

tax. Then the present law presents us nothing more than the application of a general power, limited by the soundest discretion.

Will it then be said, that the state has not the power of selecting these offices as the objects of a discriminating tax? Such an objection would refute itself, for it would deny to the state the right of imposing any tax which might be partial in its operation. Then would the direct tax be illegal as operating only upon the landholder, the retailers tax as confined to the retailers, the marriage tax as paid only by the wooing, and in fine every species of tax which has been levied in your state, would be denounced as unconstitutional. Whether it be right and proper thus to discriminate, or whether the state, in adopting a system of taxation should not avoid these discriminations, and make it general, that to use the language of our declaration of rights, every citizen would be compelled to contribute according to his actual worth in real or personal property," we are not now called upon to say. Then it but remains to inquire, are offices, or the receipts of offices, proper and legal objects of taxation? Here we have found extreme difficulty in even imagining reasons which would wholly exempt them from taxation. The present tax is nothing more than an income tax, and is in entire accordance with the doctrine, "that those who take benefits under the government, should contribute to its support in proportion to those benefits." What is there to exempt valuable franchises of this kind from taxation, which would not also exempt rights to real or personal property, or valuable rights of any kind whatsoever? The right to the fees of these offices grows out of and is protected and enforced by the laws of this state, and she has the same power to call upon the persons clothed with these rights to contribute to her support in proportion to their value, because of the grant, protection or enforcement of them, which she has to call upon the owner of real or personal property of any kind, whom she protects in the enjoyment of it, to contribute according to its value. Beneficiaries of this kind must be placed on a level in this respect with all others. Is there any thing sacred in the nature of an office, or of the benefits attached to it, which will exempt it from the common lot of all rights or benefits derived from human laws? If so, the state must be supposed to have entered into a tacit contract with these officers, which will not permit her to lay her hands on their fees of office. The state must be supposed to have tacitly contracted with these officers, that they should receive stipulated fees for their services, and to be now estopped by her own contract from reducing those fees in any manner or in any degree; the whole notion of contract, as applied to offices, seems erroneous, and as applied to mere ministerial offices, such as are the objects of taxation under this law, is infinitely more so. It proceeds entirely upon the supposition that offices are made for the benefit of those who fill them, and not for public benefit; and that however loudly public convenience or advantage may demand it, we dare not touch them or their perquisites. Such a doctrine would have suited the age of monopolies, but it is not very well adapted to our republican institutions. If it would prove any thing, it would prove too much—it would deny our right to abolish the office, to increase its duties, or to diminish the fees attached to it. Yet it is admitted on all hands, that we have the power of reducing these fees, nor can the officer be injured by the exercise of this power. The performance of his official duties for the fees allowed, whatever they may be, is altogether voluntary on the part of the officer. The office is not forced upon him. He may cast off its duties whenever he will. This admission once made, that we may reduce the fees of these officers, (and who can refuse to make it,) the question seems to be put to rest. What is the present law in its design and operation, but a mode of reduction, differing only from a simple reduction of their fees, in that the latter is for the benefit of those who pay the fees, whilst the former is for the benefit of the state. We may reduce these fees, and throw the excess back into the hands of the people who pay. Then what is there to inhibit us from reducing them, and throwing the excess into the treasury of the state? The power exercised in both cases is the same, the difference is only as to the beneficiaries of that power.

Confining ourselves to the question of right, we are then led to the conclusion, that the state may impose a tax upon offices, such as are taxed by the law of the last session, and that this tax may be made a discriminating tax. Whether it be proper or expedient, we pretend not to say. As the opinion of your committee was expressly asked, for the satisfaction of doubting members of the house, we could not deem it sufficient merely to throw out our opinion, unfortified by remark or reason, and the hints of argument; (for we can term them nothing more,) which we have furnished, will, we trust, conduct all such members to a satisfactory conclusion. All which is respectfully submitted.

By order,

JAMES B. LATIMER, Clk.

The bill to repeal an act to tax certain officers, was read the second time. On motion by Mr. Wright, the question was put, That the same be referred to the 1st of June next. The yeas and nays being required appeared as follow:

Affirmative—Mr. Speaker, Hawkins, Gough, Harris, McClean, Ireland, Hodges, Dalrymple, Chapman, Bennett, Spencer, Lloyd Reyner, Dennis, Teackle, Jones, Sullivan, Eccleston, Travers, Thomas, Ewing, Grubb, Wootton, Duvall, Nicholson, Wright, Williams, Parker, Hooper, Barnes, Cromwell, Kemp, Hope, Norris, Jarrett, Montgomery, Hardeastle, Barwick, Brown, Boon, Bowles, Fouke, White, Merrick, Beall, Lansdale, Hoffman, McMahon, Lantz, Klipstine—50.

Negative.—Mr. Kilgour, Millard, Maxey, Estep, Beckett, Parran, Rogerson, Garner, Shower, Worthington, Price, Turner, King, Henderson, Peach, Carroll, Tingle, Howard, Tyson, Lee, 20.

Resolved in the affirmative

On motion by Mr. Montgomery, Ordered, That the additional supplement to an act for quieting possessions, enrolling conveyances, and securing the estates of purchasers, have a second reading on Saturday next.

Mr. Howard obtained leave to bring in a bill, entitled, An act to enable Jerome Napoleon Buonaparte, to hold property in this state. Ordered, That Messrs. Howard, Tyson and Millard, report the same.

Mr. Tyson reports a bill, entitled, An act further to regulate the inspection of tobacco. Ordered, That the same have a second reading on Tuesday next.

Mr. Barnes reports a bill, entitled, An act relating to the duties of justices of the peace and constables.

Mr. King reports a bill, entitled, An act to alter and amend the constitution so as to reduce the number of delegates from the several counties in this state. Ordered, That the same have a second reading on Tuesday next.