

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

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

Content downloaded from

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

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

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

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

## SEVENTEENTH DAY

FRIDAY, SEPTEMBER 24, 1875<sup>31</sup>

MR. FLOURNOY reminded the Convention that, under the head of unfinished business, the question of the adoption of the majority report on the postponement of the election should come up. He said he would not make a speech, and moved the previous question.

MR. BROWN requested that Mr. Flournoy withdraw his motion, as he wished to have an opportunity of explaining his position as a member of the majority reporting the resolution. This was agreed to, provided Mr. Brown would move the previous question when he had finished his remarks.

Mr. Brown said:<sup>32</sup> "Mr. President, with close attention I listened all of yesterday and last night to the able gentlemen who spoke for and against the pending ordinance, and accord to each of them the same sincerity of conviction that I claim for myself. Being substantially the author of the proposed measure, the Convention will allow me the privilege of a few remarks in defense of my own offspring. I take the occasion to say that the question is not new to me, for in my deep anxiety to relieve the people of every needless burden, and restore among them feelings of confidence, harmony, and peace; to reawaken in their hearts *once more* the ancient feelings of love of country and patriotism, I have studied the question very carefully. I thoroughly examined the subject in May last, and in my humble home in Dallas drew the ordinance as it now is substantially, the only difference being the matters inserted by the committee in relation to United States Senator and the prolongation of the terms of the existing officials of the Legislature, to prevent any jar or hiatus in the law-making power of the Government.

"Now, sir, from some of the speeches of the gentlemen in opposition, one would imagine that this is a terrible revolutionary movement. They would have people believe that we are invoking the wrath of some evil power, destined to burst into atomless fragments the snow-capped Himalayas and spread them over the burning plains of Hindoostan; or to wrest from its eternal base the Andes, and pile it in wild confusion over the pampas of South America.

"Mr. President, we propose no such war on God's eternal power. We do not even desire to disturb the peaceful flow of the Father of

---

<sup>31</sup>The proceedings for this day were taken from the *State Gazette* (Austin), September 25, 1875

<sup>32</sup>Mr. Brown's speech was reported in full by the *Dallas Herald* of October 12, 1875

Waters in its course to the sea; nay, we would not cause a ripple in the smiling waters of the limpid Colorado, at the base of the hill on which we stand.

“But, sir, we do propose, by the adoption of this ordinance to relieve the people of Texas of a great and unnecessary annoyance, a great and unnecessary confusion, and a great and unnecessary expense. We propose to do so peaceably and wisely. We act under the conviction, deep-seated in our hearts, that the people of Texas, though bedeviled for ten years past, are not fools, but men of fair intelligence and a reasonable share of common sense; that they are men who, though not learned in the technicalities of the law and the rules of rhetorical construction, are brimfull of that practical judgment and keen sagacity which readily discriminates between measures revolutionary and measures peaceable, practical, and beneficent for their own protection against useless, cumbersome, and expensive requirements.

“Mr. President, after all the learned discussion in opposition, which has been logically answered by Messrs. West, Stockdale, Reagan, and Flournoy, let us strip the whole question of all its sophistry, and see what is involved. What is the object sought? I answer, to relieve the people of a great and useless expense and vexation. By what means do we propose to accomplish so desirable an end? I answer, by the straightforward dictation of our cool common sense, in the simplest manner possible, and by the only means at our own control. We propose to do it by simply changing *the day* of a future election, from the first Tuesday in December next, to a day to be determined by the Governor, in a certain contingency, after the happening of another event. That is to say, if the people reject our new Constitution, then the Governor will say to the people, ‘you must elect the Fifteenth Legislature on such a day, and that body must assemble on such another day, as if it had been elected in December.’ That is all of it, twist, turn, screen, and distort the subject as gentlemen may. It involves no interference with the execution of the laws of the regular administration of the Government. All legislative appropriations are already made to August 31, 1876, and there is abundant time, under the ordinance if necessary or under the new Constitution as we all anticipate, to assemble the Fifteenth Legislature, whether under the old or the new Constitution, before that time. Can anything be more plain, more just, or more wise?

“Sir, learning is a great thing, and none more than myself pays homage to its possessor. But there are different kinds of learning. Some of it is altogether of the closet; some is altogether attained by rough contact with men; and another is made up of both, and is, by the highest test of time, the best of all. It is that kind that I, in an humble degree, claim. It illustrates and pertains to that

middle class of men, thoughtful, practical, prudent, and well-poised, who are the pillars of the State and the conservators of public and private liberty in times like these. It embraces men who are the same whether resting under palms on the burning desert, or robed in furs on the peaks of everlasting ice and snow, whether in the huts of the humble or in the parlors of the rich. Such, Mr. President, are the members of this body who seek, by this ordinance, to save the people of Texas of their nonsensical expense and annoyance.

"Sir, gentlemen say this is revolutionary. In the name of 1,500,000 people of Texas, I deny it. If our people were lawless, reckless, and ignorant, there might be some ground for apprehension. But they are neither. Yet, sir, they are tired, disgusted, and outraged with the registrations, elections, and tyrannies of the last seven years. They want once more to enjoy the privileges of their fathers in going to the polls by virtue alone of their inherited rights as free men.

"We want no more espionage or registration forever. Registration has been the damning cesspool of corruption among officials and the generator of hate among our best farmers, mechanics, and all other classes. Away with it forever! My soul shrinks from its pollutions as virtue shrinks from seething vice. We intend to free the people from all these shackles, and when our Constitution and a new election shall be submitted, we want to enjoy the blissful pleasure of saying to them: 'Fellow citizens, all impediments to liberty have been overcome! Rally to the polls as your fathers of old, and vote as free men without any pass or certificate, but simply on the ground that you are free men, citizens of the United States, twelve months in the State and six months in the county. If entitled, no man shall impede your right; but if any man not entitled shall corruptly exercise the right, he shall be subject to the pain and penalties of perjury.'

"No, sir, we are not revolutionists, but conservators of the people's rights. This is a measure of peace and of reform, of conciliation, leading to a restoration of confidence and good fellowship. Pass it, and, despite the hasty and inconsiderate cries of a few already heard, a shout of joy and relief will soon be heard from the great thinking mass of the people. Bound with hooks of steel from boyhood to the glory of Texas, I have no fears. Pass it, and all will be well."

MR. JOHNSON, of Franklin, spoke next in favor of the majority report and resolution. He said the Convention possessed all power. They could not only make a new Constitution, but could also remove all obstacles in the way of its consummation. The Legislature could neither grant to nor withhold any power from the Convention. The Legislature might have said what the Convention could do or not do,

still the power of the Convention would have been the same. Conventions were above legislatures, governors, and other authorities. They would all remember the dark days in which the Radicals got possession of the State, and made the existing Constitution; how under that same infamous Constitution these same men had run riot over the people; and to cap the climax, after the democracy had, under the leadership of the lion-hearted and gallant Coke, defeated them throughout the length and breadth of the State. The Radicals had attempted to throttle the voice of the people by an attempt to drive the legally elected officials from the thresholds of the Capitol. He thought it was not only their duty to get rid of so obnoxious a Constitution, but to remove every obstruction which dared to interpose its onward and beneficent progress.<sup>33</sup>

MR. FLOURNOY stated that he had once moved the previous question, and had given way to the gentleman from Dallas (Mr. Brown) only with the understanding that it would be renewed as soon as he had finished speaking. He said he would like to have spoken also, but believing that the public good would be subserved by coming to a vote, he had waived his personal predilections in the matter.

MR. BROWN explained that he had forgotten the matter of the previous question. He regretted very much that he had overlooked his promise to the gentleman from Galveston.

GENEAL WHITFIELD now moved the previous question, and the main question was ordered.

The question then being on the adoption of the majority report, would be the passage of the ordinance postponing the election, it was adopted by a vote of 56 to 25.<sup>34</sup>

The Convention next went into the committee of the whole on the report of the Committee on Legislative Department, with Mr. Stockdale in the chair.

---

<sup>33</sup>This brief summary of Mr. Johnson's speech was found in the *Austin Statesman* of September 25, 1875.

<sup>34</sup>All of the majority were Democrats. Eleven of that party voted with the solid Republican vote of fourteen against passage. This unconstitutional and extra-legal action of the Convention was applauded by almost all of the press, on the ground of expediency and economy.