

tion; that in all cases of private contract the rate of interest agreed upon in the contract should be recoverable. We must remember that we have a law of this State allowing parties to go into a court of justice, and swear to their own case. The money lender would go before the jury, and his word would be as good before the jury and the judge as that of the money borrower. Men meet in private and agree, without any writing, upon certain terms for the loan of money. The borrower may understand it one way, and the lender in another way; and when they go before the court, the shrewd, sharp, cunning money lender will convince the jury in nine cases out of ten that the contract was as he understood it, rather than as understood by the honest, and poor, and needy borrower. I am opposed to all such provisions as that. It is wrong for the law to protect parties who come together to make contracts in regard to such loans of money, which is the measure of the value, the standard of the value of all commodities in the market. It is right and proper that the usury law should interpose between the poor borrower and the grasping money lender. If he makes his contract under the law as it now exists, and should by inadvertence or from necessitous circumstances agree to pay ten, fifteen, or twenty per cent., and it should turn out that his expectations were not realized with regard to his ability to pay that money, honesty and justice to his other creditors requires that he should go into court, as against the man who had loaned him money at this exorbitant rate of interest, and plead usury, and get rid, not of the fair amount that the man is entitled to, with the legal rate of interest, but of the excess of interest beyond the rate established by law. He should do that, and no injustice would be done to any one. The money lender would get his due, and the *bona fide* creditor would get his share of the estate. I think the money lender is sufficiently helped by allowing this. If it turns out that the man's circumstances are favorable, and he can pay this large interest, that is a matter for him then to decide whether he considers it honorable to have borrowed the money at that rate and having the means to pay it, to decline to pay it simply because there is no penalty fixed by the law under such a contract as that. I am willing for parties to fulfill such contracts when they choose; but I am opposed to any such extension of the right to contract as to give the lender the right that this section proposes.

Mr. CUSHING. Mr. President—

Mr. AUDOUN. If my colleague will give way, I will move that the convention take a recess.

Mr. CUSHING gave way, and on motion of Mr. AUDOUN,

The convention took a recess until 8 o'clock, P. M.

The convention met at 8 o'clock, P. M., Mr. PUGH in the chair.

The roll was called, and the following members answered to their names:

Messrs. Abbott, Audoun, Billingsley, Clarke, Crawford, Cunningham, Cushing, Daniel, Dent, Earle, Ecker, Gale, Galloway, Hebb, Hollyday, Horsey, Jones, of Somerset, Keefer, King, Lee, Mayhugh, McComas, Miller, Murray, Nyman, Parker, Parran, Pugh, Purnell, Ridgely, Robinette, Russell, Sands, Schley, Schlosser, Smith, of Carroll, Smith, of Worcester, Stirling, Stockbridge, Swope, Thruston, Wooden—42.

There being no quorum present,

Mr. AUDOUN moved that the convention adjourn.

Mr. SWOPE demanded the yeas and nays, which were ordered.

The question being taken, the result was—yeas 19, nays 22—as follows:

Yeas—Messrs. Audoun, Crawford, Dent, Galloway, Harwood, Hollyday, Horsey, Jones, of Somerset, Keefer, King, Lee, Murray, Nyman, Parran, Ridgely, Russell, Sands, Schlosser, Smith, of Worcester—19.

Nays—Messrs. Abbott, Billingsley, Cunningham, Cushing, Daniel, Earle, Ecker, Gale, Hebb, Mayhugh, McComas, Miller, Parker, Pugh, Purnell, Robinette, Schley, Smith, of Carroll, Stirling, Stockbridge, Swope, Wooden—22.

So the convention refused to adjourn.

On motion of Mr. SANDS,

The convention adjourned.

SEVENTY-NINTH DAY.

TUESDAY, August 23, 1864.

The convention met at 10 o'clock, A. M., Mr. PUGH in the chair.

Prayer by Rev. Mr. Owen.

The roll was called, and the following members answered to their names:

Messrs. Abbott, Audoun, Berry, of Prince George's, Billingsley, Blackiston, Bond, Carter, Clarke, Crawford, Cunningham, Cushing, Daniel, Dellinger, Dennis, Dent, Duvall, Earle, Ecker, Edelen, Galloway, Harwood, Hatch, Hebb, Hodson, Hollyday, Hopkins, Hopper, Horsey, Johnson, Jones, of Cecil, Jones, of Somerset, Keefer, Kennard, King, Larsh, Lee, Mayhugh, McComas, Mitchell, Morgan, Mullikin, Murray, Negley, Nyman, Parker, Parran, Peter, Pugh, Purnell, Ridgely, Robinette, Russell, Sands, Schley, Schlosser, Smith, of Carroll, Smith, of Dorchester, Smith, of Worcester, Sneary, Stirling, Swope, Sykes, Thomas, Thruston, Turner, Valliant, Wickard, Wilmer, Wooden—69.

The proceedings of yesterday were read and approved.