

TWENTIETH DAY.

MORNING SESSION.

Tuesday, Sept. 24, 1889.

Convention assembled at 9 o'clock.

President Brown in the chair.

Mr. PRESIDENT. Convention come to order.

Prayer.

Roll call.

Reading of the journal.

Mr. PRESIDENT. Are there any corrections to be made to the journal? The chair hears none. The record will stand approved as read.

Introduction of petitions, etc., are now in order.

Reports of standing committees. Any reports this morning?

Reports of special committees.

Final reading of propositions.

Mr. TESCHEMACHER. If the convention will wait five minutes the engrossing clerk will have two bills ready for final passage.

Mr. PRESIDENT. Gentlemen, there appears to be no business upon the table this morning to engage our attention, and we are ready to go into committee of the whole for consideration of the general file.

Mr. RINER. I move we go into committee of the whole for consideration of the general file.

Mr. MORGAN. Second the motion.

Mr. PRESIDENT. It is moved that we now go into committee of the whole for consideration of the general file. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion to go into committee of the whole prevails. Will Mr. Coffeen of Sheridan take the chair?

We are now in committee of the whole, gentlemen, Mr. Coffeen in the chair.

Mr. CHAIRMAN. The first file in the hands of the committee seems to be the article on corporations. Substitute for Files No. 11, 38, 42 and 72.

Mr. RINER. I must raise a point of order. Did we not make the file on education the special order for this morning?

Mr. BROWN. The motion did not prevail.

Mr. RINER. I think it did.

Mr. BROWN. A motion was made to make the educational file the special order today, but it was passed over. The motion did not prevail, and the record so shows.

Mr. CHAIRMAN. If the chair is correct Secs. 1 and 2 of this file have been considered.

(Reading of Sec. 3.)

Mr. MORGAN. Were there any amendments pending to that section? I wish to offer an amendment.

Mr. CHAIRMAN. Some amendments were offered, but not carried.

Mr. MORGAN. I wish to amend Sec. 3 by inserting between the words "constitution" in the third line and "shall," the words "and who do not accept the provisions thereof," thus giving them the privilege of accepting the provisions of the new constitution and thereby retaining their organization.

Mr. BROWN. Why not strike out the words "begun business, etc." If they accept the provisions of the constitution that is sufficient.

Mr. MORGAN. I accept the amendment.

Mr. CHAIRMAN. The amendment is before you for discussion.

Mr. RINER. I would like to have the proposed amendment a little broader than stated by Mr. Morgan. I would like to see a provision attached to this or to some other section, that no corporation shall do any business in this territory without accepting the provisions of this constitution, and making them all subject to legislative control. If you take out the words in relation to the business of the company, and insert a provision that they shall not do business unless they do business under this constitution, whether foreign or domestic corporations, it can work no hardship to anyone, and will thus bring them all subject to legislative control completely.

Mr. MORGAN. I second that. I think it is the best one made yet. I congratulate him.

Mr. CHAIRMAN. Would it not be advisable to have one amendment at a time. The chair will state, with your permission, while considering, that if you look at Sec. 6 you will notice that there is a provision there in regard to accepting the provisions of this constitution, but it may not be as broad as the amendment suggested by Mr. Riner. It may be best to put that amendment in connection with that section. Will the gentleman state his amendment again, so the chair may understand it.

Mr. RINER. I offer as a substitute to Sec. 3 as it now stands the following: "All existing charters, franchises, special or exclusive privileges under which an actual and bona fide organization shall not have taken place for the purpose for which

heirs? I would like to ask how many have been paid for at the rate of five thousand dollars?

Mr. RINER. We have settled on that basis.

Mr. MORGAN. I don't see why any maximum should be fixed for damages to persons injured or killed. You might as well fix by law the maximum at which I shall sell my house. I think a man ought to have the right to settle on the very best grounds he can get. It is an interference with human rights it seems to me. It can't injure any one to leave it just as it is in this provision.

Mr. CHAIRMAN. The question is on the amendment to the amendment. If you accept this amendment it will read: "No law shall be enacted limiting the amount of damages to be recovered for causing the injury or death of any person." Are you ready for the question? All in favor of the amendment will say aye; contrary no. The ayes have it; the motion is carried.

(Reading of Sec. 6.)

Mr. BROWN. As an amendment to Sec. 6 I move to insert in the first line of the section, after the words "laws of," the words "Wyoming territory or." The first line will then read as amended: "No corporation organized under the laws of Wyoming territory or of any other jurisdiction." After the word "state" in the second line strike out "and doing" and insert "shall be permitted to do." Then again in the same line after the words "this state" insert the word "or." The section will then read: "No corporation organized under the laws of Wyoming territory or of any other jurisdiction than this state, shall be permitted to do business in this state, or shall be entitled to acquire title, etc." That would bring in domestic corporations.

Mr. BAXTER. Why not strike out "or to acquire title" all after that down to the word "until."

Mr. BURRITT. It does not seem to me that the provision is necessary.

Mr. BROWN. I accept the amendment.

Mr. CHAIRMAN. The amendment proposed to Sec. 6 makes it read as follows: "No corporation organized under the laws of Wyoming territory or any other jurisdiction than this state, shall be permitted to do business in this state, until it shall have accepted the constitution of this state, and filed such acceptance in accordance with the laws of this state." Are you ready for the question. All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

Mr. JEFFREY. I would suggest that the word "transact" would be better than "do." I move to strike out the word "do" and insert "transact."

Mr. BAXTER. Second the motion.

Mr. CHAIRMAN. It is moved and seconded that the word "do" be stricken out and "transact" inserted in lieu thereof.

All in favor of the motion will say aye; contrary no. The ayes have it; the motion is carried.

Mr. BAXTER. I don't like the reading of the last part of the section, using the words "this state" so much. I move to strike out "this state" and insert "thereof" in the last line.

Mr. CHAIRMAN. It is moved and seconded that the words "this state" in the last line be stricken out, and the word "thereof" inserted in lieu thereof. All in favor of the motion will say aye; contrary no. The ayes have it; the motion is carried.

(Reading of Sec. 7.)

Mr. HARVEY. I see no necessity for that section at all. It ought to go in the legislative file, as it refers to legislation.

Mr. FOX. I move to strike out Sec. 7.

Mr. CHAIRMAN. It is moved and seconded that Sec. 7 be stricken out. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

(Reading of Sec. 8.)

Mr. CHAIRMAN. Any amendments to Sec. 8? If not Sec. 9 will be read.

Mr. FOX. I don't know as I am quite satisfied in regard to Sec. 8. A corporation might be engaged in mining and milling, that is two lines of business. They ought to have the privilege of doing that.

Mr. CHAIRMAN. Does the gentleman move to amend?

Mr. FOX. I have no motion to make, but I just call the attention of the convention to this matter, so they may consider the matter.

Mr. BURRITT. I don't like this section. I move to strike it out.

Mr. MORGAN. I think there will be no trouble about this section if you will look at it. No corporation shall engage in more than one general line of business. If it is a manufacturing corporation they shall manufacture one line of goods; if a transportation company they shall only transport goods.

Mr. TESCHEMACHER. I think there are very serious objections to this. So many of our corporations have to do different kinds of business. Take for instance a company organized for constructing a ditch, and for cattle raising, those are two different industries, yet there are many companies in this state that are organized for carrying on these two branches of business, and one is necessary to the other. Take for instance a corporation like the one I represent, the John Hunton company, it is organized for the purpose of breeding cattle in this country, fine stock and for other purposes, to acquire lands and to bring water on to them to raise hay. Now under this we would have to organize another corporation for the purpose of taking out a ditch, for a ditch cannot be taken out by the

same company. Now it costs you a hundred dollars to get out your incorporation papers, for your incorporation certificate, and it makes a company go and pay out an extra hundred dollars for the exact same purpose, and makes it a mere straw corporation, for a company that takes out a ditch under these circumstances is merely a straw corporation.

Mr. BAXTER. I think the gentleman is rather straining at a gnat. I think this is all right. If a company is organized for the purpose of raising stock they will need hay and if they want to build a ditch for the production of hay they can do it and raise their hay. The idea is simply this: Take a railroad company that is interested in coal mines, they transport that coal at their own rate and thus discriminate against the general public, it is a part of their property and they claim they are doing the public no injury, but if the company has no connection with the mine then they are compelled to charge the same rate as they would every other company transporting coal, and which may not be owned by people who own the railroad company. This is what this is intended to cover.

Mr. TESCHEMACHER. I thought we were all through with the railroad bill. This is the corporation bill and has nothing to do with the railroads. Mr. Baxter may think that a hundred dollars is straining at a gnat, but I don't.

Mr. BROWN. I am in favor of this. I think that it is true that no corporation can engage in any business except such business as is expressly stated and set forth in its articles of incorporation. That is our corporation law as I remember it. Now this goes a little further than that, a good deal further, as my friend says, and restricts a corporation from engaging in any business other than a single line of business. Now the question is, do we so desire to restrict them? If this article becomes a law a corporation cannot be formed to engage in several distinct kinds of business. Do we want that restriction, is the question? In my judgment we do. I wish to say a word now in answer to the proposition presented by my friend, and I desire to say that I think his fears are not well founded. Suppose for instance a man, or a number of men, form a corporation for the purpose of engaging in stock raising. Now it is a rule of corporation law that is as well settled as any law can be, that everything incident to the main business named in the articles of incorporation can be carried on by that corporation. Supposing that a corporation is formed for the purpose of engaging in the stock business, as an incident of that business there is the necessary ownership of land. As another incident there must be a way provided for feeding and caring for the stock. That is a necessary incident of the business. Now if it is further necessary, in order to grow feed, that you must irrigate your land, there is not anything in the world that can prevent a company organized for that purpose from construct-

ing its own ditch and irrigating its lands, because that is a matter incident to the original business as stated in the articles of incorporation, and I don't believe that there is any court in existence that would deprive a company so formed of the right to construct a ditch. If I am wrong about that, and there is any lawyer here who differs with me, I should be glad to hear an expression of opinion upon that subject.

Mr. CAMPBELL. Take for instance the oil wells in Fremont county. In order to make the product of those wells of any benefit whatever, they will have to transport it to a railroad. Would you compel the owners of those wells to form a new corporation for the purpose of constructing a pipe line to transport it to the Union Pacific or the Northern Pacific?

Mr. BROWN. I would. I answer my friend directly. I say that is one thing that we need to prevent, it is to prevent a mining company from transporting its product to market independent of the rules regulating transportation. I believe we ought to have this restriction in order to prevent that sort of thing. I don't believe in a railroad company engaging in mining. Now the Union Pacific railroad company, and I use this as an illustration, is created by act of congress, for the purpose of carrying freight and passengers for hire. It can properly engage in no other business. The courts have decided that as often as the question has been brought up, it can engage in no other business lawfully. But do you say that because it cannot engage in any other business it cannot mine? We cannot say any such thing. And no court will say that, and why? Because the mining of coal, the procurement of coal, in some way, is a necessary incident of the business. A railroad cannot run without fuel of some kind, they must have it, and therefore for the purposes of the road, the Union Pacific, or any other railroad company, may mine coal for its own uses, but right here the whole thing stops. The Union Pacific railroad company if it handles coal, and becomes a merchandiser in that respect, it does so in violation of the terms of its charter, and ought to be restrained. Railroad companies are created for the benefit of the public in the transportation of freight and passengers for hire. It should be limited to that business, and not permitted to engage in any other. I don't believe in merchandising corporations engaging in any other business save the business of merchandising, and when you allow them to cover the whole field of business, you are interfering with the rights of others, and you are creating a kind of corporation that will never last long, because of its bulky character, and one which of its own weight will destroy itself. So then as to this section, I believe it is a necessary thing. We should not strike it out, and whenever a company or corporation, created for one purpose, proposes to engage in another and different kind of business, they may be allowed to do so by putting other

articles of incorporation on file, which will restrict them properly by law to the conduct of their business, and not be incorporated for a dozen different purposes, and let every corporation be restricted to one line of business. If my colleague had lived in western Pennsylvania I believe he would have understood the oil pipe line business better. To allow a corporation engaged in mining oil to also maintain a pipe company for the carrying of their oil to market, would be simply saying what the Standard Oil company has said to all the oil men of Pennsylvania, who owned wells: I propose to buy your wells, I propose to fix the price, and I am the only buyer because no person has the facilities to transport that oil, and they put up the freight rates so high that an outside owner could not afford to transport his oil. It would take a long time to discuss this matter fully, but I believe with the knowledge we have before us, we ought not to allow common carriers to engage in any other business than the legitimate one for which they were organized.

Mr. BURRITT. It seems to me that this is directed toward one class of corporations, and should read "No common carrier shall have power to engage in more than one general business." I have been listening very attentively to hear a single argument for retaining this section in this corporation file, and have not heard one yet. But I would like to ask Judge Brown a question. I would like to ask if the Union Pacific railway company has no provision in its charter which authorizes it to deal in coal, and if it does deal in coal, is it not an abuse of its charter, and is there not a legal process of depriving them of their charter, or for correcting that abuse of its charter? The first section of the bill provides that all laws relating to corporations may be altered, amended or repealed by the legislature at any time when necessary for the public good and general welfare, and all corporations doing business in this state may as to such business be regulated, limited or restrained by law, not in conflict with the constitution and laws of the United States. Now in the first two sections of this bill we have provided that the legislature shall regulate these corporations, so why is it necessary that we should go to work and legislate in this constitution to regulate them ourselves. Let us be consistent. We say in the first section that we leave it to the legislature and then we go on and do it ourselves.

Mr. REED. It seems to me that Sec. 8 refers to one matter that none of the gentlemen happen to have touched upon. I refer to the truck store in connection with coal mines, and if I am not mistaken the whole section refers more to that than to anything else, and which is a thousand times worse than any of these other matters that have been referred to, and I say it is put in there for the purpose of shutting them down.

Mr. POTTER. I have been trying very hard for some time to understand this matter, and as far as this section is concerned I want to do what is right, but I have not yet heard a single argument, save the one suggested by Mr. Reed, that does not refer to railroad companies engaging in mining, and I suggest that we change it so that it read "no transportation company shall engage in more than one line of business."

Mr. BURRITT. I wish to make a few remarks. I desire to say a word for the little corporations that have not got the millions of the Union Pacific or Standard Oil company behind them. I had in mind when this section was passed a little company in my home, the Buffalo Milling company. They are incorporated for the purpose of milling flour, and running a flour mill. It is a little mill and is helping to develop the resources of that country, making a good quality of flour, but it don't pay anything, the flouring mill part of it, and to enable them to keep the thing going they have also taken the contract for supplying the city of Buffalo with electric light, and supplying Buffalo with water. The Buffalo water and light supply is all furnished by the Buffalo Milling company. In Sheridan there is the Sheridan Manufacturing company. They have a flouring mill up there and they do certain other things up there, and it is absolutely necessary for them to do something of that kind to get anything out of it until the country is sufficiently developed. Now as I have stated, I have no objection to limiting this to a certain class of corporations. So I say, give us a chance, don't shut down our mills with a constitutional provision, so that we cannot develop the northern part of the territory of Wyoming. In addition to that there has been a large ditch company incorporated, they will construct large ditches, build reservoirs, and all that sort of thing, and do it at a great expense, and in order to pay them they have got to establish a colonizing scheme and that sort of thing. I might go on indefinitely with this class of corporations, you can hurt common carriers as much as you like, but don't take all our powers away under this constitution, and cripple our domestic and small home industries.

Mr. MORGAN. I move to amend by inserting after the word "no" the words "common carriers or mining corporations."

Mr. FOX. I object to that, because I think a company engaged in the mining business should have the right of smelting also.

Mr. BROWN. I want to make some inquiry about this. I see Sec. 9 reads as follows: "All corporations engaged in the transportation of persons, property, mineral oils, and mineral products, news or intelligence, including railroads, telegraphs, express companies, pipe lines and telephones, are declared to be common carriers." Is a pipe line, under this provision of the constitution, that is established by a person for the sole

purpose of conducting his property to market, made a common carrier?

Mr. POTTER. You cannot do it.

Mr. BROWN. If you put in here the words "for hire" then you come within exactly the line of the law as to this thing.

Mr. CHAIRMAN. We are discussing Sec. 8.

Mr. BROWN. Allow me to suggest we are discussing it in connection with Sec. 9. Now I don't believe under this section as is now proposed that it will meet the evil that we want it to meet. Now take a pipe line for instance. If I want to construct a pipe line from the oil fields to Denver, or any other place, and I have the necessary money to do it with, I can construct that line and transport my own product that comes from the mines and you cannot restrict me.

Mr. POTTER. How will you get your right of way? You cannot condemn it.

Mr. BROWN. Buy it. I can get my right of way and construct my line and carry my product to market whenever I please, and there is nothing in this constitution to prevent it. With the words for hire fixes that.

Mr. RINER. Suppose you can't get your right of way, then you cannot construct.

Mr. BROWN. I have never yet seen anything that could not be purchased, and when I say this I am speaking of material things and not the consciences of people. Now if a man constructs a pipe line and owns a well, and ships his own product to market, you cannot make him a common carrier, for he is only transporting his own product, and does not carry it for anybody else, and is in no sense a common carrier, for he is only transporting his own product in his own way, but if he cannot incorporate as a mining company and for the purpose of transportation at the same time, then they are two separate and distinct corporations, and the man who transports the product of another corporation, must do it for hire and comes within the terms of a common carrier, and the mining regions are not left to the mercy of a corporation that may be incorporated for two purposes, and then say we are only transporting our own product.

Mr. HOYT. Suppose you own an oil well and also construct a pipe line, the pipe line is owned by a corporation in one name, and the oil well by a corporation in another name, but you own stock in both, the one mining the oil and transporting it, am I not handling my own product?

Mr. BROWN. You cannot do it. The very instant that I undertake to carry the oil, notwithstanding that I own all the stock in the other corporation, that very instant I become a common carrier, and every other producer can compel me to transport his oil.

Mr. TESCHEMACHER. I simply wish to call the attention of the committee of the whole to the fact that we are considering here what I suppose to be the general incorporation bill. We have two distinct committees, one on railroad corporations and one on general corporations. Now the railroad committee brought their bill in here and it was discussed, and was passed by the committee of the whole, and finally passed before this convention. All of a sudden the general corporation committee comes in here with a bill, nearly all of which so far has referred to the common carrier business. This corporation bill is practically a bill brought in here to prevent corporations from coming into this territory. The main object seems to be that corporations are bad things, and we want them stopped, and the more we can do to prevent corporations coming in here the better it will be for the welfare of the territory, or the future state of Wyoming. If that is the case, I propose to work against every section of this corporation bill.

Mr. CHAIRMAN. The question is on the adoption of Sec. 9. Any objection? Sec. 10.

Mr. POTTER. I desire to amend Sec. 10. After the word "corporations" insert "or individuals."

Mr. HARVEY. I move to strike the section out.

Mr. CHAIRMAN. The question is on the motion to strike out. All in favor of the motion will say aye; contrary no. The noes have it; the motion is lost. The question now recurs on the original motion to insert the words "or individuals." Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the section is so amended. Sec. 11.

Mr. CAMPBELL. I move it be stricken out.

Mr. CHAIRMAN. The question is on the motion to strike out. All in favor of the motion will say aye; contrary no. The ayes have it; the section will be stricken out. Sec. 12.

Mr. JEFFREY. I move it be stricken out.

Mr. CHAIRMAN. The question is on the motion to strike out. All in favor of the motion will say aye; contrary no. The ayes have it; the section is stricken out. Sec. 13.

Mr. BURRITT. I move to strike it out. It is altogether unnecessary.

Mr. FOX. I think that should remain there. It settles it beyond any doubt.

Mr. CHAIRMAN. The question is on the motion to strike out. All in favor of the motion will say aye; contrary no. The noes have it; the motion to strike out is lost. Sec. 14.

Mr. RINER. I move to strike it out.

Mr. HAY. I am decidedly in favor of Sec. 14, for it is the only evidence in the whole bill that the people are disposed to encourage corporations at all.

Mr. CHAIRMAN. The question is on the motion to strike out. All in favor of the motion will say aye; contrary no. The noes have it; the motion is lost. Sec. 15.

Mr. FOX. I move Sec. 15 be stricken out.

Mr. CHAIRMAN. The question is on the motion to strike out. All in favor of the motion will say aye; contrary no. The noes have it; the motion is lost.

Mr. BROWN. I move when this committee rise they report back this file with the recommendation that it be adopted as a part of the constitution.

Mr. CHAIRMAN. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

Mr. CAMPBELL. I move this committee rise and report.

Mr. CHAIRMAN. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the committee will now rise.

Mr. PRESIDENT. What will you do with the report of your committee, gentlemen?

Mr. COFFEEN. I move the report be adopted.

Mr. PRESIDENT. It is moved that the report of the committee of the whole be adopted. All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

Mr. RINER. I move we take a recess until 2 o'clock.

Mr. PRESIDENT. It is moved we take a recess until 2 o'clock. All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails. The convention will take a recess until 2 o'clock.

AFTERNOON SESSION.

Tuesday afternoon, Sept. 24.

Mr. PRESIDENT. Convention come to order. Are there any members of the convention in the committee rooms?

We are still short. I would like to proceed with the final consideration of some of these matters that have been passed, but it requires a roll call, and that would disclose the fact that we are without a quorum.

Mr. BURDICK. On behalf of Mr. Jeffrey, who is a little late, I desire to say that Committee No. 5 has a report to present, and recommend that it be printed.

Mr. PRESIDENT. Is there objection to the report being received and read at this time? The secretary will read the report.

Mr. TESCHEMACHER. In order to get this out of my possession, Committee No. 19 desire to report that they have made File No. 76 on apportionment and the legislative report, conform, and they herewith return the two files.

(Reading of report of Committee No. 5, substitute for Files 5, 6, 10, 23 and 64.)

Mr. BURRITT. I move this file be ordered printed.

Mr. PRESIDENT. It is moved that this substitute be referred to the printing committee. Are you ready for the question? All in favor of the matter reported by the committee as a substitute being ordered printed will say aye; contrary no. The ayes have it; the motion to print prevails.

Gentlemen, there have been reported by the engrossing committee several files ready for final reading and passage. It is out of order to bring them up at this time, but if there is unanimous consent they will be brought up and put upon their final passage. The chair hears no objection to the consideration of the files and their final passage at this time. The question is upon the final passage of File 84. In order that the convention may be informed I will read Sec. 1.

(Reading of Sec. 1.)

Does the convention desire to amend?

Mr. COFFEEN. I move to strike out the words "on such matters and."

Mr. CHAPLIN. Second the motion.

Mr. PRESIDENT. The motion is to strike out "upon such matters." All who are of the opinion that those be stricken from the bill will say aye; those opposed no. The ayes have it; the motion to strike out prevails. Are there any further amendments? If there are no further amendments the proposition will be finally read and placed upon its final passage. There being no further amendments the secretary will read the bill.

(Final reading of File No. 84.)

So many as are of the opinion that File 84 be adopted as a part of the constitution of Wyoming will say aye as their names are called; contrary will say no. The secretary will call the ayes and noes.

Mr. BURRITT. I desire to explain my vote. I am of the opinion that the amendment just passed takes away from the legislature the power to regulate the jurisdiction of this court and therefore I vote no.

Mr. PRESIDENT. The vote on File 84 is as follows: Ayes, 27; noes, 1; absent, 18. Gentlemen, by your vote you have adopted File 84 as a part of the constitution of Wyoming.

The question is upon the final reading and passage of File No. 66. Are there any amendments? The secretary will read. (Final reading of File 66.)

The question is upon the final passage of the file as read. So many as are of the opinion that this file should be adopted will say aye as their names are called; contrary no. The secretary will call the roll.

Mr. IRVINE. I would like to vote, but I don't know exactly how to vote.

Mr. PRESIDENT. The gentleman will vote aye or no.

Mr. IRVINE. No.

Mr. PRESIDENT. The vote upon File 66 is as follows: Ayes, 25; noes, 4; absent, 20. By your vote you have adopted File 66 as a part of the constitution of Wyoming. The question is on the final reading of File No. 50. This is the section on arbitration that was in the judiciary bill, referred back, considered in committee of the whole and reported back to the convention with the recommendation that it do pass.

The secretary will call the roll.

Mr. BAXTER. I desire to say in voting upon this measure that it seems to me that the provision in it by which you provide that differences may be submitted by the two parties, might possibly weaken the force of the arbitration bill already adopted, and for that reason I shall vote no.

Mr. PRESIDENT. Gentlemen, the vote on the adoption of the substitute for File 50 is as follows: Ayes, 24; noes, 5; absent, 20. By your vote you have adopted the substitute for File 50 as a part of the constitution. This disposes of the files reported for final passage. I beg pardon, I see there are some other matters. Those that have finally passed will be referred to the committee on revision. The committee has reported back the legislative and apportionment bills.

Mr. TESCHEMAHER. I move that Sec. 3 of the legislative file and Sec. 4 of the apportionment bill be read. These are the only two not in harmony.

(Reading of Sec. 3 of the legislative file and Sec. 4 of the apportionment bill.)

Mr. CHAIRMAN. Final reading of what is now called a part of File 76, on the matter of apportionment. The secretary will read.

(Reading of the file.)

Mr. HAY. I have an amendment to offer. "In the event of the failure of the legislature to make the apportionment provided herein the last apportionment shall be legal, until such apportionment shall be made in compliance with the provisions of this constitution."

The reason I offer this is that the legislature might fail to make the apportionment, and we would be without any. The legislature did once fail to make the apportionment and we had to get congress to help us out, but congress could not help us out after we became a state.

Mr. PRESIDENT. What the gentleran says may be true, but I hardly think so. This report says that the legislature shall make an apportionment, and this would be the apportionment until they do so.

Mr. TESCHEMACHER. It also says that the legislature shall revise and adjust the apportionment for senators and representatives on a basis of such enumeration as provided by law.

Mr. HAY. But suppose they don't, how are you going to get out of the difficulty? Suppose the complexion of the legislature was equally divided, and they should refuse to make a new apportionment.

Mr. TESCHEMACHER. This very provision might be an inducement to them not to make another.

Mr. CAMPBELL. How can you compel them to do it? Suppose they refused to do it; can you compel them in any way?

Mr. SMITH. It stands as it is until they do change it, and would stand whether you put in that provision any way.

Mr. MORGAN. If I understand this apportionment bill, until otherwise provided by law, the apportionment made by this convention continues to exist.

Mr. CHAIRMAN. The question is on the amendment of Mr. Hay. Are you ready for the question? All in favor of the motion will say aye; contrary no. The noes seem to have it. Division is called for. All in favor of the amendment offered by the gentleman from Laramie, Mr. Hay, will rise and stand until counted—11. Those opposed will rise and stand until counted—14. The amendment is lost. Are there any further amendments to be offered to the file? The chair hears none. The question is now upon the final passage of the file as read. Those who are of the opinion that the file be adopted as a part of the constitution will say aye; those opposed will say no as their names are called. The secretary will call the roll.
(Calling the roll.)

Mr. RYNER. I want to say one word in explanation of my vote. I vote no because I think this apportionment is unfair, not only to this but to every other county in the territory. Hence I vote no.

Mr. PRESIDENT. The vote on the part of File 76, concerning apportionment is as follows: Ayes, 26; noes, 4; absent, 19. Gentlemen, by your vote you have adopted that part of the file as a part of the constitution of Wyoming. Final reading of File 76, legislative department.

(Reading of Secs. 1 and 2.)

Mr. TESCHEMACHER. I notice one unnecessary sentence in there "Except as is otherwise provided in this constitution." I move to strike it out; in the second line of Sec. 2.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion to

strike out will say aye; contrary no. The ayes have it; the motion prevails.

(Reading of Sec. 3.)

Mr. COFFEEN. There is one provision that I think was settled by two or more votes, that each county shall constitute a senatorial and representative district, and it seems to have been omitted.

Mr. TESCHEMACHER. I think it is there unless it has slipped out.

Mr. BURRITT. I beg to call attention to the fact that according to the apportionment bill two counties may constitute a representative district.

Mr. COFFEEN. The provision I refer to may be in the next section.

(Reading of Sec. 4.)

Mr. COFFEEN. It does not seem to be in there, so I move an amendment to Sec. 3 by inserting: "Each county shall constitute a senatorial and representative district."

Mr. PRESIDENT. Gentlemen, you have heard the amendment. Are you ready for the question? All in favor of the adoption of the amendment as proposed by the gentleman from Sheridan will say aye; contrary no. The ayes have it; the motion stands adopted.

(Reading of Sections 5 to 10.)

Mr. CAMPBELL. I move to strike out that part not allowing a senator to hold any other office. Suppose a judge should die, and one of the best men in the territory to succeed him is a member of the senate, he can't fill that place. I think that is wrong to the people and to him. I don't see why a man should be debarred simply because the people have elected him to a seat in the senate. I move to strike that out.

Mr. COFFEEN. Second the motion.

Mr. HAY. I think that is all right. If a member of the state senate or of the house is elected or appointed to be a judge, let him resign from the legislative body and not hold both at once.

Mr. CAMPBELL. The motion is to strike out that portion of the section which prevents a person who is a member of the legislature holding any civil office, in the state during the time for which he was elected. I don't think if he resigned it would make any difference.

Mr. MORGAN. The idea I presume is to prevent a man from using his legislative or senatorial position to get an appointment. That is what it is for.

Mr. CAMPBELL. I don't see how this provision would help that matter any, and as I see no reason why they should not hold office during that time I move to strike out all of Sec. 8, down to the word "no" in the second line of said section.

Mr. PRESIDENT. The motion is to strike out Sec. 8 down to the word no in the second line. "No senator or representative shall during the term for which he shall have been elected be appointed to any civil office in the state." Are you ready for the question?

Mr. FOX. It seems to me what is right for one is right for the other. The first of this section states that no senator or representative shall hold office during the term for which he was elected; and the last part that no person holding any office under the United States government or state shall be elected a member of the legislature. I think the thing is as broad as it is long, and the whole section ought to stand just as it is.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion to strike out will say aye; contrary no. The noes have it; the motion to strike out is lost.

Mr. RINER. We have heard so much about economy in this hall I want to offer an amendment to Sec. 8 of the printed bill, on purely economical motives. I see that the pay is fixed at five dollars per day. Now the United States pays only four dollars per day, and I think that is as high as it should be for the first legislative assembly of the new state. I therefore move to strike out the word "five" and insert "four," thus making it conform to that of the first legislature, and that the time for the first legislature shall be ninety days, instead of one hundred and twenty days, and that the word "sixty" in the sixty-sixth line be stricken out and "forty" inserted in lieu thereof.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? To amend Sec. 8 of the printed bill by striking out the word five and insert the word four. Are you ready for the question. All in favor of the motion will say aye; contrary no. The noes seem to have it. A division is called for. All in favor of the motion to strike out will rise and stand until counted—13. Those opposed will rise—14. In the negative. The motion is lost. The motion now is to strike out the words one hundred and twenty and insert ninety. Are you ready for the question?

Mr. MORGAN. The committee considered this very carefully. I was inclined to favor ninety days, but concluded that would not be long enough for the first session. They will have to form many new laws and put them in operation, and I think it would require one hundred and twenty days.

Mr. CLARK. It seems to me that they would be unable to employ more than ninety days, unless they should continue in the way we began, and I am therefore in favor of the amendment.

Mr. RINER. The reason I offered this amendment was that it had been suggested to me by a number of citizens that

to get a favorable consideration of this constitution the question of economy must be very carefully looked to, and this matter was called to my special attention. Here we provide for a more expensive government than the United States has allowed us, namely one dollar additional compensation, increasing the first session from sixty to one hundred and twenty days, and making all the sessions sixty days. The first thirty out of the sixty days goes about as it has done in this convention, members going home, and discussing the rules, and not getting down to work until the last thirty days. I believe we will get better legislation and save a great deal of expense in this way. I offer this amendment on purely economical motives, and because of the suggestions made to me by parties interested in the success of this constitution, and the expense that this constitution will provide for. As far as I am personally concerned I care nothing about it.

Mr. COFFEEN. Most of the constitutions that have been lately framed have recognized the fact that to make a complete code or anything near it under the constitution will require a great many days work, and ninety days I do not think sufficient. I believe one hundred and twenty days is small enough, for the first legislature will have a great deal to do.

Mr. CAMPBELL. The expense saved would be \$7,350.

Mr. PRESIDENT. Any further remarks? The question is on the motion to strike out one hundred and twenty and insert ninety. All of the opinion that the motion to strike out and insert prevail will say aye; contrary no. The ayes have it; the motion prevails. The question is now on the motion to strike out the word sixty and insert the word forty. All in favor of the motion will say aye; contrary no. The noes seem to have it. A division is called for. All those in favor of the motion will rise and stand until counted—18. Those opposed will rise—8. The motion to strike out and insert prevails. Any further amendments?

Mr. RINER. We have saved by that the expense of the supreme court for two years.

(Reading of Secs. 9, 10 and 11.)

(Reading of Secs. 12 to 19.)

Mr. BURETT. I move to strike out the word "lieutenant governor" in the fifth line.

Mr. PRESIDENT. Gentlemen, you have heard the motion, to strike out the word lieutenant governor. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion to strike out prevails.

Mr. CAMPBELL. If not out of order, I would like to move a reconsideration of the vote on the motion to strike out "five" and insert "four." I have been figuring and I see you will save a great deal of money by fixing four dollars a day for senators and representatives. I figure that you would save \$1,360. I

voted for five before, so believe I am in a position to move a reconsideration of the vote.

Mr. PRESIDENT. The question is on the motion to reconsider the vote on the amendment to strike out the word five and insert the word four, by which the amendment was lost. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion to reconsider the vote prevails. What is your pleasure, gentlemen?

Mr. COFFEEN. The question now coming up is to vote again on changing the compensation from five to four dollars per day. It seems to me a move is being made here as if to justify the expense of a supreme court by cutting off all they can on the legislature. I am satisfied that we are going to have a supreme court, we have finally decided upon that, but should we take the position that we will curtail the legislature both in time and compensation, and thus save the expenses of the supreme court, and make that an excuse for spending so much on the supreme court. I say you should not cripple the legislature in its ability and power to make laws. I think you have done one of the very worst things in cutting down the first session to ninety and the other sessions to forty days.

Mr. BURRITT. I desire to put in a very modest protest against the reduction of this salary from five to four dollars. The legislative assemblies of Wyoming for years past have been passing joint resolutions to congress asking for increased pay. The fact is in the northern part of the territory, represented by myself and my associates, the only way we can get a man to attend the legislature is for some prominent citizens of both parties to come together and agree to stand by him in his business while he is away, and it is a matter of fact that every member of the legislature for the last three or four years has been obliged to call upon the people at home for assistance either in their business or otherwise, and it is a pretty hard matter to get a man of any ability in Sheridan or Johnson counties to come to the legislature. While I am on my feet I desire to put in a very strong protest against the cutting down of the first session of the legislature from one hundred and twenty days. I do that, sir, for the reason that the judges of our supreme court in holding their last session have found it necessary to say that about the first thing that should be done in the eleventh legislative assembly should be the introduction of a joint resolution, and see that it was passed, repealing the present statutes of Wyoming. With all due respect to the compilers of our present revised statutes, there is the most complete evidence in the collection of the material of the courts, that the assembly that passed upon this revision did not do its duty. It is nothing more than a book of contradictions, as all will see who study it, and the fact that it has been necessary to pass so many supplementary laws, is of itself a

strong argument to prove the truth of what I say. As this now stands I shall be compelled to vote against the whole legislative bill. I think it is an outrage upon the people, and no saving.

Mr. MORGAN. The committee considered this question of compensation very carefully. The United States used to pay five dollars per day, but in a fit of foolish economy it made it four dollars. I have looked into this question and I don't think four dollars will more than cover their actual expenses; they ought to be comfortable here. Are you going to establish offices in this territory, and purely representative offices, and deprive the people of having them filled by men of ability, by keeping from them compensation enough to pay their expenses, we ought not to do this, in particular since we have reduced the first session to ninety days, those men will have to work as never men worked before in order to do some of the duties required of them. It ought to be more, but taking into consideration the circumstances of the territory, the committee decided upon five dollars, which will just about pay their actual expenses.

Mr. CHAIRMAN. Any further remarks?

Mr. CLARK. I shall vote against the amendment precisely for the reasons given by Mr. Morgan, but I believe whether the compensation is five dollars, or four dollars, or three dollars, I believe we will have good legislators. I believe a man will come here just as readily, who has the good of the territory at heart, and has any self respect, I believe he would come just as readily for three dollars as he would for five, but I believe it is a question of false economy to say that we shall not pay these men who represent us and who make our laws at least something in the way of compensation. We don't want to ask them to come here for less than it will cost them, and I undertake here to say that no body of men can meet here in Cheyenne at an average cost of less than three dollars per day. I think that has been the experience of past legislatures, and I think it will be the experience of future legislatures. You have to pay two and three dollars per day for hotel bills, and if you want anything to eat you have to pay as much more for restaurant bills and all the little incidental bills that come up. It seems to me that we ought not fix this lower than five. I would even favor six.

Mr. BURRITT. I desire to extend my sympathies to Mr. Clark, as he seems to have had an experience similar to my own since I came to Cheyenne. I should like to have the Union Pacific take away their legislative passes so men cannot slip away and go off on pleasure trips, and go home between meals, when there are some of us who cannot go home, who came from northwestern Wyoming, and have to take 215 miles of staging, I should like to have some of the gentlemen have to

do that, and see how they would like it. I think the gentleman from Uinta would vote for seven dollars and a half in that case.

Mr. CLARK. You get fifteen cents a mile and the gentlemen who travel on passes don't want any mileage.

Mr. BURRITT. After we have paid our fare that just leaves enough to pay for traveling over a stage line.

Mr. TESCHEMACHER. I did not intend to say anything on this subject, but I can just tell you how this thing works. I was appointed by Mr. Morgan as an accountant, that is to say to audit, the expenses of the auditor's books, etc. I was one member, Mr. Quinn was another, and a gentleman from Carbon was another member. Now I think you will acknowledge that I probably did as much work as I could. I worked all the time. The law provides that those outside members get mileage, but I unfortunately coming from Cheyenne could get none. We worked six days. I got twenty-four dollars, Mr. Quinn who came down on a pass got a hundred and forty-six dollars, and the gentleman from Carbon who traveled on a pass got eighty-six dollars. That is the way it works against a man from Uinta and the northern counties. The same thing applies to the legislative sessions. The gentleman from Uinta gets fifteen cents mileage and only pays five cents, and had passes on our railroads, so you see that the thing is against the members who live in Cheyenne. Their expenses go on just the same. I have got to eat even if I do live in Cheyenne.

Mr. MORGAN. I want to endorse what the gentleman from Uinta has said, and go a little further. These men are often influenced by patriotic motives to come here and serve their country in the legislature, some of these men are doubtless able to pay their own expenses, but there are others who are not, and who might be obliged to stay at home because they could not afford to come unless their expenses were paid, because they are poor men, and I think we should allow them enough to pay their actual necessary expenses.

Mr. CAMPBELL. I would like to ask Mr. Morgan whether a man getting mileage and four dollars a day, I would like to ask, whether that would not pay the expenses of an ordinary man?

Mr. MORGAN. I don't think it will.

Mr. CAMPBELL. He would be here for forty days at four dollars per day, for forty days one hundred and sixty dollars, and fifteen cents a mile mileage, and from the most northern counties it would not cost him more than one hundred dollars, and that would leave two hundred and sixty dollars, and if any man could not live for forty days on two hundred and sixty dollars, he has no business to come to the legislature. I merely wish to say that this amendment will save the territory on its first legislature \$4,419.

Mr. PRESIDENT. The question is on the motion to strike out and insert. All in favor of the motion will say aye; contrary no. The noes seem to have it. A division is called for. All in favor will rise and stand until counted. Those opposed—19. The motion is lost.

Mr. SMITH. I desire to call attention to the fact that this file was evidently drawn to have a lieutenant governor, and I would call attention to Sec. 12 of the printed bill, where it provides they shall elect a president pro tem. I would move to strike out the words "pro tem."

Mr. PRESIDENT. Gentlemen, you have heard the motion. All in favor of the motion to strike out the words pro tem will say aye; contrary no. The ayes have it; the motion to strike out prevails.

(Reading of Secs. 18 and 19.)

Mr. CAMPBELL. In order to test the sense of this convention, I move to make that five days instead of ten. I think that was framed on the sixty days session, was it not? I move to reduce it to five.

Mr. PRESIDENT. It is moved to strike out the word ten in Sec. 24 of the printed bill and insert five in lieu thereof. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion to strike out and insert prevails.

(Reading of Sec. 23.)

Mr. BURRITT. I would like to ask the chairman of the engrossing committee if the matter in reference to the incorporation of cities was purposely left out? It came up in the municipal corporation file and was in my charge, and the convention knocked it out there, because it belonged in here, but it seems to have fallen out, so I move to insert in the fifth line, after the word "affairs," "the incorporation of cities and towns."

Mr. TESCHEMACHER. The chairman of the committee would like to say that it is in the bill, but in Sec. 29. There were two sections that had to be knocked out of this bill in order to make it conform with the apportionment bill, and the sections were renumbered. I think if the clerk will reread the bill, the gentleman from Johnson will see that this is in the bill. If the secretary will read the balance of the bill I will look the matter up and see if it is not all there.

(Reading of File down to Sec. 32 of the printed bill.)

Mr. RINER. There is one part that I would like the legislative committee to explain what it means. If the explanation is satisfactory I don't care to amend. In the last clause of the section "providing for the payment of claims" made against the state. What class of claims is it proposed to reach? If there is no reason for it I see no reason for having the language in there, and I move to strike it out.

Mr. MORGAN. I don't know what the intention of the committee was, but it was to apply, of course, in this connection. In connection with legislative supplies. That is the intention of the section, I take it.

Mr. RINER. I was afraid it would bear that construction. I think the point we want to reach here can be reached without that part which I propose to strike out. "After services have been rendered or contract made," and stop right there. I move to strike out all the balance of Sec. 32 of the printed bill.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion to strike out will say aye; contrary no. The ayes have it; the motion to strike out prevails.

Mr. CLARK. I move to amend Sec. 48 of the printed bill by striking out the last five words, "and shall not vote thereon." So it shall read, "A member who has a personal or private interest in any measure or bill proposed or pending before the legislature shall disclose the fact to the house of which he is a member." I believe it is unjust to disfranchise a member of the legislature if for business reasons or otherwise he may have a personal interest in the bill, and that is the reason for my motion.

Mr. BURRITT. I don't believe in giving a member the chance to dodge the vote on the calls of the ayes and nays by saying he was personally interested in the bill.

Mr. PRESIDENT. The clerk will read the words included in the motion.

Mr. CAMPBELL. I move to amend the amendment by striking out all of the section. I think it is a useless provision. An honest man will disclose the fact and a dishonest man won't in any case, and it operates against the honest man every time.

Mr. TESCHEMACHER. Second the motion.

Mr. PRESIDENT. The motion to amend by the gentleman from Uinta was to strike out the last five words of the section, and it was so amended to strike out the whole section. The question is on the motion to strike out the entire section. Are you ready for the question? Those in favor of striking out the section from the bill will say aye; contrary no. The ayes seem to have it. A division is called for. All in favor of the motion to strike out will rise and stand until counted—11. Those opposed will rise—13. In the negative. The motion to strike out is lost. The question now recurs on the motion to strike out the last five words of the section.

Are you ready for the question?

Mr. COFFEEN. Just a word as to that. I believe the point is well taken, but I believe this would be better: "And may be excluded from voting thereon." It seems to me that is better.

Mr. PRESIDENT. The question is on striking out the last five words of the section. All in favor of the motion will say aye; contrary no. The ayes seem to have it. A division is called for. All in favor of the motion will rise and stand until counted—13. Those opposed will rise—13. The motion is lost. Any further amendments to the file? The question is upon the adoption of the file as a part of the constitution. Are there any further amendments to be offered to the file?

Mr. COFFEEN. As the bill now stands I should be obliged to vote no, but as you have given us an opportunity to further amend, I am going to move an amendment to test the question again. I am sorry to do this, but some of us will have to vote against the bill as it now stands. In Sec. 8 I move to strike out "forty" and insert "fifty-six." Seven weeks. I don't think they can do their work in less than that time.

Mr. PRESIDENT. Gentlemen, you have heard the motion to strike out the word "forty" and insert in lieu thereof the word "fifty-six." Are you ready for the question? All in favor of the motion to strike out and insert will say aye; contrary no. The noes have it; the motion to strike out is lost. Are there any further amendments to be offered to the file?

Mr. MORGAN. I don't think the objections to sixty days are serious enough to make a man vote against the whole bill. Men can do a good deal in sixty days.

Mr. TESCHEMACHER. I would like to say a few words. With the sixty days session every legislature that I have been a member of in this territory has adjourned always from Friday to Tuesday, three days out of every week, for which they receive twelve dollars, and also during one legislature we were able to go on a junketing trip to Salt Lake, and had a very good time for a week. We were paid four dollars a day for going to Salt Lake and back on a special train. I think the work can be done in forty days if they work.

Mr. COFFEEN. As the bill is still before us for consideration, I will say that I believe I could vote for this bill and limit all subsequent sessions to forty days, if you did not limit the first session to ninety days, contrary to the judgment of every constitutional convention held during the year, and contrary to the judgment of the committee who canvassed that question very carefully, and I think would be contrary to the judgment of the people when they realize the work that will have to be done in ninety days, to formulate a complete system of legislation for the government of the state. I think it is a most unfortunate situation, but I think I could vote for the bill if I could successfully carry an amendment on that point, although it is against my judgment and a great mistake to limit the other sessions to forty days, as I do not believe that will be sufficient, and I think it will take more than one hundred

and twenty days for the first session if they are to form anything like a complete code under this constitution.

Mr. PRESIDENT. The question will be on the final reading and passage of File 76, on apportionment and legislative department. So many as are of the opinion that File 76 be adopted as a part of the constitution will say aye as their names are called; those opposed will say no. The clerk will call the roll.

(Calling of the roll.)

Mr. CAMPBELL. I would like to explain my vote. I am utterly opposed to having the senate elected for the same term as the representatives, but that question was discussed in committee of the whole, and those in favor of two classes prevailed, and I did not care to raise the question a second time, though I believe in that as a principle of legislation, but as there are so many good things in this file, I vote aye with that explanation.

Mr. COFFEEN. I wish to explain my vote. Owing to the amendments introduced regarding the time for legislation in the first session, and subsequent ones, I vote no.

Mr. PRESIDENT. Gentlemen, the vote on File 76 is as follows: Ayes, 28; noes, 5; absent, 16. By your vote you have adopted File 76 as a part of the constitution of the state of Wyoming. The file will now be referred to the committee on enrollment. This disposes of all the matter on my table for final reading. What is your pleasure, gentlemen?

Mr. POTTER. I move we now go into committee of the whole for consideration of the revenue bill.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion to go into committee of the whole will say aye; contrary no. The ayes have it; the motion prevails. Will Mr. Burritt take the chair? We are now in committee of the whole, Mr. Burritt in the chair.

(Substitute for File 7, 26, 27, 41, 54 and 55. Reading of Sec. 1.

Mr. HAY. I have an amendment which I want to offer to Secs. 1, 2, 3, 4 and 5. I want to say that this was taken almost word for word from the Colorado constitution. We all know that the mining development of Colorado since the adoption of their constitution has been phenomenal, and I don't believe the conditions here in Wyoming are very different from what they were in Colorado in 1875 and 1876. This substitute is special legislation against a certain interest, and I am opposed to it on that ground.

Mr. BROWN. I am very much opposed to the amendment offered, and I am opposed to it for one reason because it is the constitution of the state of Colorado. There never was a more lamentable condition of things than has existed and now exists in that state as the result of this very provision. As my

friend Hay says the output of mineral in the state of Colorado has been phenomenal. There is no question about it, but what good has the output of that mineral been to the state of Colorado? Not a five cent piece out of the many millions of dollars taken from its mines has gone into the state treasury as a tribute to the state. The mines have been mined out in a large degree, the wealth has been carried from the state and is in the hands of non-residents, the wealth of the state has been taken away and the riches of the state depleted to this extent, and not one cent tribute has been paid to the government. Colorado is just so much poorer today than when she adopted her constitution, just so much poorer as the value of the minerals taken from her mines. It is true that Colorado has grown and improved in other respects. It has increased in a large degree in population, and the state has increased in population purely from the importance and growth of mining as a business in the state. But while that is true, this mineral, the real wealth of the state, has been carried away, and no tax has been paid out of the money to the state for the support of the government. I believe that is wrong, and I believe that the state of Colorado has been injured by that process, for the reason that if a tax had been levied upon these millions of dollars taken from the mines of Colorado, and applied to the payment of the state expenses, or the state debt, Colorado would have been free from debt today, and in a prosperous condition as a state government, notwithstanding the extravagances that have been indulged in by the legislatures of that state. It is said today that a very nominal tax on the output of its mines would have relieved Colorado from its present condition. Is it to be said that people shall come into our mines from all over this country, extract from them the precious metals or the coal, it makes no difference which, take it away, utilize the wealth that comes from it in other states, and pay nothing for the support of the state where it lies? I don't believe in the principle, and the practice has been bad. Now as to this matter of taxing coal lands. It is supposed, whether truly or not we cannot say, still it is supposed, that the great wealth of the state will consist in its coal and coal lands. Now is there any reason why they should not pay a tonnage tax on this coal? A large proportion of it is shipped out of the state, probably out of all the coal mined in Wyoming this year nearly two-thirds of the whole amount will be used and shipped outside of the limits of the territory. A tax of this kind comes out of the consumer. Is there any reason why the people who have the benefit of our coal should not pay something to support the government of the state? That is the consumers will pay it, and as consumers they ought to pay it, and we ought to have some benefit of this coal product, to support the government that we are trying and undertaking to establish. Any one can

see the fallacy of the present methods of taxing our coal fields, and I want to call your attention to a few facts. Taking the percentage of taxes collected in the territory, and we find that it is as follows: On live stock there is collected three hundred and forty thousandths per cent of all the taxation, on railroads and telegraph lines two hundred and twenty-two thousandths per cent, on other property four hundred and thirty-three thousandths per cent, and coal corporations and coal lands pay fifteen thousandths per cent, and that is all, and yet it is said we are assessing these lands on their value. The coal business in Wyoming today is the largest industry in the territory and pays the slightest possible percentum towards the support of the government of the territory, and yet it is proposed by the substitute offered by my friend to continue this method of taxation, which depletes and impoverishes the resources of the state, and gives nothing to the support of the government. Let me present a few more facts. There is paid from the coal interests toward the support of the territorial government about \$1,250 per annum. Now what do we pay our coal inspector and coal engineer? What are the expenses to the territory? At least from three thousand to five thousand dollars a year that the territory pays out, that is what it costs the territory in having a man stand and look over these mines, to pay the inspector of coal mines. Is that the way to build up a revenue for the support of the state government? There is mined in this year in the territory perhaps about two millions tons of coal. A tax of one and one-half cents on the ton of this two million tons would produce a revenue that would not only support and pay the expenses of these mining inspectors who are appointed to look after these mines and see that they are kept healthy and in a fair condition for the men to go into them, but in addition to that it would pay one-half of the expenses of the state government, and who will be made the poorer by it? It must come out of the pockets, as I said, of the consumer; it can come from nobody's else pocket save the consumer's. It has been said by members of all parties and admitted by all that every tax that is levied upon an article of commerce is so much to be taken out of the pocket of the consumer, no matter what the tax is. Now this is a rule of universal application, admitted by all sides in the discussion of political measures, and of tax measures, and I think we may admit it is the fundamental principle in considering this question, that whatever the tax we levy upon the tonnage it is to come out of the pocket of the consumer. If our coal is an advantage to the states lying around us, if they need it for domestic and other purposes, cannot they well afford, as consumers, to pay something to help support our state government? I have heard it said that it would be claimed in some way that such a tax as this would be an injustice to corporations. I cannot see in what way it can be. I have some figures

here on that proposition. The cost of mining coal at the outside figure is placed at \$1.25 per ton. The freight to Omaha is \$4 per ton, the drayage is 50 cents per ton, the total cost of the coal laid down in Omaha is \$5.75 per ton, and the price at which it is sold is \$7.00 per ton. I speak now of transporting coal from Rock Springs, because that is a fine marketable coal and a great deal is shipped from there. This leaves a clear profit of \$1.25 per ton, and I want to say right here that in figuring the price at \$4.00 per ton, it is figured on the short haul price. I want to ask you if this tax of one and one-half cents is to be taken out of that profit, what reason is there that it should not be? There will be enough left after they take that out. Again, figuring on Kearney at the same cost, \$1.25, the freight at \$3 per ton, drayage 50 cents as before, and the total expense of laying it down in Kearney is \$4.75 per ton. They sell it there for \$7.50 per ton, or 50 cents more than the coal is sold for in Omaha. This gives a profit of \$2.75 per ton for all coal sold in Kearney. Can they afford to deduct from that profit of \$2.75 per ton this little sum of two and a half cents per ton. It seems to me they can. Taking the same scale of prices to Cheyenne. The price per ton, \$1.25, at the mine, \$1.50 for freight, and 50 cents for drayage, makes \$3.25 per ton. It is sold here we understand at \$6.00 per ton. This leaves a profit of \$2.75 per ton to the company mining the coal.

Mr. HAY. Judge, I want to call your attention to the fact that at Rock Springs coal sells at \$2 a ton at the mines. You must also remember all the coal mines are not going to be owned by the Union Pacific, and you must remember that the value of the coal at the mines was in the hands of a monopoly, who could do as they please and make a large profit on their operations. But you must in any case take the value of the coal at the mines.

Mr. BROWN. Let us make our valuation of coal at the mine \$2 per ton, and there is a clear profit of 75 cents at the mine. Can they afford to pay out of that 75 cents two and a half cents per ton? Suppose it comes out of the producer, suppose what is claimed is so, and the position taken by my friend is true, in that it sells at \$2.00 per ton. Even then they can well afford to pay this tax and not disturb their profits in the slightest possible degree. But I was figuring on their profits at Cheyenne, figuring at the price which they get here, which is said to be a little low for Rock Springs coal, and they make \$2.75 per ton. At Laramie, taking the freight they charge outsiders, and we know what they charge, and the other expenses, makes the cost at Laramie \$3 per ton, and they sell it at \$6 per ton, making a clear profit of \$2 on every ton of coal sold in that town. Take it at Green River, the cost laid down at Green River, at the same rate of freight, and perhaps the freight can reasonably be figured a trifle higher, because I believe the ex-

pense for shipping a short distance is greater than the expense of shipping a long distance, but figuring it at the same rate, and the cost is \$1.83 per ton. It is sold at \$4.50, and the profit is \$2.77. At Butte, the cost of freighting it there figured at the same rates of freight per mile that we pay at Laramie, it is \$4 per ton, and they sell it at \$9 per ton, a profit of \$5. Again, at Salt Lake the expense is \$3.10 per ton, and it is sold at \$6.50, making a profit of \$3.40 per ton. Now, gentlemen, we have tried to be accurate in these figures, and get them as nearly right as we could. They are certainly approximately correct. Now I want to ask you as fair men, and want to do what is right, I ask you as fair men is there any justice in the proposition that our new state shall be depleted of its wealth in coal, the coal taken and carried to other states and territories around us, to be used for their purposes, and we get no benefit in the way of taxation to support the state government? If we are to judge the future by the past, we will get nothing in the way of taxes for support of a state government, upon the assessed valuation as it has been heretofore made. Another point let me call your attention to. How can you fix the value of a coal mine? How can you fix the value of that which is hidden and about which you know comparatively nothing? It is an impossibility. Now then, what is done at this time? The Union Pacific, and I speak of them fearlessly, because they are just as good as any other company that I know of, the Union Pacific on all its coal lands, and it owns many thousands of acres, pays but the smallest possible trifle in the way of taxation to the support of the government, and other companies may be expected to do the same thing. It is said, and I believe it is true, that hundreds and hundreds, even thousands, of acres of coal land in this territory have been purchased by the B. & M. railroad. That is all right; they have a right to purchase them. Will they pay any more taxes than the Union Pacific does on its lands? I don't believe they will. You are satisfied to tax this property according to its value. When its value cannot be ascertained, when there is no man who can go below the surface and tell whether there are two thousand or ten thousand tons an acre, how are you to fix its value? How are you going to levy a tax upon the value of the land when you don't know what it is, and cannot ascertain? The only thing you can do is to do about what we are doing now, to tax it at some merely nominal value, and as long as you tax it at a merely nominal value, we get nothing for the support of our government out of the coal mines. The coal mines of Wyoming territory for the last three years, and I speak advisedly, have paid less to the support of the state than has been expended in looking after them by the territory. If that is to continue in the future, and we are to judge the future by the past, what hope is there that in taxing these mines we shall get any just

compensation out of them for the support of the government of the state? It seems to be utterly impossible. I believe that the assessments have been as fairly made in the past as they can well be in the future, but how much better is this other method. When you take a ton of coal you know just what you have got, that is something you can put on the market and get your money for it, you can well afford to pay this small tax upon that ton of coal. Now in this way there is an absolute certainty, that we as a people shall realize for the support of the government something tangible and real from these coal interests. We will not only make them pay their own expenses, and I find no fault about the money expended for that purpose, it was wisely expended, every dollar we have put into these mines in the way of making them better, and improving their condition so they can be worked in with safety by our citizens, is money well expended, but we cannot afford to take the money from our pockets, that is produced by taxing other interests to pay these expenses. We can afford to make the coal output pay it, and if we don't do it now, in my humble opinion, we are negligent in our duties as members of this convention. If we fail in this we fail in the best opportunity that a people ever had to build up the revenues of the state, from a source that can impoverish no one, and harm no one, and save the tax payers of the state that money that comes from other sources, which will have to go to pay for the state government. Our coal mines are the source of our wealth, and if this coal business that is today paying a larger profit on the investment than any other business within the limits of our territory, cannot pay its just proportion of the public expenses, there should be some reason why it should not. I do not desire to load down corporations with any unjust tax. I am the last man that wishes to do that because I want to see this territory grow and prosper, I want to see its resources developed, and I want to see corporations and railroad companies coming into the state, and help develop its resources and build up its wealth, but I don't want it to be said that, when I shall have passed away in years to come, that I was one party that had an opportunity to make this resource pay fairly toward the public expenses, lost the opportunity and loaded the people that were yet to come with burdensome debts in the support of a state government. I don't want the people that are to come to say, or to have any opportunity to say, that when one of the best methods that was ever presented in any country by any man, was presented to this convention, whereby to raise a revenue to support the state, that we carelessly threw it away, and allowed our country to be impoverished of its wealth by taking its coal from its boundaries, and we get nothing. I don't believe in that sort of thing, and I hope this convention will see their way to do what is just, and to aid the new state. I tell you, gentle-

men, this tax will be the lifeblood of the state, and will keep it up and help support it and save the people of the state from burdensome taxation.

Mr. HAY. The proposition is a very tempting one. I don't hesitate to say the amount of revenue we will get from this source will be of great assistance to the new state, but I don't know of any reason why we should get this revenue from this particular industry, and ignore all the other interests. Why not tax all the agricultural products and everything else we ship out of the territory, to be consumed outside of the territory. I regret very much that the entire Sweetwater delegation is not here today. I don't know how any man feels on this subject, whether they side with me or not, but I should like to have the opportunity to call upon them for some information. I am not prepared to discuss the figures given by Judge Brown but I want to talk a little about what Judge Brown says in regard to the condition of affairs in Colorado. Now this substitute, as I understand it, which I have introduced, does not exempt the taxation of the output of mines entirely, but contemplates the taxation of all mines alike under certain conditions. We have been told that the state of Colorado has been made infinitely poorer by the amount of mineral taken out in the past twenty years. Now I wish Wyoming might only be made poorer in the same way in the next thirteen years as Colorado has by her mines, and nothing has done more to develop these mines and encourage mining than their exemption from taxation. The product of her mines has been a greater source of revenue than all of her agricultural and live stock interests and the fact they didn't assess the output and cripple every man who undertook to develop a mine, has resulted in a great deal of wealth, which today pays its tax.

Mr. BROWN. Do you know that the people of Colorado are today regretting their action regarding this very question?

Mr. HAY. My information is right to the contrary. I am informed by people who ought to know that it is their belief, the leading men of Denver have informed me that it is their belief that this policy of encouraging mining has done more for Colorado's development than any other policy ever pursued there. I don't care to go into the figures of the immense profits made by the Union Pacific on coal produced at their Rock Springs mines. That has nothing whatever to do with this question, whether they make five or seventy-five dollars per ton has nothing to do with the principle of making this infant coal industry subject to a direct tax, which you don't impose upon the output of any other mines. The mines owned by the Union Pacific or by any company connected with them and worked at Rock Springs are but a drop in the bucket compared to the mines in this country, and because the Union Pacific is able to carry on its business with an immense profit on account

of the transportation they get on it, that is no reason why other coal mines should be taxed on account of their profits. We have large mining interests all over the northern part of the territory, in Converse county, where the quality of the coal is not nearly so good, and the profit comparatively nothing. I know of mines in which sixty thousand dollars have been put without any return or profit whatever, they have mined out a good deal of coal, and it would be pretty hard on them to pay taxes on it without having made a dollar profit. Another question I want to refer to and that is the manner of collecting these taxes. It is said that we don't get anything like what we ought to from these mines; that is not the fault of our present laws, but it is the fault of our assessors and of the people who own the mines. But as I said in starting out my main objection to this thing is that I don't like to see a special tax of that kind put into the constitution. there is not another constitution in the whole of the United States that has this provision or anything like that.

Mr. SMITH. In Pennsylvania today it is on their statute books.

Mr. HAY. Pennsylvania can well afford to put that in her statute after her mines have been developed as they have been.

Mr. ORGAN. I move this committee now rise, report progress and ask leave to sit again.

Mr. BAXTER. Second the motion.

Mr. CHAIRMAN. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the committee will now rise and report.

Mr. President:

Your committee of the whole having had under consideration the special order, substitute for Files 7, 26, 27, 41, 55 and 54, beg leave to report progress and ask leave to sit again.

C. H. BURRITT, Chairman.

Mr. PRESIDENT. What will you do with the report of your committee, gentlemen?

Mr. SMITH. I move it be adopted.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the report is adopted.

Mr. TESCHEMACHER. There is a matter which I shall have to bring to the attention of the convention again. The question is what is to be done after the revision committee revises an article. Yesterday I handed in two articles revised, and I have not seen them since. The record this morning says they are on the table, perhaps they are, I don't know where they are. The situation is simply this. the revision committee, with the sessions we are holding now, has absolutely no time

to do the revision, unless we remain in the committee rooms during the rest of the session. Now if the convention has decided that each article is to be revised and the constitution adopted as a whole before it is enrolled, well and good, the members will have to remain in Cheyenne at great expense four or five days after this convention gets through its labors, to see that this constitution has been properly enrolled and affix their signatures. This is absurd on the face of it. We don't want to do that.

Mr. PRESIDENT. I have been thinking this over and it does not seem to me necessary to vote on this question again. All that is necessary is after the revision committee report an article back to this convention as revised, is to have it read by the clerk, then if it is found to be correctly revised it can be simply handed over to the enrollment committee, and have it enrolled. That seems to me the simplest method, and if it meets with the approval of the members we will carry it out.

Mr. BAXTER. I move we now adjourn until half past seven this evening.

Mr. JEFFREY. I want to ask the indulgence of the convention on a matter of some importance. The chairman appointed as chairman of the committee on schedule is absent, and I don't know when he will return, but the committee has prepared an article entitled schedule and would ask leave to have it printed, if the convention so desires, in order that it may come before the convention and not leave it until the last moment.

Mr. PRESIDENT. Is there objection to the report being printed? The chair hears none. By unanimous consent the report of the committee on schedule will be received and printed.

Mr. BAXTER. I move we now take a recess.

Mr. ORGAN. Second the motion.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of taking a recess until half past seven o'clock this evening will say aye; contrary no. The ayes have it; the motion to take a recess prevails.

EVENING SESSION.

Tuesday, Sept. 24th.

Mr. PRESIDENT. I wish to say to the gentlemen of the convention at this time that those files that have been finally read and adopted as a part of the constitution and referred to the committee on revision, will not be voted on again until they are reported by that committee as a part of the whole instrument, or constitution. This is my ruling as to this matter until otherwise ordered by the convention. My reason for this is that

it takes up a large amount of time to read these through as they are reported back article by article, and at this late day we cannot afford to do it.

Gentlemen, at the hour of taking recess we were considering the general file. A motion to go into committee of the whole for consideration of the general file, special order, is now in order.

Mr. JOHNSON. I move we now go into committee of the whole for consideration of the special order of the day.

Mr. MORGAN. Second the motion.

Mr. PRESIDENT. Gentlemen, it is moved that we now go into committee of the whole for consideration of the special order. All in favor of the motion will say aye; those opposed no. The ayes have it; we are now in committee of the whole. Will Mr. Burritt take the chair?

Mr. CHAIRMAN. At the time of taking a recess we were considering the substitute offered by Mr. Hay for Secs. 2, 3, 4 and 5. Are you ready for the question?

Mr. CLARK. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Uinta, Mr. Clark.

Mr. CLARK. I am sorry that more members of the convention are not present, not because I have any speech prepared on this matter, but because I think it is a matter that ought to be carefully, fairly and fully considered in all its bearings; because I believe it is an important matter, and I believe it is an important matter because it effects so largely a single interest of our territory, and I believe it is an important matter further because it departs so far from the ordinary manner and system of taxation. It is nothing more nor less than a direct tax, something I believe, except in cases of necessity, which ought not to occur within this state, nor within the United States. I believe that all taxes, so far as may be or can be, should be adjusted and levied according to the value of the thing upon which the tax is levied. In other words I believe all taxes should be advalorem. This is a direct departure from that, making a tax from one to three cents (I am not sure as to the figures, but it is not the figures I am speaking of) per ton, and it makes this tax per ton irrespective of the value of that ton of coal. A ton of coal that is mined at a loss by any corporation or individual in this territory has to add to that loss this tax per ton imposed upon it. I am in favor of this substitute, or any other substitute that will meet the question as I understand it, and it might be well for a moment or two, to study these sections for which the amendment is offered as a substitute, and see whether or not they are fair, equitable and just in their provisions, and see whether or not, if carried out, they will give an equitable and just tax even to those people who are directly interested. Now this discussion has been carried on, so far as I have seen, based upon supposed figures made

by the Union Pacific railway company, or based upon profits made by the Union Pacific railway company. I am here prepared to say that the gentleman who gave the figures was misinformed. I am here prepared to say that the price of marketable coal at any of the coal mines in this territory, on the line of the Union Pacific railroad, is today \$1.75 per ton, delivered upon the car, and no more. Whatever is above that is transportation and the commission or salary of agents at the other end of the line. In Almy, Rock Springs, and in Carbon today, the price of coal is \$1.75 per ton on board the cars, and any man can go up there and buy great or small quantities as he pleases at that price, and he can get it away from there by paying four, five or six dollars freight to the Union Pacific railroad, or take it on any other road he pleases, if any other railroad runs there, but the price there is \$1.75 on board the cars. Whatever is above that is the cost of transportation, or the profit that is made by some person outside of the mine operator. We have been told today of profits on coal amounting to \$3 per ton, and I want to say right here to the gentlemen of the convention, I speak not of the profits made by the Union Pacific railroad company, of its profits I have no knowledge, that on the line of the Union Pacific railroad, outside of the mines of the railroad company, during the last year the average profit per ton to private companies, persons and corporations engaged in the produce of coal, was less than twenty-five cents per ton, and I will go further than that and say that one concern came out with a loss of twelve thousand dollars. There is not, gentlemen, the exorbitant profit upon coal that the figures given you would seem to indicate. Now in regard to the provisions of this bill as it originally stood. Are they just? Are they equitable, leaving out everything except this coal matter and the taxation of coal lands? The provisions of one of the sections sought to be amended is that every section of coal land, where it is operated for more than three months in the year, shall pay a certain duty or tax on each ton of coal mined. Will that fill the bill; is that right? The part of a section of coal land that is mined is infinitesimal compared to the whole section, that is the part of a section which is mined by an ordinary person or corporation. For every foot of coal on an acre of land the yield can be calculated upon at a thousand tons of coal in round numbers. A five foot vein would yield five thousand tons to the acre, and an eight foot vein would yield eight thousand tons. In the ordinary way on mining forty thousand dollars invested in machinery, I will ask the convention what portion of a section would be taken out each year, and whether or not a tax based upon the present valuation of \$20 an acre, or as proposed here, would create the greater revenue? "For each ton of coal mined" there shall be paid to the state not less than one cent, and there shall be paid to the

county not less than one-half cent per ton. I challenge any gentleman to point to any provision in any constitution of any of the states of the union of that nature. I believe it is the first time anything of the kind has been sought to be put into a constitution. We today, as I understand it, are paying taxes on an assessed valuation of thirty millions, we are all hoping that the time will soon come when we shall be paying taxes on an assessed valuation of three hundred million, and we are expecting that that valuation will be based largely upon the coal of this territory. As was stated by the gentleman from Albany, we believe that the coal interests of this territory is the interest that is going to push this territory to the front. Will the time ever come when this territory will be run, when there will be required for state purposes, a revenue on a basis of a tax of one cent on every ton of coal? According to the figures made by the gentleman today, the coal tax of this territory at the present time, and at the figures he gave, yields fifty thousand dollars per annum, as much, I believe, as it takes now to run the territory, or nearly as much. I say when the time comes when this coal valuation will increase we will find ourselves with a surplus every year which we won't know how to get rid of, unless we follow the example of Colorado, and let the legislature get rid of it. I say we don't want to have anything in our constitution that is liable to bring about such a state of affairs. A tax is an exaction imposed by the sovereign power for its support. It takes from all, whether they are willing or not, a part of what rightfully belongs to us, why then take more than is absolutely necessary? Do you want to have a provision in our constitution that may heap up more money than we can honestly spend for a state government, and if you take the figures as they are now, as we expect they will be in ten years from now, this single tax on each ton of coal going out of the territory will leave a surplus in our treasury. One thing further, it is sought by these two sections not only to change the law which fixes taxation, but it is sought to change the relative ratio of taxation for county and territorial purposes. I am not exactly informed, nor do I exactly remember, but I believe under our present tax laws, the tax for territorial purposes is about one-fifth or one-fourth of the entire taxation. Under this section, this special article of coal pays from two-thirds to three-fourths of the whole tax into the territorial treasury, and not into the county treasury. I believe the sections are unjust on that account. I believe the territory should receive the same proportion from one thing as from other things, and that if this measure is to pass, the larger portion of the tax should go to the county, as in all taxation. In other words, I fail to see any reason why this revenue bill should say that one branch of industry should pay more into the territorial treasury than other branches of industry, upon an equal taxation.

Now the argument is used that because five thousand dollars has been expended in protecting the life and health of the citizens of this territory, that the coal interest should pay it into the territorial treasury. I fail to see any force in the argument. A mine inspector and the mining laws are a portion of the machinery of this commonwealth, they are supported by the taxation of the entire commonwealth, the coal operator is taxed to pay it, the ranchman is taxed to pay it, it is equal taxation for the support of the government. It can't be used as an argument that you single out one branch of our government and say by constitutional enactment that one branch of taxable property shall pay for it. I am opposed to this section as it originally stands, because it singles out one branch of industry. I want to tell you gentlemen of the convention not already acquainted with the facts that the man who puts his money into coal lands along the Union Pacific today puts it in at his peril. I want to tell you gentlemen that the man who opens up a coal mine along the Union Pacific puts his capital in jeopardy, and only by the most favorable laws can this man be protected. According to a measure placed upon its final reading today, I ought not to be allowed to vote upon this measure. The measure that no man who is interested in any proposition can vote for or against it, and it may be I am biased in my judgment. I may be biased in my judgment, because for the last year I have been endeavoring, in connection with other gentlemen, to develop a private coal mining enterprise at Rock Springs. I say to you gentlemen it is only by the most favorable enactments and the most fostering care of this coal mining industry that any private or corporate enterprise on a small scale can go into the mining business in the whole territory. You say to me who have put my money into a coal mine, and to the three or four other gentlemen in with me, you say to me you shall be restricted, you shall not only meet this immense competition that you have got to meet, but you shall meet it pressed down with a tax. You can open your soda lakes, you can open your oil wells, you can do anything you choose, and we will free you from taxation.

We have heard a good deal of justice. Is this justice to say one thing to my neighbor and another to myself. Sec. 5 says "that all mines and mining claims, bearing gold, silver, and other precious metals, soda, saline, oil, and other valuable deposits, may be taxed in addition to the surface improvements thereof, on the gross product as provided by law; provided that the lands upon which such mines and mining claims are located shall be exempt from taxation for a period of ten years after the adoption of this constitution, and thereafter may be taxed as provided by law." Now in regard to the coal, gentlemen. All that I ask you is that you put that upon the same footing with every other mineral product in this territory.

Why is it necessary, in the face of the development that we want, in the face of the development that we need, in the face of the development we must have, if we are going to prosper as a great state, why is it necessary to single out this infant industry, class it by itself, and say it shall be bound down by taxation, while you leave other industries to be taxed as the legislature may provide, with an express stipulation that the land upon which they are located shall not be taxed for the next ten years. All we ask is for the convention to say that the taxation upon the output of mineral claims shall be the same as the tax upon the output of coal mines. That is all. Is it not fair, is it not just, is it not right, that if the tax levied on coal and silver mines is to be left to the wisdom of the future legislatures, is it not right that coal mines should have the same protection? Don't they need it? For fifteen years in this territory, a struggle has been made time and again with private capital to open up coal mines, what has been the result? Up to eighteen months ago there has been practically nothing done, thousands of dollars had been sunk, and not one penny of profit returned. Under the provisions of the inter-state commerce law private owners have been able to ship coal. They have been able to dispose of a portion of what they might mine, at \$1.75 per ton, on the car at the mine. Now, gentlemen of the convention, as to the figures given. I have not posted myself very well on the figures in this matter, but I will do the best I can. I feel strongly in this matter, because I feel the injustice of the proposition. I feel the injustice more perhaps because I have personally invested and become interested in this coal matter. What the profits of the Union Pacific may be, I know not, nor do I care. If you are satisfied to pass this law upon the fact that the Union Pacific company has made large profits, for God's sake devise some way so we can sell our produce in a cheaper and better market. Mark Hopkins & Co., the Van Dyke Coal Co. and the Rock Springs Coal Co. have a market in Kearney, have a market in Omaha and have a market in San Francisco. The coal sold from these mines is sold on a basis of \$1.75 per ton, whatever the difference is between that \$1.75 and the price at which the coal is sold in Kearney is freight charges of the railroad company and the commission of the agent in selling the coal. Now that is just what it is; it is not any lower or any higher. It may be sold at three dollars or five dollars or eight dollars, I know not, but I do know that the orders of the customers, that the orders of the consumers, are sent to and filled at the mine at \$1.75 per ton, with the freight charges added, to be collected at the other end. That is just what it is, and that is all that it is, and I want to say to you gentlemen that there is no private individual or small corporation that can mine coal in this territory for \$1.25 a ton. I don't believe there is one, and until the fig-

ures are given to me and verified by the books, I will be unable to believe it. I know that in the most favorably located vein in the town of Rock Springs, a vein which lies within five hundred feet of the Union Pacific track, where a level can be run and no hoisting apparatus is used, and no vein is used to drain the mine, I know from that opening coal cannot be taken at \$1.25 for marketable use. I know further that in all the mines running today at Rock Springs every ton of coal taken out costs \$1.48. I know that to be true from an examination of books that were kindly given me. Now I say to you gentlemen that it behooves us to look at this matter carefully. Another thing, it has been said that this two or three cents will come off of the consumer. Well, possibly it may. But I cannot see how it will. Mark Hopkins & Co., the Van Dyke Coal Co. and the Rock Springs Coal Co., which so far as I know are the only three companies shipping coal outside of the territory, along the line of this road, have a market in Omaha. They meet there not only the competition of the Union Pacific but they meet the competition of the Colorado coal, and they meet the competition of the Iowa coal, and the competition of the Iowa coal is so strong that the Union Pacific winter after winter have supplied its stores nearly as far west as here from Iowa coal. In Kearney they meet the same competition. In San Francisco they meet the competition in a small degree from the Rocky Mountain Coal and Iron company of Evanston, of the Washington collieries and Australian coal, which is the strongest they have to meet. Now I ask you what regulates the price of coal in these markets? Does competition not have something to do with it, and when you add to the competition which these private operators have to meet with in the Colorado coal and the Washington coal, and the Australian coal, the tax of two or three cents, are you not going down into the pockets of our citizens? Now where will this loss fall? There are but two persons upon which this tax can fall, it must either fall upon the man who digs the coal or it must fall upon the man who has the coal mined. That is where it must come, because coal will not be raised two cents on the market to meet this tax, but it will either fall upon the person or corporation owning and operating a mine or it will fall upon the miner himself. Now we know pretty well upon which it will fall. If the corporation has the cinch on the miner, so that the miner has to agree and come to the terms of the corporation, it will fall upon the miner. If the miner has the cinch on the proprietor, whether a private person or a corporation, so that the miner has got to get his coal out, it will fall on the proprietor.

Now another matter. It is said that we cannot estimate the value of a coal mine. We can more nearly estimate the value of a coal mine than we can of anything else that grows or lies underneath the surface of the earth. We cannot esti-

mate the value of a silver mine, because we cannot tell how the veins may run, it may end, or disappear for a great length, or become pocketed. We cannot tell what is in a silver mine, but we can come within a small fraction of what is in a coal mine. We strike a vein here, and again within half a mile there, and we can tell within a fraction how many tons of coal can be got out of that seam, so that the argument would apply rather to the silver mine, which is excepted from this provision, than the coal mines which are included in it. But I say to you gentlemen we will find no fault if you will treat all men alike. On what principle in equity is it said that the operation of this law shall not be general? What is the theory upon which it is based and where is the justice of it? Why put in our very constitution itself a provision which says that certain things shall not be put in a legislative enactment, namely, special legislation. Why is it that the output of a coal mine is to be taxed tomorrow, while the output of a silver mine shall not be taxed? If the one is to be subjected to this tax, why not the other be subject to this tax? But they say it is; it is, is it? Sec. 5 provides that all mines and mining claims, bearing silver, gold and other precious metals, may be taxed in addition to the surface improvements thereof, on the gross product according to law. Very well, gentlemen, if you will only provide for the coal tax in the same way as the silver and gold tax, we will assent and assent gladly. If you will say that the tax on coal mines, and mines bearing gold, silver and other precious metals, and soda lakes and oil wells, shall be taxed on their output according to law, we shall say all right, and we will pay it; we will do the best we can to get along under this pressure of industries, if you are going to tax us all alike. But we do say that it is an injustice, a gross injustice, to put in the organic law of this new state a provision that says that the man who tries to develop the resources, hampered as he is by present competition, hampered as he is by lack of facilities, to market his product, hampered as he is by all these things, we say that it is a rank injustice to say to that man that that industry which we hope to make the greatest in the new state, shall be weighted down with a special tax, shall be taken by the throat and hampered in its operations. Now what I have said in regard to the southern part of the territory, I say is true in regard to the northern part, and I believe that the question, at last, without reference to the Union Pacific, or without reference to any other corporations, comes right down to the general question, is it right? I have heard men in this convention stand up and plead for representation in the legislature of this new state, I don't ask for fairness in regard to this question, I simply ask for justice, and if any man in this convention can rise to his feet when called on to vote upon this proposition and say that it is just to tax me because I own a

coal mine, and at the same time say it is just to allow my neighbor to go scott free because he owns a silver mine, I am satisfied with his vote, it is his understanding that is at fault, and he is not to blame for it. But I say to you, gentlemen of the convention, that I believe that justice requires that men shall have a fair show in this territory. The first ton of coal that comes out of a mine costs the proprietor thirty thousand dollars, think of this a little, gentlemen, and when the last ton of coal comes out of that one hundred and sixty acres he not only has exhausted his land for which he has perhaps paid a high price, he has not only exhausted his mine, but he has exhausted his capital in the business. Think of that. It is not all fun mining coal, not simply bringing the coal to the top, and sending it off and getting three or four dollars profit, and as I said to you gentlemen before, the actual profit, the average profit, is less than twenty-five cents a ton, even along the southern line of this road.

Now, gentlemen, I have said a good deal more than I intended to say on this subject, and I ask you to consider the reasons that I have, in a feeble way, attempted to advance why this substitute, of something in the nature of this substitute, should be adopted. I believe the substitute is good, but if it is not adopted then something ought to be inserted here instead of this special tax on coal, on coal lands, and no tax on gold or silver or other mines. I want you to consider further that this section must be amended if this substitute is not passed, for I think every member of the convention can see the folly of attempting to say that the coal in this territory, where we have so many thousands of acres of coal lands waiting development, that every ton of coal shall pay a tax of three cents per ton.

Mr. CHAIRMAN. Any further remarks on the substitute by Mr. Hay?

Mr. TESCHEMACHER. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Laramie, Mr. Teschemacher.

Mr. TESCHEMACHER. I would like to bring one other argument in favor of this amendment, in addition to the argument made by Mr. Clark of Uinta. Supposing in the new state of Dakota, where wheat is king, and wheat is king even more than coal has been proven to be king in this territory, supposing that in that state the same argument had been advanced, as the argument by Judge Brown, that because wheat was the largest product, the greatest product of the state, and because the people of the state of Dakota could not begin to eat up the flour the amount of wheat produces, or turn it into flour and then send it out, supposing the argument was advanced that consequently there should be a tax levied on each bushel of wheat that was produced in the state of South Dakota in

each year, what do you suppose the Farmers' Alliance, which held the majority of power in the constitutional convention of that state would say to any such proposition? They would have said exactly what Mr. Clark has said. They would have said we have to compete with the other states of the union, which are wheat producing states. Now, if you tax our wheat, and the tax is going to be paid by the consumer, we are going to make the other state pay for that, what would be said to that as an argument? There is the same situation with this wheat in Dakota as with our coal in Wyoming. The tax on each bushel of wheat would have raised an enormous revenue for the state of South Dakota, and the tax on each ton of coal in Wyoming will raise an enormous revenue for the state of Wyoming. Where is the argument? Wyoming has to compete with other states, she is not the only coal producing state, we have unfortunately to come into competition with the state of Colorado, and into competition with the state of Iowa, two large coal producing states. We also come into competition with Missouri, although I am not sure that Missouri is a coal producing state. Now in the southern states, where cotton is king, suppose they say let us oblige the other states in the union, which are obliged to buy our cotton to put into marketable goods, let us make the other states support the state government of Georgia, of South Carolina or Texas. How do you suppose that would have been received? Why should we take the one product on which we base the future development of the state of Wyoming, why should we take that one product and say let us put a tax on development? That is what it says right here, on development. At present the Union Pacific railroad company owns a majority of the coal mines of the territory, but our territorial geologist has shown us in his annual report that this whole territory, or the greater portion of it, is a coal territory. They are not able to measure the boundless amount of coal from Crook county, that the whole of Johnson county is a coal stratum, that the county of Converse along the whole line of the Wyoming Central is a coal producing region. What would be said of a line of argument which says that whenever you have any product that is your staple product, for that product the rest of the citizens of the United States shall pay a tribute. The consumer pays the tax, this is good Democratic doctrine, but mighty poor Republican doctrine, and I am much surprised to hear it from a man whose Republicanism has never been doubted. Mine has. If, however, the consumer does pay all this tax, that is what it amounts to. We simply say we have a staple article, we know that we have a great deal of coal, therefore let us say to the rest of the states come up and pay our expenses and we will show you how a state should be run. The geologist informs me that within the next three or four years our out-

put will be ten million tons per annum. Ten million tons per annum at one cent per ton is one hundred thousand dollars. We will have one hundred thousand dollars per annum to show the rest of the states how to run a state. We will build a state house in Buffalo like the one in Albany, New York, I don't know how much it cost but it cost a great deal of money. There is right here, without going into any further particulars or statements, sufficient to completely overthrow the arguments for this special tax on coal.

Mr. POTTER. When this question was broached and I knew we had to consider it, and I knew that I had to vote upon it one way or the other some time before this convention adjourned, I approached it with fear and trembling. I did not know where I was going to land. It seemed a very difficult thing to me, one that I wanted to be perfectly fair and right about. I had not any interest and have none financially or otherwise, either for myself or anybody else, except to vote on this matter in a way that is just and right. I may be mistaken but I believe I have made up my mind. I am not in favor of the original proposition in the bill, and I am not in favor of the substitute as presented. I don't want to exempt all these coal mines from taxation, and that is the reason I am not in favor of it, and I do want to give the legislature, if in the future it is deemed wise, to tax the output of mines. I want them to have the power to tax them. My first thought was that if this was a proper measure even, it was not a measure for a constitution, and I based my idea upon that in this way. That it could not be repealed if found to be unwise, if we found the maximum was too low it could be raised. If we found the minimum too high it could not be decreased. We restrict the legislature, so that even if the measure was a wise one, we are restricting the legislature and attempting to look into the future ourselves and dictate to future legislatures and to those that may come after us, what will be wise years hence. For that reason it seemed to me not a proper thing to be embraced in the constitution as a fundamental law. I don't think that upon a question about which we must all be doubtful, there should be placed in this constitution any such restriction, but I think we ought to leave it to the legislatures who come after this convention to deal with such matters from time to time as the development of the country, as the evil or good which may arise from their legislation may dictate, how these matters should be dealt with. Again, I don't think, when I come to think about it in general, that a tonnage tax is proper. I think we want a tax as to value, and let me say right here that in considering this matter, and in making up my mind and in giving my vote, I vote upon this question without reference to what may exist today, or without reference to what may exist hereafter. I am not here to prosecute the Union Pacific,

and I am not here to defend it, nor to legislate for or against it, I put that entirely out of the question, whether they have paid too much taxes in the past or whether they have not paid enough, it makes no difference to me and would not influence me in my vote one way or the other. It makes no difference to me whether a ton of coal has ever been mined here in this territory or ever will be mined here. I am going to vote upon this question upon this theory, and I won't consider it in the light of the Union Pacific, or any other miner of coal. Let us look at it upon principle, and not let the profits of the Union Pacific, or the profits of any other company influence us. Let us look at it as to what is right, and that only will influence me. I want to do what is right and just, and will be for the best interests of all, and will lead to the best results in the future, and I am going to assume that a ton of coal has never been mined in this territory, so that my position may be understood in this matter. Now then I believe you can value everything. I believe you can value a silver mine today. I believe you can value a coal mine or a gold mine today, just as much as you can value a hundred and sixty acres of land. What makes the value of a hundred and sixty acres of land out on these hills? Purely what it will bring in the market. What makes it bring anything in the market? Simply on account of its grazing capacity, the amount of hay or wheat, or whatever it may be that can be grown upon it, on account of the product of the land, and after that the demand there may be for it in the market. The product of the land makes the value, and the farmer pays for that one hundred and sixty acres what he believes it to be worth, and it is worth to him what it will be worth to farm that land. In a word you have to know the value of the product in order to know the value of the land. Now you have to do that very thing with coal mines, you will have to find out the value of the coal in order to value the mine. You can find the value of the mine by finding out how many tons have been gotten out, the gross product of that mine. That mine may be worth so much this year or so much next year, but I believe you can find its value and you can assess it upon its value, and if you don't assess it upon its value it is not the fault of the owner, but the fault of the state, the officials who represent the state. But you can find its value and tax it according to its value. I don't know whether heretofore the mines have been taxed according to their value or not, that makes no difference to me in forming my judgment. I know that you can assess it according to its value just as you can assess a hundred and sixty acres of land according to its value.

Supposing they do take this product from the soil, and take it out of the state, as it is said they have done in Colorado, and depleted the wealth of the state? It is their property and

they have got a right to do as they please with it. Now something has been said in regard to their ability to pay this tax. That makes no difference; that is not the principle upon which you tax a coal mine, or any other property. Now it don't make any difference because a person who owns a coal mine is able to pay the tax or not. If that was the case you would not tax a great many people that you do tax. There are a great many people who pay their taxes who find it a great burden and a great hardship to do so. You don't ask whether they are able to pay or not, that is not the principle upon which you tax citizens at all. It makes no difference about their ability to pay, that is not the question. Now then inasmuch as you can get at the value of these mines, and I think upon principle that that is the proper way to tax them, I think we ought to leave this matter to the legislature, and that is the ground upon which I shall vote upon this measure if I vote against it. I don't believe I am sufficiently informed, as sufficiently informed as some members consider themselves to be, to vote for the future, although personally I believe that on their conscience they thoroughly believe that they are fully and sufficiently informed, and I give them credit but I insist upon it that I am not sufficiently informed and I don't think I can be made so during the session of this convention, and so I would very much prefer to leave this matter to the legislature, and inasmuch as the substitute comes nearer to doing that than the original bill as it now stands, I should prefer the substitute, or something of the kind. I am willing to give the legislature the power, if they deem it wise, to tax these mines, all mines alike, upon the gross product, and until the legislature does so act, then let them be taxed according to their value. The reason why I would leave this to the legislature is that if at one session it is thought advisable, and they can enact a law that these mines shall be taxed upon their gross product, and within a short time it is shown to be unnecessary, or has not worked well, they may repeal that law at the next session, but they could not repeal a constitutional provision.

Mr. RINER. I simply want to ask Judge Brown, and I will take his own figures, one or two questions. This matter has been pretty thoroughly discussed, and I think the members generally understand it. Judge Brown gives two million tons as the total output last year. Now taking the maximum as proposed by this bill, one and one-half cents for territorial purposes, and one cent for county purposes, it makes a total tax upon two million tons of fifty thousand dollars. Supposing the home consumption amounts to one-half million tons, then we have for sale, or left to market elsewhere, a million and a half tons. The tax on that as proposed by this bill will be thirty-seven thousand five hundred dollars. Now I want to ask

you when this million and a half tons is sent to market, paying a tax of thirty-seven thousand five hundred dollars whether or not it can compete, putting aside transportation, because it would not figure in the matter at all, for we have provided, and the inter-state commerce bill has provided, that all shall be treated alike in this matter of transportation. Now I want to ask you if the million and a half tons of coal paying a tax of thirty-seven thousand five hundred dollars, can compete in the market with the million and a half tons from Colorado, the transportation being the same, that does not pay thirty-seven thousand five hundred dollars tax, and if they cannot where does the loss come, upon the consumer or the operator? This question I would like to have answered by the gentleman from Albany, Judge Brown.

Mr. COFFEEN. I presume Judge Brown will be able to answer that when he comes to speak upon it. I have been pleased with the manner of this debate, and I have been delighted with the eloquent address of the gentleman from Uinta, in which he investigated the bearings of this question, but still I must differ with him, and I will give some reasons for differing. In the first place, in the production of coal, and coal is in transportation daily almost, as fast as it is mined, the only way is to tax it as it goes, otherwise you may lose the tax on three million tons a year. That in itself is sufficient to convince me that it must be carefully looked after, as one of the great valuable productions of the country, to the end that it will bear its just proportion of the state and county tax. That in itself is sufficient. But I want to take up another point. It has been shown and been recognized by those who have a section of coal land, with coal formation on it, or a stratum of coal on it, before that is mined that it is difficult to tax it according to its value, to the value of the coal in it undeveloped, and the practical working here of taxing the land, these coal lands, instead of paying taxes on a basis of a valuation of twenty dollars an acre, we are told by those best informed that they pay taxes on a basis of something less than one dollar an acre, or about as low as that, so I say to you gentlemen these coal lands are not paying their just share of the taxes of this territory, as the farm lands and other lands of this territory are. These are considerations enough to persuade my mind. Then one thing further. The farmer in the production of his farm products, the stock grower in the productions of his range, his ranch, he must pay his tax on that product. The gentlemen who in this territory are shipping their steers off to market are paying taxes once, twice, three times, on their production during the three years it is maturing, and that too in the face of a great depression in the market. I do not care to argue the principle of the thing, but simply to show you the situation, and to show you where justice and fairness come

in, the farmer and the ranchman pays his taxes on his product, which is just as much a home industrial product as coal, being produced on the range and farms, and shipped after maturity, the only difference is that he cannot bring it to maturity in a day and ship it down and out and escape all taxation. He has not the advantage that the shipper of coal may have. One other point. Take the profit of coal, as stated here, \$1.75 per ton, take this tax of one and a half or two cents on the profits alone and it will amount to three cents per ton. and I wish to say here that I do not believe the transportation companies are taking all the profit as has been argued here. Now I have a statement to make, and you will listen to me, and if any one disbelieves it, I will produce the figures. More than one-half the coal, according to the latest United States statistics, more than one-half the coal produced in the United States pays a tax of three cents per ton; more than one-half of the entire product of the country today pays a tax of three cents per ton, and I should like to know why this article of coal should not pay one or one and a half cents in this territory, when more than half of the coal in the country already pays three cents per ton.

Mr. CLARK. I would like to ask you why you discriminate against coal mines? Do you not think it unfair that only these coal mines should pay taxes?

Mr. COFFEEN. I thank the gentleman for asking me the question, and I would say to him that there should be no discrimination. I apprehend the reasons why coal mines are specifically mentioned is because that industry is already developed, and we can begin by applying it to them first, and the other mines are so little developed that it is difficult to get hold of any figures upon which to estimate the possibilities and capabilities of these mines. But the gentleman is right as to the principle, and I am glad to say that I agree with him. But I see no reason why these coal mines should be exempted from taxation when more than one-half of the coal already pays three cents. In Pennsylvania the coal produced is 64,000,000 tons, the total coal production of the United States is 120,000,000 tons, and this pays a greater tax than we propose to levy.

Mr. HAY. I just want to say a word in regard to what the gentlemen has said who has just taken his seat. This proposition which I introduced does not exempt coal mines from taxation, it simply says the mines shall be exempt for a term of years, except the net profits therefrom. Now I want to say a word in regard to the conditions in Pennsylvania. I want to ask if there is no difference between the conditions in Pennsylvania, the development and condition of the enormous coal interests in that state, and those in Wyoming? It is absurd to compare the two. And I am forced to doubt to

you when this million and a half tons is sent to market, paying a tax of thirty-seven thousand five hundred dollars whether or not it can compete, putting aside transportation, because it would not figure in the matter at all, for we have provided, and the inter-state commerce bill has provided, that all shall be treated alike in this matter of transportation. Now I want to ask you if the million and a half tons of coal paying a tax of thirty-seven thousand five hundred dollars, can compete in the market with the million and a half tons from Colorado, the transportation being the same, that does not pay thirty-seven thousand five hundred dollars tax, and if they cannot where does the loss come, upon the consumer or the operator? This question I would like to have answered by the gentleman from Albany, Judge Brown.

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in, the farmer and the ranchman pays his taxes on his product, which is just as much a home industrial product as coal, being produced on the range and farms, and shipped after maturity, the only difference is that he cannot bring it to maturity in a day and ship it down and out and escape all taxation. He has not the advantage that the shipper of coal may have. One other point. Take the profit of coal, as stated here, \$1.75 per ton, take this tax of one and a half or two cents on the profits alone and it will amount to three cents per ton. and I wish to say here that I do not believe the transportation companies are taking all the profit as has been argued here. Now I have a statement to make, and you will listen to me, and if any one disbelieves it, I will produce the figures. More than one-half the coal, according to the latest United States statistics, more than one-half the coal produced in the United States pays a tax of three cents per ton; more than one-half of the entire product of the country today pays a tax of three cents per ton, and I should like to know why this article of coal should not pay one or one and a half cents in this territory, when more than half of the coal in the country already pays three cents per ton.

Mr. CLARK. I would like to ask you why you discriminate against coal mines? Do you not think it unfair that only these coal mines should pay taxes?

Mr. COFFEEN. I thank the gentleman for asking me the question, and I would say to him that there should be no discrimination. I apprehend the reasons why coal mines are specifically mentioned is because that industry is already developed, and we can begin by applying it to them first, and the other mines are so little developed that it is difficult to get hold of any figures upon which to estimate the possibilities and capabilities of these mines. But the gentleman is right as to the principle, and I am glad to say that I agree with him. But I see no reason why these coal mines should be exempted from taxation when more than one-half of the coal already pays three cents. In Pennsylvania the coal produced is 64,000,000 tons, the total coal production of the United States is 120,000,000 tons, and this pays a greater tax than we propose to levy.

Mr. HAY. I just want to say a word in regard to what the gentlemen has said who has just taken his seat. This proposition which I introduced does not exempt coal mines from taxation, it simply says the mines shall be exempt for a term of years, except the net profits therefrom. Now I want to say a word in regard to the conditions in Pennsylvania. I want to ask if there is no difference between the conditions in Pennsylvania, the development and condition of the enormous coal interests in that state, and those in Wyoming? It is absurd to compare the two. And I am forced to doubt to

some extent the accuracy of his statement that 64,000,000 is more than half the entire coal product of the United States. I don't believe it is one-quarter of the entire amount of coal produced in the United States. I think that is a mistake, but the main point I want to make is that it does not exempt coal mines from taxation.

Mr. COFFEEN. Just in answer to that. I have here before me the last statistics on this subject, the most reliable data to be obtained, and I will read you the exact figures. Pennsylvania, 64,000,000 tons produced in 1887, then follows a list of the amount produced in all the states, which I will not read, ending with Wyoming at the end of the list, 1,000,000 tons produced in 1887, and the grand total is 120,000,000 tons, and now whether 64,000,000 is not just about one-half of the 120,000,000 I leave it to the gentleman to decide, as I think he can soon figure it out.

Mr. PRESIDENT. Any further remarks?

Mr. CAMPBELL. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Laramie, Mr. Campbell.

Mr. CAMPBELL. Like the rest of these gentlemen I did not intend to say anything on this subject when it came up I must confess I am much in the same position that Mr. Potter said he was when he commenced. I must say that after listening to the arguments of those who are in favor of this substitute and those opposed to it, I am convinced that it ought not go into the constitution at all, but is a mere matter of legislation, but as to saying in this constitution whether or not coal mines shall be taxed that is another matter. Inasmuch as Pennsylvania has been mentioned I would like to say a few words, and also as to this tax of three cents per ton. I lived in Pennsylvania and I never heard of that before, although I don't doubt the statement that there is a tax of three cents. Well now I lived in that section from the time I was eleven years old until I started for the west, and know the anthracite coal regions of Pennsylvania, and there was, I think, two large companies organized for mining coal, perhaps there was one other company, where there were a hundred individual operators. Today you can go there and you will find there are not ten individual operators. You can go there and you will find that the only operators are the large transportation companies whose lines run near the mines, the individual operators of the country have been driven from the business, and the production of anthracite coal is in the hands of corporations, simply because no individual operator could compete with the transportation companies, and they were forced out, and the consequence is that the anthracite coal region today is the poorest part of the state, laborers are poorer paid than in any other part of the state, and when you un-

dertake to deduce any argument from Pennsylvania, I say there is no argument you can make. I am against this principle of putting legislation in the constitution of our state, as Mr. Potter has well said, this is an experiment. If we leave it to the legislatures of the future they can tax it in any manner they may see fit. I don't believe in limiting the legislature in certain matters, in restricting their powers, and there is one thing that I would have you remember, and that is that a legislature has all power within itself, and is not restricted by the constitution. If you will keep that principle in view you will be saved a great deal of trouble. Some people seem to think a legislature can be nothing except what is provided by the constitution, whereas they are unrestricted except in such matters as are prohibited by the constitution, a principle directly opposite to the powers of congress. Congress can do nothing except what is prescribed by the constitution of the United States, the legislature of a state can do everything that is not prohibited by the constitution of the state.

Mr. CHAIRMAN. Any further remarks?

Mr. BAXTER. Mr. Chairman.

Mr. CHAIRMAN. The gentleman from Laramie, Mr. Baxter.

Mr. BAXTER. When I first heard this question discussed and I may say that I have not heard it discussed until tonight, when I first heard the proposition suggested levying this tax it struck me in a very forcible way, and I still think it is the proper thing to do. The only question in my mind is as to the propriety of putting something of this kind in the constitution. I think it should come from the legislature, provided we can put in such a general clause as will certainly secure the desired result. I would say to my friend Teschemacher here that he should not be disturbed particularly about this great unexpended surplus which we will have in the treasury. I could not follow him in his figures, but I do not think we shall have any such surplus for a hundred years to come. We expect great things from these mines, but I have known instances where our expectations have failed to materialize. In answer to Mr. Potter I want to say that I fully agree with him as to his idea as to how we should come to value a piece of property, it is dependent entirely upon its earning capacity. If a piece of land will return, over and above all cost, one hundred dollars annually, and it is situated in such a country where money is worth ten per cent, that land ought to be worth a thousand dollars, because it will earn a net return of ten per cent, just what money is worth, and its earning capacity is governed by just what it will produce annually. If a piece of land in a large city, desirably located, yields annually five thousand dollars over and above expenses, and money in that section is worth ten per cent, it would be worth fifty

thousand dollars. It might be worth a good deal more than fifty thousand dollars, but its value should be determined by its earning capacity. Now the same rule ought to apply to coal mines, or to any other kind of a mine. If we could say an acre of coal land would produce so many tons of coal for any definite period of time, the same as we could assume that an acre of land would produce so many bushels of corn or wheat, its value could be determined in the same way, by estimating its earning capacity. But the trouble is you cannot tell how long this output is going to continue. The suggestion made by my friend Teschemacher as to wheat, is altogether a different proposition, they know an acre of land with proper treatment will produce so much wheat annually, with proper care the land will be worth as much fifty years from now. Now with coal land this is not the case, when the coal is exhausted the land is worthless, but in the other case you know what the ground will produce. The trouble with a coal mine is that you cannot tell what is there, and when you come to the question of fixing a value on something you cannot see you have not the same basis to figure on at all. You never can reach its value with the same degree of certainty. It seems to me if the coal when taken out of the mine was weighed, and you find there are so many tons, and you say that it is worth so much per ton, knowing what it will bring in the market, and you then tax it upon its value, upon that basis, as it comes out of the ground, that you are getting as near a proper basis for taxing it as you can reach. I think I agree with Mr. Campbell that we ought to make this a general provision, applicable to the mining of coal, or any other mineral, or oil, or soda, or anything else that comes out of the ground. I don't think I favor this substitute because of the provision that exempts it for a term of years, but I am inclined to think that the best course is to leave this matter to the legislature, with such instructions as will secure equal and exact justice in the future to every interest involved.

Mr. CHAIRMAN. The gentleman from Converse, Mr. Harvey.

Mr. HARVEY. In listening to the discussion of this question, I have been decided both ways. I believe in this principle, I believe we ought to put it into the constitution, and I believe we ought to stop right there; we all agreed on the principle, but it is a different thing when you come to make the application in the constitution. As to the figures which have been given here I am not prepared to pass upon. I happen to come from central Wyoming, the only portion of the territory where at the present time they ship coal besides along the line of the Union Pacific railroad. I say the principle is all right to tax the principle of a mine, but when you go further than that and settle upon one-half a cent or two cents upon

each ton, I doubt the expediency of it. In central Wyoming we have two mines, one at Glenrock and one at Inez, and I know that neither of them has ever made a dollar, and it may be some time before they do make a dollar, but I know that the most they have figured on is a profit of fifty cents on the ton; that is the most they have figured on in their most extravagant moments, when they get their mines in perfect operation, and everything working in their favor. It strikes me that two cents out of fifty might be a very serious thing. This is a matter which belongs to the legislature. I repeat what I have insisted upon several times before, that a body of men making a constitution may not be the best body of men for legislation. I say let us incorporate the principle in here and then stop. I think the principle is all right. I have before me a section which strikes me as being a very good one, taken from the Nevada constitution. "The legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, the proceeds of which alone shall be taxed."

That is all they have to say on the subject, they have laid down the principle and stopped right there. At the proper time I shall move that as a substitute.

Mr. BROWN. Some of these gentlemen have asked me some questions, and I think it my duty to answer, but as these propositions have been presented at different times, I want to answer them in turn. Going then to the first proposition presented, it is involved in the arguments of three or four who have spoken upon this question, among others the gentleman from Uinta, Mr. Clark. He says, and repeats it with a great deal of vehemence and force, that we should aim at justice, and that we should aim to have each and every interest bear its fair share and proportion of taxes. Now I want to say to these gentlemen right here, it is because the coal industry does not and never has borne its fair and just proportion of the tax in the territory of Wyoming, that we are against the proposition for taxation as presented by this substitute. In this same connection the gentlemen say if we tax according to the value we shall in the end reap as large a revenue from the taxation of the land as we can possibly reap by taxation of the coal output. Right here I wish to meet the question of the gentleman from Laramie. He says when the output is two millions of tons and if that pays a tax of one hundred and fifty thousand dollars, can we go into a foreign market and compete with coal that pays no tax? I say to him upon that proposition we cannot, but it happens that there is no such proposition in existence, and could be no such proposition, and these gentlemen by

their arguments see it. They say that the taxation upon the acreage will meet the requirements of revenue as well as a tonnage tax. If it does, then I say to the gentlemen that you have to pay the same tax, but in a different way, and when you go into an adjoining state and come into competition with coal from other states, if they pay a fair and just proportion of the revenue of the government of the state where that coal is produced, if your theory is correct, they must meet the self same proposition that we have before us, and they go there paying an acreage tax, or an advalorem tax, arrived at in some way that equals the tax we put upon the tonnage. So much for the question asked by my friend from Cheyenne.

Now I will undertake to answer some other matters. My friend, Mr. Teschemacher, from Cheyenne.

Mr. TESCHEMACHER. I am not from Cheyenne, Judge. I come from Uva.

Mr. BROWN. I beg the gentleman's pardon; I meant no insult, and I don't suppose the gentleman so takes it.

Mr. TESCHEMACHER. It might effect my mileage though.

Mr. BROWN. If the gentleman's mileage is at stake, true it might make a difference, but I want to come to this argument he presents. Now let us see what there is in it. He says why not tax wheat? Why not tax corn? Why not tax cotton? Why not tax the any one great product of the land? Let us see why. I want to ask the gentleman if his theory is correct, and if the theory of my friend Potter is the true one, if you are going to tax according to the product why not tax wheat? That is part of the product. He says we will tax the land because of the value of the product produced. Now if you tax the land upon the basis of the product produced what difference does it make whether you fix a certain price per bushel or tax the acreage? If the gentleman can see the difference I should like to know it. The fact is that all the propositions they make simply resolve themselves into the one that we present in this bill. If you tax your wheat instead of your land, if you tax the product of the farm instead of the farm itself, and tax it at a fair ratio, you are getting the best taxation that can exist under the sun, if you tax cotton according to the product on each acre of land owned by different individuals, and make it a fair and equal taxation, it is the only just method of taxation that can be arrived at, because in that way you get at the proposition that my friend Potter presents, the exact product, which gives the value. Now let us go a step further. My friend Clark says that you can arrive at the value of coal lands, and how does he propose to arrive at it? I have considered the matter, and I think that every one of us understands that until coal land is developed, it is utterly impossible to determine its value. My friend says that

you can bore down here, and bore down half a mile there, and we will determine in that way to a bushel how much coal there is in the strata and in that way get the exact value. I want to ask my friend if he proposes that the territorial assessor or that the county assessor, shall go into the boring business, in order to get at the taxation? Now let us talk about this fairness a little further. My friend made a proposition as to the amount of coal to the acre, that an eight foot strata would yield eight thousand tons to the acre. Now he says that about as fair a method of taxation as we can have is the government price of twenty dollars per acre. Now just think for a moment, eight thousand tons of coal in an acre, and twenty dollars an acre the price upon which to levy the tax, and that is based upon the theory of justice. It produces no tax at all, and that is what is the matter with his argument; that is what is the matter with the territory of Wyoming, and that is what is the matter with the figures here.

Now the gentleman said something about the figures and price of coal. I want to say that I know what I say, and there is no guess work about it. When I say that coal is worth \$1.25 a ton at Rock Springs, I mean just what I say, and just what I know to be true, provided the president of the coal company knows what he is talking about, and provided he tells the truth, and he had no occasion to lie about this thing. I am speaking now of the Balch-Donnellen company, who put up the money for a mining company for our town. He tells me that they produce their coal at \$1.25 per ton, and when I mentioned the figures about freight, I am not talking about what it costs the Union Pacific to freight, I will tell you about that directly, but I was talking about the transportation this company pays to the railroad company for freight, and when I said that it costs them four dollars a ton to ship to Omaha, I mean just what I say, they pay to the Union Pacific in shipping from Rock Springs to Laramie just one-half a cent a mile a ton, and when I say that on their coal at Laramie, selling at six dollars a ton, they make an even three dollars, I mean just what I say, and I know what I say. The amount they pay is not quite half a cent, it lacks a small fraction of that, the real amount is \$.00486, how much is that per ton? One dollar and twenty-five cents per ton is what they pay the Union Pacific for shipping their coal to Laramie. Now my friend says something about the men who handle the coal, the charges of commission men, I suppose they are paid, I don't know what they are paid, but perhaps I make a mistake when I say I don't know what they are paid. I am informed by a coal dealer in our town who handles the coal for the Balch company that they allow him a dollar a ton, then there is half a dollar paid for delivery, so that instead of the coal costing me six dollars a ton, it costs me six dollars and a half per ton, that half dol-

lar is paid for delivery, the hauling of the coal, one dollar goes to the man who handles the coal, the balance of this price of six dollars per ton, goes to the producer, that is five dollars per ton for the producer, so that according to these figures if they pay the man who handles the coal a dollar a ton, the amount they make on the sales of coal in Laramie is two dollars instead of three, after paying all the expenses of the same. Now I want to tell you something about Union Pacific charges and I get this from men who know their business, and you can go to any official of the Union Pacific railroad company that knows his business and knows what it costs, and he will tell you that the average price of carrying freight over their road is one-half cent per mile per ton, but that the actual cost to the company of transporting open freight over its lines is one quarter of a cent per mile per ton. Now the figures that I have made I made them upon the half cent per ton rate, which is a very different thing. Taking then the freight charges of the Union Pacific, taking them the same as those we figure on for individuals, four dollars per ton as the price of freight to Omaha, it is an overcharge and don't amount to that much, I stated it a little over what it is, how is it as to the actual cost to the company. It costs the railroad one-quarter of a cent per ton per mile, making it four dollars and twenty-five cents delivered in Omaha, and a profit of two dollars and twenty-five cents on the ton. At Kearney at one-quarter of a cent per mile, the freight would be one dollar and fifty cents, which added to one dollar and twenty-five cents makes two dollars and seventy-five cents, or four dollars and twenty-five cents clear profit in Kearney. Now without going any further into the matter of these charges, and the profits that are made on coal, I want to go to another proposition, and show you just what these companies are paying in the way of taxes.

We take from the territorial auditor's books the amount as nearly as can be ascertained, paid by each industry, and as I said to you this afternoon, the proportion paid by the coal business is fifteen thousandths as compared with four hundred and fifty-three thousandths for one class of property, three hundred and ten thousandths for another and two hundred and twenty-two thousandths for another. I want to give you some other figures now. Take this Blair coal mine, the Balch & Donnellan company, how much tax do you suppose it pays in Sweetwater county? The six hundred and forty acres of coal land, the machinery and improvements, and whatever they have invested in the way of personal property, pays the large sum of \$255.52. Take any man in Cheyenne worth fifty thousand dollars, and don't he pay more tax? How much would my friend Hay pay on fifty thousand dollars in Cheyenne, for all purposes, and this is for all purposes, and here is what I want to say, that the company probably has five times fifty thousand

dollars invested, and they pay \$255.52 taxes. They pay less than one-tenth of what you and I and every other man pays in this territory. Let us take some other figures. The Van Dyke coal company in Sweetwater county is assessed at \$7,780 on the lands, and the personal property at \$410, making \$8,100 as the total, and \$141.69 as the total tax paid into the county. Mark Hopkins & Co. are assessed at \$4,250 for the price of a section of coal land in this territory, and they are assessed for improvements \$1,700, making a total of \$5,950, and a tax for all purposes of \$102.93. Mr. Hopkins tells me that he has invested about a half million dollars in improvements, and it is assessed at \$1,700. I don't know anything about the value of the improvements, because I have never seen them or the mine but this is the statement that I hear. Mr. Hopkins says whatever may be the value of his improvements that he seeks to put upon his property, they are assessed at a fair rate compared with the Union Pacific railroad company. If you will go to the report of Charles Francis Adams you will find that the improvements on the Rock Springs mines in Sweetwater county are put at about two million dollars. I don't remember the exact statement, but the report is here in town and the figures can be verified. What are they assessed at? For coal lands, the total is \$51,045.60. The assessment of other property, personal property and other property, \$196,998, making a total of \$248,043.60, and a tax of \$4,291.22. This is the total tax paid to the county of Sweetwater for county and all other purposes, by the railroad company on their valuation of coal lands and improvements. How much would you have to pay, gentlemen, if you had this amount of property? My friend Potter says why was it not otherwise assessed? I will tell you why it was not otherwise assessed, the Union Pacific railroad company elects the officials who make the assessment, that is why it is not otherwise assessed. That is the entire proposition in a nut shell, and when you say you want to leave this matter to legislation, I want my friends from Cheyenne to think twice before they say it, and I want the other gentlemen to think twice before they say we will leave this matter to the legislature, and I will tell you why. If there is anything that an honest man abhors it is to see a monied corporation in politics, and if you say that this matter shall be settled by the legislature you are saying when you do it that every monied corporation in Wyoming engaged in coal mining will come into your legislature as a politician and seek to have that tax put down at the lowest possible point. You force them to do it by leaving it open to legislation, in order that they may serve their own interests, and I don't blame them any, you and I would do just the same thing. The danger lies in this, the combination of capital in the hands of the few; but that is not the only danger. It employs in its service such a number of

men that it can always elect any man it pleases, to protect its interests, as I believe it would have the right to protect its interests, and as you all know it would, as you would seek to protect yours. It is forced into politics, forced into the lists with these men that go to your legislatures wearing brass collars. As you have seen in the past men elected to our legislatures wearing the brass collars of the great railroad corporation, you will see just such men wear the brass collars of the great monied mining corporations. Now if you would avoid that spectacle, I think it is clear to every one that the fair and only way to reach this taxation is upon the output. We have a sure thing and a certain thing then. We have a fair way of reaching just what proportion of tax it shall pay, and when you tax the output of the mines you know what you are doing, and there is no uncertainty about it; no guess work. You have the actual number of tons that you are to tax, and with this tax on the output in lieu of any other taxation, you have got a fair and just method of taxation, and one about which there is no uncertainty or guess work. Going a step further. What objection is there to this method of taxation? My friend seems to indicate that it is a special tax, and that it is special legislation. No one knows better than he does himself that it is not special legislation. Whenever you say that an industry by general law shall pay a tax in every part of the territory, shall pay a certain tax per ton, it is not special legislation, not a special tax, but it is a general proposition that applies to the entire coal output of the whole state. Special legislation is that legislation which effects a single individual, a single community, a single locality. This is not that kind. Now then what is the objection to putting this in the constitution? Many of these gentlemen say, why it is legislation to put it into the constitution, and they are not in favor of legislation in the constitution. I agree with the gentleman, I'm not in favor of legislation in the constitution. I agree with them that it is not wise to legislate in forming a constitution. But while I agree with the gentlemen on the general proposition, I say it is as necessary to limit the action of the legislature in some of these matters in the constitution as it is to do any other act in connection with it, and because we may be saved the spectacle of seeing men wearing the brass collars of these companies coming into the legislature, and doing their bidding. In order that we may be saved that let us say now that we will regulate so far as these monopolies are concerned this matter of legislation upon coal taxation, and put it forever beyond their reach. Let us put it where they shall never be called upon to change it or effect it by legislation. Whatever the sum you may choose, I don't care whether it is half a cent or five cents, whatever you may think best, in the way of fixing the tax on this coal, let us fix it in this constitution now and

forever. I want when this constitution comes to be voted upon that every man and woman within the limits of the new state shall know just what its provisions are, and it is fair that they should know. These corporations should know it as well as every one else, and if they think it is wrong or burdensome, they are notified beforehand, and they can rally their hosts against it. If they do believe it to be unfair and unjust, let them endeavor to vote down the adoption of this constitution, and settle it then forever, and not leave it to future legislation to settle it. With this we will know and understand just what we are doing, and just what tax we will realize. On the ten millions of tons of coal mined there will be paid to the state a tax of about a hundred thousand dollars, and a hundred thousand dollars is a very respectable sum to realize, and that is just why I am in favor of this tax. I want the hundred thousand dollars. I want to see this new state provided with a revenue that will support it, and I want to see the revenue come from a source that is able to meet it, and when you say that this tax will produce a hundred thousand dollars it will come somewhere near the expenses of a state government, and it will come from a source that can afford to pay it, and it will save every corporation, every railroad company, every individual, some other and additional tax upon their property for the support of the state. Another reason why you should tax the output and not the acreage. Suppose you mine from your acre of coal land a few thousand tons this year, a few thousands tons next year, and so on until the eight thousand or five thousand or whatever it may be tons are exhausted, I want to ask my friend Clark whether the land that is left is worth anything after you get the coal out?

Mr. CLARK. Not a dollar.

Mr. BROWN. So then how are you going to arrive at a fair method of taxing this land after the coal is exhausted? Each year that you mine that coal you are exhausting the wealth of your country, and when the coal is all mined out and you have nothing left but a howling wilderness, with nothing in it, what are you going to do in the way of taxation? Are you going to tax this coal at a fair valuation, or are you going to say that our neighbors shall have the benefit of it for nothing, and that we may starve when the output is exhausted?

Mr. CLARK. I would not rise if it were not for the fact that I have been so astonishingly misconstrued by the gentleman who has just preceded me, but I cannot sit here quietly feeling that possibly there may be some member of the convention, no matter how he may feel on this subject, that may believe that I did make those statements, and did make the arguments just credited to me. I believe that I did not in my former speech oppose a tax upon the output of coal, but I did

say that I was oposed to a tax upon the output of coal mines and no tax upon the output of other mines, and I have listened patiently and in vain through the two long speeches the gentleman has made, for any reason he could give why they should be. We are told that if this is left to future legislation, that the men who levy this tax will wear the brass collars of some great mining corporation. If that legislature wears the brass collar of some silver mining gang, why is it that silver mines are not included in this bill? Why is one industry singled out? And I say, Mr. Chairman, that I am tired of this demagogue talk about brass collars. No man in Wyoming is elected with brass collars. I look around me and I see gentlemen who have sat in the house of our last legislature; Mr. Teschemacher, elected by the people, and I ask whose brass collar he wore? I see my friend Mr. Adams in the lobby, elected by the people, and I ask whose brass collar he wore? Mr. Organ, Mr. Riner, and a number of others, elected by the people, and I ask whose brass collars they wore? I have got confidence in the people of Wyoming, and I have got confidence that they have elected and will elect as good a body of legislators as ever sat in this or any other territory or state, and I have got confidence that they will elect just as honorable gentlemen for the future legislators of this territory as sit in the house of this constitutional convention. Why limit these brass collars to the coal mining companies? I say to you, gentlemen, that if the future legislators of Wyoming are to wear brass collars at all, they will wear the brass collars of gold mines and of silver mining gangs, just as well as they will for coal mining corporations. My whole argument and my whole plea for justice in this question has been to tax all mines alike. If you tax the output of coal mines, tax the output of silver and gold mines; if you are going to leave any of it to future legislatures, leave it all to future legislatures. Now something has been said in regard to taxation on the acreage. I do not know the amount of taxes Mark Hopkins & Co. pay, but I do know that Mark Hopkins & Co. have not got a half million dollars invested in improvements. The only piece of land they have is 480 acres, on which they pay taxes on an assessed valuation of \$9,600. I don't know about the freight rates given by my friend, but I do know that Laramie has got the edge over Evanston because the charges for hauling coal from Rock Springs to Evanston, 125 miles, is \$3.50 per ton. I don't know what the Balch improvements may be, I don't know what taxes they pay, but I do know that they are mining coal in a mine which has been opened for years, that they have not been required to do any development work, all they have to do is to take out the coal, and they possibly may be able to produce it at \$1.25 per ton. I don't know and I don't care anything about that. The gentleman has not answered my question as to why

silver mines should be treated differently from coal mines, why tax the output of one, and leave the other to future legislation to deal with? I am not opposed to taxing coal mines, but I am opposed to anything that savors of injustice toward any one class of mines; that is what I am opposed to in this substitute section, and that is the reason why I am in favor of Mr. Hay's substitute, or the one suggested by Mr. Harvey. I think they are much the same, they both provide that the output of all mines shall be taxed alike. In speaking of special legislation, I did not use the term in the narrow and restricted sense which my friend has given it, but in the sense of inconsistent legislation against one class in favor of another.

Mr. HOYT. I think we will all generally agree that the subject has been pretty well argued, if it has not been exhausted, and even if it had not been, it would be a very great wrong at this hour to inflict a speech of any considerable length upon this convention. But since the moment is at hand when we shall have to vote upon this question, it may be as well to explain my vote now as at the moment of giving it. I wish now to state my position upon this question very briefly. This mode of levying a tax upon coal, as a means of raising a great revenue for the support of the state is a great temptation. Very fine pictures have been drawn of what would be the condition of things in Wyoming were at tax to be raised upon this one single article and the rest go scott free. Why my friend who lives upon his ranch, who herds his cattle and sends them to market, would rejoice to find that he would be relieved from the burden of taxation; and my friend the farmer, who is digging his ditches, irrigating his land and raising his crops, would rejoice to find that he too was relieved from the burden; but even though he should rejoice to have his burdens thus decreased, I do not think he would be willing to have it all thrown upon the shoulders of one man, or class of men, I know he would rather bear his share of it. Now I have thought of another side of this question. I thought and raised the question in my own mind, how will it effect the miner? My distinguished friend, Judge Brown, and others, in setting forth their side of the question, have made it appear that the consumer is to pay the entire tax; now, in my own mind, the miner will have to pay a good deal of that tax; the man who is delving in the mine, and who is spending his whole existence in the mine for the small earning he gets for his labor—how will it effect him? When the man who owns the coal mine finds that the tax is to be levied, he will burden the tax upon those mining the coal, and will give less wages for the labor which they perform. Now what of the consumers in our territory? We are told that this tax is all to come from the consumer. True, large portions of this coal goes outside, and we have lit-

the sympathy for outsiders, we are not bound to think of them, but are we not bound to think of our own people who consume this coal, one of the very necessities of life? We are going to make these people, the consumers, pay a tax on coal, a tax that will be almost enough to meet the expenses of a state government, and a large portion of that tax, a very considerable portion of it, will come out of the pockets of our own citizens, who are consumers. That is another point, but I think still of another. How will it effect the industry? I have been talking a great deal the last few months before this convention with men about the needs of the territory, and it is unanimously agreed that what we need most is capital. We have extraordinary resources, thirty thousand square miles of coal, endless soda lakes, inexhaustible supplies of oil, mountains of iron that have not yet begun to be developed. What we want is capital, and shall we not keep out capital if we discourage capitalists? Shall we build a Chinese wall around Wyoming and prevent the investor from coming in to develop its resources? Is this the policy of statesmanship? Is it not rather to throw open the gates wide and welcome capital with outstretched arms from every country, for the development of our resources? This is a question I have asked myself in all seriousness, and I have considered it ever since I came into this hall, and I have listened to all the arguments and I have waited for the gentleman to conclude his argument, to see if I could be convinced that the duty of Wyoming was to levy a tax upon a special article, upon a special industry, and I said to myself, how can we do this thing? This is opposed to the great economic law, and we have laid down in our declaration of rights a provision which says that taxation shall be equal and uniform, and I believe that no people can ignore the great economic law that has commanded the respect of all statesmen of every land. What we need is capital, incorporated capital, we want it to build railroads, our farms should be traversed by railroads, our iron mountains should be developed for their mineral resources, our soda lakes should have development, our iron mountains would have development, and we should see prosperous cities springing up everywhere. Why has Colorado become the great state she is? Because she has welcomed capital, she has not closed her gates, she has opened them wide, and Colorado today is a workshop, Colorado is alive with industry, she has some of the finest institutions in the country, and has made wonderful development and progress. Such a policy is a wise policy that encourages capital. As I understand it is not intended by this substitute to exempt these mines from taxation for all time to come, but only for a term of years, in order to foster an enterprise that requires capital, and we should not forget that.

great risks are involved in the investment of capital in a new industry in a new country, and it is intended by this to offer an inducement to capital to come, in order that our resources may be more thoroughly and more promptly developed. It would be delightful to have fifty thousand dollars a year from this source for the support of the state, but let us rather foster with zealous care all the industries of the state, and let every industry pay its share, and bear its share of the burdens of taxation gladly, as I believe they will. We are not so poor, so ground down, so utterly without resources that we cannot bear the burdens of a state, let us remember that, and welcome capital, in the hope that the burden will soon be distributed among millions of people, and with these millions of capital it will be easier to make our progress and development. Then the grand justice of this proposition, and justice is beyond all question, all sense of gain. We have laid down a constitution as broad as the world, as wide as humanity, and shall we disfigure it by putting into it a tax, a special tax for for the main support of the government, let us rather adopt a broader, more statesmanlike policy as it seems to me, and bide our time patiently, leaving this matter to be settled in the future.

Mr. BURRITT. I just desire to ask a question of the last speaker. If the general prosperity of Colorado is due to her having thrown open her doors, and because of her having this provision in her constitution, how is it that Nevada, with even a broader provision in her constitution than this, has no prosperity?

Mr. HOYT. I don't know about that, but if Colorado had adopted a more conservative policy than she did, she would not have met with the success that she has, and made such rapid progress.

Mr. BURRITT. While you have been talking of equality and justice, I desire respectfully to call your attention to the fact that this evening the speeches have been very long and very rapid, and however pleasant they may have been to the listener, they have been very fatiguing to the young lady who is taking notes, and on behalf of the young lady who is making a shorthand report of this, I suggest that if the committee is not ready to take a vote on this question, that it now rise and ask leave to sit again.

Mr. TESCHEMACHER. Let us take a vote upon it now, we all know how we are going to vote upon it.

Mr. CHAIRMAN. The question is upon the substitute offered by Mr. Hay. Are you ready for the question? All in favor of the substitute offered by the gentleman from Laramie will say aye; contrary no. The noes have it; the substitute is lost.

Mr. BAXTER. I move this committee now rise and report.

Mr. CHAIRMAN. It is moved and seconded that this committee do now rise and report. All in favor of the motion will say aye; contrary no. The ayes have it; the committee will now rise.

Mr. President:

Your committee of the whole, having had under consideration the substitute for Files 7, 26, 27, 41, 54 and 55, report progress and ask leave to sit again.

C. H. BURRITT, Chairman.

Mr. PRESIDENT. Gentlemen, you have heard the report of your committee. What is your pleasure?

Mr. CAMPBELL. I move the report be adopted.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails; the report is adopted.

Mr. BAXTER. I move we do now adjourn until 9 o'clock tomorrow morning.

Mr. PRESIDENT. Gentlemen, you have heard the motion. Are you ready for the question? All in favor of the motion will say aye; contrary no. The ayes have it; the motion prevails.

TWENTY-FIRST DAY.

MORNING SESSION.

Wednesday morning, Sept. 25, 1889.

Mr. PRESIDENT. Convention come to order.

Roll call.

Mr. TESCHEMACHER. Mr. Organ requested me to ask that he be excused. He was called out of town this morning, but will be back this afternoon.

Mr. PRESIDENT. If there is no objection Mr. Organ will be excused.

(Reading of the journal.)

Any corrections to the journal? The chair hears none; it will stand approved.

Was there any action taken on the proposition to amend the rules for the purpose of creating another committee on address to the people and congress? Notice was given, but I think no action was taken.