be confined to such articles as the general sense of the community, justice and right require to be exempt. I shall vote for the amendment, and for another very slight one. I do not believe the Legislature would tax a man for carrying on a trade, if the power is left with them; but it would be a subject of difficulty, and if the amendment prevails, I shall move to strike out the word "trade."

Mr. Love said: I deny that the poor man ever complains of taxation; and I utterly repudiate every distinction which it is attempted to create between the rich and the poor, as odious and impolitic. It is contrary to the principles of good government, to the principles of freedom itself. I do not think that any thing I can say will have any effect, because members have got a system into their heads, which I know they will carry out. Yet I have a right to protest against it as unjust, inquisitorial, and creating a distinction odious to the right of every man who does not own his thousands. I say again, that I yield to no man in this House in a knowledge of the feelings, disposition and habits of the poorer class. Because I was born in that class, and raised in that class, and their feelings, wishes and views, are still identified with me, and I know what they are. And I can tell you, give me the same advantages with

any other, in any county, and place the issue upon this odious distinction, I will beat any man in the land for any office. I do not believe that the people of Texas differ from any other. I deny the right of this Convention to fasten upon us this inquisitorial power, to descend to the minutest articles. There is not a man in the world who can at any time remember all he possesses. I do not object to the *ad valorem* principle. I do not care what articles you tax, but let them be specifically named, and then put an *ad valorem* tax upon them. But I object to this inquisitorial power. I say, again, as far as I, as an individual, am concerned, I care not what system may be adopted. But still I think it the better plan to assert the principle, and leave it to future Legislatures to say what articles shall be taxed. I deny the right to fix it in this Constitution, so that no future Legislature shall have the right to alter it according to the circumstances of the time. Let the principle be immutable if you choose, but leave it to those who come after us to arrange the details, as to them may seem just and in accordance with the wants of the community.

Mr. Smyth then withdrew his amendment.

Mr. Howard offered the following amendment to the amendment of Mr. Van Zandt, to come in at the end of said amendment.

"But the Legislature shall have power to levy a specific tax upon gold and silver plate, pleasure carriages, billiard and other gaming tables, playing cards, furniture of foreign manufacture, and all malt, vinous, and spirituous liquors and distilleries."

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. Baylor, Burroughs, Evans, Gage, Hogg, Howard, Hunter, Jones, Kinney, Latimer of L., Latimer of R.R., Lewis, Love, Lusk, Navarro, Power and White—17.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Bache, Brown, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Forbes, Hemphill, Henderson, Hicks, Horton, Irion, Jewett, Lumpkin, Lipscomb, McGowan, Miller, McNeill, Miller, Moore, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochil-tree and Van Zandt—36.

So the amendment was rejected.

Mr. Lipscomb offered the following amendment to Mr. Van Zandt's amendment:

"But no such exemption shall extend beyond the next succeeding session of the Legislature."

Mr. Runnels said: I shall vote against the amendment. I have not raised any objection to the principle of *ad valorem* taxation. There is

no principle or system more just or equitable. But I believe it better to leave the subject with the people and their representatives. I am not afraid to trust the people nor the Legislature, so far as I am concerned. The gentleman from Fannin (Mr. Evarts, referred to the position which I occupied before the committee a few days ago. What he expected or intended to establish by that I cannot conceive. I did advocate before that committee the principle of the federal basis of representation. I did it for the reason that slave property is held by a delicate tenure in all slave holding States, and more particularly so in a State situated as we are and are destined to be. I did it not upon the principle which may be assigned to it by some, that it was my desire to see property represented to the exclusion of the electoral voters of the country. I have never advocated any such doctrine. I did it, because I believed that species of property in our peculiar situation required protection. The subject has been adverted to again and again, until it has become necessary for me to explain the reasons which actuated me. I believe that every county represented in this Convention is equally interested in this matter. It has been asked, what kind of protection this would give that particular species of property? It will be recollected that the United States Government is pledged and bound to protect the States in their governments. This principle would not detract from one portion of the country, and give to another a greater weight and influence; for that species of property is common to all of us. It would give, not to one individual, but to the community in which we live, an influence which would prevent a majority from altering and changing the Constitution. Then it would operate as a salutary provision. Taxation, in any form, I consider no protection at all. If you give this species of property any protection at all, you must give it in the legislative halls of the country. For if you do not, that property can be reached by a change in your Constitution. If you give it in representation you do protect it, and essentially. If a change in the form of government should be attempted, with a view to abolish the system entirely, it must be done in conformity with the mode laid down by the Constitution of your State. And if a bare majority should resort to it, it would be revolutionary; it would not be sustained; and you would be protected in your constitutional forms of government by the government of the United States. I did it as much with a view to protect the people of the county which the gentleman represents, as my own. I have not, as I repeat, advanced a solitary word against the system of *ad valorem* taxation. I believe, however, that the Legislature should have the power to designate the species of property which should be taxed, and should tax that *ad valorem*, equally upon all. I think the same species of property is held by all classes. I will draw no invidious distinctions. I think that all are free and independent, and that one class is entitled to as many privileges and advantages as another. I have been always the advocate of this doctrine, and it is dear to me. I shall vote against the amendment; because, if

we are to have the *ad valorem* system, and have to incur all the difficulties and expenses attendant upon it, let us have it out and out.

Mr. Jewett said: I shall oppose the amendment, because I think it calculated to introduce periodical fluctuations in the taxation system of the country. It will open wide the door to political demagogues. And for another reason, because I would not wish to prohibit the Legislature from aiding a class of works of internal improvement, the erection of bridges, the construction of rail-roads, or the works necessary to the improvement of rivers or harbors. I am willing to trust something to the discretion of the Legislature chosen by the people.

The amendment was rejected.

The ayes and noes were called for on Mr. Van Zandt's amendment.

Mr. Henderson said: I am willing to vote for exempting some species of property: but am not disposed to leave it to the Legislature to exempt one man, and tax another.

Mr. Brown said: I am still in favor of the *ad valorem* system; but I look upon the substitute as embracing a dangerous relaxation of principle. I would be willing to go so far as to exempt property to the amount of 200 or 250 dollars. But I cannot tell what might be the system, if we adopt the amendment. It is the *ad valorem* system, so far as the Legislature may choose. I call upon those who are in favor of the *ad valorem* system, to look to what they are doing in voting upon this amendment. It is no easy matter to get two-thirds of the Legislature.

Mr. Lewis said: I am in favor, as almost every gentleman seems to be, of the *ad valorem* system of taxation. I have in this House and elsewhere advocated that principle, and am still in favor of it. But I think, that evil consequences may result from the amendment proposed by the gentleman from Harrison, unless the amendment of the gentleman from Washington had prevailed. I remember, and perhaps some other gentleman upon this floor will remember the application made to the Legislature of Alabama for a charter for a rail-road, with exemption from taxation for a certain time. The charter was obtained, with the exemption for a length of time. What were the consequences? It had a bad effect throughout the whole country. Look at the case of the Planters and Merchants' Bank of Mobile. At every session application was made to the members of the Legislature, and after a while, though it required a majority of two-thirds to pass a charter, its friends succeeded in obtaining it; and in three years the Bank was put in liquidation, bringing in its train ruin and devastation. I was very much in hopes that the amendment would have prevailed, providing that any exemption



should not extend beyond the next session of the Legislature. But although in favor of the *ad valorem* system of taxation, yet I think that some things which belong to the laboring class of the community ought to be exempted from taxation. Is it fair, is it in accordance with the principles and sentiments of the members of this House, that the spinning jenny should be taxed in the same proportion with the piano? Should the 'demijohn' of brandy in the house of the wealthy man pay at the same rate with the spinning wheel of the poor man's wife? It would be contrary to every principle of justice and equity. The one is a luxury, while the other contributes to the support of the laboring classes, and deserves the protection of the legislative department of the government. Then let some of these things be exempt from taxation; and let us adopt no plan subjecting the citizens of this country to an inquisitorial process, which must be disagreeable and annoying to every one. I remember that in 1840, when the government of the United States thought proper to make an examination into the houses, poultry yards, and every thing of the kind, for the purpose of gaining statistical information, the people became alarmed, and many Whig orators availed themselves of the little circumstances to excite the feelings of the people. Exempt a small portion of the property of the laboring class, and I will go with you for taxing all other property according to its value. The principle is a correct one in relation to the direct tax; though impost duties, I think, should be based upon the discriminating principle. But it is unnecessary to advert to that system. I go now for the *ad valorem* system of taxation, so far as the direct taxes are concerned. At the same time, I would leave it with the Legislature to exempt a particular amount of those things which are indispensably necessary to the existence and support of the laboring classes in the community, and let the burthen of taxation fall as lightly as possible upon the portion least able to pay.—You may go down, if you please, to one hundred dollars; but cover the bed upon which the poor man reposes, and the cows necessary to give milk to his children.

Mr. *Bache* said: I should have preferred the section as it originally stood: but as it appears to be the inclination of the House to pass the amendment, taking it as the next best step, I shall vote for it.

The ayes and noes were called on the adoption of Mr. Van Zandt's amendment, and stood thus:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Baylor, Bagby, Bache, Clark, Darnell, Davis, Evans, Everts, Hemphill, Horton, Jewett, Kinney, Latimer of L., Latimer of R. R., Lumpkin, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Standifer, Tarrant, Ochiltree, Van Zandt and Young—34.



Noes—Messrs. Brown, Burroughs, Caldwell, Cazneau, Cunningham, Forbes Gage, Henderson, Hicks, Hogg, Howard, Hunter, Irion, Jones, Lewis, Love, Lusk, Lipscomb and Runnels—20.

Adopted.

Mr. Evans offered the following as a substitute for the 27th section, as amended:

**That all property subject to be taxed in this State, shall be taxed in proportion to its value.**

Mr. Horton moved the previous question: which motion was carried.

The main question being the adoption of the 27th section, as amended, the ayes and noes were called for.

Mr. Darnell said: One word in explanation of my vote. I am in favor of the principle of *ad valorem* taxation: but upon a question of so much importance, I think the previous question ought not to have been put, and there is an amendment which I think ought to have been adopted. Consequently, I vote *no*.

Mr. Hicks said: This section is very exceptionable to me; but for fear of making bad worse, and confusion worse confounded, I shall vote in favor of it.

The ayes and noes were called, and stood as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Baylor, Bagby, Bache, Clark, Cunningham, Davis, Everts, Gage, Hemphill, Hicks, Horton, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Scott, Smyth, Standifer, Tarrant, Ochiltree, Van Zandt and Young—39.

Noes—Messrs. Brown, Burroughs, Caldwell, Cazneau, Darnell, Evans, Forbes, Henderson, Hogg, Howard, Hunter, Love, Lusk, Runnels and White—15.

So the section as amended was adopted.

Mr. Ochiltree offered the following as an additional section, to come in after the 28th section:

The Legislature of this State shall be precluded from passing laws authorizing the sale of intoxicating liquors in quantities less than one gallon: upon which

The ayes and noes were called, and stood as follows:

Ayes—Messrs. Baylor, Bagby, Cunningham, Davis, Hicks, Hogg, Howard, Lusk, McNeil and Ochiltree—10.

Noes—Messrs. President, Anderson, Armstrong of J. Armstrong of R., Bache, Brown, Burroughs, Caldwell, Cazneau, Clark, Darnell, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Horton, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lipscomb, McGowan, Moore, Miller, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt White and Young—44.

Which was rejected.

Mr. Hogg offered the following as an addition to the 28th section :

Provided that the Legislature may provide by law for the establishment of one State Bank for the use of the State.

The ayes and noes being called for.

Mr. *Hicks* said: With all due respect, Mr. President, for the principles of democracy, I shall certainly vote against the insertion of a clause of this kind in the Constitution. Not, sir, because I am a very warm advocate of the banking system: but because it does seem to me that it would be taking a stretch beyond our authority. According to my understanding of the nature and extent of our functions, the members of this body are assembled here, not for the purpose of legislating, but for that of establishing the great landmarks of liberty. This question has been a moot one in the United States for the last fifteen or twenty years, and the leading point upon which the Whigs and Democrats have split. I am not willing then to give a vote which says to one of these parties, you are fools, and to the other, you alone are wise, intelligent and patriotic. I would vote, however, against any clause by which a Bank should be created. I am willing to leave this subject to be regulated by the necessities and wants of the people.

Mr. *White* said: With a view to keep the gentleman company in this matter, I shall vote *aye*.

The ayes and noes were then called, and stood as follows :

Ayes—Messrs. Hogg, Kinney, Lumpkin and White—.

Noes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Evans, Everts, Forbes Gage, Hemphill, Henderson, Hicks, Horton, Howard, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lusk, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standifer, Tarrant, Ochiltree, Van Zandt, and Young—49.

So the amendment was rejected.

In the 28th section, Mr. Hunter moved to strike out all after the word "shall" to the word "banking", and insert the word "exercise".

Which motion was lost.

The question was then taken on the adoption of the 28th section.

The ayes and noes were called for.

Mr. *Runnels* said: As I am well aware that the opinions of the Convention are settled upon this subject, I shall offer no remarks upon it. I voted against the amendment, because, of all species of banking in the world, I think that which connects the State with banking is the worst. I believe, however, that this question ought to be left open to the people and their legislatures hereafter. The time may come when it may be the interest of the country to establish a Bank. It is true the country is not in a condition to do so at this time. I shall vote against the adoption of the section.

Mr. *Hogg* said: I am as much opposed to private banking as the gentleman from Brazoria can be to State banking. If I could have had the privilege granted the State to incorporate a State Bank for State purposes, for commercial purposes, for the purpose of carrying on the fiscal affairs of the State, I would have been and am as ready to oppose the incorporation of company Banks, as any man in Texas. I wish it distinctly understood, at this time, that I am opposed to banking. I have manifested my sentiments upon this subject in the eighth Congress. But I do contend that this Convention is arrogating to itself too much wisdom, too much knowledge of the future. Circumstances may occur to make it necessary for this State to have some banking privileges. But it would be useless for me to attempt to set forth any reasons here at this time: and as I am not disposed to make a speech to be written down by the Reporter, I will simply say that, I shall vote against the section, for the sake of carrying out my views of propriety.

Mr. *Moore* said: I have ever been and am opposed to Banks in this country. But I believe that great evil may result from their establishment upon the border of Arkansas, near the line of this country, to supply Texas with all her circulating medium. I could wish to devise some means by which this evil may be remedied by modifying this clause. But having been unable to devise a plan which would meet the views of a majority of the committee or the Convention, I feel compelled to vote in favor of the section.

The ayes and noes were called, and stood thus,

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brown, Burroughs, Caldwell, Cazneau,

Clark, Cunningham, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Horton, Howard, Hunter, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McNeill, Miller, Moore, Navarro, Parker, Rains, Scott, Smyth, Standefer Tarrant, Ochiltree, Van Zandt, White and Young—47.

Noes—Messrs. Hicks, Hogg, Kinney, Love, McGowan, Power and Runnels—7.

So the section was adopted.

The 29th section was adopted.

In 30th section, on motion of Mr. Rusk, the blank was filled with 20, so as to read, "no corporation hereafter to be created, shall ever endure for a longer term than 20 years, &c.

On motion of Mr. Anderson, the Convention adjourned until half-past 8 o'clock, to-morrow morning.

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Thursday Morning, Aug. 7, 1845.

Half-past 8 o'clock, A. M.

The Convention met pursuant to adjournment.

Prayer by the Chaplain.

Journals of yesterday read and adopted.

Mr. Scott filed the following

### PROTEST,

Which was ordered to be spread upon the journals, as follows:

The undersigned, having voted in the minority on the adoption of the section of the General Provisions, authorizing the Legislature to set apart for debtors, free from forced sale, [besides other property] two hundred acres of land, including the homestead, or lots not exceeding \$2,000 in value, begs leave to file this his protest against the passage of the same, and have it entered upon the journals. The undersigned thinks he is as much under the influence of feelings of humanity as most of those in this body, who have the welfare of the unfortunate, apparently so dear to them: such motives he respects, and when the truly unfortunate debtor can be protected by law, he deems it the sacred duty of the lawgiver to extend such protection, provided more good than evil is effected thereby. The legislator must deal in general rules, not make special laws for individual cases; and if the result of any such general laws will most probably be the promotion of evil rather than the attainment of good, every