

# 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).

“Scholastic population of Texas is about 300,000. With \$500,000 as the utmost available school fund available annually, it would provide for public schools of only one and a half months duration. By my amendment the number of children to be provided for would be 150,000. These children could be educated four months in the year for \$1,000,000. Is it not our duty to provide for their education? I agree with the Chairman of the committee that the Democratic party must come squarely up to its pledges upon this question.”

MR. SANSOM opposed the majority report, and condemned the exercise of the despotic power that would enforce direct taxation for the public education. He made an effort to show that crime was not attributable to lack of education, but to other causes.

MR. ABERNATHY opposed the amendment. He was willing to compromise on one-tenth of the annual revenues of the State for educational purposes. He said the people were financially embarrassed and could not afford more than that amount.

MR. GRAVES opposed the amendment. He thought the people were neither able nor willing to support the schools under the plan of Mr. Dohoney.

Upon motion of Mr. Chambers, Mr. Dohoney's amendment was tabled by a vote of 53 to 21.

### THIRTIETH DAY

SATURDAY, OCTOBER 9, 1875<sup>65</sup>

MR. FLOURNOY rose to a question of privilege. He was informed that on yesterday, during the discussion of the question of restriction of suffrage in towns and cities that while either out of the hall or preoccupied with other matters, he had suffered a severe personal castigation at the hands of the gentleman from Anderson. He trusted that he had never used any such language as that ascribed. He was led away during the heat of the debate, for he must know that in a deliberative body like this he was going beyond his duty to do so; since no man in this Convention had a right to question the sincerity or the motives of any member for his action. He read an excerpt from the *Gazette* in which the language complained of was used. Mr. Flournoy said he held that any gentleman had

---

<sup>65</sup>The proceedings for this day were taken from the *State Gazette* (Austin), October 10, 1875.

a right to illustrate as broadly as his judgment dictated, the subject he was discussing. The remarks he supposed were drawn out in reference to the proposition by the remarks of Mr. Nugent, who suggested that the law applied to all cities of not more than 25,000. He did not charge that gentleman had any design in that, but aimed to show that it would affect Galveston alone, and it was to his remarks on that question to which Mr. Reagan's remarks had reference. He had never suffered himself personally to criticize Mr. Reagan, or any other gentleman on that floor. He trusted Mr. Reagan did not then mean, and did not now mean, to question the sincerity of his motives or the perfect good of anything he had said or done in that Convention, and would like him to explain.

JUDGE REAGAN said if Mr. Flournoy had been present he would have seen that there was no occasion for the remarks he had just made. He did not criticize the argument, and stated, as a reason, that he had argued the proposition as if the Convention intended to force registration upon the people of Galveston. In reply to that he alluded to the fact that the motion was that registration should be allowed to those cities desiring it, and that the Legislature should have power to grant such permission to any city over 10,000 inhabitants. On this matter he did say that the assumption of Mr. Flournoy was not warranted by the record, and could only succeed on the supposition that the members were too dull to understand the question.

He stated that the question was not the one presented by the gentleman, but whether the delegates of the Convention knew what was best for the interests of the people of Texas. As to his motives, he did not concern himself about those, but, as regarded his argument, he felt it his privilege to say what he did, that a wrong impression might not go out to the country. His remarks had nothing to do with criticizing his motives. It was his argument, and not his motives, that he referred to.

MR. FLOURNOY said he was glad to have heard the explanation. He knew that the honorable gentleman from Anderson did not intend to criticize his motives, but from the reports in the newspapers, and the impression on the minds of some of the members, he had felt constrained to refer to it. While he had occasion to differ with gentlemen frequently on that floor and elsewhere, no one could say

that he had ever gone outside the record to criticize any gentleman personally, and hence he felt surprised that Mr. Reagan's language should have been capable of misconstruction.

JUDGE REAGAN said that everyone would admit that had he desired to be personally offensive he knew how to be.

MR. FLOURNOY said it was well known that he was perfectly amenable for anything he said or did, and that he was always ready to retract when in the wrong. If he had wronged a man he was the frankest man in the world in admitting it. Mr. Reagan had nothing personal against him, nor any supposed wrong, that he should use personal language. Mr. Reagan was not the man to do it in connection with this body, but without disturbing the action of this body, would have sought to personally satisfy himself respecting the matter. He was perfectly confident that Mr. Reagan did not mean the construction sought to be put upon his language, except that his argument was faulty. He admitted that his arguments were sometimes faulty, and that he was very often wrong in both his premise and conclusion. He did not dispute the right of anyone to attack his argument, and was perfectly satisfied that that was all the gentleman from Anderson intended.

MR. MARTIN, of Navarro, also rose to a question of privilege. He said that he regretted that on the previous morning remarks should have been thought necessary to be made respecting the *Statesman*. He liked to see a bold, independent press, but not an impudent press. He thought it would pass away as left yesterday after gentlemen had risen in questions of privilege, but this morning the *Statesman* was more impudent than ever. It now contained a direct charge, and named gentlemen of the highest character, calling on them to substantiate its assertions and prove that every member who was a Granger, except nine, had entered into a compact, an unholy alliance, with the minority in the Convention. He was a Granger, and so were his two colleagues from the Ninth District, and if anyone asserted that he or either of them had entered into a compact with the minority or anyone else, he had most foully lied. He knew no Granger on that floor as a Granger, and did not know that any Granger had concerted with a minority, but no Granger could control his vote or action. The charge was infamous. He asked leave to introduce a resolution. The resolution was as follows: "That the

President appoint a special committee of seven to inquire into the direct charges of the *Statesman*, that all Grangers, except nine, of this Convention, have formed an alliance with the negroes and radicals of this Convention; and that the vote upon the suffrage question was the result of said alliance and that no member of the Grange or radical party be appointed upon said committee."

MR. CHAMBERS said it was he who proposed the amendment to strike out, in the report of the Committee on Suffrage which elicited the discussion. He was a Granger, but how many had known it before? If a half dozen members on that floor knew it, he wished them to rise and say so. His district was composed of over 10,000 and not any except half dozen knew he was a Granger, during the entire canvass. He had not used its influence then and much less should he use it now to form a compact with negroes and radicals. For himself, he denied it, and he felt called upon to say so; because he introduced the amendment that led to the debate. His constituency was a respectable one and a charge of this sort not only affected its delegates but his constituency itself. The Grange was not a political institution, and had members in it belonging to both the great parties of the country. Who then assumed that they could be led by an Ajax on that floor in any direction? He did not know who were and were not Grangers on that floor. He had too much respect for the constituency he represented and the members on that floor to make such an inquiry.

GENERAL ROSS said he would explain briefly what he knew of the matter in controversy. To bring the matter at once before the body, he would state precisely what he knew of the matter between Johnson, of Collin, and Mills. He attached no importance to it himself, but would call on Johnson, of Collin, to explain. He considered that the remarks that were made were thoughtless and inconsiderate. He thought they were calculated to do great injustice to the Grangers, who were a worthy body of men. Immediately after the occurrence, he had called attention to it, and advised the gentlemen to correct the impression, as it would probably be used against him to manufacture capital.

As to the *Statesman*, all he had to say was that he recognized the full scope and tenor of a public journal to criticize public men or their actions, but when it seized upon a conversation, and proceeded

to criticize worthy men on this floor, among them the honored President of this Convention, it exceeded its mission. He could not see that such was the mission of a Democratic paper, to interrupt the work of the Convention, and array gentlemen against each other on the floor, and create a sentiment adverse to public interests. 'Twas like the poisonous adder that seeks shelter in the noble lion's mane to sting him to death. He related the anecdote of an ungainly preacher, of whom it had been remarked, that while he might be a good exhorter, he had the most ungodly walk that was ever seen. If the *Statesman* was a Democratic paper, it had the most ungodly way of showing it he had ever seen.

JUDGE REAGAN said as he had been made a witness on the stand, he would have to testify. He read extracts from the *Statesman*, and then explained that yesterday morning, as he was walking in the rear of the Capitol, he passed several gentlemen, among them Mr. Nugent, Mr. Whitfield, and others. The editor of one of the papers in the city was present, and a conversation was going on in reference to what had been charged in the *Statesman*. Some one said that General Ross had stated that a bargain had been made between the Grangers and the Republicans to carry certain measures. He, Reagan, then said if such a bargain had been made, that the dignity of the Convention had been degraded, and in duty to the country it ought to be denounced and exposed. He did not say that the bargain had been made. He denied that any one had the right to transfer the Grangers and use them as he pleased. He would now say what he had not said before on the floor, and what but few knew, that he was a Granger himself. He had not come there as a Granger, was not elected as a Granger, and, so far as he was concerned, he expected to represent his whole district. One man had announced himself, during the canvass as a Granger, in order to obtain office, and had been, as he should have been, ignominiously defeated. The Grangers had refused to touch him, and that was the only instance on record in the State. He, Judge Reagan, was a Granger, but not a political one, and did not belong to any secret organization. He could not deny that an impression had been produced derogatory to the Convention, and that there was some ground for the position assumed by the *Statesman*, as it had been said, in the presence of one of the editors of that paper, that an improper coalition had

been formed between the Grangers and the Republicans. The editor had deemed it his duty to call attention to the matter, but it would be their duty to see the patriotism and integrity of the Convention vindicated.

GENERAL WHITFIELD said he had but a few remarks to make. One day, about a week since, he had a conversation with General Ross, and was told that a gentleman had proposed to Mr. Russell, of Harrison (who was a Republican) that if he, Russell, would give him thirteen Republican votes to control the suffrage matter, he would give him enough other votes to control other matters that might come before the Convention. He, Whitfield, became mad, good mad, when he heard it. He recognized his duty to his constituents, but as he had said yesterday morning, when he left home he had left his Grangerism and regalia behind him, and came to Austin as a Democrat, and his votes were cast as such, and not as a Granger. When he had first heard of this conversation, he had threatened to denounce it on the floor of the Convention, but was over-persuaded not to do it, being told that Mr. Johnson, of Collin, was only joking, and had found out since that it was only a joke, but he must say it was very serious. The remarks of the *Statesman* were utterly uncalled for. (Here he read an extract from the *Statesman*, in which it was said that General Whitfield had risen the day before with mock, heroic solemnity, to say he knew nothing of the alleged combination.) "Mock solemnity," that was good, and if any one thought that he indulged in mock heroism, let them try him, that he always held himself personally responsible for all he said.

REVEREND JOHNSON, of Franklin, said he considered the abuse of the *Statesman* as an advantage to a public man. He called on any member present to say if he ever expressed himself as a Granger. So far as the remarks of the *Statesman* were attributed to Mr. Johnson, of Collin, he believed the remarks of that gentleman had been said as pleasantry in the public assembly; and that no one considered him as being in earnest.

MR. JOHNSON, of Collin, said he supposed he had been the cause of all this trouble, by a peculiar remark made in the presence of fifty men. It was all a joke, and nothing was meant by it. The *Statesman* had first set out, during the canvass, that there should

be no politics in the Convention. When he came to Austin the Republicans seemed friendly, and he did not feel disposed to kick them out. As he walked down the aisle the other day, Mr. Flanagan came after him, and he jokingly remarked to him, "You had better not follow me," when some pleasant remarks ensued. There was a "power behind the throne" in all this, and it was because they claimed to represent the people and not to build up a few broken down editors. Every man knew that what he had said regarding a treaty with Republicans was a joke.

MR. COOKE, of Gonzales, announced himself as a Granger and defended the organization. He did not know a dozen Grangers on the floor. They were not a political organization. He had always fought secret political organizations, and would not belong to the order of Grangers if it was one. He did not deny that politicians had joined the order for self-promotion, but they would be deceived. Whenever it became a political organization, he would leave. He knew nothing of the charges as stated, and being a Granger, he did not desire to be placed on a committee proposed to be raised. He knew of no bargain. The Grangers were not consulted as to how they should vote.

MR. FLANAGAN said he found it had become necessary for members to purge themselves of any connection with a supposed contract that was said to exist between the Grangers and the so-called negro or radical party of the Convention. It was not necessary for him to make any explanations as to his course on the floor, for he took it for granted that he was above suspicion, and would not enter into any collusion for the purpose of passing any measure, or of defeating any measure that might come before that body. In justice to himself and the Republican party, his colleagues, Colonel Russell, Colonel Mills, and himself, he felt called upon to make this statement, as they (Russell and Mills) were the only two members of the Republican party that had been named in connection with the alleged collusion, compact, combination, bargain and sale question, as it had been termed. Whatever they had done, he pledged the Convention his word of honor, that he had never heard of it before, until he saw it yesterday in the *Statesman*. If there were any contract with his aged friend, Mr. Johnson, of Collin, he had never heard of it. He acknowledged the great ignorance of the Republican



party in Texas, and the ignorance of the gentlemen who proposed to represent them in the Convention, but it certainly was humiliating to him and the gentlemen of the Convention to believe that they could be led by the gentleman from Collin, or form any compact with him. He, Mr. Johnson, had said that he, Mr. Flanagan, had treated him friendly. He thanked God that he had been educated to respect age, and to treat every gentleman respectfully, as he deserved to be treated himself. He found Mr. Johnson to be an open, frank, gentleman, and though he may have said some things in a jocular manner there was nothing serious meant. He believed that he was too honorable a man to form any compact with Republicans, or any party, to carry any measure in this body.

He denied that there was any one authorized to make any contract by which the fourteen Republicans in the assembly could be ruled on any measure. No man had ever controlled his vote, except he thought it necessary to follow leadership. If the *Statesman*, or anyone, could prove that the fourteen Republicans had made such a contract, they, the members, could move the names of the Republicans to the head of the roll-call, and then they would have a dead sure thing on keeping them in the minority.

MR. WADE said he knew of no collusion between the Republicans and Grangers. There was a conversation between Mr. Johnson, of Collin, and Russell, of Harrison. It had been called an ungodly joke, and he thought it was, but as he regarded it it was not binding on him or anyone else. He was a Granger, but did not know until that day that there were six Grangers on the floor of the Convention. During the conversation referred to, some one had said to him, "Can you stand this?" To which he replied: "I vote for Wade alone!"

MR. NUGENT said he had defeated his opponent in his district because of the fact that he was trying to make capital of the fact that he (his opponent) belonged to the Grange order. He knew nothing of any proposed contract between Republicans and Grangers. He was present at a conversation between Mr. Wade, the representative of the *Statesman*, himself, and probably some others. It was then stated that some kind of an arrangement had been entered into between the Grangers and the Republicans, in order to get a working majority and carry measures. He expressed his surprise at it. Mr. Wade stated that a member of the Republican party had

asked him if he could stand this, and he had replied: "I vote for Wade alone, and nobody else." In this conversation between the editor of the *Statesman* and the other members of this party, it was stated that the proposition had been seriously made, and he, Mr. Nugent, had denounced it in unmeasured terms, and still denounced it, but from the explanation made that morning, he believed it all a joke.

MR. ROBERTSON, of Bell, said the length of the statement, and the character of the explanations made, required him to say something. While he did not propose to say whether he was a Granger or not, he desired his constituents to know that no contract had been made between him and anyone else.

MR. FLEMING said he was opposed to the passage of the resolution, and did not consider it the duty of the Convention to investigate any newspaper charges. He said if they stopped to investigate everything a newspaper said, and raised investigating committees, they might be there for months.

MR. DILLARD said he had never before proclaimed himself a Granger, and denied anyone having the right to control his vote on any question. He regretted that Mr. Johnson, of Collin, had so forgotten himself as to attempt to speak for the Grangers or the Democracy, or the Republican party of the Convention.

MR. BRADY said he did not consider the *Statesman* of sufficient importance to control or ruffle the temper of the Convention. He was present at the conversation that had so stirred the bile of the *Statesman*, and had regarded it as a joke at the time, and had laughed at its ridiculousness.

MR. DEMORSE said the whole foolish matter was out of place, and unworthy of the consideration of the body. He insisted that Mr. Martin, of Navarro, should withdraw his resolution. The delegates had been chosen with regard to their honesty and fitness, and not because they were or were not Grangers.

MR. MARTIN, of Navarro, refused to withdraw his resolution.

MR. RENTFRO said he was a native born Texan and a Republican. He protested against the language used by individual members. Many epithets had been hurled at Republicans that were unnecessary and unkind. They had been spoken of as "radicals, negroes, etc." The resolution was not couched in respectful terms toward

the minority on this floor, it having designated them as "niggers and radicals." He knew of no such alliance as was claimed.

MR. WEAVER said there were a great many Grangers in his county. He knew of a person who ran for office and called a Grange meeting to address them in hopes of obtaining their votes, and had denounced him (Mr. Weaver) as a lawyer. The gentleman in question was defeated by three or four hundred majority. He was led to believe from this fact that the Grangers were, as they claimed, no political organization. The press had the right to criticize public men, but if the Convention took official notice of the criticisms that were made by the public press they would always be kept busy.

MR. DOHONEY thought it was beneath the dignity of the Convention to be noticing all the newspapers said. He defended the liberty of the press, but thought that when censured by it, it was a waste of time to make such a noise about it. He was no Granger, but believed their objects were good, and had been voted for by great numbers of them. He, as editor of the *North Texan*, had advocated the principles they did before there was a lodge of the order in the State. There was no ground for the charge that had been made. It was a mere idle, good-natured conversation that had occurred.

MR. BROWN said he was in favor of the freedom of the press and not the licentiousness of it. He thought the whole matter had gone far enough, and was not worth noticing any further.

JUDGE BALLINGER thought the Convention was traveling outside the record. If they investigated this charge they might have to investigate others at a great cost of time and expense.

COLONEL CRAWFORD offered the following amendment: "That said committee be authorized to send for persons and papers, and to administer oaths and take testimony, and that the report of said committee contain simply a statement of matters and things as they transpired in fact; and that all deductions and conclusions be left to the Convention and the country." Adopted.

MR. STOCKDALE moved to amend the resolution by striking out the words "negroes and radicals" and insert the word "Republicans." Adopted.

MR. MOORE offered to amend by adding "and that in determining who are Grangers the President shall be governed by the usually accepted signs." Ruled out of order.

On motion of Mr. Flournoy, the whole subject matter was laid on the table.

MR. WEST moved to reconsider the vote engrossing the articles on suffrage, and to pass the motion for the present.

MR. SCOTT moved to reconsider the vote tabling the resolution of Mr. Martin, of Navarro, to raise a committee to investigate the charges made by the *Statesman*.

It was carried by a vote of 48 to 18.

The resolution was then adopted by a vote of 46 to 23.

Memorials from some half a dozen counties were submitted without reading.

The education minority report, as the substitute for the majority report was lost by a vote of 19 to 46.

MR. DOHONEY moved to amend Section 6 of the majority article by adding "and proceeds of those lands, when sold, shall constitute a part of the school fund to which the lands belong."

MR. SCOTT offered an amendment, "The Legislature shall provide for the sale of county school lands to actual settlers, in lots of 80 and 160 acres, prices to be fixed by commissioners, and actual occupants of such lands shall have the right to take the lands at the prices fixed."

MR. NUGENT suggested an amendment that county courts be authorized to sell the lands.

MR. FERRIS offered a substitute for all the amendments, which was withdrawn after arguments.

MR. DARNELL thought it a hardship that actual settlers should be allowed nothing for their improvements. The lands in his county (Tarrant) belonging to other counties had about two hundred settlers upon them; it would work a hardship upon these men who had by their labor rendered them valuable, to put them at the mercy of speculators by throwing the lands upon the market without allowing the settlers to offset the value of their improvements.

MR. SCOTT held to a like opinion.

MR. FERRIS and MR. DEMORSE desired the settlers actually owning the lands protected.

On motion of Mr. Ballinger, the section was laid on the table until the Committee on Counties and County Lands should report.

MR. WADE presented a substitute for Section 4, and made an able speech for the public schools.

MR. RAMEY reported the engrossment of the article on executive department.

### THIRTY-FIRST DAY

MONDAY, OCTOBER 11, 1875<sup>66</sup>

#### *The Free School Question*

MR. SANSOM submitted the following as a substitute for Section 3: "That there shall be set apart not more than one-tenth of the annual revenue for school purposes and a poll tax not to exceed \$2, and no person shall be allowed to vote at any election in this State unless he has paid such poll tax."

Mr. Sansom's motion was tabled by a vote of 52 to 26.

JUDGE BALLINGER proposed as a substitute to Section 3 a tax of one-fourth of 1 per cent on all taxable property of the State, or so much of said tax as together with a poll tax of \$2 per annum and the other funds provided for school purposes as should be sufficient to educate all of the scholastic population four months each year, and making the payment of a poll tax a condition precedent to the exercise of the suffrage. He said he thought the State was able to make such a provision and that it would accomplish more for the well-being, and would add more to the wealth and prosperity of the State than any other means that could be adopted. If members of the Convention failed to pass some such provision they would be failing in a great public duty.

MR. ROBERTSON, of Bell, said this would increase taxation one-fourth of 1 per cent over and above the ordinary expense of the Government, and he protested strongly against it. He said he had come to Austin with a view of obtaining a reduction of the expenses, and not of increasing them, and of levying no tax beyond what was necessary for the ordinary expenses of the Government. His people were not able to bear further taxation. Until they could determine the capacity of the people to pay, no attempt ought to be made to increase their burden.

---

<sup>66</sup>The proceedings for this day were taken from the *State Gazette* (Austin), October 12, 1875.