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Mr. Hemphill moved to amend the additional section, by inserting before the word "bear," "keep and." Adopted.

Mr. Everts offered the following amendment:

"Provided the Legislature shall have power to prevent the carrying of concealed weapons, under such restrictions as may be prescribed." Rejected.

The ayes and noes being called, on the adoption of the section, stood thus:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Burroughs, Caldwell, Cazneau, Cunningham, Davis, Everts, Gage, Henderson, Hicks, Hunter, Irion, Latimer of L., Lewis, Mayfield, McNeill, Parker, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Ochilree, Wright and Young—33.

Noes—Messrs. Clark, Darnell, Evans, Forbes, Hemphill, Hogg, Horton, Jewett, Jones, Latimer of R. R., Love, Lumpkin, Lusk, Lipscomb, McGowan, Miller, Power and White—18.

So the section was adopted.

Mr. Mayfield moved to lay the Bill of Rights on the table. Lost.

On motion of Mr. Cazneau, the Bill of Rights was ordered to be engrossed.

Mr. Mayfield offered the following resolution:

*Ordered:* That the Convention, for the future, shall hold but one session per day, which shall be held between the hours of half past 8 o'clock, A. M., and 4 o'clock, P. M., of each day, (Sundays excepted.)"

Which was read and laid on the table one day for consideration.

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

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Thursday, July 31st, 1845.

Half past 8 o'clock, A. M.

The Convention met pursuant to adjournment, and was opened with prayer by the Chaplain.

On motion of Mr. Davis, the report of the Executive Committee was taken up.

Mr. Young moved to amend the 2d section, by inserting after the word "electors," the words "of the State." Adopted.

The section, as amended, was then adopted.

Mr. Jones moved to strike out, in 3d section, 7th line, the words "the highest number of votes," and insert "a majority of all the votes." Rejected.

Mr. Bache moved to insert after "election," in 3d section, 1st line, the words "signed by the judges" Lost.

In the 4th section, 2d line, before the word "years," Mr. Van Zandt moved to strike out "four" and insert "two." upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Burroughs, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Gage, Hemphill, Hicks, Hogg, Horton, Holland, Irion, Jewett, Latimer of L, Latimer of R. R., Lumpkin, Lusk, Mayfield, Rains, Scott, Standefer, Tarrant, Van Zandt, Wright and Young—32.

Noes—Messrs. Brown, Caldwell, Evans, Everts, Forbes, Henderson, Hunter, Jones, Kinney, Lewis, Love, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Power, Smyth, Ochiltree and White—21.

So the amendment was adopted.

Mr. Hogg moved to insert in the 4th section, 5th line, before the words "citizens of the United States," the word "native," upon which the ayes and noes were as follows:

Ayes—Messrs. Armstrong of R., Hogg, Lusk, McGowan and Young—5.

Noes—Messrs. President, Anderson, Bagby, Baylor, Bache, Brashear, Brown, Caldwell, Cazneau, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L, Latimer of R. R., Lewis, Love, Lumpkin, Lipscomb, Mayfield, McNeill, Miller, Navarro, Parker, Power, Rains, Scott, Smyth, Standefer Tarrant, Ochiltree, Van Zandt, White and Wright—50.

So the motion was rejected.

On the motion of Mr. Van Zandt, the word "eight," before "years," was stricken out, and "six" inserted.

Mr. Scott moved to strike out the following: "but shall not be eligible for more than four years in any term of six years."

He said he did not see why the governor should not be re-eligible. His object was, that the governor might be elected as long as the people might choose to elect him. There is no reason why he should be put out, as in the case of a bonded officer.

The ayes and noes were called upon the motion to strike out, and stood as follows:

**Ayes**—Messrs. President, Armstrong of R. Baylor, Burroughs, Evans, Everts, Forbes, Howard, Lumpkin, Parker, Scott, Standefer and White—13.

**Noes**—Messrs. Anderson, Bagby, Bache, Brashear, Brown, Caldwell, Cazneau, Clark, Cunningham, Coney, Darnell, Davis, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L, Latimer of R. R., Lewis, Love, Lusk, Lipscomb, Mayfield, M'Gowan, M'Neill, Miller, Navarro, Power, Rains, Runnels, Smyth, Tarrant, Ochiltree, Van Zandt, Wright and Young—44.

So the motion was lost.

Mr. Davis offered the following amendment to the 4th section: "and, at the first election, shall have resided in this State two years; and in all other elections shall have resided in the State four years." Rejected.

Mr. Evans moved to strike out, in 4th section, "and shall have resided in the same four years." Lost.

Mr. Young offered the following amendment:

Strike out all after "age," in the 5th line, 4th section, and insert "shall be a citizen of the United States; and shall have resided four years in the State immediately preceding the election, or shall be a citizen of Texas at the adoption of this Constitution."

Mr. Henderson moved, as a substitute for the amendment of Mr. Young, to strike out "four" and insert "three" before "years," in 4th section, 7th line, of the original report.

Mr. Davis said: I see no reason why any gentleman who is here at the time of the adoption of the Constitution, should not be eligible to any office in the gift of the people. There are individuals in this Convention who have not resided here three years. The people have confided to them the formation of the organic law of the country. Will you now say that they shall not administer the government, the organic law of which they have aided in forming? I do not see any sensible reason why any individual who is here at the adoption of the Constitution, should not be entitled to all the rights and privileges of a citizen. Although, as I will remark, I have no idea of being a candidate, am I, after a residence of three years, and having rendered all the service of which I am capable, to be told that I am not entitled to all the rights and privileges of other citizens? I think it would be extremely illiberal. I think it would be the proper way, to place every individual here at the time of the adoption of the Constitution, upon an equal footing.

Mr. Henderson said: I do not know that any body has accused the

gentleman from Liberty of being a candidate. If he will look, he will see, perhaps, that this is intended to cover his case. The rule in every case is the same; a certain residence is required. I think there is no illiberality in adopting the same rule which existed in the Constitution of Texas before gentlemen emigrated to this country. And I see a clear distinction between the office of governor and that of delegate to this Convention. Some counties may think themselves well represented here, and I know they are very well, by gentlemen who have been in the country but a short time. But I think it is due the citizens of Texas, that the situation of governor should be filled by gentlemen who have resided here, and are not only acquainted with our institutions, but with all the people of Texas, and the interests of Texas. It will work no hardship; you give all the full privileges held out to them by the Constitution when they came here. And I see no good reason why gentlemen who happen to be here one day before the adoption of the Constitution, should have any privileges over those who come in one day after.

Mr. *Kinney* said: I am more in favor of the section as it stands. There are a good many princes coming into the country, and who have come in, bringing with them a number of loyal subjects, who may be disposed to, make themselves governors hereafter. I believe it is better and safer for the people to require that the governor shall have attained a residence of a few years, before he is permitted to occupy that station. I believe there is very good material in Texas for governors, among those who have been residents of the country for four years. And any one who is ambitious of being governor of the State of Texas, can hold on a little while. I think, upon mature reflection, gentlemen will let the section remain as it is. I was in favor of reducing the time to three years, but shall now vote for a residence of four years.

Mr. *Lewis* said: I think the present arrangement a wholesome one. In looking over the different State Constitutions, I find that four years constitutes the very shortest residence which any of them have required for the governor. And if that is necessary in old and well settled communities, where the character of every man is, well understood, and his politics known, is it not necessary here, where we are thrown together from every portion of the country, a heterogeneous mass, without a knowledge of new comers, or even of our neighbors? I would not wish to exclude any gentleman in the Convention or the country from seeking and obtaining the highest offices in the gift of the people. But, sir, the character, politics, and every thing connected with the man who seeks office, are things which the people wish to know something about. Virtue and political integrity are necessary in a governor; and the people may be imposed upon. To guard against these impositions, I am inclined to require a residence of four years, the shortest period pro-

scribed in any Constitution to which I have referred. I trust, therefore, that gentlemen who are ambitious, or who have ambitious friends, will wait a little. Let them perform a quarantine. Let them wait for political elevation till they are known throughout the country. Those who aspire to an office in the gift of a State, should have an acquaintance co extensive with the country; they should be known from one end of it to the other. The people would not then be imposed upon by specious talents and high pretensions. These are briefly my reasons for the vote I shall give, and reflection confirms me in the correctness of the opinion which I have formed upon the subject.

Mr. *Brown* said: This is a question which deserves some reflection. Under our old Constitution, a man becomes eligible to the presidency in three years. Now, it is my opinion, that the rights of persons by the change of government ought not to be diminished or enlarged. But I am satisfied that the safety of the State requires the term to be nearly double that time. I cannot see any reason for making a discrimination between persons who shall have been in the country at the date of the Constitution, and those who shall come in thereafter. If the case admitted of one general rule, and I had to designate it, I would fix a term of five or six years at least. But I would say that those persons who are in the country before the adoption of the Constitution, are entitled to all the benefits embraced in the Constitution. For that reason I shall vote for three years. Not that I believe the term sufficiently long, but I wish not, and I think it would not be right, because the government has to undergo a change, that the political relations of any citizen should be thus altered.

Mr. *Horton* said: As there seems to be some difficulty in bringing the question properly before the Convention, and I wish to have it come up in the proper shape, if possible, I will move the previous question.

The question—shall the main question be now taken?—was put; upon which the ayes and noes were called, and were as follows:

Ayes—Messrs. Armstrong of J., Armstrong of R., Bagby, Bache, Brashear, Burroughs, Cunningham, Cuney, Forbes, Gage, Hemphill, Hicks, Horton, Howard, Holland, Irion, Kinney, Latimer of L., Latimer of R R, Lewis, Love, Lusk, Lipscomb, McNeill, Miller, Navarro, Power, Rains, Scott, Smyth, Standefer, Tarrant, Ochiltree and Wright—34.

Noes—Messrs. President, Anderson, Baylor, Brown, Caldwell, Cazneau, Clark, Darnell, Davis, Evans, Everts, Henderson, Hogg, Hunter, Jewett, Lumpkin, Mayfield, McGowan, Parker, Runnells, Van Zandt, White and Young—23. Carried.

The main question being the adoption of the section without the amendments, was put and carried.

In 5th section, in regard to compensation of Governor, Mr. Burroughs moved to strike out "\$2000," and insert "\$1500"

A division of the question being called for, the question upon striking out was taken; upon which the ayes and noes were called, and stood as follows:

**Ayes**—Messrs. Anderson, Baylor, Bagby, Brashear, Burroughs, Caldwell, Davis, Evans, Everts, Forbes, Hicks, Hogg, Hunter, Jewett, Latimer of L., Latimer of R. R., M'Gowan, Parker, Rains, Runnels, Scott, Standefer and White—23.

**Noes**—Messrs. President, Armstrong of J., Armstrong of R., Bache, Brown, Cazneau, Clark, Cunningham, Cuney, Darnell, Gage, Hemphill, Henderson, Horton, Howard, Holland, Irion, Jones, Kinney, Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, M'Neil, Miller, Navarro, Power, Smyth, Tarrant, Ochiltree, Van Zandt, Wright and Young.—35.

So the question on striking out was lost.

Mr. Hunter moved to strike out the word "first," before "governor," in 5th section. Lost, and the section adopted.

Mr. Howard moved to strike out, in the 6th section, 2d line, the words "and of the Militia." Lost.

Mr. Love offered the following amendment to the 6th section, "but the Governor shall not take command in person, when the army is in actual service."

Rejected, and the section adopted.

Mr. Van Zandt offered the following substitute for the 12th section:

"There shall be a seal of State, which shall be kept by the Governor, and used by him officially. The said seal shall be a star of five points, encircled by an olive and live oak branches, and the words "the State of Texas." Adopted.

Mr. Lewis moved to strike out the 14th section, providing for Lieutenant Governor, upon which the ayes and noes were called, and stood as follows:

**Ayes**—Messrs. Anderson, Armstrong of R., Bache, Brashear, Burroughs, Darnell, Davis, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jones, Latimer of L., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Parker, Rains, Scott, Standifer and Ochiltree—27.

**Noes**—Messrs. President, Armstrong of J., Bagby, Baylor, Brown, Caldwell, Cazneau, Clark, Cunningham, Cuney, Evans, Everts, Forbes,

Gage, Hemphill, Henderson, Jewett, Kinney Latimer of R. R., Love, Mayfield, Miller, Navarro, Power, Runnels, Smyth, Tarrant, Van Zandt, White, Wright and Young—31.

So the motion was lost.

Mr. Jewett moved to insert "or be unable to serve," after the word "refuse." Adopted.

In the 15th section, 5th line, Mr. Lewis moved to strike out "two-thirds," and insert "a majority."

Mr. Van Zandt said he believed it was out of order; the amendment had been made in committee of the whole, and had been rejected by the House.

Mr. Jones said he believed the motion was in order; yet he should oppose it, and hoped it would not be entertained; believing, as he did, that it would leave no check upon the two Houses. If a majority of all the members present, and it is presumed that nearly all will be present, should pass a bill, and it should be returned, as a matter of course the same majority would pass it over the veto. It would give the Governor no revisionary power whatever over the improper legislation of the two Houses.

Mr. Henderson said it appeared to him that the question of a veto power, in connection with a State government, was a very different question from what it would be in relation to the United States' government, or that of the Republic of Texas. If this were to be a separate government, he would be in favor of the two-thirds rule. One of the two great objects of the veto, is to give the Executive the power to control the Legislature, so far as regards intercourse with other governments. It is supposed that the Executive is better acquainted with the foreign relations of the government over which he presides, than the Legislature can be; and it is necessary to prevent any act by which the country may come into collision with foreign powers. But the same reason does not prevail in a State government. All that is requisite here, is that the Governor may suggest his views to the Legislature, and induce reflection; and by that means, prevent the passage of an unwholesome law.

The same motion having been put and lost, on a previous day, the President decided the motion not to be in order; from which decision Mr. Henderson appealed, and the chair was sustained.

Mr. Lipscomb moved to strike out the entire section.

Mr. Forbes moved the previous question.

The question, shall the main question be now taken? was put; upon which the ayes and noes were called, and are as follows:

**Ayes**—Messrs. President, Anderson, Armstrong of R., Bagby, Baylor, Bache, Brashear, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Forbes, Hemphill, Henderson, Hicks, Horton, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Love, Mayfield, Miller, Navarro, Rains, Runnels, Scott, Van Zandt, White, Wright and Young—35.

**Noes**—Messrs. Armstrong of J., Brown, Darnell, Davis, Evans, Everts, Gage, Hogg, Howard, Hunter, Lewis, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Parker, Smyth, Standifer, Tarrant and Ochiltree—21.

Carried.

The main question being the adoption of the section, the ayes and noes were called, and stood as follows:

**Ayes**—Messrs. President, Anderson, Armstrong of R., Bache, Bagby, Brashear, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Cuney, Forbes, Gage, Hemphill, Henderson, Horton, Howard Holland, Jewett, Jones, Latimer of L., Latimer of R. R., Love, Lumpkin, Mayfield, McNeill, Miller, Navarro, Parker, Rains, Runnels, Scott, Smyth, Van Zandt, White, Wright and Young—38.

**Noes**—Messrs. Armstrong of J., Baylor, Brown, Darnell, Davis, Evans, Everts, Hicks, Hogg, Irion, Lewis, Lusk, Lipscomb, McGowan, Standifer, Tarrant and Ochiltree—17.

So the section was adopted.

In 16th section, Mr. Lewis moved to insert, after the words "two houses," the words "of the Legislature." Adopted.

Mr. Love offered the following as an additional section, to come in between the 16th and 17th sections:

"Nominations to fill all vacancies that may have occurred during the recess, shall be made to the Senate, during the first ten days of its session; and should any nominations so made be rejected, the same individual shall not again be nominated during the session, to fill the same office; and should the Governor fail to make nominations to fill any vacancy, during the session of the Senate, such vacancy shall not be filled by the Governor, until the next meeting of the Senate." Adopted.

Mr. Howard offered a substitute for the 19th section, providing for the appointment of a State Treasurer, and Comptroller of Public Accounts, to be appointed by the Governor, and confirmed by two-thirds of the Senate; which was decided to be out of order.

The ayes and noes being called, on the adoption of the section as it stood, were as follows:

**Ayes**—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Caznear, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Everts, Gage, Hemphill, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R., Lewis, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Navarro, Parker, Rains, Runnels, Scott, Smyth, Standifer, Ochilree, Van Zandt, White, Wright and Young—50.

**Noes**—Messrs. Forbes, Howard, Lumpkin, Power and Tarrant—5.  
Carried.

Mr. Jones moved the rejection of the 2d section, relating to the militia; upon which the ayes and noes were called, and stood as follows:

**Ayes**—Messrs. President, Anderson, Armstrong of J., Brown, Caldwell, Cazneau, Davis, Gage, Hemphill, Henderson, Hogg, Jones, Latimer of L., Lumpkin, Lusk, Mayfield, McGowan, Miller, Parker, Rains, Runnels, Tarrant, Ochilree, White and Young—25.

**Noes**—Messrs. Armstrong of R., Baylor, Bagby, Bache, Brashear, Burroughs, Clark, Cunningham, Cuney, Darnell, Evans, Everts, Forbes, Hicks, Horton, Howard, Holland, Hunter, Irion, Jewett, Kinney, Latimer of R., Lewis, Love, Lipscomb, McNeill, Navarro, Power, Scott, Smyth, Standifer, Van Zandt and Wright—33.

Lost.

Mr. Hunter moved to strike out the word "shall," and insert the words "may be required to".

Mr. *Hemphill* said he did not suppose there is any person here who has such conscientious scruples. But if we have any such, we ought not to compel them to pay any money at all.

Mr. *Jones* said he was not disposed to disagree with the gentleman from Washington: but in this matter of conscience, we might give too broad a field. Gentlemen may find it inconvenient or dangerous to do the duty required of them, and a great many may have conscientious scruples upon the subject. He thought those who have conscientious scruples equally bound with their fellow citizens to keep up good order, and participate in the defence of the country. For that reason, as an equivalent is provided for, he hoped it would remain so.

The motion of Mr. Hunter was lost.

Mr. President *Rusk* said: I dislike to trouble the House upon this question, as there seems to be a heavy majority in favor of inserting the

provision. But it is, as it stands, an exemption from important services to be rendered to the country. And it is not definite: it simply provides, that those who have conscientious scruples about bearing arms shall not be compelled to do so. It is an important exemption, particularly in a country threatened with war. There is no method designated here, by which to arrive at these conscientious scruples. A Mexican might say he had conscientious scruples against bearing arms where the country in which he was born is a party engaged in the war. They might have these scruples as well as the members of the sect around which the Convention is disposed to throw their guarantee. I have no disposition by any vote or remarks of mine to cast any imputations upon the respectable sect of Quakers, who do conscientiously scruple to bear arms. But they have feelings and principles directly adverse to the interests of the country. This is giving a broad exemption to all who may have conscientious scruples upon any subject whatever; without defining any means for ascertaining the persons who are exempt. How is this matter to be determined? Where is the tribunal to determine whether a man has really conscientious scruples, or whether they are intended to answer some particular end? It is known that this class of people also entertain conscientious scruples about a certain species of property we have here. The first section seems to me amply sufficient; leaving it to the Legislature to prescribe such rules and regulations as shall be found necessary upon the subject. And I believe a provision of this kind might become in time dangerous to the welfare of the State.

Mr. *Van Zandt* said: I hope, Mr. President, that the section will be adopted: though I regret to differ with the gentleman from Nacogdoches, who has had so much experience in military affairs. There is a sect of Christians, who believe it to be wrong, to be against religion, morals, and the laws of God, to bear arms and fight the battles of their country. If any individual has such a feeling or belief, I believe it would be better to excuse him, to take his money, and hire a man who would fight. The great difficulty in this country is not the want of men, but the want of means to employ them. And such persons can find a substitute; he can employ some one who will go with heart and soul into the ranks, and do battle manfully in the cause of his country. Gentlemen may say that some Mexicans here might refuse to fight the others; that many of these people are not loyal. Sir, we have proud instances to the contrary. There are many who have stood up as manfully in the cause of the country's freedom and independence as any men born upon any soil. But if any should urge their conscientious scruples, I wish not to take them into the ranks. I believe that individuals fighting under these impressions, would not make good soldiers; and that as remarked a few days ago by the gentleman from San Augustine, they would produce more disaffection and injury, than ten times the number of enemies. I wish to see in the armies of Texas, none but those

who go willingly; I wish to see no clogs and chains placed upon the freemen of this country to force them to battle. I believe the ties of country and the feeling of patriotism sufficient at all times to collect the requisite force to maintain the honor and independence of our country at home and abroad.

Mr. *Mayfield* said: I believe that this is a subject upon which men should have no conscientious scruples. According to my political faith, the first duty imposed upon a man, after the protection of his family, is that which he owes to his country. I believe that the country which protects him in the civil walks of life, in the exercise and enjoyment of civil and religious liberty, has a claim upon him above that of the petty admonitions of conscience against bearing arms, when that country is invaded, its institutions threatened, and its freedom itself cast upon the die. For my own part I cannot see, so far as Texas is concerned, to whom this principle is to apply, and for what particular reason it has become necessary to incorporate it in the Constitution of the land. When we consider our peculiar position, we shall see that war, not only in the present, but future times, may, in some degree, become the vocation and policy of this people. Upon what principle, then, of public policy shall we insert a provision of this kind? It is contended by the gentleman from Harrison, that such men are worth nothing in the ranks. Sir, let them, like the soldier in the war of the American revolution, who entertained these conscientious scruples, be put at the butchering of beef. The army may require services of that kind; and if they cannot draw a trigger upon human kind, they may make very good butchers for the camp.

Mr. President *Rusk* said: In alluding to the Mexicans, it seems to be assumed by the gentleman from Harrison, that I have cast some imputation upon the Mexican character, and takes occasion to pass an eulogium upon it. Now, sir, I have not cast any such reflection. I have stood by, and seen a great many Mexicans nobly sustaining the principles of freedom, stand firm in the battles of the country. I have given them as much credit as any; I have never once even thought of casting any imputation upon them. The gentleman thinks we have nothing but chivalry in Texas. Sir, I have had some experience in these matters; I have seen much chivalry displayed, but at the same time I have seen the absolute necessity of something like law. The gentleman's argument would destroy the government entirely. I think if we cast a glance at the history of the past, we shall say that some laws are necessary, even in Texas. We are establishing a law here, without providing the means of information, without designating a tribunal. If we thus exempt a man from military duty, without providing a court for the investigation of such cases, he is the court himself. Suppose the gentleman was leading a brave and chivalrous army, and one should

step out of the ranks (for a man gets converted sometimes,) and say, "I have conscientious scruples against bearing arms," what could he do with him? He has a broad shield thrown over him, and he is made the judge himself. There is a class of Christians in the United States, upon whom I intend to throw no imputations whatever, who entertain conscientious scruples against bearing arms, and also against slavery. If you throw this broad shield and protection over them, if you excuse them from the performance of their duties required of other citizens, you will to some extent invite that sort of population here. Now, suppose that a population of that description should come here, and a large portion settle down in a particular place. Suppose an insurrection of the slaves to take place, and the salvation of the State, and the lives of the wives and children of the country to be in imminent danger; these people are doubly protected by your Constitution, with this provision.—They have conscientious scruples against slavery itself, as well as against bearing arms. We have lived under a Constitution for eight or ten years, without this provision. I look upon it as totally unnecessary, and very likely to produce mischief.

Mr. *Scott* proposed to amend the section so as to read "*provided he shall pay an equivalent for personal services*". His exemption then will depend on paying the equivalent. A man who has scruples, had better not be compelled to go into the army; he does no good there at all; and the equivalent would be of some service.

Mr. *Anderson* said he hoped that would not be adopted, because it would be saying that the man who was not able to pay had no conscience.

Mr. *Van Zandt* said: I am satisfied with the section as it stands, or if the amendment of the gentleman from Montgomery is adopted, I will still vote for it. I am satisfied of the wisdom, talent and ability of the gentleman from Nacogdoches. I am satisfied, at the same time, that although he possesses these high qualifications, and almost every one in a high degree, yet he, like all others, may sometimes err. And although on most occasions, especially in a matter of doubt, I rely with confidence on his judgment, yet occupying as I do, an independent position here, and differing with him in opinion, I conceive that I am casting no imputation upon his good sense, to say that his is an incorrect one.

The gentleman says these scruples will arise about the time the fight comes on. Now, sir, as I am informed, the decision of the courts upon similar points is this: that these conscientious scruples must be connected with the tenets of some religious denomination.

I believe that striking out this clause is indirectly saying, that we not only deny the rights of conscience, but we have not confidence in the patriotism of our people for the defence of the country.

The gentleman from Nacogdoches brings in the great scarecrow of abolition, in my conception entirely foreign to the subject. Had I racked my brain for arguments, I believe I never should have hit upon this.

Mr. Anderson moved to insert, before the words "conscientious scruples", "from cowardice of".

Mr. Hemphill said: I believe that neither our past history, our present position, nor our history for the next ten years to come, will justify the insertion of such a provision in our Constitution. Look at our past history. What was the object of the colonization of this country?—What kind of people did the Mexicans invite here? Was it their object to invite Quakers or persons with conscientious scruples to settle here? No, sir; it was their intention to invite agriculturalists, every one of whom should be a warrior, to tame the wilderness, and to destroy, not only the wild beasts, but the wild men of Texas. They did not expect any man to come here who should pay an equivalent for personal services; they had seen enough of that in their own country. If we pass on to the time of the revolution and the consultation, there is nothing in the events of that day to show that a protection of this kind ought to have been extended. Everything in the acts of the Convention and the Congress, at that time, shows that such a maxim was entirely repudiated. Every man entertaining such opinions, and acting upon them at the time, according to the principle then adopted, should lose all his rights of citizenship and all his lands. Now a change has come over the spirit of the dream. Gentlemen think that men should not be compelled to engage personally in battling against the enemy, but should be allowed to pay money for their services. Yet we have been at war for years; we are still at war, and we know not what may be before us. We have the best reasons for expecting an invasion in a short time. Everything that comes from the United States and Mexico, shows a prospect of active hostilities. I cannot see the propriety or necessity of such a provision at this time. There is no telling to what extent these scruples of conscience may go. There may be a great number of persons who will take as broad a view of these matters of conscience as some took of the word "constitutional" in the late war with Great Britain; a large body of militia refusing to cross the river under General Van Renselaer, in October, 1813, after the first division which crossed had been overwhelmed, being suddenly affected by constitutional scruples. They had taken up the argument of the judges of Connecticut, and no positive decision having been made by the Judges and Governors of the different States, they took that with which they consulted their own safety at that particular time. Suppose a Texian army placed in a position upon the Rio Grande: to what extent might not the words "conscientious" or "constitution" be made to go? I am therefore opposed to the insertion of

any such words in our Constitution, at least for ten years to come.— There is no propriety of having citizens in our country who have any conscientious scruples about bearing arms. It would be ridiculous and preposterous for people with such scruples to come to a country at war from its birth. I cannot suppose that such a thing could possibly take place.

Mr. *Love* said: I believe this subject has assumed a consequence here which does not belong to it. I think it improbable that, during our lives, we shall ever have a man in Texas, who entertains conscientious scruples upon this subject. According to my own observation, indeed, our people are too belligerent in their feelings and actions. But, sir, as unnecessary as a provision of this nature may be, there is such a thing as the rights of conscience; and in my opinion they ought to be respected. And if there should by possibility be but one class of men who entertains these scruples, it is not only unnecessary to make them fight but cruel and inhuman. There are such men, who would die sooner. The Quakers, since their first organization, have been noted for their philanthropy, their patriotism, and all the qualities which belong to the good citizen and subject. I care not from what cause they may be induced to emigrate to a country, I think that any constitutional provision which would compel these men to fight in the battles of the country, against the conviction of their consciences for a long life, would be unnecessary, unjust and cruel. I do not think, if they were to come here, that they would ever interfere with the question of slavery. They have never endeavored, so far as I have heard, to deprive any man of his property unjustly. Believing slavery to be immoral and wrong, it is still a principle with them to leave the remedy to the Legislature of the country.

If a man in going into battle should be suddenly afflicted by conscientious scruples, it is then too late to talk about them; and the gentleman himself, if in command of the army, would order such a man to be taken and advanced out of the camp; and, if forced to fight, he would not know whether he shot his enemy or his comrades.

I happened, early in life, to have seen two trials before the circuit court, involving this identical point. The men were drafted and forced into the service; they came before the court on a writ of habeas corpus, and the issue was made up by the judge. In one case, the proof was, that the man was a citizen in the community, who was never suspected of entertaining any conscientious scruples upon the subject, and all went to show that this excuse was a trick resorted to for the occasion, to avoid being sent to New Orleans, where it was supposed to be so very sickly, that a man could not go there without losing his life. The judges decided that the case depended upon the fact, whether the man had belonged through life to any sect or denomination holding such principles as should exempt him from serving. There are thousands

and thousands who would submit to death itself, before they would raise their hand against a fellow man.

I do not believe this is a matter of much consequence; but I shall vote for retaining the section, upon the ground, that an individual case may arise, for which I should wish to provide.

Mr. Young offered the following substitute for the 2d section :

“No licensed minister of the Gospel shall be required to perform military duty, work on roads, or serve on juries, in this State.”

Mr. Latimer of L. moved the previous question.

The question—shall the main question be now taken?—was put; upon which the ayes and noes were called, and stood as follows :

Ayes—Messrs. President, Anderson, Armstrong of R., Baylor, Bagby, Bache, Brashear, Burroughs, Clark, Cunningham, Davis, Evans, Forbes, Gage, Hemphill, Henderson, Hicks, Horton, Holland, Irion, Jewett, Jones, Kinney, Latimer of L., Lewis, Lumpkin, Lusk, Mayfield, Miller, Navarro, Parker, Rains, Scott, Smyth, Standefer, Tarrant, Ochiltree and Van Zandt—38.

Noes—Messrs. Armstrong of J., Brown, Caldwell, Cazneau, Darnell, Everts, Hogg, Howard, Hunter, Latimer of R. R., Love, Lipscomb, McNeil, Power, Runnels, White and Young—17. Carried.

The main question being the adoption of the section, the ayes and noes were called, and stood as follows :

Ayes—Messrs. Armstrong of R., Baylor, Bache, Bagby, Brashear, Burroughs, Clark, Cunningham, Evans, Everts, Forbes, Hicks, Horton, Howard, Holland, Hunter, Irion, Latimer of L., Latimer of R. R., Lewis, Love, Lipscomb, McNeill, Navarro, Power, Scott, Smyth, Standefer, and Van Zandt—29.

Noes—Messrs. President, Anderson, Armstrong of J., Brown, Caldwell, Cazneau, Darnell, Davis, Gage, Hemphill, Henderson, Hogg, Jewett, Jones, Kinney, Lumpkin, Lusk, Mayfield, Miller, Parker, Rains, Runnels, Tarrant, Ochiltree White and Young—26.

The substitute for the 2d section, offered by Mr. Young, having been cut off by the previous question, was re-offered by him, as an additional section.

Mr. Forbes said: As we have excluded them from what is deemed an important privilege, I think it no more than right that we should also exempt them from the ordinary duties of private life. It may be the case that a minister may be summoned to serve upon a jury, when he has made an important appointment to meet his congregation.

Mr. *Clark* remarked that he concurred with others in the opinion, that inasmuch as the Convention had shorn ministers of the gospel of the honors attached to civil life, it would be nothing more than right but they should be relieved from its burdens.

Mr. *Hicks* said: He should vote *no*, because it was giving ministers too much; he was willing to make a fair contract with them.

Mr. *Lewis* moved to amend it, by inserting after the word "Gospel," the words "so long as they continue to exercise the functions of their office," which motion was lost.

The ayes and noes being called on the adoption of the section, stood thus:

**Ayes**—Messrs. President, Anderson, Armstrong of J., Armstrong of R, Bagby, Baylor, Bache, Brown, Caldwell, Cazneau, Clark, Darnell, Davis, Forbes, Gage, Hemphill, Hogg, Horton, Holland, Hunter, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lusk, McNeill, Miller, Navarro, Parker, Power, Rains, Runnels, Smyth, Standifer, Tarrant, Ochiltree, White and Young—41.

**Noes**—Messrs. Burroughs, Cunningham, Evans, Everts, Howard, Henderson, Hicks, Irion, Lumpkin, Mayfield, and Scott—14.

So the section was adopted.

Mr. Burroughs moved an adjournment to 4 o'clock, P. M.; and on motion of Mr. Howard, the Convention adjourned until half-past 8 o'clock, to-morrow morning.

Friday, Aug. 1, 1845.  
Half-past 8 o'clock, A. M.

The Convention met pursuant to adjournment, and was opened with prayer by the Chaplain.

Mr. Holland moved to reconsider the vote of yesterday, adopting the 4th section of the report of the committee on the executive department, upon which the ayes and noes were called, and stood as follows:

**Ayes**—Messrs. President, Anderson, Armstrong of J., Bagby, Baylor, Caldwell, Cazneau, Clark, Darnell, Davis, Evans, Everts, Forbes, Gage, Horton, Holland, Hunter, Jones, Latimer of R. R., Love, Lipscomb, McGowan, McNeill, Miller, Navarro, Parker, Power, Runnels, Smyth, Standifer, Tarrant, Ochiltree, Van Zandt, White and Young—35.

**Noes**—Messrs. Armstrong of R., Bache, Burroughs, Cunningham,