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Judge Reagan's amendment was lost by a vote of 21 to 55.

Mr. German's amendment to reduce the salaries of the three officials from \$2,500 to \$2,000 was tabled.

MR. BRADY moved to reconsider the vote abolishing the office of Superintendent of Public Instruction. He said he was desirous of reconsidering on the ground that the gentleman from Colorado refused to vote for it yesterday because it came from the wrong side of the House. He wanted to see if Mr. McCormick would support it because it came from the wrong side of the House again.

The Convention, by a vote of 32 to 46, refused to reconsider the question.

TWENTY-SEVENTH DAY

WEDNESDAY, OCTOBER 6, 1875⁵³

The Executive Article

MR. RAMEY called up his motion to reconsider the vote reducing the salary of the Secretary of State to \$2,000. He thought members of the Convention had voted under a misapprehension. He said the office of Secretary of State was equal in importance to the other State offices, except that of the Governor, and stood next to the governorship. He showed its relative importance in both the National and State Governments, and eulogized the incumbent Secretary of State.

By a vote of 33 to 40 the Convention refused to reconsider.

MR. GRAVES moved to strike out Section 26, which provided for the appointment of notaries public. He thought it would be better to let justices of the peace act as notaries *ex officio*. It was so in the Constitution of 1869, though this might be the principal reason of some for opposing it.

MR. ALLISON opposed the motion. He said ladies sometimes had to ride a long distance to find a justice, when a notary was much more convenient.

MR. GRAVES said he had never found a notary public to be more convenient than a justice of the peace.

⁵³The proceedings for this day were taken from the *State Gazette* (Austin), October 7, 1875.

Mr. Graves' motion was lost.

MR. C. ERHARD, of Bastrop, moved to amend the section pertaining to executive officers by adding after the words "Land Office," "and the foregoing officers shall be eunuchs." He said the men who were compelled to live on the low salaries offered executive officers could not possibly support families at the rates allowed. His amendment was ruled out of order.

Suffrage

Section 2 of the suffrage article provided that only those citizens who had paid all poll taxes due the State and county might vote.

MR. MARTIN, of Navarro, moved to amend by adding, "and shall have paid all others debts due by him to any individual in the State and county." He said it would be unjust and ridiculous to force men to show that they had paid all of those dues, and if their certificates were lost, to force them to prove it. He was opposed to electors having to get a pass to vote, and it was just as reasonable to demand that they pay their private debts as a qualification for voting.

MR. CHAMBERS moved to strike out lines 13 and 14 of Section 2, which required of the voter the payment of "poll taxes due by him to the State and county."

MR. FLOURNOY said he was afraid that if the amendment passed the State would become involved in a difficulty with the Federal Government. He read Section 2 of Article XIV of the Constitution of the United States to support his position. By this article it became the plain duty of Congress, under the Fourteenth Amendment, to ascertain if the suffrage was "abridged," and if so abridged, to reduce our Congressional representation in proportion to the abridgement. Congress would have the right, if the clause passed in the matter reported by the committee, to send a committee of inquiry to Texas. The fact that the next Congress would likely be Democratic would have nothing to do with the question, as Congress would be bound by the Constitution. There was no distinction made on account of color, it was true, for there were hundreds and thousands of white men who would not vote if their right was abridged in the manner proposed, but they would vote on the adoption of the new Constitution and their votes would be cast against

that instrument. It was true that the State had the right to regulate suffrage, but it was under certain restrictions which the State and people did not desire to be placed under. Should they encourage fraud and bribery? Should the poll tax of \$1 a head be the qualification for voting? A man might purchase, if he were a rich man, 500 voters of a certain class at the price of their poll tax—\$1 a head.

MR. MILLS said he understood this as a thrust against the colored men, and was a violation of their rights. He had come to Austin to meet the Democrats in a spirit of conciliation, but they did not seem to entertain the same spirit. "Pass this measure, and you will do yourselves more harm than you will do the Republicans. You can hardly get your men now to come out of the sand hills and the black-jacks, and if you pass this measure they will come in still fewer numbers." The colored voters, he thought, would sell their hats or boots rather than be deprived of their votes.

JUDGE REAGAN replied on behalf of the committee. He said he was not surprised at the argument of Mr. Mills, but was at the proposition of Mr. Flournoy. The Fourteenth Amendment had been adopted to prevent the Southern people from restricting the blacks from voting, and was virtually superseded by the Fifteenth Amendment, which was now in full force; but this clause of the committee's report did not propose to restrict on account of race, color, or previous condition of servitude. In view of these facts, the application put upon the amendments was out of place. Georgia and Tennessee had adopted similar clauses in their Constitutions in 1870, and Pennsylvania in 1874, but Congress had not interfered with them. Mr. Flournoy's argument in this respect was a clear assumption and without foundation or reason as to its expediency. The form of evidence required to show that a man had paid his poll tax could be prescribed later. If the clause contained a righteous principle it ought to be maintained. It was in the nature of a compact between the State and the citizen, by which the latter contributed to the government which protected him. A refusal to contribute to the support of the government ought to disqualify the citizen as to suffrage. This plan would operate no more against the blacks than against the whites; in fact, the former, as had been said by Mr. Wade, were sure to vote. He mentioned his own

county of Anderson, where, out of eleven or twelve hundred voters, not more than three hundred had paid their poll taxes. It was the floating, irresponsible population that controlled at elections, and, though they contributed nothing to the support of the government, they claimed the right of administering it through the election of its officers. The only way to reach that class was by a clause like that which had been reported. The only power to revise their action lay in the Fourteenth and Fifteenth Amendments, and there was nothing in the two amendments to reach the case.

MR. DEMORSE said the mature consideration and the experience of thirty years had led him to take a different view from the one he had formerly held on that question. A deadly lethargy seemed to pervade the body politic, and it required a great effort to get the votes out. If they adopted the clause requiring a poll tax receipt for voting, it would act as disfranchisement to a very large body of voters. For that reason he was opposed to any restriction of suffrage by a poll tax payment or otherwise.

MR. LYNCH said he could not see that the payment of \$1 poll tax made a restrictive suffrage. The people of his district were poor but they believed in good government and were in favor of some such clause as the one reported by the committee. He thought that if the government granted suffrage it had also the right to expect revenue therefrom; no one could justly object to paying a small sum for the inestimable right of voting.

MR. McCORMICK said he favored the original clause. There were 2,900 voters in his own county, and not more than 1,500 paid their poll taxes.

MR. FLOURNOY replied to Judge Reagan's argument. He said if the Government were allowed to impose a poll tax of \$1 as a voting prerequisite it might be easily increased and thus work a further disqualification. He thought it was a pernicious principle.

COLONEL FORD said he was opposed to any qualification for suffrage. As had been said by the gentleman from Galveston, if the Government had a right to levy \$1 as a qualification for voting it could levy any amount.

MR. DOHONEY argued that suffrage was not a natural right, but a conventional one. It was the laws of the country which decided who were, and who were not, voters. The law-makers should be

able to decide, with limitations by the Constitution, what should be the qualifications for these voters. Mr. Mills had said that the clause would keep more white voters from the polls than colored men. If that were true, how could he cry out that this was proscribing the colored man?

MR. WEAVER spoke somewhat at length against the poll tax requirement.⁵⁴

He said: "Mr. President, whenever I find myself differing from the gentleman from Anderson (Mr. Reagan), I stop to inquire whether I am wrong, for I regard him as one of the greatest, if not the greatest, living statesman in Texas today. But, sir, I have heard the arguments of honorable gentlemen, and while I am not prepared to say that the Constitution of the United States stands upon this question, like a lion in the pathway of the Convention, I honor every argument and proposition made by the gentleman from Galveston (Mr. Flournoy). It is not my purpose to argue that suffrage is either a natural or conventional right. I think that the old proposition we have heard from boyhood and which Fourth of July orators grow eloquent about, as illustrated by Thomas Jefferson when he wrote those famous words, that life, liberty, and the pursuit of happiness are the inalienable rights which men possess, and not whether they were born free and equal, has as much potency now as when it was first inscribed by him in the Declaration of Independence. The question argued at that time was the right of the people to be free from taxation without representation, free from tyranny. It was argued that men possessed these rights, and out of these inalienable rights grew the American idea of government. It was an idea of democracy and political equality, not one of moneyed aristocracy.

"The proposition now is that we shall impose a poll tax on the people of Texas without limitation—though only \$1 is now mentioned—that every man who approaches the ballot box to exercise the right of an American citizen must, as a prerequisite to that right, and of the exercise thereof, be able to prove that he has paid his poll tax—a tax on which no restriction is placed in amount, except in the conscience of the Legislature which imposes the tax, and which may be \$5 or \$500, as circumstances and our rules may determine.

"I am not arguing the question or expressing the opinion that they will do it, but of their right to do it. While I believe that this would be an abridgement of the right of suffrage, I do not argue that we should be violating any of the provisions of the

⁵⁴Mr Weaver's remarks are taken from the *State Gazette* (Austin), October 14, 1875

Fourteenth and Fifteenth Amendments. I do not place it on that ground. It is claimed that it would be a protection to the ballot box; that it would be a protection from the invasion of the floating population—these hordes that are brought here by the railroads. It may be so, but I do not consider this argument of any force. Neither do I consider it an argument of any value, that it might deprive the colored man of the right of suffrage. That is not an argument to me. I believe in the supremacy of the Anglo-Saxon race above negroes, Indians, and heathen Chinese. I stand here and elsewhere, always ready to assert the supremacy of my race, but notwithstanding this, I believe that this restriction on suffrage strikes at the dearest boon of a freeman and a citizen; that it strikes at the highest privilege of a freeman, and I believe that the negroes, as Mr. Mills has said, will sell their hats, boots, and shoes to pay their tax and qualify themselves for the polls and will struggle to the last. Nay, I do not know but that some of them would even steal to get enough to pay their poll tax and vote.

“I believe in the universality of suffrage in all sane citizens over 21 years old and not disfranchised by reason of felony, as much as in the inalienable right of every freeman to life, liberty, and the pursuit of happiness. The ballot box is the strong arm of the people’s defense and the power of democracy. Shall we invade the privileges of the ballot box and say, ‘because you have not paid your \$1 poll tax, draw your lines around the ballot box, saying thus far shall you go and no farther?’ Can an American citizen be proscribed for anything short of felony? Can we say, ‘stand back; we have drawn a *monied circle* around the ballot box?’ I say that there is a power behind the throne greater than the throne. Do we sit here in this Convention like Delilahs with the people’s heads in our laps ready to shear the locks of the people, to cut off the powers of the people? I say that the power that makes this Convention is the people, and I say furthermore, that if you pass this qualification tax to the right to vote, that the people will denounce the Constitution and reject it. Do you suppose the people will say of this Convention as the French said of their kings, ‘*We are their people, we are their prey!*’ No, sir, the American people know their rights, and if this passes we will hear the roar of a more terrible cyclone than that which recently swept our coast with the whirlwind of destruction. You will hear the tidal wave of democracy surging about this Capitol in their mass meetings, through their free press, and in all the forms that free people express their will up to the high tower of might, the ballot box!

“If you had gone into my county during the hard monetary crisis you would have found many citizens who had no meat in their houses, though on the extreme frontier. I know of numbers of the most respectable citizens who had not a dollar in their pockets and

could not afford to enjoy the luxury of a cup of tea. To say that the men who rescue this land from barbarism; to say that the old, tottering veteran who struck down despotism; to see that man tremblingly approach the ballot box to exercise the right which he has purchased with his blood, and to tell him that he cannot vote because he has not a dollar in his pocket to pay his poll tax, is monstrous, and I cannot approve of it. I would not say so by my vote for my right hand, and I will not say so on principle. I do not believe that the laws should impose such a restriction, and I do believe that the question of registration or its equivalent comes in, notwithstanding the opinions of gentlemen on this floor to the contrary.

"How are you going to decide, without registration, who are competent to vote? I believe it would open the door to more wholesale perjury than anything else this Convention could do. I believe that the negro would steal money to purchase a qualification to vote, and that such a one would not likely be stopped by the sanctity of an oath. If there is anything that should be dear to an American citizen, it is to exercise the one dear right of suffrage, except the right to exercise the right to worship God according to the dictates of his own conscience. I say that this will disfranchise not the negro, but the white men of Texas. Texas is not made of rich men. It is made up of poor men, made up of the agricultural and mechanical interests, the mechanical portion being those who build our roads, our cities, our bridges, and the very houses we live in. Why the very capital of the State is made up of poor men, and they are struck at in this proposal.

"If I were to advocate any qualifications at all, I would always advocate one of intelligence, and not whether a man has one dollar, ten dollars, a hundred dollars, a thousand or tens of thousands of dollars. As a qualification to vote, I should want him to be intelligent; to be able to read and understand the laws; that he should be able to understand the genius and spirit of the Government under which he lived, and that he should know the reason why he was exercising the right of suffrage. I believe with the great American preacher, John N. Maffit, that the Almighty never intended to create a dollar qualification for suffrage. Men who have amassed fortunes are frequently the most ignorant of our form of government. Base the exercise of suffrage, if you will, on the intelligence and moral worth of the citizen, but never on his capacity to pay \$1 poll tax. I say that laws can be made to collect all taxes for the support of the government. I know that governments cannot be run without expense, and it is argued that you cannot levy on a man's head and by forced sale secure the payment of his poll tax. Well, sir, I know it, and honorable gentlemen here know too that you

cannot collect taxes by law; everybody knows that the law is insufficient, and hence it is no argument to say that you can take away the right of the American citizen to vote, on the payment of a poll tax, when you cannot prevent him from voting under a property qualification. I do not know of any process by which you may obtain the right to deny a man the right of suffrage. It is of no use to say, 'there is no man who is not able to raise \$1 to pay his poll tax' There are times of monetary crises. And in these times, out in the country, out on the prairie, out in the forests among the pioneers of the frontier, men cannot get \$1; and should this proposition pass, it will strike out from voting a large class of the best people of the State of Texas. Furthermore, it would, if it did not endanger the adoption of the Constitution—if the position of the gentleman from Anderson be concurred in—reduce our representation in proportion to the restriction of suffrage. These are my views. I have simply desired to state them, and the principles which will actuate me in casting my vote on this question."

MR. ROBERTSON said there was no unjust or unequal tax proposed by the committee report. All citizens had to pay the same amount. He thought no man had the right to vote who refused to contribute the small amount of \$1 to the support of the Government. It would be an incentive to action, and would cause men to take a more active and interested part in the Government.

MR. RUSSELL, of Wood, said that if the Convention made a property qualification for voting their labors would be for nothing. He thought their work would be set aside by the people as anti-democratic and aristocratic. He felt that it would be a great lever power for their enemies to wield against them, and he knew they would do so with fearful effect. He thought the people would be justified in setting aside a Constitution with such a provision.

MR. MARTIN, of Hunt, spoke somewhat at length against the committee report.⁵⁵

He said: "Mr. President, I ask the indulgence of the Convention for a few minutes that I may express briefly some of the reasons that will control my action upon the proposition now pending before this body. Sir, this is, in my judgment, one of the most grave and important questions that has been, or will be, before this House. It is a question that should rise above all party considerations. It lies at the very base of republican government. It is one in which the word Democrat or Republican should have no

⁵⁵Mr Martin's speech was printed in full in the *State Gazette* (Austin), October 20, 1875

place. It is a question which, if decided one way, would be a direct invasion of one of the highest prerogatives and most sacred rights of freemen.

"It imposes a restriction upon and abridges a *right* of the people, held sacred since the foundation of our Government; one that cannot be violated in a free state without endangering the liberties of the people.

"Mr. President, the tendency of the spirit of the age is to emancipate the minds and consciences of men and to strike from their limbs the shackles of slavery.

"It was the failure of the leaders of the Southern States to recognize the inviolable drift of events that 'fired the Southern hearts' and precipitated the cotton states into revolution. It was this failure, sir, that lighted the Civil War and laid in ruins one of the fairest portions of God's heritage and left eleven states prostrate at the feet of Federal power.

"It will, then, be an act of wisdom in us to be guided by the light of reason and experience.

"The right to vote is sovereign and inalienable. It is a natural and inherent *right* and not a right created by compact.

"The proposed requirement of a paid-up poll tax, the most odious of all taxes, as a condition precedent to voting, is an act of aggression upon the sovereign rights of the people.

"This majority report, if adopted, sets the price of \$1 or \$2, as the case may be, upon the head of the voter; for turn and twist it as you may, it comes to that at last.

"Yes, sir, he must come up to the polls with hat in hand and pull from his pocket the receipt for the payment of the tax upon his head before he can vote; and *this* is the price you fix upon a *freeman!* Will you do this? 'Is thy servant a dog that he should do this thing?'

"Is this a covert design, cunningly devised, to plant the germ of aristocracy in this land?

"Whether or not it is so avowed, this is its inevitable tendency, and must in time result in transferring the political power of the State into the hands of the wealthy alone, and thus consign to slavery men who were made free and independent in the image of God who made them.

"I ask the gentleman from Anderson (Judge Reagan) what is the meaning of the word *freeman*, as used in this Constitution? I ask him if voting is a privilege or a right.

"I take it that *freeman*, when used in the Bill of Rights or elsewhere in this Constitution, means one who has by nature the *right* to choose that form of government which may appear to him most suitable and best calculated to protect him in life, liberty, and property, the great ends for which governments are instituted.

“Whether or not it is a right or privilege, this third section of the Bill of Rights declares ‘all free men have equal rights and man or set of men shall have exclusive privileges,’ and the twentieth section declares that to guard against the transgression of this high power everything in this Bill of Rights is excepted out of the general powers of the Government; and when this part of the Bill of Rights, as reported by the committee, comes up for action before this Convention, I have no doubt but that it will be adopted. I *know* that it will receive my support.

“Then, sir, if it is an inherent right, this provision removes it from the domain of legislative action, and it must be held, as it is, a *sacred right*. The Fourteenth Amendment to the Constitution of the United States, referred to by the gentleman from Galveston (Colonel Flournoy), only curtails or reduces representation in Congress in proportion as suffrage is abridged. This is its full scope and meaning, and it goes no further.

“Mr. President, all over the district which I have the honor, in part, to represent on this floor, I took the position that I would, if elected, so far as my action could accomplish such results, make a Constitution that would shelter under its wings every citizen of the State, the weakling as well as the strong; the peasant in his humble cottage as well as the lordly millionaire who revels in wealth and luxury. I intend to adhere strictly to that line without variability or shadow of turning.

“I am representing a constituency who would *scorn* to have me by word or act engraft upon the organic law such odious distinctions as are recommended by the majority of the committee.

“No, sir; they do not expect me to set the miserable price of \$1 or \$2 upon the heads of men born to freedom.

“It cannot affect the *rich*; they can always pay their taxes. It affects the *poor* man and the poor man alone.

“Entertaining these sentiments, Mr. President, I shall give my voice as the representative of a *free people* against the report of the majority.”

MR. NUGENT said he was in favor of the levy as provided by the report of the committee. He thought every man who voted should be willing to pay a small sum for the privilege. The right to vote was not an inherent right, but a conventional one, and should be regulated by law.

MR. J. W. BARNETT, of Parker, said the adoption of the majority report would be a new departure from the old landmarks of democracy. If half as much had been said fifty years before as had been said that day against universal suffrage, the Convention would have been marched out of the House as an illegal body. Pass the

measure. and it would be a stepping stone toward aristocracy and imperialism. It would array a combination of classes against them that would defeat the Constitution they were making. The best soldiers he ever knew, and who had given their lives in defense of their country, had never paid poll taxes in their lives.

MR. LOUIS CARDIS, of El Paso, said the question was, did all of the citizens of Texas have a right to vote, or only a portion of them. Which class was to be deprived of the sacred right? The article would indicate that it was the poorer class. The majority of his constituents were poor, but honest. Would he consent to deprive them of the right of suffrage? On the contrary, he would propose, if he could possibly get a majority, that any citizen of the State too poor to pay his taxes should be allowed to vote twice.

MR. STOCKDALE said that taxation without representation was tyranny, and that representation without taxation was equal to tyranny. There had always been a class of men who, possessing nothing themselves, would delight to vote any measure of taxation upon other men. Was it right that these irresponsible and often transient men should be permitted to vote what they pleased upon others? The duty of paying a poll tax abridged no one, but was equal to all.

MR. KILGORE said that all the opponents of the measure were howling about "abridgement," and were trying to frighten the proponents of the measure by so doing. They were like the quack doctor who would throw his patient into fits and then cure the fits. There was no abridgement in the matter but only a prerequisite.

MR. BROWN said he was pregnant with a speech and desired to be delivered. He said there were three things he hated, the jailor of Napoleon on St. Helena, the registration law, and the infamous police bill under Governor Davis. And now, when they had gotten rid of the registration act, should they pass a law similar in effect, forcing every man to carry his pass in his hand? The people would curse them from one end of the land to the other. Let the question of suffrage be free to all alike, and let them march in solid phalanx, under the broad aegis of American liberty, and deposit their votes. He thought that the workings of the system, as proposed by the committee, would be sure to produce fraud.

MR. JOHNSON, of Collin, said the whole gist of the matter as proposed by the committee was an effort to oppress the poor. He said their long-winded speeches neither bluffed nor intimidated any one; they might speak all day, and the vote would be the same.

COLONEL CRAWFORD said he was in favor of the poll tax prerequisite. He loved the poor, industrious men of his section, among whom he had been reared. As a poor man himself, his every sympathy was with that class; but he knew that there were none more ready to pay the just taxes of Government than they. The poor people of Texas had always paid their taxes with a generous hand, and had always asked that no more be levied than was necessary to carry on good government. Ought a man to make his impression on his country's destiny, and not pay a cent of taxes? It would be a proud day in Texas when there would be no hereditary pauperism. The men who owned the least bits of land, the poor widows with their little property—were all forced to pay taxes. Should not all others be forced to pay at least a poll tax? What man in the Convention would wring taxes from a poor widow to support the Government, a widow who had no voice in making the laws of the land, and yet quibble about a small tax on men? The poor did not object to paying the poll tax, but asked that it should be levied so they would be protected from the floating and irresponsible, who were here today and elsewhere tomorrow; who had no home, wife, and children to love, and were a burden and disgrace to the body politic.

(Mr. Brown in the chair.)

PRESIDENT PICKETT took the floor in favor of the amendment and against the payment of the poll tax. He said the incorporation of a tax of that sort was a dangerous innovation, and there was no telling where it would end. It was contrary to the principles of free government. Was it the object of members of the Convention to disfranchise any citizen? They had no right to do so. Was it their object to raise money? It was a strange and unjust way to raise revenue. The very incorporation of that provision was contrary to the very Bill of Rights they proposed to adopt. Its incorporation in the Constitution would be a blow at the hard-working, toiling masses of their own people. Possibly it had been intended as a blow at the negroes. If so, he thought it would fall harmless at their feet, and the blow would fall with deadly force on the poor,

honest men of their own race. Even if he desired to disfranchise the negro he would not do it at the expense of his own countrymen. Let not the rights of suffrage be restricted in the glorious State of Texas! If Massachusetts and Pennsylvania, or any other state saw proper to strike a blow at liberty he could not copy after them. Let not Texas, with all her glorious memories of the valor of her gallant sons, throttle free government.

TWENTY-EIGHTH DAY

THURSDAY, OCTOBER 7, 1875⁵⁶

Suffrage

This question was left over from the preceding day. The immediate question was Judge Reagan's amendment to insert "the last poll tax" for "all poll taxes due by him, etc.," in lines 24 and 25.

MR. MOORE defended the report of the committee. He held that it was no violation of either the letter or the spirit of the Fourteenth Amendment, which was merely advisory as to the basis of representation. He denied, as affirmed by President Pickett, that all political power was inherent in the people in the sense in which that gentleman put it, for the people meant the whole people—men, women, and children. The term had no political signification, and existed only in the forms of political society. It was only the aggregation of individuals under the forms of government, who represented the powers of government, who could give any force or expression to sovereignty. He did not believe that the people were to be cheated by the mere sound of reform, by the cutting down of offices, by the cheapening of salaries, and by the shortening of terms; but they must look to the aggregate effect upon the political institutions of the State. Thirteen states had prescribed limits to suffrage, not "abridged" it—for that was a misnomer—and why not Texas? He thought the citizen owed duties to the State the moment he was born into it, for he was born into the government or political society whichever it were. He could not see why any man who claimed the protection of the government for his person and property, even to the extent of involving it in war, should not contribute to its

⁵⁶The proceedings for this day were taken from the *State Gazette* (Austin), October 8, 1875.