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they had refused to regulate the suspension of the writ of habeas corpus, he hoped the necessity of preventing the suspension of all law would be seen.

The substitute was lost by a vote of 26 to 34.

COLONEL CRAWFORD moved to substitute the original clause as reported by the committee.

MR. WEAVER combatted the idea of "independence" as applied to the states as apart from the Federal Constitution. He said he had fought four years over that little question.

MR. DEMORSE said he hoped that the word "subject" would not go into the Constitution. He did not object to Mr. King's amendment, but the word "subject" did not belong to the Constitution of the State of Texas, whether subordinate to the United States or not.

MR. FERRIS held that it was an appropriate word in this instance as applied to the Constitution of the United States. Missouri had adopted it, and why not Texas? He said they were all subject to the Federal Constitution, which was the law of the land.

Colonel Crawford's substitute was lost and the article was then passed by a vote of 66 to 9.

FORTY-FIRST DAY

FRIDAY, OCTOBER 22, 1875⁸²

Revenue and Taxation

(Mr. Brown in the Chair.)

JUDGE REAGAN offered a substitute for the entire article. It declared taxation should be equal and uniform. All property should be taxed in proportion to its value, except that made exempt by a two-thirds vote of the Legislature. It taxed all occupations, trades and professions—occupations not to be construed as applying to agricultural and mechanical pursuits.

MR. NUGENT moved to table.

JUDGE REAGAN said things had come to this pass, that a substitute taken bodily from the Constitution of 1845 was not thought worthy

⁸²The proceedings for this day were taken from the *State Gazette* (Austin), October 23, 1875.

of being listened to. His substitute left the Legislature entirely free to act.

MR. NUGENT said members conceived the Constitution of 1845 so sanctified in wisdom that no succeeding age could make any possible improvement. He did not give the men of that time the wisdom of prophets. They were being carried away with the delirium tremens of progress, so far that the property of a powerful railroad corporation had been exempted for twenty-five years. He considered the proposition as utterly damnable, and they ought at once and forever to put their seal of condemnation upon it.

JUDGE REAGAN said he had not dreamed of railroads in connection with his substitute.

MR. NUGENT said the effect was the same.

JUDGE REAGAN said he meant merely to exclude school and church property in some instances, where the Legislature might make it right to do so.

MR. NUGENT said he was opposed to exempting anything except household furniture to the extent of \$250, and he was utterly opposed to giving the Legislature power to exempt anything and everything by a two-thirds vote.

MR. DEMORSE said that on the article of taxation began the contest between corporate interests and the masses of the people and the rights of those masses. The parties were aligned right there, and the question was whether the people were properly represented, and whether corporate interests should control the Convention as they had controlled Legislatures for the past three or four years. The committee had carefully considered every proposition on taxation, and had endeavored to reach every class that had thitherto avoided taxation. The article was made purposely lengthy in order to reach all cases and to define all the principles governing taxation and define them justly, wronging nobody, but representing all classes and all interests in the State. They proposed to make them all uniform and to suffer no variation. No man had greater respect for Rusk, Henderson, Hemphill and others who framed the Constitution of 1845 than he did. They were his friends and he had always sustained them. No man need appeal to him in support of any proposition which they had considered and matured, but it might be supposed when they made that Constitution that they knew as well as

members of the Convention that it did not contain all the wisdom in the world, and their article showed that they had not carefully defined that as it is now desirable to define, and for this reason, that there was then no necessity for objects which had arisen since that time, and to provide for evils growing out of changed conditions which experience had demonstrated the necessity for; the report of the committee was understood to have the concurrence of every member of it, except on one proposition, and that was the proposal that taxes assessed on lands should be paid in the county where situated, or whether non-resident should have the privilege of paying it in the county of his residence, or to the Comptroller. Mr. Fleming had put in a report embodying the principles of the majority report, but not so full and explicit, and abbreviated it by leaving out clauses deemed important by the committee. He contended that the very fullness and explicitness of the majority report was proper for consideration. If necessary, some parts might be excluded and its length abridged, but if there was a single clause or a single class mentioned not necessary to the interests of the people, and the preservation of the interest of the State, he was not aware of it.

MR. RUSSELL, of Harrison, said he was opposed to the substitute because it allowed the Legislature to tax classes of persons who ought not to be taxed, and gave to the Legislature powers which ought to be exercised by the Convention. He saw no reason for putting into the Constitution the words, "that taxation should be equal and uniform" and denying it in the next line. If they did not adopt the majority report he hoped they would accept that of Mr. Fleming.

MR. FLEMING opposed the substitute. He had no objection to the majority report and his substitute had only sought to condense the principles presented in that document. He spoke of a case in Brown County, where a gentleman who did not reside a great distance from Austin, had paid \$24 for land which his immediate successor paid \$428. There were enough taxes owing to pay off the whole State debt. He had heard it said that Mr. Reagan had made some of the ablest mistakes ever made in political life, but he hoped he would not succeed in foisting any of his mistakes on the Convention.

MR. WEAVER said he was opposed to the majority report because of its length. He would vote for the substitute as amended.

PRESIDENT PICKETT said that the substitute left it open to the Legislature to act as they thought exigencies might permit, and gave them unlimited power and authority. He objected to the two-thirds proposition in the substitute, and argued that they were not framing laws against probabilities but against possibilities. He spoke of the subsidy of twelve millions to two railroad companies, which had not been dreamed of by the framers of the Constitution of 1845.

MR. MCKINNEY, of Walker, said he would vote for the majority report, but liked Mr. Fleming's better, because it was briefer.

MR. STOCKDALE said he objected to Section 1 of the report, because it claimed that taxation should be equal and uniform, and yet gave an amplitude of power to the Legislature to do otherwise, which had never before been given by any Constitution. He thought the construction he put upon it would also be put upon it by the courts. He objected to the second clause because it abolished an occupation tax, which brought from four to five hundred thousand dollars to the State, and because it was proposed to make up that amount by taxing occupations that were odious, thus making the Legislature a judge of morality. The provision of the old clause in the Constitution of 1845 was that property should be taxed according to its value, but the third clause of the majority report proposed an ad valorem tax as the rule, and then departed from it by proposing to tax incomes. If it was intended as a limitation on the Legislature, it was a failure. For these and other reasons, which he enumerated, he would support the substitute of Judge Reagan.

MR. WAELDER spoke in favor of the substitute. He said his amendment provided for county boards of appraisers; taxes to be paid in the counties or to the Comptroller; that it also provided for the sale of property for unpaid taxes, and vested the title in the purchaser. It provided further that taxation should not exceed 50 cents on the \$100. Judge Reagan's substitute, with his (Mr. Waelder's) amendments was his choice, but if that failed he would vote for Mr. Fleming's report. —

JUDGE REAGAN said that theretofore there had been no separate article on revenue and taxation in the Texas Constitution. He was not willing to trust questions of morality and ethics to the Legislature. Revenue should be raised mainly from sources through which money passed. He explained his position with reference to other

questions connected with the report. He had offered his substitute as a means of escaping from the labyrinth into which the majority report would lead them, and as a basis upon which an article could be built.

MR. GRAVES moved to lay the substitute and amendments upon the table. The Convention refused by a vote of 34 to 39.

MR. DEMORSE replied to the arguments respecting the length of the majority report. It was not so diffusive as Mr. Weaver's simple resolution on woman suffrage, or the simple amendment of Mr. Stockdale on the Bill of Rights, which was as long as two whole sections of the article submitted by the majority. His friend from Anderson had said there were great mistakes in the report, but the gentleman himself had made such huge mistakes in statesmanship that he should be pardoned if he did not follow him in them. The gentleman from Comanche had condensed the report of the majority, but it was at the expense of the restrictive clauses. All of the objections which had been opposed had been inserted for the protection of the people. His friend Mr. Waelder had objected to the length of the report when he had been guilty of the same fault himself. Every other report from a standing committee had been respectfully considered, amended clause by clause, substituted or rejected, and why should this report not receive the same fair treatment? He knew that a general provision could be made much briefer, and he would have no difficulty in drafting one himself. The report had not been made with the expectation that it would meet with acceptance at the hands of every member of the Convention. It was known that it would meet with a spirited opposition, and it was known where the opposition would come from. The report would be found to do injustice to no one, but did justice to the whole people. For those reasons he asked that the report be respectfully considered and not thrust aside because it clashed with special interests.

MR. WADE spoke in favor of the minority report.

MR. NUGENT opposed the the substitute and supported the majority report, but was willing, if opinion could not be harmonized, to refer back or refer to a special committee.

MR. McLEAN said he thought the report had been treated very cavalierly. It should have been taken up clause by clause and either amended, substituted, or rejected; it should not have been

attacked in bulk. There were clauses to which he objected in the majority report, and which he would move to amend at the proper time. He had as much respect for the Constitution of 1845 as anyone, but Texas was in her infancy then, and what was required was a Constitution for her manhood. They might make a piece of literary mosaic, which would look beautiful, but which would be regarded by the people as a conglomerate, impracticable, and useless piece of literature, that would be set aside. Let them not be frightened by the length of the article. Let them look to its merits, which had scarcely been scanned by any gentleman who had spoken in opposition to it.

MR. WEAVER said he intended no reflection on Mr. DeMorse. He made an exception to its length, and if it had come as a law from the Fifteenth Legislature it would have been all right. He said he pleaded guilty to the length of his resolution on woman suffrage, but if there was anything upon which a man had a right to spread himself, it was that subject. He did so, too, because it was in advance of the times, and was with a view to the wants of the twentieth century.

MR. STOCKDALE said that when yesterday he had introduced his lengthy resolution to the Bill of Rights he had not considered himself personally offended at the criticism thereon. He denied that there was a disposition to treat this report unfairly or with a want of due respect. He was a member of the committee, and had not been consulted as to whether it met the views of his constituency, and he had a right to object to it if he thought it was necessary. He did so in no unfriendly spirit. Mr. DeMorse had said, however, that the opposition had come from where he expected it, from those who represented other interests than those of the people. He did not pretend to represent any other interests than those of his own constituency. They knew his public acts for the last twenty-five years. These acts had been open and above board. They had a full knowledge of all his relations to them, and he represented them alone. When gentlemen imagined that he was capable of other than the highest of motives of action, he was conscious that his integrity and motives were as high above theirs as it was possible to be.

MR. DEMORSE denied that he had made any personal imputation against any one. The last gentleman had said that he represented

his constituency alone. The majority report was aimed to represent the whole people of Texas. That was the difference between them.

Mr. Waelder's amendment was lost.

MR. DOHONEY proposed to amend the substitute as follows: "Ad valorem taxation shall never exceed one-half of 1 per cent, and no higher tax than the State tax shall ever be levied by any town or city; provided that in cities of over 10,000 inhabitants a higher rate may be levied in taxes in organized counties, to be paid in said counties, but in unorganized counties to be assessed and collected in such manner as the Legislature may prescribe."

JUDGE REAGAN accepted the amendment.

MR. FLEMING presented his minority report as a substitute to Judge Reagan's substitute and the majority report.

MR. RUSSELL, of Harrison, spoke in favor of the majority report, and explained his position as a member of the committee.

MR. FLEMING's substitute was adopted by a vote of 58 to 16.

FORTY-SECOND DAY

SATURDAY, OCTOBER 23, 1875⁸³

MR. COOK, of Gonzales, offered a resolution authorizing the Committee on Printing and Contingent Expenses to audit and approve the claim of the *State Gazette* for supplying 100 copies of the paper for the first eight days of the session. He spoke in favor of the resolution. He regarded it as a simple act of justice. No bill had been presented, and it was left with the Convention.

MR. RENTFRO opposed the resolution. He thought the papers should be paid for by individual members of the Convention.

MR. RUSSELL, of Harrison, spoke in favor of the resolution.

MR. MILLS favored the resolution.

GENERAL WHITFIELD saw no need of the resolution. It was customary for papers to be supplied to legislative bodies until some provision was made for the public printing.

MR. WEAVER said he thought it would be only an act of simple justice. He spoke of the fact that though the *Gazette* had been refused the public printing, it was the only leading paper in the State

⁸³The proceedings for this day were taken from the *State Gazette* (Austin), October 24, 1875.