

# TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Debates in the Texas Constitutional Convention of 1875 Texas. Constitutional Convention (1875). Austin: Published by the University of Texas, c1930.*

Content downloaded from

Tarlton Constitutions 1824-1876 (<http://tarlton.law.utexas.edu/constitutions/>)

The text of these documents is in the public domain. That is, the original words and content are freely usable.

The images of the documents are copyrighted material; the copyright is held by the Tarlton Law Library. The copyrighted images may be used only with permission. Permission is granted to use the copyrighted materials in the classroom for educational purposes. Downloading, printing, publication, public display or otherwise using any of the copyrighted images, including on the web or in a forum other than a classroom, requires permission from Tarlton. Requests for permission to use these materials should be submitted online to [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

If you are uncertain whether you need permission to use these materials, please contact us at [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

other frontier counties. Such counties comprised large bodies of lands belonging to non-residents, and it was important to them to get directly and immediately the taxes due on those lands. But to do this no great harm should be done the owners, and no confiscation should be provided for.

## FIFTIETH DAY

### *Revenue and Taxation*

TUESDAY, NOVEMBER 2, 1875<sup>99</sup>

MR. ROBERT LACY, of Leon, said he had voted uniformly with the majority on the article under consideration, but concessions had been made by the minority, and it was their duty to see that the rights of minorities were respected in their organic law. He had been struck with the number of persons who would be inconvenienced if Mr. Darnell's motion did not prevail. Twenty counties east of the Trinity would average 200 persons to the county who would be subjected to annoyance. It was true the proposition had been voted down again and again, but he did not expect to stand to his opinion in the face of the facts presented. The old adage was that fools never changed their minds, but that wise men did. If he was convinced he was wrong it was his duty to change his opinion. The amendment of Mr. Darnell was in a spirit of compromise which those voting with the majority ought to accept. It only left to the people, through their Legislature, the power of deciding whether they should pay their taxes in the county or at the office of the Comptroller. He ridiculed the idea that a Legislature elected by the people could be influenced by lobbying, especially to the extent of two-thirds of that body. Besides, the very importance of the question would induce still greater care in selecting their representatives.

MR. RUSSEL, of Wood, withdrew his objections to the amendment. He said it was now left in the hands of the people, who might correct by amendment if the plan was found to work injuriously.

---

<sup>99</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 3, 1875.

He said also that many of the gentlemen now supporting the amendment had cooperated with him and his friends in many important measures, and hence he withdrew his objections in a spirit of compromise, and would support the adoption of the measure as amended.

MR. DEMORSE moved the following to come in after Section 9: "The Comptroller of the State shall prepare a list of all lands assessed or unassessed for each separate county, and assess upon the portion unrendered all present and back taxes thereon, and transmit to the collector of taxes the list prepared for his county, on which lands the collector shall proceed as prescribed by law." He said that every member of the Convention was hoping for the collection of a very large amount of taxes on property theretofore unrendered. The Comptroller was the only officer who could acquire all the information necessary for this thorough collection of the revenue of the State and the back taxes.

MR. SCOTT said the amendment would give to the Comptroller the duties which had been assigned to the county tax collectors.

MR. DEMORSE said that it had been the duty of these collectors for years to collect the back taxes on unrendered property, and they had not complied with their duties.

MR. FLEMING said that Section 12 would accomplish the same object that the DeMorse amendment proposed.

MR. DEMORSE replied that a vast body of land had never been rendered for taxation, and that the old mode of assessment by collectors had never reached it. The Comptroller, with the assistance of maps and other sources of information, would be able to reach it.

MR. RUSSELL, of Harrison, said he thought it would impose an additional and unnecessary burden on the Comptroller.

JUDGE REAGAN said that under the law of 1859 land could not be sold for taxes, except once in five years. He would support the new section of Mr. DeMorse, and thought it was an important clause.

MR. DEMORSE said he intended merely to reach such lands as had hitherto evaded taxation. Even if the same object were accomplished by the county assessor, no harm would be done, because his section had as its object to obtain all lands that had theretofore escaped taxation. He did not desire to force it on the Convention, but had offered it merely from a sense of duty.

MR. ROBERTSON, of Bell, said he regarded the DeMorse section as the most judicious which had yet come before the Convention. It was impossible for many assessors to assess many lands without information from the Comptroller's office. In former years the Comptroller furnished an abstract annually to the collector for the assessment of lands in the various counties. It was no new proposition and was now offered only to furnish collectors with whatever new information the Comptroller might have.

MR. WAELDER contended that the section clearly gave to the Comptroller power to assess both back and present taxes.

MR. DEMORSE said the gentleman's argument answered itself. It was only to assess taxes on lands which had been unrendered.

MR. ROBERTSON, of Bell, said that it had been customary for the Comptroller to be furnished by the Commissioner of the General Land Office annually an abstract of all lands patented. The custom had not been complied with for some years. The substitute would call attention of these officers to their duties. He saw no better plan to get all the lands taxed than by carrying out the law since 1850, requiring this annual abstract to be furnished.

JUDGE REAGAN moved to strike from the substitute the words "present and."

PRESIDENT PICKETT said that not only would the substitute apply to back taxes now, but ever afterward, and would thus defeat the assessment in the counties. All that parties would have to do was to render no lands for taxation in the counties, in order to bring it within the control of the Comptroller. This construction of the meaning of the amendment had probably escaped the notice of the mover. It was purely legislative in character too, and ought to find no place in the organic law of the State.

MR. DEMORSE said the President's argument would have a great deal of force if they presumed that the county collectors would all fail to do their duty; but if they assumed that the collectors would do their duty, the argument had no force. With regard to the legislative argument, he admitted that the Legislature could provide for the matter, but it had never done so yet. They had on so many occasions introduced legislative matter into the Constitution that that phase of the argument had little force. If the assessor did

not do his duty the land owner would escape taxation, but his substitute provided a remedy for that contingency.

Upon the motion of Mr. Fleming, the DeMorse amendment was laid on the table.

## FIFTY-FIRST DAY

WEDNESDAY, NOVEMBER 3, 1875<sup>100</sup>*The Judiciary Article*

MR. NORVELL presented his report as a substitute for the majority report on the judiciary. He contended that the latter failed to meet the wants of the country. Even the members of the committee signing it had not agreed to all its parts, but only to certain clauses of their report. It would fail to reduce the increasing business of the Supreme Court, which was accumulating at the rate of 159 cases a year. He objected to dividing the State into five Supreme Court districts; to a decision of nine men out of a jury of twelve being sufficient to find a verdict; to the fact that appeals given from the county courts to the district courts only on the record whose decision would be final, thus depriving the party of a trial by jury, and said the offenses appealed would consist of the largest proportion of crime in the State. He said there would be no uniformity of decisions, because the ruling of the judge would depend upon the conditions in his particular district, and his decision might be controverted by a neighboring judge.

MR. MURPHY said he favored the substitute. He regretted that the report had not been printed and presented in that form, because it gave the reasons for its presentment. He dissented from it in only one respect, which was in the amount of salaries, which he considered entirely inadequate to secure efficient judges. There was blame somewhere for neglect to print this report and lay it on the desk of the members.

MR. BROWN said the report would be there in one hour.

MR. MURPHY said it would be there one hour too late. He explained the advantages of the three judges of the Supreme Court, to the advantage of the Court of Appeals as in New York and other

---

<sup>100</sup>The proceedings for this day were taken from the *State Gazette* (Austin); November 4, 1875.