

# 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).

MR. KILGORE said the law of 1873 provided that every railroad in the State should render its property for assessment, and the number of miles of its road-bed in each county, their personal property to be reputed from the general office, and that to be apportioned to the several counties, but he was opposed to incorporating that law in the Constitution.

MR. FLOURNOY said his impression was that the law had been repealed. It was not proposed by the amendment to increase the taxation of railroads, but simply to provide that the county commissioners might assess pro rata on such portions of the road as passed through their respective counties, and that the balance be apportioned in the manner described. It did not affect railroads in the least, was a matter in which they had no concern, but was simply a matter between the counties and the Treasury.

JUDGE REAGAN said if one thing was clear in his mind it was that they had already provided that *all* property should be assessed in the county where situated, and that saying so once was enough in one Constitution; but it might be that railroads were not considered property, and that it was necessary to mention them again to get the tax to stick.

The substitute of Mr. Russell, of Wood, was adopted by a vote of 56 to 24.

## FORTY-FOURTH DAY

TUESDAY, OCTOBER 26, 1875<sup>86</sup>

MR. JOHNSON, of Collin, offered a resolution providing that the Convention hold night sessions.

MR. WEAVER offered an amendment providing that the officers of the Convention should receive \$2.50 per night, and the President \$5. He said he knew that a number of delegates were becoming restless and desired to go home. His court was then in session, and he was losing probably \$50 a day on the average, and would like to be at home as well as any one else; but he doubted whether night sessions would really accelerate business. He would, however, vote for the resolution, if the Convention would pay the extra prices named to

---

<sup>86</sup>The proceedings for this day were taken from the *State Gazette* (Austin), October 27, 1875.

the officers, as they had nothing to do with the length of the deliberations of the body. He thought that he could get along with five hours sleep.

MR. JOHNSON, of Collin, said a great many members were inflated with an extra amount of gas, and he wanted to have night meetings so as to let them have a chance to let off their surplus quantity.

MR. WRIGHT said he was working all day, from 9 in the morning until nearly night, and then stayed in committees until 10 or 11 o'clock, and no extra time whatever left. Many of the committees were still hard at work, and had not been able as yet, with all their diligence, to make their reports. If the Convention voted to have night session he would resign his position on the committee of which he was chairman, and let somebody else do the work.

MR. RUSSELL, of Wood, moved to postpone the resolution for a week and to make it the special order for that day. It was carried.

#### *Taxation and Revenue*

JUDGE REAGAN moved to strike out the first four lines of Section 8 and insert, "all property, whether owned by persons or corporations, shall be assessed for taxation in the county where it is situated, but the taxes may be paid in the county where the property is situated, or in the county where the owner may live, or at the Comptroller's Office."

MR. RUSSELL, of Wood, rose to a point of order, claiming that the same subject matter had already been voted on that morning.

PRESIDENT PICKETT held that all except the proposition that taxes might be paid "in the county where the owner lives" was out of order.

MR. STOCKDALE appealed from the decision of the Chair. He said that a single proposition conclusively negatived could not be presented again, but if presented in connection with another proposition it could be entertained, as in a motion to strike out and insert, where it might be repeated in endless variety. (Cries of "question! question!")

JUDGE REAGAN said he hoped that the gag law would not prevail, when there were forty members who believed with him that an injustice was being done them.

PRESIDENT PICKETT said that argument would not prevail, but if the member from Calhoun would present a single parliamentary authority he would decide in their favor.

JUDGE REAGAN said it was useless to present authorities if the amendment was decided out of order first, because the wrong would be already done.

PRESIDENT PICKETT said he hoped the Convention would not vote to sustain the Chair from any personal feeling. He would much prefer that the Convention should put parliamentary law under its feet.

MR. STOCKDALE said he did not believe that the Convention had any right to put parliamentary law under its feet.

MR. McLEAN said he thought the Chair was wrong, and in support of his contention referred to *Barclay's Digest*.

JUDGE REAGAN submitted Cushing as authority in support of his position.

PRESIDENT PICKETT held that Cushing was not applicable, as it referred solely and exclusively to the striking out and inserting of words; but he said that he was so anxious to do justice that he would accept even the semblance of authority and accept the amendment of Judge Reagan. He would therefore hold, that the point of order raised by Mr. Russell, of Wood, was not well taken.

MR. RUSSELL, of Wood, protested against the consumption of time on the subject. He said that, with all due respect to the Chair, it was clear to the members that the question had been voted on before by the Convention.

MR. GRAVES appealed from the decision of the Chair, but withdrew his appeal while the vote was being taken by yeas and nays.

JUDGE REAGAN spoke to his amendment, explaining its new feature, which was the payment of taxes assessed on property in other counties than in the county where the owner lived. This would save the expense of agents and all dangers in the transmission of money, and so long as the counties received their just dues it could make no difference to them. His plan would probably facilitate them in getting what justly belonged to them.

MR. MCKINNEY, of Walker, opposed the amendment. He said the subject had been discussed over and over again. He characterized the gentleman from Anderson as the special apologist of corporations.

JUDGE REAGAN asked if he understood the gentleman to say that he (Reagan) was a friend to special interests because he protested against fanaticism.

MR. MCKINNEY, of Walker, said that he thought the gentleman had placed himself in such a position by his attitude of the preceding day.

MR. MCCORMICK moved to refer to a special committee of five.

MR. FLEMING moved to table.

MR. DARNELL said he hoped the motion to table would not prevail. The motion was ruled out of order.

MR. FLEMING moved the previous question.

MR. WAELDER rose to a point of order, claiming that the previous question was to re-commit. He was sustained, and the House refused to re-commit by a vote of 34 to 46.

MR. GRAVES moved to close the debate on Judge Reagan's motion and was sustained.

Judge Reagan's amendment was lost by a vote of 25 to 55.

PRESIDENT PICKETT said the question before the House was the engrossment of the bill.

GENERAL WHITFIELD said that the baby—meaning Mr. Fleming's report—was becoming a fine and well-developed child—and asked that it should be printed with all its amendments and made the special order for the following Saturday at 10 o'clock.

MR. FLOURNOY said he would support the motion. There was nothing left that he could do, since all that could be recognized as a part of the original bill was the heading and the signature.

General Whitfield's motion prevailed, and 160 copies of the article were ordered printed.

MR. WEST said that it would take the secretaries some time to get all of the amendments ready for the printer, and so he moved to adjourn. His motion prevailed.

#### FORTY-FIFTH DAY

WEDNESDAY, OCTOBER 27, 1875<sup>87</sup>

MR. SCOTT called up his motion to amend the rules, so that after any article in the Constitution should have passed its third reading it should go to the Committee on Style and Arrangement, and when

<sup>87</sup>The proceedings for this day were taken from the *State Gazette* (Austin), October 28, 1875.