looking over the Journal I have come to the conclusion that this section conflicts with the section reported by some other committee, and the action already taken by the Committee of the Whole. I have had no time or opportunity to examine it carefully and see what the difference is, and I move that this committee do now rise.

Mr. STEVENS. It seems to me that this is one of the most important subjects that we have to consider. I have never seen the report till to-night. We have had no chance or opportunity to examine it, and for that reason, and that we may better understand this File, I move that its consideration be postponed till tomorrow.

The motion to postpone was carried by a vote of 24 to 11.

The committee then rose.

Mr. SELBY. I move to adjourn.

The motion prevailed, and the Convention adjourned.

THIRTY-FOURTH DAY.

BISMARCK, *Tuesday, August 6, 1889.*

The Convention met pursuant to adjournment, the PRESIDENT in the Chair.

Prayer was offered by the Rev. Mr. KLINE.

Mr. MOER. I move that the reading of the Journal be dispensed with.

Mr. HARRIS. The Journal only takes a few minutes to read. I think it is of the utmost importance that it should be correct, and mistakes are liable to occur in it. It has been laid over now for several days and I think we should proceed to have it read up and corrected.

Mr. MOER. I withdraw my motion.

Mr. JOHNSON. Inasmuch as we have dispensed with the regular order of business for two days, I would ask that the Journal of August the 3d be also read.

(The Journal of the 3d was then read by the Clerk.)

Mr. JOHNSON. My recollection of what occurred last Saturday night is a little different from the history as written by the Clerk. He states that sections one to ten were adopted, and eleven was passed, and then he says something about thirteen. My recollection is that we had a very decided scrimmage here on twelve. Why is there no mention made of section twelve? These words mean something—the words that authorize the Legislature to fix rates for the railroads. There have been traditions that have come down to us, handed down by our forefathers and ancestors that sometimes bills that have passed both houses of the Legislature have failed to get on the statute books. If it is not asking too much of the Chief Clerk I would like to trouble him to make mention in the record of the fact that we adopted section twelve.

Mr. PURCELL. Last night when we commenced to consider the majority report on corporations the Chief Clerk stated in the hearing of every member of this Convention, that instead of the Journal saying that section thirteen was adopted it should have read section twelve, and we continued to consider section thirteen yesterday. The Chief Clerk made that statement that it had been adopted by the Committee of the Whole.

Mr. JOHNSON. Then the fact that he read "thirteen" to-day shows that the manuscript has not been corrected, and that is why I called attention to it.

Chief Clerk HAMILTON. It is a mistake of the printer, which has been marked for correction.

Mr. JOHNSON. Mr. PRESIDENT: I desire to ask if people who have not been elected members of this body have any right to the floor to make explanations here?

Mr. PRESIDENT. The Chief Clerk has a right to give information when he is called on for it.

CITY AND COUNTY DEBT.

Mr. BENNETT. I move that the Committee on Revision and Adjustment be and are hereby instructed to insert between the word "city" and the word "and" in the last two lines of section three of File No. 125 as amended the following words—"or for the purpose of constructing sewers." File No. 125 is the report of the Committee on Municipal Corporations. That File was amended in the Committee of the Whole by Mr. Miller's motion, which was made section three of the File. The amendment limits the indebt-

edness of cities, except in the case where they construct waterworks. There are several cities in North Dakota that are intending to construct sewers. Grand Forks and Grafton are among those cities, and we are desirous of having these words inserted as recommended by this resolution.

Mr. PRESIDENT ruled that the motion was out of order, and that the amendment must be made when the article comes back from the Committee on Revision and Adjustment.

Mr. STEVENS. I make a motion that it is the sense of this Convention that the provision contained in this resolution shall be incorporated by the Revision Committee and I do it for this reason. I don't think there is a single gentleman on this floor who voted in favor of the provision for the establishment of waterworks who will not also vote for this provision, as without sewers waterworks are practically of little value, and this provision is necessary to carry out the other provision.

The motion was seconded and carried.

Mr. STEVENS. I move that we now resolve ourselves into a Committee of the Whole for the purpose of considering the business on the Secretary's table.

The motion was seconded and carried.

Section two of File No. 140 was then read, as follows:

SEC. 2. The debt of any county, city, town, school district, or any other subdivision, shall never exceed five (5) per centum upon the assessed value of the taxable property therein, except as otherwise specified in this Constitution; *Provided*, That any city may, by a two-thirds vote, increase such indebtedness three (3) per cent. beyond said five (5) per cent. limit. In estimating the indebtedness which a city, county, or any subdivision thereof may incur, the amount of indebtedness contracted prior to the adoption of this Constitution shall be included.

Mr. FLEMINGTON. Inasmuch as the report on municipal corporations limits indebtedness of cities and towns I would move that the words "city" and "county" be stricken out of this section.

Mr. WALLACE. I think that this matter of conflict should be left to the Committee on Revision and Adjustment. It will be hard for us to take up these matters and decide on the merits of the case. The Committee on Revision will report any conflict. It is their duty and their work.

Mr. FLEMINGTON. I think the remarks of the gentleman from Steele are all right, but there is a difference in the substance. In this case there is a difference in the substance and in the limit

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prescribed, and I think it should be settled by this committee at this time. If the sections were alike—if the limit prescribed in this section was the same as that in the other, it might be left to the committee, but as they are not alike, I think the question should be settled here.

Mr. ELLIOTT. I don't think the motion of the gentleman from Dickey covers the ground. Section three of File No. 125, which is File No. 67, provides that no municipal corporation shall ever exceed 4 per cent with its indebtedness, except cities for the purpose of constructing waterworks or sewerage. His motion to strike out the words "city" and "town" would not cover the case. I would move as a substitute that where the figure "5" occurs it be stricken out and the figure "4" inserted.

The motion was seconded.

Mr. ROLFE. I hope the amendment will not prevail, for the reason that while the 4 per cent. limit might be feasible in a case of the larger counties, it is hardly the limit that would be advisable in the case of the smaller counties, upon which the expense of running a county government is proportionately larger than it is in the larger counties. A 4 per cent. in the smaller counties would not allow them to carry on the government as established to the best interests of the county at large. I think the better plan would be when we are acting as a Convention to reconsider the action taken on section three of File No. 125, and increase that to five. Therefore I hope this amendment will not prevail.

Mr. SCOTT. I cannot see where there is any necessity for our having this section two in at all. We have already adopted a provision in the File on municipal corporations, in which we fixed the limit of indebtedness of any municipal corporation, which will include cities, counties, towns and so on, and that has been fixed at 4 per cent. If we desire to reconsider that, it is a proper thing to do, but we have already an article passed, which covers this whole section. This section two and this original File No. 67 vary materially, and for that reason, if it is in order I would move that section two of this File be stricken out.

The motion was seconded.

Mr. CAMP. I differ with the gentleman in the meaning of the term "municipal corporation." Ordinarily it does not include county, town or school district. If we are to fix any limit to the indebtedness of the counties, school districts, or towns, it must be

done explicitly, and cannot be done by the use of the term "mucipal corporation," unless we append to it a new definition.

Mr. FLEMINGTON. I agree with the gentleman from Stutsman as to the definition of the term "municipal corporation." I don't think that the provision in File No. 125, section three, governs towns, counties or school districts, and I don't think it would be so considered, so that it would leave us without any limit in the case of a county, town or school district. I think if the words "city" and "town" are stricken out from this bill it will leave us with a 5 per cent. limit, and 4 per cent. will govern municipal corporations which it was intended to cover. I still think that the motion I originally made to strike out the words "city" and "town" will be the best.

Mr. SCOTT. I would like to inquire what kind of a corporation a county is if it is not a municipal corporation?

Mr. CAMP. It is a *quasi* municipal corporation. It would come under the head of municipal or *quasi* municipal.

The motion of Mr. SCOTT to strike out section two was lost.

The motion of Mr. ELLIOTT to strike out "five" and insert "four" was lost.

Mr. SCOTT. I don't see the object of the gentleman from Dickey in wanting to have "city" and "town" struck out, any more than county and school district. I don't see how that will amend this. We then have section three of File No. 125, providing that under certain circumstances the indebtedness may be increased again.

Mr. FLEMINGTON. I was a member of the Committee on Municipal Corporations, and the understanding of the committee was that they were simply to adopt measures in that article relating strictly to municipal corporations of cities and towns. I understand the section we now have to have reference to counties, towns and school districts, and what the gentleman from Stutsman terms *quasi* municipal corporations are not provided for in the section reported by the Committee on Municipal Corporations.

Mr. O'BRIEN. There seems to be considerable conflict over this matter, and I think it would be better to pass this section and let it go to the Revision Committee. They can carefully study over this and so arrange the sections as to prevent any conflict. I think the motion of the gentleman from Dickey should not prevail.

The amendment of Mr. FLEMINGTON was then voted upon and carried.

Mr. WALLACE. If you want to amend this by changing "four" to "five" you will accomplish about all you want to accomplish. I hope there will be no mutilation of this article. It strikes me this matter of public debt applies to everything—city, county and every other sub-division.

Mr. SCOTT. I think it would be well to refer section two and section three of File No. 125 to some committee and have them frame a new article under the head of this report, or under the head of municipal corporations, so that there will be no conflict or misunderstanding. If we adopt this provision even with these words stricken out, it will lead to misunderstanding of the matter and difference of interpretation, and I think we had better have some section properly framed so that all the work won't have to go into the hands of the Committee on Revision and Adjustment. Here is a five per cent. clause in one section and a four per cent. clause in the other, and I think there should be a clause framed so that when a man gets the Constitution into his hands he will know what it means. I move that section two of File No. 140, and section three of File No. 125 be re-referred to the Committee on Municipal Corporations.

Mr. WALLACE. I move that the word "four" in section three of File No. 125 be changed to "five."

The motion was ruled out of order.

Mr. WALLACE. I move as a substitute that the Committee on Revision be directed to change the word "four" in line three of File No. 125 to "five," which would make it correspond with the second section of File No. 140.

The Chair ruled that this motion was out of order.

Mr. NOBLE. I move an amendment to the amendment, that it be referred to the Committee on Public Debts and Public Works. This section has been before that committee, but the section referred to as being incorporated in the article on municipal corporations has never been referred to any committee. It was simply taken up and adopted in this Convention. It is natural to be supposed that the committee has given the matter some little consideration, and I make this motion for the purpose of having it referred to a committee that has already investigated the subject.

Mr. O'BRIEN. The difficulty in the way of this action is this:

File No. 125 was before the committee with the amendment offered by the gentleman from Cass, and is now in the hands of the Revision Committee, so that we have practically lost control of it. The object of his motion is to have section two of File No. 140 referred to the committee. It seems to me the better plan would be to let this section go into the hands of the same committee that has charge of File No. 125 with the amendment. They can report back their action here, and if we deem it best to change the limit from five to four we can do it after the report comes back. That committee can make any suggestions they deem best.

Mr. BENNETT. I am in favor of the 5 per cent. limit. I think it is the proper thing, and if this committee adopts the 5 per cent. limit we can pass a resolution instructing the Committee on Revision and Adjustment to change the 4 per cent. to 5 per cent. in the report on Municipal Corporations, and I think in that way we will avoid any confusion.

The motion of Mr. SCOTT was lost.

Mr. PARSONS of Morton. I would like to ask if the motion of the gentleman from Barnes included Files Nos. 125 and 140 both?

The CHAIRMAN. I understand that it only includes this section.

Mr. FLEMINGTON. On examining this section it seems to me it would be well to include in that motion only a motion to strike out, beginning after the word "Constitution" in the fourth line and ending with the word "limit" in the sixth line. This is a limit simply to cities. If we strike out the words "city" and "town," the article only refers to counties, towns and school districts. This will eliminate from the section all that refers to municipal corporations, and will then include only *quasi* municipal corporations.

Mr. BARTLETT of Dickey. I have been pleased to hear the talent here, but it seems to me that if we would let this go to the Committee on Revision and Adjustment, a great deal of trouble would be saved to us. We have been discussing this matter three-quarters of an hour, and it seems to me it would be better to pass on to other business, and let the committee decide this.

The motion of Mr. FLEMINGTON was lost.

Sections two and three were adopted.

LOANING PUBLIC CREDIT.

Section four was read as follows:

SEC. 4. Neither the State nor any county, township or municipality shall loan or give its credit or make donation to or in aid of any individual, associa-

tion or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the State engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

Mr. WALLACE. I move as an amendment that you strike out all after the word "improvement" in the sixth line. If this amendment is carried it will prevent the State from going into any work of internal improvement. If you are going to build a canal, or if you are going into irrigation works, there is no telling where you will stop. There are a number of things of this sort, which a good many people would like to go into with the State's money and credit. We find in a good many constitutions that the state is prohibited from going into any of these works. The section as it was reported by the committee provides that the State may go into work of this kind by a two-thirds vote of the people. The States of Iowa, Minnesota, Ohio, Michigan, Oregon, Pennsylvania and Wisconsin, and probably a good many more, are prohibited by their Constitutions from going into internal improvements. It is a question whether we want to leave it open as it is now.

The amendment of Mr. WALLACE was lost.

Mr. BARTLETT of Griggs. I move to strike out all after the the word "corporations" in line five of section four.

Mr. BARTLETT of Dickey. This is a matter that was laid before the committee and they gave it serious consideration. After doing this they reported it as we have it here, and I think it would be a good deal better for us to take it as we find it, and send it to the Revision Committee.

Mr. MOER. It strikes me that the tendency is getting to be rather to let the Revision Committee make the Constitution, and while I think that we want to be reasonable, it seems to me that it would be wise not to let them have too much power, for we may find if we keep on that the Constitution when it comes back from that committee will be a very different instrument from what we sent them. I believe the amendment should not prevail. I think the legislative power should be limited. They should not be allowed to go into great works without the sanction of the people. I think a two-thirds vote is reasonable, and if the people decide by such a vote as that that they want it, the State should grant it.

The amendment of Mr. BARTLETT was lost.

Sections four and five were then adopted.

BONDS TO BE ATTESTED.

Section six was then read as follows:

SEC. 6. No bond or evidence of indebtedness of the State shall be valid unless the same shall have endorsed thereon a certificate signed by the Auditor and Secretary of State showing that the bond or evidence of debt is issued pursuant to law, and falls within the debt limit. No bond or evidence of debt of any county, or bond of any township or other sub-division of a county shall be valid unless the same have endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond or evidence of debt is issued pursuant to law, and is within the debt limit.

Mr. ROLFE. I suppose the committee has well considered the effect of having contained in that section the words, "issued pursuant to law." I have not considered this section at any great length, but it is asking considerable of the officer specified within this section, and therefore I move, in order to bring the matter up for discussion, that the words "issued pursuant to law" be stricken out where they appear in this section.

Mr. WALLACE. I don't think it is necessary to discuss this. It seems so apparent that a certificate or evidence of indebtedness should include the statement that it was issued pursuant to law.

Mr. BEAN. The object of this article is apparent, and it is my opinion that if we carry this amendment we might as well strike out the whole section. How do the people in the east know that these bonds are issued according to law? They are not supposed to have a code or an attorney to refer to, and if the evidence appears on the face of the certificate that it is issued pursuant to law, the people will have some faith in it. It is not a very serious matter for the Secretary of State or the Auditor to sign such a statement. He has an attorney to refer to, and it is simply an opinion that that certificate is issued pursuant to law, and falls within such limits.

Mr. PARSONS of Morton. It seems strange that a gentleman would raise a question of opinion in this way. The objection the gentleman from Benson has to the section is that there is a lack of authority on the part of the tribunal named in the section. If every auditor in the State, down from the State Auditor would have a legal opinion on the question—a decision of the court, let us say—it would be right and proper, but it seems to me that it is going too far to require an officer whom we elect as a mere clerk to call

on him to form a legal opinion—sit in judgment on these things and say whether or not these bonds or evidences of indebtedness are in accordance with the law. They may be so as he understands it, but if that provision stands there "pursuant to law," we should also make a provision for submitting all these questions to the court first—before the respective auditors are required to pass upon them. It is strange to ask a clerk to pass on a matter of this kind. I agree with the committee on their efforts to place safeguards around the public property, but if the words "pursuant to law" were stricken out I think the Auditor would still endorse sufficiently upon it, for it is not the custom of eastern capitalists to buy bonds in this or any other state or county unless they are first passed upon, and they know they are all right. The fact that an auditor endorsed on them that they were issued according to law would not have any weight, and it might get these officers into serious trouble, when they were acting in good faith. If the bonds through some technicality turned out to be no good, an innocent party might suffer very, very seriously.

Mr. CARLAND. I believe that this is a good section, and will answer a good many good purposes if it is allowed to stand as it is. If this remains here, every purchaser of bonds will be bound to know the law, which will be that any bond is not valid if it does not contain the certificate. There have been cases in which officers have issued bonds without authority, and they have got into the hands of innocent purchasers, and the court enforced them against municipalities and states. Now they cannot come up and claim that they are innocent purchasers, for the State or municipality can say: "You were bound under the law to see that the auditor had put his certificate on the bond before you got it." This clause would prevent officers from issuing bonds without this certificate. Every purchaser would know the law and would require the certificate. This section does not mean that all the technical requirements have been complied with, but that the bond has been issued in pursuance of some law and in accordance with its conditions.

The amendment of Mr. ROLFE was lost.

The section was then adopted.

CHANGING COUNTY LINES.

File No. 139 was then taken up. Section three was read as follows:

SEC. 3. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties to be affected thereby, at a general election, and be adopted by a majority of the legal votes cast in each county at such election, and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for such proportion of the indebtedness of the county so reduced, as the part severed bears to the whole county from which it was severed.

Mr. BARTLETT of Griggs. There is the objection here that they propose to slice off the indebtedness in the same proportion that they do the territory. I move to strike out the word "such" in line seven, and insert in lieu thereof the words "an equitable," and strike out all after the word "reduced."

The amendment was carried, and the section adopted as amended.

LOCATING COUNTY SEATS.

Section four was then read as follows:

SEC. 4. In counties already organized, where the county seat has not been located by a vote of the people, upon a petition signed by a majority of the legal voters of the county, it shall be the duty of the county board to submit the location of the county seat to the electors of said county at the next general election thereafter, and the place receiving a majority of all votes cast at said election shall be the county seat of said county. If, at said election, no place receive a majority of all the votes cast, it shall be the duty of the county board to resubmit the location of the county seat to the electors of said county at the next general election thereafter, and the electors at said election shall vote for one of the two places receiving the highest number of votes at the preceding election. The place receiving the majority of all the votes cast for county seat at said second election shall be the county seat of said county.

Mr. HOLMES. I move that this section be stricken out. I think that we have all we need in section five bearing on this question. There is no sense in having too many sections that cover the same question. I think we can get along very well without it.

The motion was seconded and carried.

Mr. LOWELL. I move that in section two in line five the word "twenty" be substituted for "twenty-four."

The motion was seconded.

Mr. POLLOCK. It would be better to substitute "eighteen" for "twenty."

Mr. WALLACE. I move to insert in place of "twenty-four" the word "ten."

The amendment of Mr. LOWELL was lost.

The amendment of Mr. WALLLCE was lost.
Section five was then adopted.

LIMITING TERMS OF OFFICE.

Section six was then read as follows:

SEC. 6. At the general election in the year A. D. 1890, and every two years thereafter there shall be elected in each organized county a clerk of the court, sheriff, register of deeds, treasurer, state's attorney, surveyor, coroner and superintendent of schools, whose terms of office respectively shall be two years, and, except the clerk of the court, no person shall be eligible for more than four years in succession to any of the above-named offices.

Mr. RICHARDSON. I move that all after the word "years" in the sixth line be stricken out.

Mr. LAUDER. There may be some reason why, perhaps, some of the officers enumerated in that section, shall be restricted in the time they shall be allowed to hold their offices with advantage to the public; but there are officers enumerated in that section which it seems to me should be allowed to hold their offices as long as the people chose to elect them. For instance, take the office of the Superintendent of Public Instruction. Anyone who is at all familiar with matters of education knows well that the superintendent of public schools who has served one or two terms in that capacity—who has become acquainted with the teachers and the schools, is better able to perform in a satisfactory way the duties of that office than a person who is annually elected. That may also be said of a great many other officers, for example, the register of deeds. I have in mind the register of deeds in our county. We have a gentleman who has held that office for the last ten years, and I undertake to say that there is not another man in all our county who could go into that office at the present time, and discharge the duties with the same accuracy and the same satisfaction to the people of our county that the present incumbent can. He is elected right along, with no opposition whatever, and were an election to be held now I presume he would receive five-sixths of the votes in the county without any effort whatever on his part. It seems to me that this Convention should not put a provision in this Constitution that will prevent our people from retaining that man as their public servant to perform for them the duties of the office of register of deeds. If there is any reason why a provision should be incorporated in this Constitution of this character, it should only apply to officers who are obliged from the nature of their office to become the custodians

of public funds. In cases of that kind it might be well, and then if there has been anything crooked in their books or accounts it would come out. As a means of safety such a provision as that might be well, but in the cases of officers whose duties are largely ministerial, it seems to me the public should be left, and have the right and privilege of electing the men who are, in their judgment the best qualified to fill these offices. I speak of another office with some hesitancy, because I hold that office, and I hope no member will think that I am seeking to gain any advantage for myself. I have held the office of district attorney, and know what the facts are. Any attorney knows that a man who has been in the office of district or states attorney, and has had the run and the charge of the criminal cases pertaining to that office, and has accumulated in his office not only the criminal but the civil cases in which the county is interested, that when he surrenders that office and turns it over to his successor, it will take that successor some time to take hold of the cases and carry them on satisfactorily. If the incumbent of this office is competent, and has become familiar with all the details of the cases—many of them perhaps important—it seems to me that the public should have the right to continue him in office if they think proper, and it seems to me that it would not be policy to adopt this section, or to have this principle applied to any officers except, perhaps, those who are custodians of public funds.

Mr. FLEMINGTON. I agree with the gentleman from Richland in the main, and think that this provision should not apply to any officers except it might be to the sheriff and treasurer, and I offer the following amendment to the amendment of the gentleman from Pembina. After the word "years" add the following: "Sheriff and treasurer shall not be eligible to their respective offices for more than two years in succession." That limits the term of the sheriff and the treasurer, and leaves all the other officers to be elected as long as their services are satisfactory to the people.

Mr. BARTLETT of Griggs. I would second that, but I would prefer to make it two terms.

Mr. FLEMINGTON. I think the sheriff and the treasurer should be for one term each. The treasurer should account at the end of each term, and there is no way to have him do that but by making a provision of this sort.

Mr. BARTLETT of Griggs. It often requires half a term for the sheriff to become acquainted with his duties.

Mr. BARTLETT of Dickey. This all sounds very well, but look at the situation as it is. When it comes to the actual working of the thing you will see that there is a chance for a good deal of robbery outside of these two offices. In the county that I lived in before I came here the treasurer held his office for twelve years, and the man would have been almost mobbed that would have said one word against him. His record for honesty stood preeminently high. What were the facts as they afterwards developed? After he had gone out of office and another man had taken his place, it was found that he had robbed the county of nearly $60,000, and he served his time in the penitentiary for it, David Smith of Keokuk, Iowa. Whenever you permit men to hold positions right along year after year in this country or in any other country, corruption follows. I believe that men holding public office should be put out at certain times, and new men elected that will scrutinize the work of the parties that have been in office, and I believe that as a matter of principle we should not put a clause in our Constitution that would permit any public officials to keep in office without having their record thoroughly examined.

Mr. MOER. I am in sympathy with the motion offered by the gentleman from Dickey, provided he will make it two terms. It seems to me that one is shorter than there is any necessity for having it. The only reason I am in favor of limiting these offices is because both officers have large amounts of money in their hands, but the other county offices are merely clerical and I see no reason to limit them as to time. But I think it is advisable to do it with the treasurer and the sheriff.

Mr. BARTLETT of Dickey. There is a principle at stake here, and it is one that we should look well to. Is there a gentleman here who has not at some time or another taken a hand in fighting the court house ring? I don't believe there is a man thirty years old who has not fought a ring that has run the politics of the county in which he has lived. In passing this section we weed these fellows out.

Mr. LAUDER. I have heard a great deal about court house rings, but I have always found that the men who were howling the loudest were the men who were trying the hardest to get into the court houses themselves. They are the men from whom we hear the most about court house rings. As I stated before, there is reason and logic in applying the provisions of this section to the

men who have the custody and distribution of the public funds, but as to the register of deeds—if he is a good officer, why should not the people have a right to elect him again? What right has this Convention to come here and say that the people of Richland county shall not have the privilege of electing their man as register of deeds who has served them so faithfully during the past ten years? What right has this Convention to come here and say that any county shall not have the right to re-elect a public servant who has been found faithful to his trust? I say it is illogical, unreasonable; it is not right.

Mr. BARTLETT of Griggs. I am in hearty sympathy with the gentleman who has just taken his seat. I should like to see this amendment changed to two terms, but if it cannot be I will vote for it as it is. This section as it stands omits the probate judge. That will have to be put in there, and I undertake to say there is not a delegate here who does not want the privilege of helping to re-elect a probate judge as many years as the people want to do so. It takes more than one term for a man to become familiar with the duties of this office, and if you have a competent probate judge, the county should have the privilege of retaining him as long as it wants to. I would rather it should not be restricted at all, but if we are going to restrict it, let us confine the restriction to those officers who handle public funds.

Mr. SCOTT. There is another official omitted from this section—the county auditor. I think the section is suplusage anyway for the reason that section nine, if it was a little modified would be better than to name the county officers. Section nine provides as follows:

SEC. 9. The Legislature Assembly shall provide by general laws for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

The only thing that section six covers is their election in 1890. That would naturally be provided for in the Schedule, and if we adopt this section six we have got to have a probate judge and a county auditor. I am in favor of striking the whole section out. I move that the section be stricken out.

The motion of Mr. SCOTT was carried by a vote of 33 to 25.

THE SUPERVISOR SYSTEM.

Section seven was then read as follows:

"The Legislative Assembly shall provide by general law for organizing counties into civil townships."

Mr. CAMP. I move to add at the end of section seven the following:

"But in every county now organized the present system of a county government by a board of three or five commissioners shall continue in force until a majority of the voters of such county, voting at an election held for the purpose of submitting the question of the change of the system of county government to the people, shall have voted in favor of such change."

Mr. STEVENS. There is no provision made for calling such an election. I desire to offer an amendment.

Mr. LAUDER. I would like to ask a question. I would like to know if this section implies any procedure by which the question may be submitted to a vote? Or is it the intention that the Legislature shall provide for it without a vote?

Mr. CAMP. Certainly.

Mr. ROLFE. I would like to ask if the idea he has in mind is not the same as is contemplated in section eight.

Mr. CAMP. No sir. My idea in introducing this amendment is this—a large number of counties of this Territory and some of the large counties, are not at this time organized into civil townships, and they don't want to be. They prefer the present system. The system of county government indicated in section eight is the system by the board of county supervisors. That is all right where the county wants it, but I don't think we should force on these large and sparsely settled counties a system of county government which they may not wish to adopt. It is all right for the Legislature to provide a system of government by county supervisors, and allow any county that prefers that system to adopt it, and that is what my amendment intends. All that this amendment seeks to preclude is the forcing on a county a system of government which it does not prefer. Many of the counties of the State will prefer to remain for a long time, I judge, under the present system of government by the board of county commissioners. They find it cheaper and better.

Mr. STEVENS. I move to amend the amendment of the gentleman from Stutsman by adding to his amendment the following words:

"*Provided*, The question shall be submitted at any time one third of the legal voters of any county shall petition the board of county commissioners so to do."

Mr. CAMP. I accept that amendment.

Mr. ROLFE. I cannot see wherein the amendment offered re-

lieves any county from having forced upon it the supervisor system any more than section eight does. Section eight provides as follows:

SEC. 8. In each organized civil township there shall be elected at the first general election after the admission of this State into the Union for such terms as the Legislative Assembly may by law prescribe, three township supervisors, one of whom shall be designated as chairman, and if the Legislative Assembly shall, by general law, provide that the county board of any county shall consist of less than fifteen members, then upon a petition signed by not less than fifty legal voters of any county, asking that the question of the establishment of a county board to be composed of the chairmen of the several boards of township supervisors be submitted to the electors of the county, it shall be the duty of the county board to submit the same at the next general election thereafter, and if at such election a majority of such electors shall vote in favor of such proposition, then the county board of such county shall consist of such chairmen of the several boards of township supervisors and of such others as may by law be provided for any incorporated city or village within such county.

Suppose the word fifteen be stricken out and three or five substituted. Then each county may vote on the question.

Mr. LAUDER. I am very much in favor of a provision in this Constitution that will enable each county for itself to determine which system of county government it will have—commissioners or supervisors. It seems to me that it can be done in a much more simple manner than is set out in section eight.

Mr. CAMP. It does not seem to me that section eight covers the same ground at all. It says, "If the Legislature shall by general law," etc. Suppose they pass a general law providing that it shall consist of twenty-five members. This section eight does not prevent the Legislature from forcing on every county a system which it does not want. We have a system which is satisfactory now to most of the counties in the State. There is no need to change it until the people want a change.

Mr. ROLFE. It seems to me that the course of the gentleman from Stutsman would be better if he offered an amendment to section eight, than to ask that this amendment be appended to this section. That is all the point I would make. I am in favor of amending section eight in the direction suggested by the gentleman from Stutsman. If that were properly amended then it seems to me in other respects section eight would be unobjectionable.

Mr. LAUDER. I must confess there is a portion of section eight the purpose of which I am unable to understand. This

is the part that I do not understand: "And if the Legislative Assembly shall, by general law, provide that the county board of any county shall consist of less than fifteen members, then upon a petition signed by not less than fifty legal voters of any county" and so on. What is the necessity of having that proviso in? Why not let each county on such a petition, by vote, determine for themselves without any such proviso? I would inquire of the members of the committee the object of that proviso—what it means, what it is for? It may be that I am very stupid, but I can't understand it.

Mr. FLEMINGTON. It looks to me that as section seven is now amended it provides for the continuance of the present commissioner system in any county that desires to continue it, and in section eight it provides that under certain conditions a county may organize into townships, and the county board shall consist of the various chairmen of the boards of supervisors. It seems to me that this whole matter of county organization should be left to the Legislature, and I would like to offer a substitute for sections seven and eight. It reads as follows:

"The General Assembly shall provide by general law for township organization under which any county may organize whenever a majority of the legal voters of such county voting at any general election shall so determine, and townships when so organized shall be bounded as nearly as may be by congressional township lines and natural boundaries."

Under section seven as it is reported by the committee, the Legislature will provide for township organization, and as I understand that section, every county within the State of North Dakota must organize under the township system. I do not read it in any other way. If the commissioner system which the gentleman from Stutsman wishes perpetuated in Stutsman county continues, there is no necessity for any township organization. As I understand it they have none there now. If the report of the committee should prevail, every county in the State would have to organize under this law of the Legislature which this section provides. If the substitute which I have offered for these sections prevails, the Legislature will then pass a law for the organization of townships, and the county may organize under that law if it sees fit.

Mr. STEVENS. While I offered the amendment I believe the substitute is best. I believe so for one reason particularly, and that is that I don't believe we should provide in this Constitution that the present system of boards of county commissioners or

anything else, should be a part of the Constitution. I think that reference to the present system should not be in the Constitution. This is what we call a new deal, and I think the substitute covers the ground.

Mr. SCOTT. This is an important matter. That is why we sent this report back to the committee for them to resubmit a new article. This report as it now comes to us does not appear to be very satisfactory. At least it is not to me, and I expected there would be a different article presented. I am in favor of some such article as the gentleman from Dickey has suggested. It is short; but as we have not got it before us, I don't know whether it is exactly what we want. For that reason I am not prepared to vote upon it. I supposed the committee would have a section fully expressing the opinion of the Convention as ascertained when we discussed the matter before. Then the sentiment of the Convention was that the whole matter should be left to the people in each county. The present commissioner system should be allowed to continue where the counties want it, and they should not be forced into the township organization unless they so desire it. That is practically the substitute, and yet we have not had time enough to consider the substitute in order to vote upon it intelligently, although I think I am in favor of it.

Mr. ROLFE. One word in support of the report of the committee. I believe section seven is almost identical with the section we have relating to civil townships now. If my recollection serves me right this is nearly a literal copy. If so it would not appear that the township organization system had been forced on all the counties up to date. The county from which I come has two civil townships in it. It was the design of section seven to simply limit the Legislative Assembly to passing a law whereby a congressional township could become organized into a civil township. I did not suppose that section seven compelled each county to become fully organized into civil townships. If it does it should be amended.

Mr. CLAPP. I think both the substitutes are open to this objection—they provide that the matter must be put to a vote of the whole county, and a majority cast for it before any township can be organized. In most of these counties there are incorporated cities. They have obtained incorporation privileges without having the matter submitted to a vote of the people of the county, and if a majority of the voters of any township think they want to

organize, they should have the privilege the same as they have heretofore had, and not be obliged to have the whole county vote upon the proposition.

Mr. CAMP. I move to amend the substitute by inserting the word "township" instead of the word "county," so as to require a majority vote of the township instead of the county.

Mr. SCOTT. That destroys the sense of the amendment of the gentleman from Dickey very materially. It is practically a substitute. I understand that we are trying to arrive at some system of county organization, and to decide whether it shall be a commissioner or a supervisor system. This provides now for township organization, and has no reference to whether these townships shall send their chairmen to form a board of supervisors.

Mr. STEVENS. I take it for granted that every man who is opposed to the organization of counties into townships will vote for the amendment. Every man who is in favor of submitting to the people of each county the question whether or not they shall organize under the township system or continue the system which will probably be established the same as the present commissioner system, should vote against this amendment. It is an entire substitute for the whole matter.

The amendment of Mr. CAMP to Mr. FLEMINGTON'S amendment was lost.

Mr. LAUDER. I am in favor of the amendment of the gentleman from Dickey as far as it goes, but I cannot say I see anything in it that provides for a change in the present system of county government from the commissioner system to the supervisor system.

Mr. FLEMINGTON. It is the intention of my amendment that this shall be left to the Legislature.

Mr. LAUDER. I desire that it shall be incorporated in the Constitution—the right of each county to determine for itself whether it will have the supervisor or the commissioner system. There are a large number of counties that for some reason or another do not desire to have this question fairly submitted—do not desire to have the people determine it. I would amend the amendment of the gentleman from Dickey by adding to it the following:

"And upon a petition signed by not less than fifty legal voters of any county, asking that the question of the establishment of a county board to be composed of the chairmen of the several boards of township supervisors be

submitted to the electors of the county it shall be the duty of the county board to submit the same at the next general election thereafter, and if at such election a majority of such electors shall vote in favor of such proposition, then the county board of such county shall consist of such chairmen of the several boards of township supervisors and of such others as may by law be provided for any incorporated city or village within such county."

Mr. STEVENS. I would like to second that with one exception. I would like to strike out the word "general" before "election" so if it came in an "off" year we could have an election.

The amendment of Mr. STEVENS was accepted by Mr. LAUDER.

Mr. HOLMES. I would like to ask the gentleman from Richland if he would accept another amendment. An election should not be forced upon the people by the petition of fifty persons. I should like to see it made twenty-five from each township in the county.

Mr. LAUDER. In some townships there might not be twenty-five people.

Mr. HOLMES. Then make it a third or a quarter of the voters.

Mr. LAUDER. I think if one-fourth of the voters petition that should be enough. I have no objection to a petition requiring that one-fourth of the legal voters as shown by the preceding election shall be the pre-requisite.

Mr. NOBLE. This matter has got entirely too thick. There is too much of it to remember. I believe there is something the matter with this section, and I move that the whole matter be postponed till to-morrow.

Mr. LAUDER. I would suggest that that is no amendment to the substitute. The gentleman from Dickey has accepted what I have offered, so the only question is the substitute offered by the gentleman from Dickey.

Mr. NOBLE. But the substitutes are as long as two sections.

Mr. HARRIS. I trust this matter will not be postponed. I think we are all trying to arrive at the same thing—to put this matter in such shape that counties can have the kind of government they want by voting on it. In my county we are very well satisfied with the commissioner system, and wish to retain it. I think we can act on this matter now, and act on it intelligently.

Mr. STEVENS. We have fought this question from the commencement of the Convention to about three or four days ago, when the matter was compromised, and it was agreed as a compromise to all factions that the question should be left so that the

Legislature should provide for a vote, and allow each county to adopt which system it choose. The substitute here does the very thing we have proposed, and the men who have promised that to us, and who have agreed that they were willing to end this fight by a compromise, are now adopting other tactics, and seek to postpone this matter for the purpose of preventing the passage of this report. This report was agreed on—it was agreed that it should be passed—that it was satisfactory to both factions, and now to delay action means simply to have another fight. If we are going to fight this thing out, let us do it now. Let every man who is in favor of continuing the present system and not allowing the people to vote on this question, let him vote for postponement or against the substitute. I think every man who votes for postponement is in favor of preventing the Legislature from passing such a law.

Mr. SCOTT. I don't know what we are going to vote upon. If there are other gentlemen who, in the present stage of the proceedings, know, they are smarter than I am. I like to know what I am voting upon before I vote. I think it is practically agreed that we will adopt a system just as the gentleman from Ransom has said—and yet I don't believe the section before us is worded properly and I think it should be put in better shape. I think there should be a committee of four or five get together and frame a section so that we can act intelligently. There has been so much amendment and substitution that I think none of us can vote intelligently on this question.

The motion of Mr. Scott to postpone was lost.

Mr. SCOTT. I move to amend by inserting the word "general" before the word "election." I don't think any county should be put to the expense of calling a special election for this purpose, and as is well known, it is not a very hard thing to get a petition signed by one-fourth of the voters on any question. It would be a source of considerable expense to submit it specially, and there is no reason why it should be submitted at a special election. We have a general election next fall—a year from this fall—and every two years thereafter, so that at any reasonable time they can submit it at a general election and it will then be no extra expense. As it at present stands, if a petition is gotten up they must submit it forthwith.

Mr. LAUDER. I think in a question affecting all the people as this does, when one-fourth of the people—qualified voters—

ask that it be submitted to a vote, it should be so submitted. The matter of the expense of holding a special election should not be taken into consideration.

Mr. STEVENS. I do hope the word "general" will not be put in here. It simply means another defeat for the measure—that you must wait two years. If it is right to have these townships organized at all—if they should be entitled to be organized—they should have a right to determine this without waiting two years to do it.

The motion of Mr. SCOTT to substitute the word "general" was lost.

The substitute of Mr. FLEMINGTON as amended was then adopted.

COUNTY OFFICIALS' PAY.

Section nine was then read as follows:

SEC. 9. The Legislative Assembly shall provide by general law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

The following amendment was offered by Mr. ALMEN to the section, to be added thereto:

"No county officer shall be allowed more salary per annum, including clerk hire and other expenses, than $2,500 in counties containing 5,000 and not exceeding 15,000 inhabitants; $3,000 in counties containing 15,000 and not exceeding 30,000 inhabitants, and not more than $500 additional compensation for each 20,000 additional inhabitants; *Provided*, That the compensation of no officer shall be increased or diminished during his term of office."

Mr. ALMEN. I offered this amendment for the reason that in our county we pay in fees to the register of deeds, $4,880, and the man who is in that office is not capable of transacting any business himself, and he has a deputy and two clerks who are receiving $2,880. The business in that office could be transacted for the last named amount or for less. I have limited that in my amendment to $3,000. The extra amount that we have to pay in our county amounts to $2,000. I don't think we can afford to keep on doing that in the future, and I don't see any necessity for it. In the Illinois constitution we read that they shall not allow any of their county officers more per annum than $1,500 in counties not exceeding 20,000 population; $2,000 in counties of 20,000 population and not more than 30,000, and $2,500 in counties of 30,000 and not exceeding 50,000. I cannot see any reason why we should pay such enormous sums more than they do there. I have been

consulting with some of the delegates, and they say the business cannot be transacted in Dakota for the same salaries as in the east. But I think that if we allow double the amount, that should be sufficient. I hope the gentlemen of this Convention will take this into consideration.

Mr. WALLACE. I would favor that amendment.

Mr. BARTLETT of Griggs. I am in favor of a classification of counties, but I think the whole matter should be left to the Legislature.

The amendment of Mr. ALMEN was lost.

Mr. O'BRIEN. I move that the word "other" in line two of section nine be stricken out.

The motion was seconded and carried.

Mr. BARTLETT of Griggs. I move that the section be amended by adding the following:

> "Also recommend that section nine (9) be amended by striking out the word "other" in the second line thereof; also by adding at the end thereof the following: '*Provided*, That all county officers shall receive a fixed salary. For the purpose of providing for and regulating the compensation of county officers, the General Assembly shall, by law, classify the several counties of the State according to population, and shall grade and fix the compensation of the officers within the respective classes according to the population thereof. Such law shall establish scales of fees to be charged and collected by such of the county officers as may be designated therein, for services to be performed by them respectively. All fees, perquisites and emolument, shall be paid into the county treasury,' and that as amended the section be adopted."

My purpose is to classify the counties so that they may be reasonably apportioned to the amount of work to be done. It is easy to see that the salaries that would be adequate for my county would not be adequate for the county of Cass, and *vice versa*. If the work of classifying them is left to the Legislature, certainly they can do the work a great deal better than we can do it here. I believe the system of paying officers by fees is pernicious. There are counties in this State, I have no doubt, where the register of deeds make several thousands of dollars a year for work which they can readily hire done for half that sum. In the State of Colorado, where they have the fee system, the recorder or register of deeds in Arapahoe county makes as high as $50,000 a year, and they have tried year after year to have the fee system repealed, and salaries fixed for that and other officers, but the county officers of the large counties are enabled through their representatives to prevent it. I believe we should fix this thing

here, and provide that these officers should be paid by salary, and the fees should be paid into the county treasurer.

Mr. ELLIOTT. I call for a division of the question.

The first part of the amendment providing that all officers shall be paid by fixed salaries, was adopted.

The remainder of the amendment was then adopted.

Section ten was adopted.

LIMITING TERMS OF OFFICE.

Mr. FLEMINGTON. I desire to offer the following to become section eleven:

"The sheriff and treasurer of any county shall not be eligible to their respective offices for more than four years in succession."

Mr. ROWE. I should think it would be well to include in this the register of deeds. The gentleman from Griggs just stated that in a county in Colorado this office is worth $50,000 a year. If this officer is paid in fees there is a great deal of county money passes through his hands on the way to the county treasury. Under our present system, I believe, counties having a population of 5,000, limit the salary to $2,000. I think the register of deeds should be included in this amendment.

Mr. FLEMINGTON. Under the present system in this Territory the register of deeds accounts monthly with the treasurer, and quarterly with the county commissioners, and I presume he will be held to strict account under the system which may be adopted here. I don't think we should provide for the limitation of the term of office of any officer except where we deem it to be absolutely necessary—where we consider it is for the safety of the people that it should be made. I don't think the register of deeds should be included in this section.

Mr. ROWE. If the county treasurer can so arrange his books that he can deceive the auditing board, a register of deeds can operate in the same manner. If there are thousands of dollars of county money to pass through the hands of the register of deeds I am in favor of putting him on the same basis as all the other officers who handle the public money.

Mr. POLLOCK. If the argument of the gentleman from Dickey is good, we should also include the clerk of the court, the county superintendent of schools and county auditor into whose hands fees come. I am opposed to including in this list any more that the county treasurer and the sheriff. We have in our county

a register of deeds who has the right qualifications, and people in our county would feel it to be a grievance if they were not allowed to elect him to that office as long as he will accept it. It requires a peculiar fitness, and when we fix it so that we cannot re-elect an officer more than once or twice we are doing ourselves an injustice.

Mr. BARTLETT of Dickey. It was intimated when I spoke of the court house ring that it was a scheme to get in. For my part I am sixty years old, and I never offered myself for a county office in my life. I have had them pull on me, but I have strenuously refused. I have been fighting court house rings all my life. I have seen so much corruption among the cliques that I hope this motion will prevail so that we can get rid of them once in awhile.

The amendment of Mr. ROWE was lost.

Mr. CARLAND. Perhaps I don't exactly understand the meaning of the word "eligible." I understand that a man may be eligible and never hold an office at all. I would move an amendment to the amendment to the effect that the officers who have been mentioned shall not hold their offices for more than four years in succession.

The amendment was accepted by Mr. FLEMINGTON.

Mr. APPLETON. I move to amend by adding the superintendent of schools to the list. My reason for doing so is this—in talking with a great many gentlemen in this convention it was argued and shown that the superintendent of schools use their office for political purposes, and not only that, but they abuse the office by issuing certificates to daughters of men who have votes and who can influence votes, that are not competent to hold a certificate, and they use it in other ways to abuse the office. I believe there is scarcely an organized county in this Territory but has got several good men who could hold that position. I move that the superintendent of schools be added to the list.

The motion of Mr. APPLETON was lost.

The section of Mr. FLEMINGTON was adopted.

The committee then rose, and the Convention adjourned.

EVENING SESSION.

Mr. ROLFE. I move that we now resolve ourselves into a Committee of the Whole for the purpose of considering File No. 132.

Mr. SCOTT. I move that we now proceed to consider File No. 143.

Mr. BARTLETT of Griggs. It is the report of the Committee on Public Institutions and Buildings made this morning. The Chairman stated that there was to be a minority report from that committee. I presume the Convention is not desirous of shutting off the minority, and that the courtesy will be extended to them which has been extended in the case of other committees, and that we will not consider this report now.

Mr. MARRINAN. As one of the minority on that committee I desire to say that we have a report to make. The majority report was not given to us till to-day. Since that time we have not had an opportunity of meeting and framing our report, but we will have it prepared and ready to-morrow, and we desire to have time till to-morrow morning.

Mr. STEVENS. I move to strike out the words "one hundred and thirty-two" in the motion and insert in the place thereof "such business as may come before the committee."

Mr. BARTLETT of Griggs. I move to strike out the words "such other business as may come before the committee."

The amendment of Mr. BARTLETT was carried and the original motion was adopted.

File No. 132 was then considered.

Sections one and two were adopted.

TAXING CHURCH PROPERTY.

Section three was read as follows:

SEC. 3. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the State, county and municipal corporations, both real and personal, shall be exempt from taxation, and the Legislature shall by general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation.

Mr. STEVENS. I move to amend section three by inserting after the word "charitable" in line six the words, "To an amount not exceeding $50,000." My object in making this amendment is to prevent any religious corporation from holding over $50,000 worth of property without paying taxes upon it.

Mr. JOHNSON. There are many religious corporations that have branches. For instance the Catholic, or Methodist, or Pres-

byterian church. Does that amendment mean any one piece of property worth $50,000 or property belonging to one corporation?

Mr. STEVENS. I intend to mean that no religious body—not the whole corporation—but no one church. In the case of Trinity church in New York City this question has caused a great deal of trouble, and the members of this Convention—or at least some of them, have received circulars asking them not to exempt church property. Trinity church corporation in New York owns, probably, $10,000,000 worth of property, and the question as to how to tax that property has become quite a question in New York. I think in the exemption of religious and charitable corporations we should fix a reasonable amount as a maximum—such an amount as they would reasonably use in the exercise of the particular vocation followed by that corporation. If religious, such churches as may be necessary for their worship; such houses as might be necessary for parsonages. If charitable organizations, they might be exempt to a large amount, for in the poor of the Territory everybody is interested. I have aimed to get an amendment so that it would cover that point that has been fought over so much in some other states.

Mr. MOER. I beg to offer the following as a substitute for section three:

"The rule of taxation shall be uniform, and taxes shall be levied on such property as the Legislative Assembly may prescribe."

Mr. LAUDER. I hope that the substitute just offered by the gentleman from LaMoure will not prevail. It seems to me that section three contains the correct idea on this question. This section provides that laws shall be passed taxing by uniform rule all property according to its true value with the exceptions that are enumerated there. Of course the property of the United States is exempt, and it would be folly for the State to tax its own property, or the county or municipal corporations to tax their property. This section says that "the Legislature shall by general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes." It seems to me that that covers the whole ground. The gentleman from Ransom has offered an amendment here which was not seconded, but the purpose is to limit in value the property belonging to either of these institutions which are declared to be exempt. It strikes me that there should be no limitation put on the values of such property as shall be exempt, so long as it is used exclusively for the purposes

enumerated in this section. The gentleman speaks of Trinity church in New York. Fifty thousand dollars would not be a proper limit. For example, you take the Roman Catholic cathedral on Fifth avenue, and the ground alone on which it stands is worth more than $50,000. The land and the building together are worth from a quarter to a half million. It seems to me that it would be bad policy to tax any of that property so long as it is used exclusively for religious purposes—so long as no corporation uses it or any part of it as a means of raising revenue. I would be opposed to a provision which would permit any of these corporations from acquiring large amounts of property, renting them out, or using them for purposes of raising revenue as they do in some of the older countries. But so long as the property is used exclusively for religious or charitable purposes, it seems to me that it should be exempt. No tax should be placed on a man's religion, and none on his charity. The more charity the better, and the more religion we have the better, if it is of the right kind. It seems to me this section is worded well, and covers the ground as well as it is possible to have it. I don't believe we ought to leave it within the power of any Legislature that may come to tax church property, or property used exclusively for church purposes. I don't know what Legislature may be elected here, and we don't know by what motives they may be actuated. We should put it in the Constitution that all property used exclusively for religious and charitable purposes should be forever exempt from taxation.

Mr. BARTLETT of Dickey. I hope the amendment of the gentleman from LaMoure will carry, for this reason—while I hold that the churches are all right and I agree with the gentleman that the more religion we have the better it is for the country, yet I do hold that when people build churches that cost one to two or three hundred thousand dollars, and then sell the pews so that no common man can sit within that church unless he is a millionaire, they should not be exempt. They put up their pews at auction—their church property is free—but the plain citizen who may live within ten rods of them has to go to the little church around the corner, because he cannot put up the necessary amount to get into the other house of God. I believe that when any church accumulates property so that they can afford churches that cost more than $50,000 to build, they ought to pay taxes upon them and I would

be willing that the taxes they pay should all go to the poor of the city.

Mr. LAUDER. The gentleman from Dickey speaks about selling pews. If the revenue derived from the sale of the pews is appropriated or is used for any other purpose than paying the necessary and actual running expenses of that church, then it is not used exclusively for religious purposes, and under this section would be taxable. He says that if the church building cost over $50,000 it should be taxed. Now I don't believe the gentlemen who put their money into the Cathedral in New York City or the gentlemen whose money built the church that the gentleman from Ransom speaks of, ever used a dollar to better advantage than they did when they put it into those churches. If they were rich they used their money for a good purpose, and they should be encouraged in it, and simply because rich men invest their money in this way, the public should not tax them for it.

Mr. STEVENS. I never allow anybody to outdo me on a question of generosity. When I am wrong I am as willing to own it up and admit it as anybody ever was in the world, and when I have carefully read this section I believe the amendment I offered would be wrong. I believe the word "exclusively" covers the point which I intended to cover by my amendment, and when the gentleman intimates what he does about what I said about church property in New York, he forgets that the word "exclusively" was not used in that case. There is a great corporation that is making New York a great deal of trouble—not with the houses that they have dedicated to worship, but with their other interests connected with that great corporation, and these were the things that I alluded to, and not to the church itself. The steeples of the churches cannot be built too high for me, nor can the churches be scattered too thickly over the land. I agree fully with the gentleman that no man ever invested a dollar in the building of a church but what his dollar was contributed to at least one of the best interests of society. I hope the motion of the gentleman from La Moure will not prevail, but I hope the section will be allowed to stand as it was originally framed. I am the more impressed in this direction when I see the opposition it meets. I have not forgotten God in the Constitution. I hope the amendment will not prevail.

Mr. MOER. I don't know what God in the Constitution has to do with the taxation question. I do not seek to prevent the ex-

emption of church property. Nothing of the kind; but it seems to me that the gentlemen have wandered from the point. I seek to substitute a section that is found in the constitutions of most western states, Wisconsin practically the same. Iowa, Minnesota, Nebraska and Kansas have clauses that are very similar. This clause simply leaves the matter to the Legislature to say what taxes shall be levied, how, and on what property. That is all there is to it. It does not attack the church that I know of. I think the gentleman from Richland wandered from the point altogether, because he was talking on the proposed amendment of the gentleman from Ransom, while the question before the House was the substitute that I offered. The only objection I have to section three is that it lays down an iron-clad rule of taxation —no matter what the future circumstances of our State may be— no matter what the necessities of the State may be, the Legislature can never change it. Taxation laws should be elastic, so that they can be changed from time to time if the circumstances demand it. Under such a clause as this which I have introduced the western states have prospered—their legislatures have had full power to tax all property or none, and it seems to me we cannot do better than to follow the example of these states that are strong and wealthy. It simply leaves the matter to the Legislature —where the power of taxatien should be.

Mr. LAUDER. It seems to me that an effort is being made to put this matter in a light which it should not occupy. Ordinarily I grant the Legislature is the proper power to determine questions regarding taxation. But will the time ever come in the opinion of the members of this Convention, when property that has been dedicated freely to religious or charitable purposes, should be placed under the burden of taxation? Will that time ever come in the history of this State. I don't think it will.

Mr. TURNER. I have heard on all hands that these United States are pre-eminently the land of liberty, and I have to some extent accepted that view of the question. But I find a resolution reported by this committee which indicates that it is not a land of perfect liberty. I am in favor of the amendment of the gentleman from LaMoure. I am in favor of leaving this matter to the Legislature. I am in favor of leaving it to the Legislature because I don't think it should be fixed by an unalterable law, or a law that will be as difficult to alter as will be the Constitution of the State. I believe that I should support the religious convic-

tions and views which I conscientiously hold myself, and that I should not ask my fellow countrymen to support any religious denominations to which I belong, unless their contributions were the contributions of free will offerings. I believe as a matter of principle that the church and the State should be separate, and that they should be unalterably separated. I believe as a principle that if we exempt taxation on church property, it is simply another way of taxing the people for the support of the church. Exempting me from taxation which I should bear in common with others, is simply taxing others to pay that share of taxation which I should pay. I hold as a principle of the church, and as one who believes that the churches are doing all that any gentleman in this House can claim they are doing, that as a matter of right and justice those who do not believe in church organizations, should not be compelled to contribute one cent by law to their support. Holding that, I believe every religious denomination should pay a just, fair and equitable amount of taxation—they should pay their just proportion in accordance with the amount of property they have. What difference does it make to me as a member of a church whether these taxes are exempt by the state, or whether I am compelled to pay as a member of the church a certain portion of that taxation? It makes no difference to me, from the fact that I have to bear my share of the burdens of the State. I might as well bear a portion of that on the church property of which church I am a member, as bear it on the personal property which I possess. I don't think it fair to those men who are not members of any church—to those men who in fact do not believe in our church organizations and our church creeds, that they should bear a proportion of the taxes of the State that should be levied upon the property that belongs to the churches. I believe that it is only another way of connecting the church with the State. We do not connect the church and State by saying—"you shall contribute so much towards supporting these institutions," but we do connect them by saying that the property of the church shall not contribute its share of the taxes. I think if you will look into this matter you will see that it is only another way of taxing men who don't believe in our churches and who are not willing to support them, and compelling them to contribute a certain amount which we should bear. These matters should be left to the Legislature, for we don't know what the circumstances may be in the future which will call for action, and if

the Legislature exempt church property for a time, they may see in the end as they are seeing in other countries now, the evil of the system. I believe that if the religious sentiment of the people was stirred up in this matter they would see that it was not fair, square justice which religion itself should give to the people, between every individual taxpayer, and the property that should pay the taxes.

Mr. COLTON. I think the mark is so far off that they don't see it. What is the most danger—of the church coming here with a mob to carry the Legislature or something else? We can get scared over a few churches for fear their buildings won't be taxed and at the same time let a great many things that are much larger slip past us. The danger of leaving so many things to the Legislature is the greatest danger we have to fear, and when we fix it here that the Legislature shall have full power to tax or not to tax one thing and not another, and make the taxes as they have a mind to, those who have the most money and property will pay the least taxes. You need not be afraid of the churches. Neither will there be a Legislature that dare stand up and tax the churches for years to come—not while any of us live. They dare not come here and do that and face any denomination where they live. When you get it so that they can exempt their buildings, there is no danger of our being oppressed by it. But here if we don't have this section as it is we may go back seven or eight years hence where we have buried our fathers and mothers and find their tombstones gone and a crop of wheat on their graves—the cemetery sold for taxes. If this clause is not in here they will be able to tax graveyards; if you give them the power to tax them you give them the power to sell the land for the non-payment of taxes. We want some provision here so that we will know what is going to be taxed and what is not. We want this done uniformly. This section provides for taxation uniformly, and it exempts what is used for religious and charitable purposes. I hope the substitute will not prevail.

The substitute of Mr. MOER was lost by a vote of 37 to 33.

GROSS EARNINGS TAX.

Mr. HARRIS. I wish to offer an amendment to this section, and in doing so I desire to say the question of taxing church property was a blind, and that the meat in the cocoanut was

not the churches. I understand that the gentleman from Ward would like to see the section adopted as it is, and he knows the position I took in the committee. I wish to strike from section three all of line one and part of line two as far as the word "money," and put in the place thereof the following: "The rule of taxation shall be uniform, and taxes shall be levied on such property as the Legislative Assembly may prescribe."

Mr. WALLACE. The gentleman from Burleigh has well said that this discussion regarding church property was entirely a blind. This is simply the question again that we fought over in the matter of corporations. This is to leave the matter of taxation over so that a different rule will be required concerning certain property.

Mr. BARTLETT of Griggs. It strikes me that my colleague is as far off as the discussion on the other point, if the position that the committee took presents an indication of what the section means. As the gentleman from Ransom said, I would go as far as anybody in favor of churches, and I would like to see them so thick that he might wander inside one occasionally. I am heartily in favor of this amendment, to leave it to the Legislature what classes of property shall be taxed. Here it says all property. It compels the Legislature to provide laws taxing all property. I am not in favor of the Henry George plan of taxation, but we should leave this question of taxation open, so that if the Legislature wishes to adopt this plan or any other, it can do it. For years and years this country has been taxed and lived under this same provision, requiring the Legislature to tax all property, and it is while living under that provision that the farmers are generally kicking and saying that taxation is not uniform. They say that the poor man is paying more than his share of the taxes. That is unanimously the cry. I say we should leave this open to the Legislature to devise any means in their power to most justly tax the property in the State. Where they wish to exempt a certain class of property they should have the right to do so. If they want to raise all the revenue on land, let them do so. It is perfectly safe to experiment. You cannot have any more unjust tax laws than you have now. You may change them at every session of the Legislature, and in a century you might get something that would be more equitable than the present system, but you could not get anything more unjust. I believe that the man who has all the property that he has, in sight, pays the taxes, but the moment

a man gets an accumulation of property he escapes taxation. I say let us leave it to the Legislature.

Mr. HARRIS. As I stated in offering this amendment I wish to bring the matter of taxation squarely before the Convention, and I want it settled on its merits, and I propose the thing shall be brought to the attention of this Convention. I believe with the gentleman from Griggs, this matter should be left to the Legislature. There is another point that has not been brought out in connection with this subject, and that is whether this State under any circumstances will ever be in favor of the gross earnings tax system for the railroads. That is the question to settle in this amendment and in this section. There is no other question in it. There is not a man here who believes that the Legislature will ever exempt property from taxation. This amendment or a similar clause has been in force in Wisconsin, and has there been any complaint that property has not been taxed there? It has been in force in Iowa, Nebraska, Kansas and Minnesota. Has there been any question raised as to property not being taxed in those States? Not a complaint, and as I have said the whole question comes to this—will we leave it to the Legislature to say if in the future such conditions exist that this State wants to put a gross earnings tax upon railroads, it will have the opportunity to do it. While I am up—and I don't wish to take the time of the Convention—I would like to say a few words about this gross earnings tax. The gross earnings tax, based on the gross earnings of 1888 was over $167,000 and North Dakota gets out of that, exclusive of what goes to the counties, $53,793. There is a provision in this report which provides that railroads shall be taxed—the franchise and road bed and right of way at not less than $3,000 a mile. This tax at $3,000 a mile on the railroads of North Dakota would amount to about $6,000,000 assessment and at three mills or if you will, four mills, the limit which will be placed in our Constitution, would raise $24,000 of tax, while this year the northern part of the Territory is receiving over $53,000. As I stated in the beginning, the only question before us is whether we shall leave this question to the Legislature that in the future they may enact a gross earnings tax, ane that is all there is in this amendment.

Mr. LAUDER. When I was discussing the question of the taxation of churches and charitable institutions I had no idea that this section would bring up the question of gross earnings. I can not see the occasion for it. But it seems that the gentlemen

are so much in favor of gross earnings, and are so frightened over this clause that provides that all taxes on all property shall be uniform, that they are unable to contain themselves, and must give expression to their fright before we get to the place where there is any danger of their getting hurt. Now, it always struck me as peculiar that men would go before committees and legislatures and say that there was no way in the world—men representing railroads—that there was no way in the world by which you could get so great a tax out of the railroads as the gross earnings law. Did any member ever hear a railroad man or a railroad president advocate any other system? Then we must infer that the railroads are anxious that this Convention shall put in this Constitution a clause under the terms of which the railroads will have to pay the largest possible tax. Is not that logical? The gentleman has given us some figures here. He says we get so much money under the gross earning law, whereas by direct taxation we get so much less. Was not that a fair statement—under his theory? But he infers that under a taxation plan that assessed the railroad property, the railroads would pay only the state tax. Your property and my proyerty—if we have any—not only pays the state tax, but the county and town and city tax—if we live in the city—and school tax. To show you how absolutely unfair these men are in their statements and how they try to get this Convention to form erroneous conclusions and then adopt them, look at the figures. There can be no harm in putting the railroads on the same footing with everybody else here. Let their property be assessed. I am not seeking for this $3,000 clause, but there can be no system preferable to a system that is uniform —that assesses the property of the millionaire the same as the property of the railroad or farmer—put them all on the ground floor where there will be no advantage of one over the other. The gentleman from Burleigh says let us leave this so that the Legislature can change it.

Gentlemen, I ask you in whose interest it is sought to leave it in that position? Is it in the interest of the lawyer? His library is on the shelf in his office, and is always taxed. None would advocate a law that would not tax those books at their value. Is it sought to be incorporated in the interest of the farmer? His property is always in sight. Would anybody go into the Legislature and advocate a measure that would not tax the property of a farmer that is in sight at just what it is worth? No such measure

has ever been advocated in any legislative hall. Then I ask you in whose interest is it—who is it that wants this section amended so as to leave it to the discretion of the Legislature to regulate this matter of taxation? In whose interest is that section sought to be put in here? Is it the farmer, the lawyer, physician, mill-owner? No. Every man in this Convention knows in whose interest it is sought to be put in there. It is in the interest of the railroads, who will be better able to escape thereby their just proportion of taxation. That is the whole purpose of it. I don't want to tax the railroad any more than I am willing to be taxed myself—not a dollar, not a cent. But I demand that they pay just the same in proportion to their property as I do—just exactly the same. The argument is made here that the gross earnings tax is the only tax that is based on justice, because it is said if the company has the road here and it is not profitable—if they are losing money they should not be taxed, because their property is not worth anything. When the assessor comes around to tax your property, if you were to say, "Here, my crop was a failure and I did not make a dollar, and my farm is not worth anything; I won't list it this year for taxation," what would the assessor say? What would public opinion say? Is not that exactly the case with the railroads? It is on such spurious arguments as these that it is sought to palm off on you the clause of the gentleman from La Moure as the sum total of all that this Constitution is to contain on this subject. I want to say to the members of this Convention that if you want to adopt a system that will make all taxes just and uniform and fair—that will not tax one man's property at the expense of another man, and leave no loophole for any corporation to escape, then stand by this section. This section exempts no property, except such as in my judgment should be exempt.

Mr. PARSONS of Morton. We have one affliction in this country that is a great deal worse than any scourge that ever visited the land—worse than cholera, yellow fever or smallpox—and that is the scourge of corporations. My record on this floor is known to you all. And what I say won't, I think, be misunderstood. What I have said is the legitimate deduction to be made from the remarks that have been made on this subject. If there is any one influence that has developed this country—if there is any one thing to which we are indebted for the luxuries we enjoy, it is the corporations. I will join hands with any one in forcing corporations to the mark—so to speak, conforming to their charter

rights—not to depart therefrom. But I will not be one to join in oppressing them, because they are necessary to the welfare and development of the country. I was well pleased with the estimate made by the gentleman from Burleigh in regard to taxation. When this matter came up I was heart and soul for this $3,000 assessment, but I went to figuring and found out that if we went to the maximum we would not get as much tax as we are getting to-day. We would always have to assess to the maximum, but under the gross earnings system, the road's business is increasing, and we would draw a larger revenue than under the assessment plan. Now as to the gentleman's remarks as to why the railroads seek this particular form of taxation. If you and I, as the gentleman from Richland stated, had poor crops, we would like to have our taxes rebated. If we have excellent crops we would be willing to pay a good heavy tax. The railroads are placed in the same position. They say, "so long as we are making money we will pay the tax gladly, and we would like to have this matter arranged so that if our earnings fall off our tax would keep along with our earnings." To some of these gentlemen there seems to be a steal in that—there is robbery in it—and yet there is none of us that think the wheels of progress are going to turn backward. In some isolated cases the taxes might drop down, but in nine cases out of ten the taxes would steadily increase.

If I understand it we are after the dollars. If we can get more from the corporations by that system of taxation, I see nothing wrong in taking it. If it accomodates them to adopt this system, I see no injury done to any man. Now I acknowledge that it would never do to adopt this system generally—apply it to all persons. But here is a corporation. I don't wish to champion the corporations, and if there is one thing I have said more than another it was that they were able to take care of themselves. I am satisfied that they will pay their taxes whatever way they are assessed, and perhaps they will pay just as much in proportion to what they are worth as a great many rich people, for I don't think that class of people pay the most taxes in proportion to what they are worth. The question is—will we adopt an iron clad rule which will prevent enterprises being developed and prevent the development of railroads in North Dakota? The hardest time for a new road is when it is just starting. It is the hardest time of its existence. Do we wish to cripple these new enterprises? Whatever

system of taxation you adopt I don't think you will cripple the Northern Pacific or the Manitoba, but to adopt an iron clad rule which will cripple young roads seems to me to be a foolish policy, until we come to that time in our history when we have our country fully developed and roads scattered throughout the State in all directions. Then the question can be viewed from a different stand point. I want to be understood as not standing here as the champion of corporations, but I don't propose to be frightened by the word "corporation." I claim that their rights should have the same calm consideration as the rights of any other interest that may exist in the State.

Mr. HARRIS. When the gentleman from Richland tried to run the Convention against the taxation of churches, I intended to smoke him out, and I mentioned the gross earnings tax so that it might be brought fairly and squarely before this Convention. He has held me up as a railroad attorney. I am not an attorney at all, and I don't ride on railroad passes. I pay my full fare and have nothing to do with railroads. I am not an attorney. The gentleman has questioned my figures. I stated plainly in the beginning, and I take these figures from the Treasurer's books down stairs, that the railroads in North Dakota—the Northern Pacific, the Manitoba and a few miles of the "Soo" line—paid into the treasury of this Territory on the basis of the 1888 gross earnings, $167,767.97. Two-thirds of that, with the exception of the Northern Pacific's, went to counties along the line. The Northern Pacific tax goes 70 per cent. to the counties, and the Territory received out of that amount, $53,793.51. That was one year's tax. One hundred and fourteen thousand dollars of that goes to the counties along the line; $53,000 remains in the Territorial or State Treasury, and that $53,000 is more than you will raise by taxing these lines at $6,000 a mile and four mills on the dollar. I do not wish to take the time of this Convention in discussing this subject. I only wish to stand by these figures which are cold, hard facts.

Mr. LAUDER. The gentleman from Burleigh speaks about smoking me out on this question. I have had some discussion with the gentleman from Burleigh on this subject in the committee. I had not any doubt but that he would be smoked out of his hole, and that the Convention would see him in his true light before we got through with him. But I was not prepared to see him exhibit himself quite so soon. I cannot see, as I said before,

what this section has to do with the taxation of railroads. But as we are on the subject it might as well be discussed here as anywhere else. The gentleman from Morton says there is a war on railroads. In the name of common justice, where is there any war on railroads in this section or any other section of this article? Where is the war on railroads? What is asked of them? They are asked simply to pay their taxes like any farmer or merchant or mechanic in North Dakota. That is what is called war. I say there is no war at all. It is simply a provision here that they shall be amenable to, and obey the same law as the rest of us, and that is what is called war.

The amendment of Mr. HARRIS was lost by a vote of 30 to 33.

Section three as reported by the committee was adopted.

ASSESSING LANDS.

Section four was read as follows:

"Land and the improvements thereon shall be separately assessed. Cultivated and uncultivated land of the same quality and similarly situated shall be assessed at the same value."

Mr. HEGGE. I move to strike out the words: "Land and the improvements thereon shall be separately assessed."

Mr. NOMLAND. If this section be adopted we shall lose a good deal of taxes.

The amendment was adopted.

Mr. SPALDING. I move to strike out all that part of the section that remains. I make this motion so that we may not have a section in conflict with the one that we have just passed. We have provided that the Legislature shall pass laws taxing by uniform rule all property according to its true value in money, and if we let this section stand as it is, it will conflict with section three. There is no standard of value of land and improvements except its value in money. Is there anything that is more emphatically worth money in this state than improvements on land? Is there a man here who will question the fact that improvements on land are worth money, and I don't see how a man can consistently vote for this section after having voted for the other.

Mr. BARTLETT of Griggs. I hope the motion to strike out will prevail. I thought that when section three was adopted they would find out as they came to the next section what they had done, and now I think you have. To make this consistent you are obliged to strike out the last half of section four, because the as-

sessor, or the Legislature, or any one else, cannot possibly comply with both of them.

Mr. SCOTT. I don't see the force of the arguments of the gentleman from Griggs. He says it is inconsistent with section three. Is it because the cultivated land is worth more than the uncultivated? I believe that it is pretty well established in this country that leaving out the improvements—and improvements according to this section will be taxed just the same—and only taking into consideration the cultivation, uncultivated land is worth as much as cultivated, if not more. I don't believe that it will be contended otherwise by any practical farmer. So there is nothing inconsistent between these two sections. Section three says that all property shall be taxed uniformly. Section four says that cultivated and uncultivated land of the same qualify and similarly situated shall be assessed at the same value. They will aggregate as a rule the same, so that although I don't see why this section should be in here, I don't believe the sections conflict. I don't believe that now the cultivated land is taxed more than the uncultivated. It should not be, it is not worth more.

Mr. STEVENS. I believe in calling things by their right names. I think this clause is put in there more particularly to tax the lands of non-resident speculators equally with the lands of actual farmers. I believe that is the meaning of this section, and for that reason I am going to vote for it, and for any other section that will enable us to tax the uncultivated lands of speculators as high as the cultivated lands of the farmers.

Mr. MOER. The sentiment is all right, but the trouble is that it conflicts absolutely with section three. Take for instance a cultivated piece of land—a section just broken and backset, and that work has added a value of $2.50 an acre to the land. A section immediately adjoining it must be assessed at the same value, while you have a section of this article immediately preceding this, which states that it shall be taxed, not at the same price as the cultivated piece, but at its true value in money. Therefore these two sections are in conflict. If there is any way that we can tax speculators' land, I am in favor of it, but I think these two sections are in conflict. I therefore shall vote for the amendment of the gentleman from Cass.

Mr. NOMLAND. I think that what is left of the section is just about what we want. I think that speculators and farmers would have equal justice. I know that there is a tendency in our country

to tax speculators about one-third more than the actual farmer. That is not in accordance with the law, but there are a number of assessors that do it, and if this section is adopted they would have equal justice with the farmers.

Mr. MATHEWS. I take exceptions to what the gentleman from LaMoure says about the value of broken and unbroken land. In Grand Forks county, land that is uncultivated is worth more than that which has been cultivated for five or six years.

Mr. MOER. Then why tax the farmer for his cultivated land which is less valuable, as much as the speculator for his uncultivated land which is more valuable? If one piece is less valuable than the other, you must tax them both alike according to this clause. If all land is taxed at its actual money value and the uncultivated is the more valuable, you don't need this section. If you attempt to say that two pieces of land of unequal value shall be assessed alike, you say that which will conflict with section three, however you look at it.

Mr. STEVENS. This does not say that lands that are cultivated and those which are uncultivated shall be taxed at the same price, but it says that two pieces of land similarly situated and of equal value shall be taxed equally. The only question is that the cultivation of the land shall not be taken into consideration in fixing the value. The question is, shall the cultivation of the land increase the price at which it shall be taxed. That is the only question there is in it. Cultivated and uncultivated lands of the same quality and similarly situated shall be assessed at the same value. If they are of equal value, one being plowed and one not plowed, they shall be assessed at the same price.

Mr. SPALDING. I disagree with the gentleman from Ransom. The effect of this section will be to take any discretion which the assessor might have, out of his hands. Here might be a piece which was full of foul weeds to such an extent that it is not worth half the price of a piece alongside that has not been cultivated, and this section says that they shall both be assessed alike. Also it says that a section of land which has just had $4 or $5 an acre spent on it to plow, and without any question is worth from $3 to $5 an acre more than a similar piece located side by side, and not under cultivation, shall be taxed the same. The question is not whether land is worth more uncultivated, or whether non-residents shall be taxed more than residents, but whether we shall tax lands according to their true value. That is the question, and

this section takes the discretion out of the hands of the assessor in assessing it. It takes away any question of value, and says, arbitrarily, it shall be taxed the same and valued at the same value, whether it is worth half as much or twice as much as another piece.

Mr. BUDGE. Any land in the Red River Valley uncultivated is worth more than cultivated.

Mr. POLLOCK. In view of the discussion that has been had on this section, I am certainly opposed to it, especially in view of the interpretation that is placed upon it by the gentleman from Ransom. We are forbidden in the Omnibus Bill from discriminating as to the owners of land whether they are residents or non-residents, and if that is the spirit of the section it shouid be stricken out. If the gentlemen will turn to the Omnibus Bill, page three, they will find the following: "The lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than the lands belonging to residents thereof."

Mr. STEVENS. I did not say that a non-resident's land should be taxed any higher than that belonging to a resident, but I said it should be taxed the same. I know that our present Organic Act and the Enabling Act provide that there shall be no discrimination between residents and non-residents, and that is my point, and the attempt to turn it on to anything else is simply clap-trap.

Mr. POLLOCK. If the gentleman takes a different position, then the objection that I made should not be urged against him. At any rate the Legislature should have the right to regulate this as the circumstances may warrant.

Mr. BARTLETT of Dickey. That clause says that land similarly situated shall be taxed alike. I apprehend that if land is turned over and plowed it is not similarly situated. That is my idea of it.

The vote on Mr. SPALDING's motion to strike out the section as amended was lost.

Mr. CAMP. I move the following: "Cultivated lands shall not be assessed higher than uncultivated lands of the same quality similarly situated."

The motion was lost.

Mr. SPALDING. I move to amend by inserting in the third line, afther the word "shall," the following in lieu of what is now there: "Not be assessed at the same value."

Mr. STEVENS. I move as a substitute that the section be adopted as amended.

Mr. SPALDING. I think that uncultivated land similarly situated should not be assessed at the same value.

Mr. STEVENS. It is simply another way of gaining time for the purpose of killing this section, and I hope you will just vote down every amendment they offer till you get down to the original section which we should adopt.

The proposed amendments were then voted down and the section adopted.

Section five was adopted.

APPORTIONING TAXES.

Section six was then read as follows:

SEC. 6. All property exempt as hereinafter in this section provided, shall be assessed in the county, city, city and county, township, town, village or district in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this State shall be assessed by the State Board of Equalization at their actual value, and the same shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located, in proportion to the number of miles of railway laid in such coui ties, cities, towns, townships and districts; *Provided*, That for the purpose of assessment and taxation said railroad shall not be valued at less than $3,000 per mile.

Mr. SCOTT. I don't understand as to what proportion of this tax shall be paid to the counties. It says:

"And the same shall be apportioned to the counties, cities, towns, townships and districts in which said roads are located in porportion to the number of miles of railway laid in such counties, cities, towns, townships and districts."

It seems to me that the proper way is the way we have at present. The Territory collects the tax, and pays over to the county that portion which is not kept in the Territorial Treasury. I don't see how you are going to pay any to the township or city, because the proportion would be so small that it would not be worth while taking into consideration. I think the whole tax should be paid into the county treasury.

Mr. LAUDER. I think the suggestion made by the gentleman is a good one. Though a member that submitted that report I am in favor of amending this section.

Mr. PURCELL. I move that all after the word "district" in the ninth line be stricken out for the reason that we are placing in the Constitution a value upon land or upon the railroad companies'

property. In many instances, if I understand it, it does not cost nearly $3,000 a mile to build a railroad. In many instances it can be constructed for one half that, and that portion of the lands of the railroads lying west of here might not be as valuable as other land, and for that reason I move to have it stricken out.

The amendment of Mr. PURCELL was lost.

Mr. CARLAND. There is an expression in line two that I think is not applicable to our law. It is peculiar to the laws of California, and I should judge that the section had been taken bodily from the constitution of that state. I refer to the term "city and county." We have no such political organization here. I move that it be stricken out.

The motion was carried.

The section was then adopted.

THE POLL TAX DISCUSSED.

Section seven was then read as follows:

SEC. 7. The Legislature may provide for the levy, collection and disposition of an annual poll tax of not more than three dollars on every male inhabitant of this State over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

Mr. NOBLE. I move as a substitute for section seven the following: "The levying of taxes by the poll is grievous and oppressive; therefore the Legislature shall never levy a poll tax for county or state purposes."

Mr. JOHNSON. I move to strike out all that portion of the proposed amendment before and including the word "therefore."

Mr. PARSONS of Morton. It would seem to be a bright idea if the poll tax were eliminated. It has been a question which I suppose will be solved here shortly, whether we desire a uniform system of taxation or not. Here is a relic of the old fedual times. This idea of taxing people so much a head—taxing people who never ride in a wagon, never use the roads from one year's end to another—taxing them to keep up the roads, is an outrage. If you are in favor of justice—if that is what you want, it is a poor rule that won't work both ways. There is no more unjust tax ever levied in this country than the poll tax. I hardly expect to see the substitute carry. I claim that the one who uses the road should be the one to pay the tax in proportion to the property he owns. This is put in this section at three dollars a day. It means that the poor man will go and work out his tax. The rich man

will pay his three dollars. There are men on this floor who would not sell their services for less than ten dollars a day, and this means that we are taxing the poor man two days' work, and the other man less than one-third of a days' work. If we assessed a poll tax in proportion to what each man earned there would be a little more show of justice. But why say that the money to repair the roads shall be raised by direct taxation? There is no one thing that has come before this House that is so unjust as this measure, and I hope sincerely that the amendment will carry and that the poll tax will be forever banished. I don't expect it—the prejudice in favor of this measure is so strong, but I would like to hear some one get up here and show reasons why the poll tax theory is one that is just and right.

Mr. BARTLETT of Dickey. Here is the man. The gentleman puts the amount in his remarks at the extreme allowed in this section. I have never known of a single poll tax that exceeded one day's work, and I believe that it is right and just. Any man can afford one day and that is as much as ever will be charged. Every man, old and young, rich and poor, has to pay a road tax on his land, and in every state that I have lived, there has been a poll tax. It has generally been $3 on a quarter section. The floating population that has the benefit of our roads can well afford to pay one day's work. It is right—it is just and I hope it will prevail.

Mr. WALLACE. It is the only way you can get tax from a good many men.

Mr. PARSONS of Morton. I would like to ask if every poor man in this State does not pay more taxes in proportion to what he is worth than the gentleman who has just spoken here. There is no one who can stand up and deny this. It is rank oppression; it is not just and the theory which we have asserted in the other section of this article which says that all taxes shall be uniform and in proportion to the property, is at variance with this. You may say what you like, the poll tax is not levied in accordance with the amount of property that a man has got. I know that men will vote here for this who will not pay the taxes which they should justly pay for the support of the roads, but would rather put it on the poor man if possible. The very men who will advocate the theory of taxation by which a man should pay in accordance with the amount of property he has, now turn around and

advocate the putting a tax on a poor man whether he has any property or not.

Mr. BARTLETT of Dickey. I think it is quite possible that if I am not rich I am worth more than some men, and the gentleman holds that those men should not pay any taxes. I have worked all my life for the public benefit, and every year since I have been in Dakota I have put a good deal more on the roads in the county where I have lived than the law requires. I am full of public spirit. Every man who knows me knows that. All they have to do is to ask for my team and it goes. But I do say that a man who will drivel his life away and loaf around without earning anything, and will thus keep himself poor should give at least one day in the year to the roads in the district in which he lives.

Mr. SPALDING. I am thick-headed probably, but I don't know what the subject of roads has to do with the poll tax. I have the idea that the theory of the poll tax is that every man who lives under the protection of this government, and under the protection of its laws that are passed by its legislative bodies, bear his ligitimate portion of the expenses incident to the passing of those laws and enforcing them. My idea is that that is the object of the poll tax—to reach those who are protected by its laws, but still have no property on which to levy a tax. I believe that is the only principle on which a poll tax is based.

The substitute of Mr. Noble was lost.

Mr. BLEWETT. I move that all after the word "tax" in the second line be stricken out.

Mr. MOER. I move to strike out the whole section.

Mr. BARTLETT of Dickey. I think this is one of the most useful sections we have in this Constitution.

The motion of Mr. Moer was lost.

Mr. NOBLE. I move that in the second line the words "three dollars" be stricken out and $1.50 be inserted in its place.

The motion was carried.

The section as amended was then adopted.

Sections eight and nine were then adopted and the committee rose.

Mr. LAUDER. I move to adjoured.

The motion prevailed, and the Convention adjourn.