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MR. MILLS said the rule would be an arbitrary one, enforced to throttle the minority of Republicans on the floor. He asked Democrats to have some regard for the political minority. He thought that if members were afraid of the yeas and nays they must be afraid to have their records go before the people. He was not afraid of his record, and thought that no one who was trying to do right ought to be afraid of his record.

MR. FLOURNOY said he had as much respect for minorities as any one, and was not afraid of his record. He had only desired to prevent the encumbrance of the records by two or three of the opposition.

THE PRESIDENT said it would require a suspension of the rules to consider the resolution, and it would require a two-thirds vote to carry it.

MR. MCCORMICK moved to suspend the rules.

The motion to suspend the rules was lost by a vote of 46 yeas to 37 nays—it requiring a two-thirds vote.

TWENTY-FIRST DAY

WEDNESDAY, SEPTEMBER 29, 1875⁴⁰

MR. DOHONEY introduced a resolution providing that President Pickett appoint a committee of seven with instructions to inquire into the extent of the depredations on the frontier and the causes thereof, to correspond with the commander of the United States forces on the frontier and citizens, to prepare and present a memorial to Congress, urging that proper means be adopted for frontier protection; also that the Texas Senators and Congressmen lay the whole matter before the President, Secretary of War, and Congress, and demand protection for the future and reimbursement for past losses; also that a copy of the memorial be furnished the Texas Senators and Congressmen and the Major-General commanding the United States forces in the district embracing the Texas frontier.

MR. DOHONEY said the resolution might either be adopted at once or referred to the Committee on Federal Relations. He had conversed with several gentlemen on the question, among them the

⁴⁰The proceedings for this day were taken from the *State Gazette* (Austin), September 30, 1875.

gentleman from Cameron (Colonel Ford) and Mr. Flournoy, and also with one of the United States Senators from Texas, who had given the matter the fullest consideration. He did not desire to be made the chairman of the committee, and hoped Mr. Flournoy would be selected for that position.

COLONEL FORD said the resolution met with the entire approval of Senator Maxey, and he believed it was a course of action which would lead to the entire protection of the frontier along the Rio Grande. The matter had so often been before the public that he was sure all the delegates knew the facts in the case, and hence it would be useless for him to repeat them.

Mr. Dohoney's resolution was adopted.

The Legislative Article

Consideration of this article was resumed.

Section 41 was before the Convention. Mr. Flournoy moved to strike out the clause "and give notice thereof by proclamation," the object being to relieve the Governor of the necessity of publishing his proclamation of his refusal to sign bills which he had disapproved, after the adjournment of the Legislature.

MR. FLOURNOY said that though the amount saved would be small he thought it was worth saving. His amendment was adopted by a vote of 39 to 26.

Section 48 of the proposed article indicated the purposes for which the Legislature might levy taxes, one of the objects being, "the support of the public schools." Mr. Robertson moved to amend the section by adding "so that the support of the public schools shall not exceed 20 per cent of the whole revenue."

MR. WRIGHT explained that the Committee on Revenue had that matter under consideration, and he thought it would be well to await its report.

MR. RUSSELL, of Wood, was of the same opinion, but when the question was properly before the House he proposed to inquire whether the people should be taxed for educational purposes. He had been combating that idea for twenty years, and expected to do it as long as he lived.

MR. ROBERTSON thought the present was the proper time to take the sense of the House, but since it was so desired he had no objection to withdrawing his amendment.

MR. SANSOM moved to strike out "for the support of the public schools," thus relieving the State of any obligation to aid financially the public schools. He supported his amendment with a long speech.⁴¹

MR. SANSOM said: "Mr. President, I thank the committee for defining and expressly limiting the uses for which taxes may be levied by the State. Their action in this respect meets precisely the views I have long entertained on the subject of limitations on the exercise of this power. I regret only that they have seen fit to put public free schools in the enumeration of uses. And yet, in view of what is deemed the public sentiment of the age on this subject, I should have been surprised (agreeably so, however) if they had done otherwise. And now, sir, if the Committee on the Bill of Rights will clearly define and enumerate the public duties which citizens owe the State, and the Convention will adopt their work, it will have performed the great duties devolved upon it and met fully the requirements of the times.

"The power to tax for the support of the public free schools implies the power to control the children of the State for educational purposes; for it is obvious that the State cannot educate the children if it has not the power to compel their attendance at the schools. While I have given this subject much reflection, it has not been in my power to give to my views upon it that methodical arrangement necessary to their clear or full expression; and thus I regret, sir, for no one is more fully convinced than I am of the importance of coherence of ideas and perspicuity of style in the treatment of the most ordinary topic; but when a man rises in a body like this to discuss a question in the light of its relation to those great principles which underlie the very structure of government, the importance of these requisites becomes transcendent. If I regarded this subject as involving only a question of expediency I would be less thoughtful about my mode of treating it, or if the views which I entertain of the *rights* of republican state governments to control public education were of a piece with those commonly held by the writers and speakers of the day, I could very well afford to pretermitt either deliberation in its investigation or method in its discussion. But, while I firmly believe that my opinions are in harmony with the public sentiment of this State, I know they are at war with the

⁴¹Mr. Sansom was from Williamson County. He was one of the three delegates from the district which included Austin. His speech is taken from the *Austin Statesman* of October 10, 1875.

carefully prepared and elaborately expressed opinions of some of the greatest writers and speakers of the age in our own country, and hence I hope I will be pardoned if I desired to place them before the Convention with sufficient clearness to avoid unintentional misconstruction. As for that class of men who make it a business wilfully to distort the opinions of those who do not follow in the beaten track, from which they, in their littleness, do not dare depart, I expect from them nothing else than wilfull misrepresentation and detraction. I am not ignorant of the fact, sir, that, an humble citizen, just from the walks of private life, I subject myself to the charge of acting with temerity in attacking an idea which is regarded as one of the most precious crown jewels in the diadem of that class of thinkers who are the self-constituted leaders of the civilization party of the age; and that, too, when I know them to be backed by hoary precedents and high authorities—even as high as the great Chancellor Kent. But hedged in, as I am, by these embarrassing considerations, I should deem myself unworthy of the position I occupy and recreant to the trust imposed in me by the people whom I have the honor, in part, to represent on this floor if I should shrink in the treatment of this subject from following the finger-pointing of my own soul.

“Intrinsically considered, this subject has no importance, for if the question of the power of a state government to exercise exclusive control over the education of the youth of the State was presented for the first time in this House today, the State Constitution being silent upon it, I do not hesitate to say that I believe there could not be found a dozen members of this Convention who would affirm their belief in the existence of such power in the State. Its importance grows out of its relations to the history, both civil and judicial, of the states forming the American Union. The power has time and again been exercised by the State Legislatures, and its legitimacy has been affirmed by the courts and law writers of the country, and hence its importance.

“We are here, sir, as the delegates of the people of Texas, having committed to our custody their sovereign and inherent powers, charged with the duty—the highest which could be devolved upon us—of framing a state government adapted to their conditions and wants; with the power to invest the different departments of the new government with the exercise of such of these sovereign powers as may be deemed best; to limit the State in the exercise of such powers as may be dangerous to the liberties of the people, and to forbid expressly the exercise of any power which we deem to be subversive to the purposes for which republican government is established. And now it remains to be seen whether the patriotism and intelligence of this body are adequate to the great undertaking of framing a government amply provided with power to afford protection to life,

liberty, and property, and yet totally devoid of power to encroach upon the domain of either individual right or private duty.

"Until within the last fourteen years, so free were our governments, so light the burdens they imposed upon us, and so patriotic the incumbents of offices, that thoughtful citizens were not startled by the comparatively few encroachments of the government upon the reserved rights of the people, especially as the temptations to exercise doubtful powers were always in a line with what public opinion, as expressed through the newspapers of the country, regarded as essential to the general welfare—how comprehensive this term and how many acts of despotism have been perpetrated in its name—as for instance the construction of those great arteries of commerce, railroads, and the diffusion of general intelligence through systems of public schools.

"But the impetus given to centripetal forces of government by the late Civil War has caused them to whirl around with such incredible velocity as to make the heads of thoughtful men swim, in fact no man not drunk with passion could look upon their movements without becoming dizzy. And now the same thoughtful citizens are turning away from this sickening spectacle to the broad, calm fields of reflection in which lie the first great principles of government, and, inspired with the patriotism of the fathers, ripened by the experiences of the past, are addressing themselves earnestly to the task of building up structures of government, in which the bills of rights, the great foundation stones of constitutions, are being more broadly and deeply laid than ever heretofore.

"I am not surprised when I remember how lightly the burdens of government lay upon our shoulders prior to the late war, that the intrinsic importance of education, when considered in connection with the responsibilities incident to citizenship in these American states, should have tempted many of our legislative bodies without due reflection to invade, in this direction, the domain of private duty. But I firmly believe, sir, that the power to control the education of the children and youth of the State is one, the exercise of which should be inhibited. Hence I have offered this amendment, and will vote for it for the following reasons:

"A system of public free schools to be supported by taxation is not adapted to the condition or wants of the people of Texas. The State is barely thirty years old, and its first settlement by English-speaking people dates back only a little over fifty years. Its present condition is like that of a young man with small capital just entering upon the business of life, with broad but undeveloped fields of enterprise stretching into the distance on every side. With an area of 274,365 square miles, its population in 1870 was but little over eight hundred thousand, less than three human beings to the square mile. Now, sir, let us assume for the sake of argument, that

the population has increased 50 per cent in the half of the present decade now reached, and it will give us a population, at this time, of 1,227,868, and our density of population will still not reach five to the square mile of territory. Such is the condition of Texas as respects its population and territory. And now, sir, as our condition can be more clearly understood by a comparison with that of some of the older and more densely populated states of the Union, I will turn to the State of Massachusetts and ascertain its condition in these respects. The area of that state is 7,800 square miles. Run these figures through those indicating the area of Texas, and you will find that this child-state might be divided into thirty-five states, giving to each the area of Massachusetts, and still have a surplus of territory sufficient to make another state almost the size of Connecticut. Let us now turn to the table of population and we find that in 1870 the population of Massachusetts was 1,457,351. Run these figures indicating area through those indicating population, and it gives to that state a density of population equal to one hundred and eighty-six and a fraction to the square mile in 1870. So much for area and density of population. Now let us compare the wealth of these two states. Referring again, sir, to the tables of statistics compiled under the authority of the general Government, we find that the wealth of Texas in 1870 was estimated at a little over one hundred and fifty millions of dollars, while the wealth of Massachusetts reached the sum of two billions, one hundred and thirty-two millions, and some hundreds of thousands, giving to that state an average wealth of fourteen hundred and sixty-three dollars per capita to its entire population. While the wealth of Texas, divided among its population, gave to each one less than two hundred dollars per capita, less by far than the average wealth of any other state in the Union. And I will take occasion here to call attention to the fact that there are some elements entering into the estimates of the wealth of a state which do not properly belong there, for the reason that no state is as rich as it appears to be from the estimates as made. To ascertain, for instance, the actual wealth of Texas, we would have to deduct from the estimates now made all the debts due by citizens of this State to persons or corporations out of the State on the first of last January. Then, sir, there are a class of debts owed within the State, the values of which are represented twice or oftener in these estimates. Thus A lends B \$1,000; the money is invested by B in land, the note held by A, being money at interest, is assessed, and the land purchased with the money is also assessed. Thus we have \$2,000 appearing on the assessment rolls and entering as an element in the estimate of the wealth of the State, when both the note in the hands of A and the land owned by B represent only \$1,000. And there are many cases, no doubt, under the present Constitution, which forbids the passage of laws regulating the interest on money,

where money is borrowed at 10 or 12 per cent per annum and loaned by the party paying this light interest to others who pay 2 or 3 per cent per month, and is invested in land or improvements, in all of which cases the same money appears three times in the taxable values of the State. There may be states careful enough to collect statistics of these classes of indebtedness, and, before making estimates for expenditures, deduct them from the apparent wealth of the state, but I have never seen such tables. But so far we have only taken the wealth of Texas in 1870 and compared it with that of Massachusetts at the same date. Now let us bring up the estimated wealth of Texas to the present time and distribute among our present population, and it will give as our average wealth a little over two hundred and twenty dollars per capita to our population.

“Now, sir, the capacity of a people to endure heavy taxation is not to be determined altogether by their wealth, but other considerations must enter into the calculation, one only of which I need mention here. That is the productiveness of their wealth. If the taxable property of the people of Texas was invested in such a way as to yield to the owners a large annual profit, they could certainly pay higher taxes without experiencing oppression, than they can if their income is small. Here again, sir, with little statistical information to guide me, I am compelled to go into this field of inquiry, relying upon the observation and experience of the members of the Convention to bear me out in my conclusions. The amount of income derived by the people of Texas from the investment of their property cannot be obtained from the annual increase of taxable values as is shown by the rolls of assessment, for the obvious reason that no inconsiderable part of the increase represents the property brought here by immigrants or foreign capital invested here during the year. But we can make an approximate estimate of the actual increase from investments by looking to the pursuits of our people, by finding out the pursuits of the bulk of the population we readily determine the character of the investment of the bulk of their capital, and then we may readily turn to reason and experience to aid us in coming to a fair estimate of the profits on their investments. By far the greater part of our population are engaged in agricultural pursuits. By far the greater part of our capital is invested in lands, improvements upon lands, farm stock, and agricultural implements—in short, the appliances of agriculture. Now, how much annual profit does this investment yield? Does it pay 5 per cent per annum? I do not believe it does, and I appeal to the observation and experience of those members who are, or have been, farmers, or to those who are or have been merchants, whose interest has led them to look carefully into the affairs of the farmers who have been their customers, to say if this estimate on the profit of that business is too small. Farm products are all heavy and bulky—hence expensive

to transport. If the farmer fails to find a ready and remunerative market for the products of his capital and labor at his door, it very often happens that the price offered for it at a distance does not justify him in paying for the transportation; and if it be a product, like cotton, which requires the manipulation of the manufacture before it is ready for use, the great distance between the manufacturer and producer, and hence the absolute necessity for the employment of middlemen, necessarily leaves the farmer but a small pittance for his labor. I am not, however, calling attention to these things with the intention of suggesting a remedy, but simply to demonstrate the fact that the large amount of our capital and labor invested in the business does not, and I may add cannot, under the existing circumstances, yield a large profit.

"Now, we turn to Massachusetts and find her population largely engaged in manufactures and commerce, her wealth largely invested in these branches of business, and ample returns to her capital and labor invested in manufactures, secured by the protection always offered to this industry by the fostering care of the general government; for no matter whether the Whig or Democratic party has been in power, we have always had protective tariffs, the only difference being this: when the Whigs were in power the protection was direct, and when the Democrats were in power it was called *incidental*. This branch of industry has nearly always yielded handsome profits on the investments. So that today that small state, with a rigorous climate and almost sterile soil, as compared with Texas, is the richest state in the Union except New York.

"But this is enough, sir. I said that I opposed a system of public free schools to be supported by taxation, because it was not adapted to the condition of the people of this State, and I have endeavored to show the condition of our people by contrasting the density of our population, our pursuits, and our wealth with that of Massachusetts. I have selected the State of Massachusetts to use in this comparison, not only because it is one of the smallest, most densely populated, and wealthiest states in the Union, but also because its system of public schools is regarded as the most perfect, and because it spends more money upon its schools than any other state in the Union, and for the reason especially that the advocates of public free schools in Texas frequently point to the success of the system in that state as a reason for the adoption of a like system in this State. Grant, sir, that the condition of Massachusetts is adapted to the successful and beneficial operation of a system of public schools; that the density of its population insures the attendance of all its children at the schools; that its great wealth enables it to pay the taxes necessary to support the system without burdening the people, and that public schools are a prime want of that state—does it necessarily follow that the condition of

the people of Texas demands such a system? Perhaps not one-half of the children of the more sparsely populated states can attend public schools, but taxation to support them reaches every man, woman, and child who own property in the State. I have shown the density of population in Massachusetts to be 186 to the square mile, while that of Texas is only about four to the square mile. I have shown the average wealth of Massachusetts to have been in 1870 almost \$1,500 per capita to its population, and it will probably reach now \$1,600 or \$1,700, while the most liberal estimate for Texas will not bring its average wealth to \$225. I have also shown that the returns from the capital invested in this State are small. Now, sir, do we want public schools? I may be answered, yes, if they do not cost too much. The experience of those states that have tried them demonstrates that they cost about one million dollars to the 100,000 of scholastic population, and our scholastic population will now reach perhaps 350,000. Can we bear taxation to that extent, or to the half of it? I say, no. And now, in view of the cost of a system of public free schools, in view of our poverty—for say what we will, we are the poorest State in the Union—and in view of the sparsity of our population and the unremunerative character of our capital, I again ask, is such a system adapted to our condition? Is it one of our wants? And again my judgment and conscience both answer *no*.

“Now, sir, let us turn to the consideration of this subject in another light. What relation do these children from 8 to 18 years of age sustain to the State? Are they other than citizens? What public duties may the State require of them which it dare not require of others? Have they not the same rights to the protection of the Government, both for their persons and property, that are enjoyed by other citizens? True, there are restrictions of a private nature imposed upon them by the laws of nature, and which are recognized by the laws of all civilized countries—duty to parents. The father has the right to control their actions during their legal infancy. So say all the law writers, English and American, but *mark you, it is the father*, and not the state, upon whom this right is conferred. And I ask, how dare a government professing to be free ruthlessly invade the sacred domain of private duty and private right? What right has it to lay violent hands upon these American citizens who have not attained their majority to force them to attend particular schools, study particular books under a particular teacher? Again, sir, by assuming control of the children for educational purposes it deprives the father of the sacred rights of parentage. It not only interferes with, but assumes, the holiest duties man owes to God. The thoughtful and conscientious father would never willingly commit to the State the religious instruction of his children. To him and to *him*

alone does he understand the divine command to train up his children in the nurture and admonition of the Lord, to be addressed. And already, the Christian people of this country are rebelling at this usurpation of power, and are denouncing it as an indirect interference with the free exercise of religious liberty. For they understand religious liberty to imply not only the right of the parent to worship God according to the dictates of his own conscience, but as well, the right to direct the religious training of his children. It is bootless to say, sir, that the State does not propose to teach religion in her public schools; religion ought to be taught in our schools; they are the very places from which it should never be excluded. Its great principles should be impressed upon the minds of our children, by our teachers, upon every fitting occasion. Its beneficent influences should be felt in every department of learning. It is the heaven that should leaven the whole lump of human knowledge. And to the parent *alone* is committed the solemn duty of determining this course of instruction. Whether the State intends to interfere in the matter of religious training or not; if it selects the teachers, determines their moral qualifications, and prescribes their course of instruction, it *does* interfere with it, it *must* interfere with it. The very absence of a wholesome religious influence in a school is an unwarrantable interference with the proper religious training of the children of the pious parents who are compelled to send to it.

“Whence does the State derive the *right* to take charge of my children and say when, where, what, and by whom they shall be taught? Whence does it derive the right to take another man’s money and devote it to the education of my child? That it has exercised the power to do these things history attests—that it *has* the power judicial construction has settled. But whence, I repeat, does it derive the *right*? Certainly not from Heaven, for the Great Ruler of Heaven holds the father directly responsible for the maintenance and education of his children, and to the end that he may fulfill these great duties, directly devolves upon him the authority to control them. I turn my eyes in vain to the great charters of human liberty to find whence the State derives this right. Whence comes it, then? What is its history, and what its concomitants? We will have to go back beyond the Declaration of Independence, back beyond Bunker Hill, beyond the landing of the Mayflower, beyond Magna Charta, and we do not find it in the English Constitution. No, sir, it is not there; that is the last place in the world to look for it, but back, back, along the centuries through thousands of years to Sparta, in the time of Lycurgus, I trace it, and maybe some gentleman more familiar with history might find it even farther back, nearer, the ragged edge of time than that. And what are its concomitants there? Iron money, the murder by the state

of children on account of deformity. Adultery and theft are made virtuous. Then we follow it down to Prussia and what are its concomitants there? Absolute dominion of the government over the person of the subject from birth to the grave. The government registering his birth, the government putting him into the schools, the government putting him into the army, and when too old and infirm for service in the fields the Government putting him into the arsenals, dock yards, or fortifications, his place in the regiment never empty, the yoke never thrown off his weary neck until he goes to the grave or comes to America. Now let us follow it to New England and see what were its concomitants there—men fined for kissing their wives on Sunday, Quakers whipped out of the colony at the cart's tail on account of their religious opinions, poor wretches burned at the stake for supposed dealings with the devil. Now let us follow it to Texas, the only place in my life where I have met it face to face, and what have been its concomitants here? An irresponsible police, armed to the teeth, riding over the country arresting, imprisoning, aye, and sometimes shooting down citizens without an affidavit ever having been filed before a judicial officer of the State, charging them with an infraction of the laws. The suspension of the civil laws and substitution of martial law in different districts of the State in times of profound peace; orders to county boards of school directors to levy 1 per cent tax upon the property of the people, and when the boards levied less than the amount ordered to be levied, although the law left the amount to be levied to their discretion, the refractory boards *dissolved* by this (I had almost said omnipotent) power, and others willing to do the dirty work appointed; the children of people forced to attend schools, in many instances, under incompetent teachers—one, for example, within my own knowledge, who, in a copy set for his pupils, spelled the word education thus *edjucation*, and an order requiring these instructors to teach the Constitution of the United States. Imagine if you can, sir, this teacher who spelled education as I have shown, teaching some booby of a boy who is barely able to spell out the story of the boy in the apple tree so graphically told by old man Webster. the proper interpretation of the Constitution of the United States, a question too great for the intellects of Webster and Calhoun, a question great enough to predicate the greatest war of modern times upon us, so great that still, after wasting hundreds of thousands of lives, and thousands of millions of treasure upon its solution, it remains unsolved.

“But we are told, sir, that men must yield up some of their rights, both personal and property, to secure good government, I grant it, sir, but they are to yield up their rights only to that extent necessary to secure protection to life, liberty, and property. to the whole people. But is it necessary to secure these great ends of government,

that the father be required to surrender to the State the holy rights of fatherhood, and that the State should enforce agrarianism (for what is it, to take the hard-earned dollars of a portion of the people and divide it among all of the people for educational purposes, if it be not agrarianism)?

"If I honestly believed, sir, that it was necessary in order to secure the great blessings of good government for me to surrender these great rights to the State, I would do so; but reason, experience, and observation all teach me that it is not. I am nearly fifty years old, and the earlier years of my life were spent in Tennessee, my native state; for the last quarter of a century I have been a citizen of Texas, and I never saw this power exercised by a state until during the last four or five years, and I know that the security afforded by the state to life, liberty, and property was as ample for the first forty-five years of my life as it has been since. I know more, sir. I know that virtue, both public and private, was rated then as high as now.

"But we are told again, sir, by the advocates of public education, that education can be made cheaper when controlled by the State than when controlled by private enterprise; that if we will turn over to the State the money we expend upon education of our children, the State can manage it so as to pay for its assessment, collection, and disbursement, and take out of it also a sum sufficient to pay the salaries of the host of officers necessary to the proper administration of a system of schools and educate all the children of the State, and still have a surplus left; and strange as this statement may appear, I will not undertake to refute it, for I can very well see, sir, how, if Smith, who is sending his son to college, where he is being taught the languages and sciences, and his daughter to the academy of Madame Destamovile, where she is being instructed in French, music, dancing, and fancy work, at an average expense of \$15 a month, will turn over to the State the money he has provided to educate them, the State can, with the amount, hire a teacher who will teach spelling, reading, writing, geography, and arithmetic, after the most approved common school method, not only to the son and daughter of Smith, but to the children of Brown as well, at 10 cents per day or \$2 a month, and still have left money enough to pay for running the machine. And I can see as clearly, sir, that, if Smith will turn over to the State the money he spends annually for sugar, tea, canned fruits, jellies, lawns, muslins, silks, laces, flowers, flounces, furbelows, broadcloth, box-toed boots, fancy neckties, and plug hats, the State can, with the amount, feed and clothe the families of both Smith and Brown on cornbread, jerked beef, coffee straight, brown domestice, calico, wool hats, and brogans, and still have enough left to pay for the trouble. And I can also see how, if all the Smiths in the State will turn over to the State all the money they

spend on pew rent, spittoons, footstools, cushions for pews, and other incidental expenses they pay for their churches, the State can, with the amount, build less costly houses of worship, hire \$250 preachers, and furnish facilities to all the Smiths and Browns in the State, though the article of divinity might not be altogether palatable. And I can see as palpably how a sack of flour is cheaper to a man when the State takes \$5 out of his neighbor's pocket to pay for it, and sends it home to him, than it is when he has to work for the money to buy it and has to pack it home on his shoulder, and I think I can see as clearly as that, if the State has the right to do one of these things it has the right to do all of them. If the State may upon the plea of 'necessary to the general welfare' take under its control the education of the people, it may, upon the same plea, with the same propriety take charge of their religion, for if education be necessary to the maintenance of good government, the observation of the precepts of religion is more so, and if the State has the right to enforce agrarianism for one purpose, it has for another, and if it may do so to any extent or upon any pretext, it may do it for any purpose, and to any extent.

"But we are told, sir, by the friends of public education, that if we do not provide a good system of public schools, emigrants will not come here to settle and develop the wealth of this great State. Very well, sir, let them stay where they are, or go somewhere else. For one, I do not want men to come here who are moved to do so by the desire to have the hard-earned dollars of other men applied to the support of their families. And I should think, sir, that men who are too *lazy* to educate their own children, and *mean* enough to want other men to be forced to do it for them, would be a long time in developing the wealth or greatness of any state.

"Public free schools cannot flourish in a state where private educational enterprises are left free to compete with them. Their existence depends upon the destruction of private schools, and states which have adopted them have found it necessary to tax so heavily to maintain them that the result has been that the people could not pay their taxes and send to private schools, hence the destruction of all private school enterprises and the glorification of free schools.

"The friends of public education point with pride to the chapter devoted to this subject by the great chancellor, Kent, and say, 'who is so bold as to attack that authority?' I have read that chapter, sir, with some care, and I fail to find in it any argument to sustain the right of a democratic state government to do this thing. It consists chiefly of historical *facts* and of commendatory *remarks*. How the pulses of that great man's intellectual being would have quickened, how the current of his reflections would have widened and deepened if he could have turned to a chapter devoted to the same subject, in the work of the great commentator on English law,

instead of having to go for precedents and authorities to Sparta and Prussia. But England, more careful of the freedom of her subjects than we are of the freedom of our citizens, has never robbed the father of his sacred right to control over his own household, or shifted the burden of providing for them from his shoulders and laid it on the shoulders of his neighbor. Such an idea had no place in the English Constitution, is not homogeneous with the spirit of liberty which pervades it. The leading idea of the English system, as of our own, is the liberty of the citizen. But this idea of public education is at home in Prussia, and was at home in Sparta. The leading idea of Sparta, and the leading idea of Prussia is, physical strength, the power to resist physical aggressions and to make conquests. The idea of the sacredness of 'personal liberty, personal sanctity, and personal property' had no part in the Spartan system, and has almost as little in the Prussian system.

"Education is a good thing if it be of the right sort, if it tends to elevate and purify the hopes, aims, and affections of the people, and no citizens more fully appreciate than do the people of Texas the value of such education, and its advancement is worthy of our most earnest efforts. But let us be careful that the means we employ for its advancement are worthy of the great end sought to be attained.

"For one, I am unwilling to meet my constituents and say to them, I deem you wise enough to frame and administer a government for the protection of life, liberty, and property, but altogether incompetent to exercise guardianship over your own children or incompetent to use the money which you propose to use for their education.

"It is proposed that the State shall provide out of the public means, now at its disposal, more liberally than any government on earth has ever done for the encouragement of general education. We propose to set apart the 60,000,000 acres of land heretofore devoted to educational purposes, over two and a half millions in bonds and money, and one-half of the unappropriated domain now subject to disposal by the State. It is proposed to make this donation the basis of a permanent fund, the interest to be applied annually to the payment of the tuition of all the indigent orphan children of the State, for four months in each year, and the remainder to be applied to the payment, *pro rata*, of the tuition of all other children in the State. What more can be asked? What better can be done? But, sir, if this munificent provision had not been made, I would still feel disposed to say to the friends of education, 'let not your hearts be troubled' The seeds of intellect are sown broadcast by the hands of Him who hath promised that 'seed time and harvest shall never fail upon the earth,' and we may, if we will, read in characters as clear as ever illumined the page of holy writ, in the social and physical condition of the people of Texas, and in the immutable laws which control the operations of the human mind,

the promise of the intellectual harvest. But let us beware, for as the one is predicated upon the faithful toil of the husbandman, so is the other upon the unaided throes of the soul in which the sod lies buried. And the clouds which lie so low and heavy over the heads of the poor are richly fraught with the showers of effort needful for their harvest.

“The State has no power to evoke those burning thoughts which, like newly risen suns, light up the fires of enthusiasm on the altar of human souls. Or to call forth from the secret chambers of being, in which they have been imbedded by the hand of omnipotence, those staid grey bearded thoughts which in the fullness of time come forth, almost without disturbing the consciousness of their authors, and with stately steppings walk adown the aisles of time, overstepping the feeble barriers of centuries and cycles, eras and epochs, and, like the divine benediction, blessing the generations of men to the later syllable of recorded time.’”

MR. B. ABERNATHY, of Camp, opposed the amendment. He said the Committee on Education would propose a provision similar to the one the amendment sought to strike out.

Mr. Sansom's amendment was tabled, no record vote being taken.

MR. WRIGHT moved to strike out of Section 48 of the legislative article as proposed, “for the support of the eleemosynary institutions of the State,” and insert, “for the support of the blind asylum, deaf and dumb asylum, and insane ayslum.” He said he had a good deal of confidence in legislatures, but he believed the utterance of fundamental principles ought to be so worded as to prevent misunderstanding. Eleemosynary was a big word and capable of being misinterpreted.

COLONEL CRAWFORD said the use of any other word might exclude other charitable institutions.

MR. WRIGHT said that was the very object he had in view. He did not want the people burdened with the support of charitable institutions. Some philanthropist might pick up all the strumpets in the State and ask the State to support them in an asylum. He had never believed in the doctrine of robbing Peter to pay Paul. As those institutions had been named and were considered State institutions, he had mentioned those exclusively.

MR. BROWN said that nineteen years ago 100,000 acres of the public domain had been set aside for the support of an orphan asylum.

Mr. Wright's amendment was adopted by a vote of 42 to 31.

Section 49 of the proposed legislative article read as follows:

"The Legislature shall have no power to contract or authorize the contracting of any debt or liability on behalf of the State (except in cases of insurrection or invasion, and then only to the amount of \$500,000), or to issue bonds or other evidences of indebtedness therefore, except in the renewal of existing bonds, when they cannot be paid at maturity out of the sinking fund or other resources."

MR. J. W. FERRIS, of Ellis, moved the following as a substitute to Section 49: "The aggregate amount of debt hereafter contracted by the Legislature shall never exceed the sum of \$100,000, except in the case of war, to repel invasion, or suppress insurrection, and in no case shall the debt be created or the bonds issued except by a vote of two-thirds of the Legislature." He said that the clause was identical with the one in the Constitution of 1845. It was impossible to anticipate what might occur in future years. In case of the failure of crops, fire, or robbery of the Treasury, the clause as it stood would leave the State without resource.

MR. DEMORSE said the matter had been well considered in the committee. The people had heard enough of having their bonds hawked about Wall Street and sold for 60 cents. As the chairman of their committee had observed, "once let them get a little into debt and they would soon be at the end of the rope." If they were compelled to make a little debt it could be paid as it had been in the past.

COLONEL CRAWFORD contended that while this might do very well in time of peace, in time of war, when the State had control of every man's person and property, the Legislature ought not to be restricted in the creation of a debt to repel invasion or to suppress insurrection.

On the suggestion of Mr. Stockdale, the words "except in the renewal of existing bonds when they cannot be paid on maturity out of the sinking fund, or other resources," was added to the substitute, which was adopted for the original clause by a vote of 55 to 26.

JUDGE REACAN moved to substitute the following for Mr. Ferris' clause: "No debt shall be created by or in behalf of the State, except to supply deficiency in revenue, repel invasion, suppress insurrection, defend the State in war, or to pay existing debts, and the debt created to supply deficiencies of revenue shall never exceed, in the aggregate, at any one time, \$200,000."

JUDGE REAGAN observed that this was a literal copy of a clause from the Constitution of Pennsylvania, except as to the amount, which was \$1,000,000. The convention which framed the Pennsylvania Constitution was one of the ablest bodies which had ever assembled in any state. The only question in his mind was the amount to which it should be limited.

MR. MILLS moved to add "and for school purposes."

MR. MCCORMICK moved to table the amendment.

MR. DOHONEY rose to a point of order that an amendment to a substitute, not adopted, could not be entertained.

MR. MILLS said such a course had been pursued continually when made by the other side, and the Chair did not refuse to entertain it. The rules ought to govern all, whether in the minority or not.

THE PRESIDENT ruled the point of order not well taken, and Mr. Mills' amendment was tabled by a vote of 65 to 20.

The question recurred on Judge Reagan's substitute.

MR. DEMORSE said it was a proposed increase of the public debt, and called for the yeas and nays.

JUDGE REAGAN denied that it was an increase.

MR. DEMORSE said that it did not make a finality of the public debt, although it provided \$200,000 for a specific purpose.

JUDGE REAGAN said his substitute limited the amount of debts to supply deficiencies at \$200,000, and no other debt could be created except to repel invasion or suppress insurrection.

MR. DEMORSE said that he answered his question. It did provide for the creation of an unlimited debt, of which \$200,000 was limited to a special object. If this was passed the debt would rise to a million dollars, for there was no restriction on the Legislature in time of war. The committee had been careful to limit the amount of the debt in time of war to \$500,000, because it was the duty of the general government to defend the State.

MR. MCCORMICK asked what would happen if the frontier were to be invaded.

MR. DEMORSE replied that he supposed the patriotism of the people would be equal to the occasion, as it had been before, and that they would defend the frontier without pay. (Applause.)

JUDGE BALLINGER spoke for the Reagan amendment. He hoped it would not go on the record that the Convention had provided for a possible \$500,000 and no more to defend the State in case of war.

The Reagan substitute was adopted in the place of that of Mr. Ferris by a vote of 40 to 34.

The Land Subsidy Question

Section 51 of the proposed legislative article read as follows:

“The Legislature shall have no power to make any grant, or to authorize the making of any grant, of public money to any individual, association of individuals, municipal or other corporation whatsoever, *provided*, that this shall not be so construed as to prevent the grant of aid in case of a public calamity.”

MR. J. E. ARNIM, of Lavaca, moved to amend Section 51 by adding to the clause inhibiting the Legislature from granting or authorizing the making of any grant of public money to any individual, etc., by adding the word “land.” The amendment would have forbidden future land grants to railroads and other corporations.

This proposal produced a long and energetic debate.

JUDGE REAGAN defended the land subsidy system. It had been the policy of the State since 1854, had developed the east, the northern, and the middle sections, and he felt that the west ought not to be deprived of similar advantages. He had no personal interest in the matter, as three routes of railroad travel centered in the town in which he resided. He knew that with a large proportion of the people of the State, which feeling was represented in part by the Convention, that the hair turned the wrong way when “railroad” was mentioned, but prejudice ought not to prevail against a policy which had conferred such great benefits on the State.

MR. DARNELL opposed land subsidies. He did not believe that a single mile of railroad had ever been built by them. The Texas & Pacific had a subsidy of land eighty miles wide by thirty in length, and three years had elapsed and yet it had not been able to build a little road from Dallas to Fort Worth, a distance of only thirty-six miles. It would be a great thing if the Texas & Pacific could get through to California, but it would never be accomplished by land subsidies. He spoke of the frauds in the Angelina River scheme. He was in favor of the State receiving the benefit from her lands, and was opposed to railway corporations getting them for nothing.

MR. DEMORSE said he concurred in the doctrine of the gentleman from Anderson (Judge Reagan), and thought it was only just that the west should share in the advantages of railroads equally with the east, the north, and the center of the State. He did not care how far the argument went that the public lands had been wasted, he could not vote to deprive those of the use of them who had, in common with other sections, wrung it from their enemies with their blood.

MR. MCCORMICK said he was opposed to land subsidies. He said all of the good lands had been given to corporations for the benefit of the country east of the Colorado, and if there was a single league of good land left he wanted it to go to the school fund.

COLONEL FORD said the last speaker was mistaken. It was a common error to suppose that what was left of the Panhandle and Staked Plains was worthless. It would in time be of great value, while its climate was one of the most salubrious in the world. He asked, in justice to the west, that the system be retained; otherwise, division would be agitated, and, although he should always oppose a division of the State, the voice of one man would be as nothing. He said a meeting would be held immediately representing the interests of the people west of the Colorado, and asked for a postponement of the action of the Convention until the wishes of that meeting could be known.

MR. RUSSELL, of Wood, said that while he was in favor of postponement he was opposed to aiding railroads by giving subsidies of land or money.

MR. F. J. LYNCH, of DeWitt, said that if the land was worth nothing he could not see why delegates were making such a loud outcry against giving it to railroads. He favored postponement.

MR. ARNIM withdrew his amendment, and the Convention adjourned for the day.

TWENTY-SECOND DAY

THURSDAY, SEPTEMBER 30, 1875⁴²

The Land Donation Clause

Section 51 in the proposed legislative article was taken up as unfinished business, the pending question being the adoption of

⁴²The proceedings for this day were taken from the *State Gazette* (Austin), October 1, 1875.