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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, 1875<sup>83</sup>

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

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

which had defended the Convention and the interests of the people from the attacks made upon them. The papers had been sent to their constituents, and the people had therefore received the benefit from them.

MR. BROWN said it was well known that during the time specified the *Gazette* had furnished the only full and complete reports of the work of the Convention.

MR. BLASSINGAME moved to amend by including the *Galveston News*, *Houston Telegraph*, and other papers, but his amendment was lost.

The original resolution carried by a vote of 53 to 23.

#### *Revenue and Taxation*

MR. DOHONEY moved to amend Section 1 of Mr. Fleming's substitute by adding, "the Legislature shall have power to impose ad valorem, occupation, income, and poll taxes."

MR. RUSSELL, of Harrison, moved to table the amendment.

The Convention refused to table.

MR. RUSSELL, of Wood, said he regarded occupation taxes as wrong in principle, in some instances as a tax on brains, and sometimes as an unequal tax. He thought the ad valorem system was the only system which should be adopted, but he was willing to accept the occupation tax as a compromise, provided it should be reduced one-third every year for three years after the adoption of the Constitution.

MR. DOHONEY admitted that an occupation tax worked unequally, and said that if an income tax were to be adopted it would apply, he thought, to all citizens. He desired to leave the question for the Legislature to act upon as it thought best.

MR. JOHNSON, of Franklin, defended the occupation tax.

MR. CLINE denounced the occupation tax as wrong in principle, and a tax on brains. He opposed Mr. Dohoney's amendment. He said the Legislature had all power to tax. He thought the Legislature ought to be restricted from laying occupation taxes. It was unequal, and operated very severely on those struggling upward to positions in life.

MR. ALLISON said the occupation tax amounted to \$300,000 annually, and, if strictly collected, would amount to half a million.

It was thought that their policy of retrenchment would amply make up that deficiency, but that was altogether experimental. The tax had been so long in operation that it was generally acquiesced in, and it would be little felt. Unless they provided for revenue in some other way, he did not see that it would be safe to remit it.

MR. FLEMING said he opposed the amendment. He was opposed to all occupation taxes, and especially on agriculture and mechanics. If they would confine their occupation taxes to lawyers, doctors, and professional men, he would be willing to vote for it.

MR. SANSOM proposed a substitute for the whole matter. It left the Legislature free to tax, but fixed the exemption at \$250 and no more.

MR. FLEMING moved to strike out of Section 4, "and in their gross earnings, their net earnings, their franchises and their capital stock."

MR. DOHONEY substituted for his amendment the following: "The Legislature shall have power to impose an ad valorem and a poll tax, and also occupation and income taxes, except in agricultural and mechanical pursuits."

MR. NUGENT said that heretofore their tax laws had been loose; they had no effective system of taxation; property had been taxed, and utilized in support of the Government. Their object should be to reach that class of persons and to bring them forward from their hiding places, to bear their share of the expenses of the Government. He opposed the levying of the occupation tax, because it was discriminating against one class at the expense of another. If they could reach their non-paying property owners, less than 35 cents would carry on the State Government, and would leave a handsome sum for the State schools. He referred to the ad valorem taxation in the above estimate. But it was proposed to carry on the occupation taxes. This compelled professional men to pay more than one-half of the burthens of the Government. It took some eight or nine hundred thousand dollars to run the State Government, and an ad valorem tax would pay all that. Not only did they compel professional men to pay one-half of the taxation imposed, but imposed on them an ad valorem tax besides. Why tax the poor lawyer and doctor with an occupation tax, who had not a cent at the end of the year and could not do more than pay their board, and then exempt others. He was opposed to it from the beginning to the end.

He claimed that for years, at every political meeting on the stump, the cry had been "relief, relief" against that occupation tax. It was also repugnant to every honest farmer with whom he had ever discussed the question, and yet it was proposed to fly in the face of that sentiment. The lawyer, the doctor, and the merchant paid their ad valorem taxes. They all owned visible property, and were taxed on it, and in addition they were levied an occupation tax upon them. It acted prejudicially to certain classes of our citizens. It was a mistake to suppose that the merchants made up by a slight per cent on his goods to make up his occupation tax. He added twenty times the amount to it and it all came out of the pockets of the purchasers—the laboring classes. It was giving the Legislature power to create a monopoly in favor of a few individuals. It was said that some would escape under a system of ad valorem taxation. Some would escape the payment of taxes under any system of taxation. He was opposed to harassing the young lawyers and doctors, and other professional of men of Texas soil; and was in favor of every man being permitted to fight the battle of life without oppressive burdens being put in his way. The honest farmer, as well as the lawyer and doctor, wanted it repealed. He had desired to explain the views of his constituency on these subjects, and this was the reason for his troubling the Convention with his remarks.

MR. JOHNSON, of Franklin, said he was willing to leave the whole matter to the Legislature.

MR. COOK, of San Saba, moved to amend Mr. Sansom's substitute, by adding "provided that all property belonging to churches, institutions of learning and charitable institutions, be exempted from taxation."

MR. SANSOM accepted the amendment.

MR. MCKINNEY, of Walker, said he was unwilling to try the dangerous experiment of abolishing the occupation tax, and did not see why the legal or any other profession should be excused from bearing a proportionate share of the burdens of Government. He was opposed to class legislation, and to untried ways of raising revenue. He defended the occupation tax system.

MR. MARTIN, of Hunt, spoke next in opposition to the tax.<sup>84</sup>

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<sup>84</sup>His speech was printed in full in the *State Gazette* (Austin), November 2, 1875.

He said: "Mr. President, the question pending is the substitute offered by the member from Lamar, 'that the Legislature shall have power to impose ad valorem and poll taxes, also occupation and income taxes, except on agricultural and mechanical pursuits.'

"As one of the delegates who represent the Tenth Senatorial District, I came here to assist in making an *organic* law, and *not* to provide for the levying for the unjust and unequal tax which this substitute proposed to be raised by imposing a tax repugnant to every sentiment of justice and sound principle of public policy. It proposes a tax, which, according to its very terms, creates distinction in society; a principle at variance with our republican institutions, and a departure from the traditions and policy of the Democratic party. It is a tax that is wrong in principle, wrong in policy, and unjust in its practical operations.

"You start out here, in this article, by declaring that 'taxation shall be equal and uniform throughout the State.' Now, sir, I ask gentlemen to consider whether or not this proposed mode of taxation is equal and uniform. Sir, there is not a member of this Convention who will rise here and say that it is. Having chosen agricultural pursuits, to which my life has been mainly devoted, why should I not be taxed the same as any other class? Why make this distinction and discrimination? If a few classes ought to be taxed, to the exclusion of others, where is the 'equality and uniformity' you declare shall prevail in all the taxes which are to be levied?

"It is opposed to my sense of justice, and for that reason, if for no other, I oppose this tax, and I came here imbued with the sentiment that it was wrong and should be abrogated. Now, sir, the gentleman from Anderson, on yesterday, declared that if this tax were not perpetuated, there would be a necessity to raise additional taxes upon the people of the State. I have the highest respect and regard for the opinions of that gentleman, but he will allow me to say that he committed a great mistake, a grave and capital error, when he said that taxes would have to be levied upon the producing classes alone. I have some statistics in my hand which I will read, and which will fill this vacuum in the revenue, without additional tax upon the hard working classes of our citizens, and I stand here as the representative of a constituency composed of laboring men, who earn their living 'by the sweat of their brow.' Let us see if this deficiency can be supplied without levying an unjust and onerous tax.

"According to the Governor's message, and you will also find it in the records of the Comptroller's Office, there are now 35,000,000 acres of patented lands in the State, not rendered and on which the owners pay no taxes; and in addition to this there is a very great under valuation of the property of railroad companies and other

corporations; for instance, the Pullman Palace Car Company render only \$56,000 worth of property, while they own about \$200,000.

"The Houston & Texas Central Railway Company owns 501 miles of road which they render at \$11,500 per mile, while it is worth at least \$30,000 per mile, by which the State loses the taxes on the difference between \$11,500 per mile and \$30,000 per mile, amounting on 501 miles of road to the handsome sum of \$9,268,500. At this rate the State losses on the 1,650 miles of railroad within her limits the immense sum of \$30,525,000. Add to this the 35,000,000 acres of land unrendered, at \$1 per acre and we have \$35,000,000 more, making a grand total of \$65,680,000 worth of property on which the State receives no revenue. At the present rate of State tax the amount of revenue due to the State on this property is \$328,400 annually, which wants only a small sum of supplying the deficiency which would be caused by abolishing the occupation tax.

"In addition to the above there are large quantities of land which are rendered at a mere nominal valuation, but which will under the proposed system of rendering in the county where it is situated, be assured at something near its real value, and as the eighth section of this article provides for the collection of taxes on property in the county where situated, the State will gain a large revenue which has been heretofore lost. While I believe that the Legislature should be left to say what taxes should be levied, yet I believe it just for this Constitution to require the assessment and collection of taxes on property in the county where it lies.

"A distinguished, or rather, a noted ex-judge of this State, a short time ago declared that 'none but fools and poor men ever pay taxes in Texas,' and the records at the Comptroller's Office appear to prove the truth of the assertion. He is rich and pays but a small amount of taxes. It is this class, and these stupendous and overshadowing corporations, grown insolent over the millions they have wrung from the bone and muscle of the country, who, by this proposed amendment, would be exempted from taxation. What a withering, bitter, and biting sarcasm upon the poor, to come from the mouth of a judge who has grown rich from the emoluments of office bestowed upon him by a generous and confiding people.

"None but *fools* and *poor* men pay taxes!' 'Pity 'tis, 'tis true.' Truly, sir, this array of facts, supported by the official records, do, with ten-fold emphasis, establish the truth that none but the *poor* men pay the taxes in this State. Yes, sir, it is the toiling millions—the poor but *honest* men—who, through dust and sweat, the scorching heat of summer, the chill and surly blast of winter, that forge out the coin to pay the taxes for the support of the Government.

"But, sir, if this Convention reflects the will of the people who sent them here, as I know they will do, the day of their redemption is near—their deliverance is at hand—the dawn of a brighter day is

breaking, and fresh hope blowing and warming in the sun, give assurance of a renewed and renovated life. Now that the people have shaken off the paralysis superinduced by fifteen dreary years of disappointed hopes, blasted prospects, and ruined fortunes, they once more are about to resume the conduct and control of their own affairs, giving assurance of an honest and just Government.

"The mercantile statistics of this country show that 20 per cent of that class fail in business, which is conclusive that as a class they are not rich but poor.

"This tax operates unequally as between different persons of that class. Doctors, lawyers, and many others who pay this specific tax are as poor as any class of our citizens, besides every man of intelligence knows that the customer of the merchant who buys his goods, pays it in the increased per cent put upon them.

"The client of a lawyer and the sick who employ a physician in reality pay this tax, and instead of relieving the poor it is in fact and in truth but an additional burden put upon them indirectly and cannot but deceive.

"It is therefore wanting in the elements of truth and direct action that should always characterize the solemn and grave enactments of a legislative body.

"It is a violation of a cardinal doctrine, reiterated a thousand times by the Democratic party that the ad valorem principle of taxation is the only just and true one, and is solemnly enunciated in the first section of this article, and also that taxation shall be equal and uniform.

"Then, sir, with firm adherence to these principles, I shall carry out in good faith the pledges made to the people, whose interests were confided to my care and keeping."

MR. FERRIS defended the occupation tax system. He said it was one of the most important questions that would be discussed in the Convention, and if the Constitution was ratified, might be the policy of the State for the next fifty years. Members said the occupation tax was unjust, and were yet willing to leave it to the Legislature. If he believed it unjust, he would vote against it and not leave it to the Legislature. But he held it just and eminently proper that they should give the power to deal with it to the Legislature, in accordance with Mr. Dohoney's amendment. He supported that amendment, and held it to be a true and correct principle of political economy, that the Legislature should provide for occupation taxes. This very proposition was adopted in the Constitution of 1845 and wisely too. It was an error on the part of one of the speakers to say there was no occupation tax before the war. He read from the

laws of 1858. The ad valorem tax before the war was only 12½ cents on the \$100. An occupation tax was also levied at that time, of which there was no complaint, and which he held operated justly. He read from the laws of 1858 a long list of occupations taxed, establishing the truth of his assertion. There was no occupation tax on lawyers, doctors, or preachers. There was merely a reasonable tax placed on certain occupations. Persons having no occupations avoided paying the ad valorem tax. If they denied the power to levy occupation taxes they placed it on the producing classes, making them bear the burdens of Government. In time of war, too, it would be necessary for the Government to raise revenue to meet the exigencies of the occasion, and without an occupation tax, it would fall almost entirely upon the producing classes. During the late war both the United States and our own State, after assessing an ad valorem tax, restored the occupation and income taxes. Income taxes would not reach the case always. Added to the ad valorem tax it could not make taxation equal and uniform because it would be assessed on the farmers and producing classes, and discriminate against them. It was the farmers who, since the war, had borne the burden of taxation. He spoke of the case of a man with an annual income of \$20,000, who had avoided the payment of ad valorem taxes. There was in the country a certain class of citizens, and he had nothing to say against them, except that they always rented, and did not care to acquire property.

MR. McCORMICK inquired if the man who rented did not pay taxes.

MR. FERRIS answered, not unless it was in his contract. On the first of January, a man doing a \$20,000 business, would not have \$1,000 in his store, and you could not reach him by an ad valorem tax, so why should they not pay occupation taxes when the exigencies required it? The knowledge acquired by professions was their capital, and they ought not to be made a privileged class. They required license before exercising their duties, and charged more in proportion than ordinary labor, and ought not to be privileged any more than the farmer. He was opposed to taxing the producer and excusing the non-producer. With respect to lawyers or other professions, when it was thought they ought not to pay an occupation tax, they might be excused. Before the war they were not taxed,

and it might be safely left to the Legislature to grade taxation so as to make the burdens of the country equal and uniform. He did not want them to say that the Legislature should not have the power to levy an occupation tax thereafter. He would join hands, if in the Legislature, with anyone to reduce the occupation tax down to that of 1845, or to relieve the lawyer or doctor, but this was not the place to make the exception. They were purely matters for the Legislature.

MR. GERMAN moved to substitute for Sections 11 and 12, to provide for the election of an assessor and collector, who should hold his office for two years.

GENERAL WHITFIELD spoke in favor of leaving the collecting with the sheriffs. It took a *man* to be a sheriff. He had the protection of life under him. His life had been saved by one. If they withheld the work of collection from him, they could not get the office adequately filled.

MR. ROBERTSON, of Bell, said he was in favor of separating the office of assessor and collector, but not taking the latter office from the sheriff. It would not enable them to get good men. He was in favor of checks, because while a good sheriff was capable of doing much good, a bad one would work great wrong.

COLONEL CRAWFORD said he was opposed to leaving the collection of taxes to the sheriff, because they deputized duties, and some must be neglected.

MR. FLEMING said he hoped the amendment to provide a tax collector for each county would not be adopted, for if it was, it would have the effect of depopulating Comanche County, for without the addition to his salary gained from collection it would be impossible to get a competent sheriff there.

MR. BARNETT said he was opposed to the change.

MR. DILLARD said he lived in one of the small counties, and he favored the election of a combined assessor and collector in each county. Before the war the sheriff never collected the taxes, and they always had efficient sheriffs.

MR. GERMAN spoke in favor of the combination office of assessor and collector of taxes. From 1845 to 1869 the offices were combined. The sheriff was not made a collector until after the adoption of the Constitution of 1869. The fact was, it was electing one man

to fill two offices. The people in the late canvass had unanimously declared against it.

Mr. SANSOM said he was opposed to the dual office in the sheriff, but his county could not afford both assessor and collector. They did get good sheriffs in his county when they held that office solely.

Mr. McCORMICK said he thought no man should both assess and collect taxes.

Mr. German's substitute was lost.

#### FORTY-THIRD DAY

MONDAY, OCTOBER 25, 1875<sup>85</sup>

#### *Taxation and Revenue*

Mr. McLEAN moved an additional section to take the place of Section 8: "The county courts of the several counties and the municipal authorities of the towns and cities of the State, are prohibited from creating any debt against said counties, towns, and cities, provided that towns and cities situated on the coast may incur debt for the protection of life and property against storms, by a vote of those who pay taxes on property in said towns and cities." He explained his reasons therefor and was in favor of a cash system. The cry of inflation was not occasioned by a want of money or of production but from the burden of debt with which she was overwhelmed. The national debt was dwarfed by state, county, or city debts, and either was enough for the purposes of bankruptcy. He spoke of the robbery of the poor at Washington by speculators and rings in the purchase of city lots and improvements. The same could be said of their own municipalities. His amendment would prevent the creation of that kind of debt, because it would require the payment of cash with the contract, and require approval by the taxpayers before payment.

Mr. KILCORE said he agreed with Mr. McLean, but thought it was inappropriate to the article being considered.

JUDGE REAGAN said that he agreed in the main with the amendment, but thought it was too general in character, and would prevent

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<sup>85</sup>The proceedings of this day were taken from the *State Gazette* (Austin), October 26, 1875.