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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.

support. With reference to the southern portion of the State, he found that Brazoria County had a poll list of 1,670, while the poll taxes paid were only 645. Colorado County had a list of 1,061, of which there were 705 paid. On the other hand, in the northern county of Grayson, out of a poll list of 3,239 there were only 689 delinquents. Such was the variation in the history of the entire State. Surely there was statesmanship enough in the Convention to compel the citizens of Texas to pay some dues due their Government. He did not want to keep any one from the polls, white or black, but did want all to subscribe to the support of their Government. His votes would show his ideas on retrenchment and reform, but he wanted taxation to be equal, so that the burdens might rest equally on all portions of the people. He did not believe in cheap liberty, and Texas would not be what it was if the fathers had held it at cheap valuation.

He wanted no shackles on the people, and did not consider the imposition of a poll tax, to be used for educational purposes, any bar to liberty. His opinion represented his constituency, and they were in favor of a poll tax as a qualification to the exercise of the voting power. His constituents had the right to express their opinions on the score of consistency, for out of a poll list of 3,384 there were only 397 delinquent, and there was not a dollar of debt attached to any incorporated city or town in the county. And the Convention had been threatened too. Even the President had said that the people would not like it, and that such a provision as that reported by the majority might defeat the adoption of the new Constitution. His conception of the intelligence and justice of the people inclined him to a different opinion. He would vote for no bill that would be an attack on the poor man, and did not regard the question then before the House as one attacking him, but rather as something calculated to advance his interests. Mr. Kilgore had very truthfully remarked that the men of the country paid the greater part of the taxes. That was true. They were wise in doing it, for there was no class of citizens needing the protection of the Government more absolutely than the poor. The objection urged that demagogues might influence the people to reject the Constitution, lacked force. He had too much respect for the intelligence of the people to suppose that they could be influenced to their injury.

MR. SANSOM said he regarded the penalty for non-payment of a poll tax as utterly disproportionate to the offense; the denial of his suffrage was too great for his neglect or inability to pay the tax. He was compelled to discharge the duties of citizenship as a juror and a soldier, and yet it was proposed to deny him his highest right of voting. The right to vote might be limited by government, but could not be conferred. It was a right derived from nature. The men who were good enough to fill soldiers' graves in the country ought to be good enough to discharge every other duty in the country, but it seemed that they were not thought good enough to vote.

JUDGE BALLINGER said he did not question the right of the people, under the Constitution they would frame, to impose a poll tax or any other tax as a condition precedent to the right of suffrage. He did not believe that suffrage was a natural, divine, or absolute right which men possessed over and above government. It was a right conferred by government, and could be regulated by it for the good of the people. It was true that the tendency of modern times was to take away the reservations on suffrage which had been imposed in former years; the tendency was toward universal suffrage. The question was how far this tendency could be carried into a fixed theory, and this was a question of expediency. He did not agree with President Pickett that they could locate suffrage in the Bill of Rights. The Bill of Rights said that all political power was inherent, not in the electors of the state, but in the people, and the logical conclusion was that females might vote.

If it had been the intention of the Convention to establish a system of free education for all the children of the State, and had an adequate tax on property been imposed for that purpose, he would have supported the present proposition. They could have said to the poor white man and to the colored man, "This matter is to secure in the highest degree the happiness of your children and good government, and you must contribute to it in order that you may derive the benefit, and you shall take no part in the government unless you contribute to it."

But as he understood the temper of the Convention, as judged by their votes and the report of the Education Committee, not much would be done in that direction, only one-tenth of the annual income being allowed for educational purposes. But it was proposed in

lieu of that to levy a poll tax as a condition precedent to the exercise of suffrage, to be devoted to educational purposes. He said he could not consent to that. He would not, when asked for the great blessing of education by the people, give them a stone instead of bread.

Judge Ballinger next read the Act of Congress readmitting Texas into the Union, in which it was explicitly stated that no class of citizens should be disfranchised except for crime. It had been passed by the dominant party. He did not regard that law as having judicial sanction, and thought it had no other sanction or power of enforcement except that which it got from the domination of that party and its power to enforce it. It might be—and none hoped so more fervently that he—that its power was broken, and that it would never be able to say to Texas: “You have broken the conditions on which you were admitted to the Union, and it becomes our duty to determine what the punishment shall be and what conditions shall be imposed.” Under the Constitution of 1869, which was a very bad one but accepted by Congress as a condition of representation, one-fourth of the annual revenues was set apart for a school fund, and a poll tax was ordered raised for the same purpose. It was not judicial power they had to fear, but political power, if Congress should have the means of enforcing it. Behind that, too, was a great moral power, and it was that they should give to the children of the State of Texas public free schools. He thought such a system underlay the intelligence and patriotism of the country. He knew that Congress had no right to impose those conditions, but, as wise men and statesmen, holding up a future for Texas, could the Convention ignore the fact of such conditions? As members of the Democratic party, could they afford to ignore public opinion? Yet, instead of preserving a public school system, they had proposed a poll tax, intending merely, whatever they might say to the contrary, to reach the colored people and make it a fundamental condition of suffrage. He thought that public sentiment outside of Texas, Democratic as well as Republican, was for free schools, and that it would regard Texas as having struck her flag for free education. Whatever argument might be used in its defense, the clause was simply a restriction on the right of suffrage of the poor people of the State. The State of Texas, he thought, could do nothing more dangerous to the success of the Democratic party. He, for one, was not willing

to do it. If the Convention would establish a system of free schools he would vote for it with the greatest cordiality, for they would then have the right to say to the people that to enjoy those benefits they should contribute towards them.

MR. WAELDER said the only question in his mind was whether those who received the support of the Government should contribute to its support. He combatted the assertion that suffrage was an inherited right. The Government had the right to regulate suffrage, just as it had the right to say that females who were citizens, minors, persons of unsound mind, paupers, and criminals should not vote. These were all regulations; the power to impose them was not denied; then why deny the right to impose a tax as a condition precedent to voting? In the social compact between citizens and the State every man yielded necessarily some of his natural rights. This, in his opinion, was not a question of principle at all, but one of expediency. Was it proper and expedient for the State to impose a poll tax or any other tax as a condition precedent to voting? He could have sanctioned the report of the majority of the committee if, instead of requiring the payment of a poll tax they had required the payment of all taxes due from every citizen to the State as a condition precedent. At the proper time he would propose an amendment to that effect. Government was instituted as much for the benefit of the poor as of the men who were worth thousands. He did not favor the adoption of this provision because there were ten or twenty thousand or more negro voters in the State. That had never once entered into his mind. He did not care whether the man was black or white; the question was whether it was right or proper that each man should contribute his share of the administration of government. Was it right that the taxes should be paid? This was no new question, but had been settled affirmatively in many other states, as had been shown by the preceding speakers. The mode of proof of having paid their tax would doubtless be simple, not onerous, and would be regulated by the Legislature. Their President had said that the object in view was to prevent some one from voting or to collect money from some one. The object was, to a limited extent, to collect money, but for a legitimate purpose; not that the right should be taken away, but the exercise of it; or, as was well said

by Mr. Reagan, to compel those who do not pay any taxes to contribute their share of the expense to the Government which protects them. The question with him was not whether the people would approve their course, but was it right. What was unpopular today might be popular by-and-by. If the action of the Convention was right they could convince the people of the wisdom of their course and they would sustain them. He differed with Judge Ballinger, who said he was not prepared to give this measure his support because the Convention had not deemed proper to establish a system of public school education. On that question he was willing to go as far as anyone, and he considered it their duty to provide, by taxation or otherwise, for the support of such a system. While he shared Mr. Ballinger's fears on that subject, he was not yet convinced that such would be the action of the Convention. He not only sustained the action of the majority report, but was prepared to make further recommendations.

MR. JOHNSON, of Franklin, spoke next in opposition to the poll tax prerequisite.⁵⁷

He said: "Mr. President, I come as a gleaner after the harvest, only hoping to gather up here and there a few scattered heads of grain that have escaped the skilfully handled sickle. I have listened patiently for more than two days to the exhaustive arguments both for and against the policy of making the exercise of suffrage conditional upon the prepayment of a poll tax, and must say that all that I have heard has but confirmed my first impressions of its inexpediency, whilst I do not intend to repeat the able arguments I have heard made against this measure.

"I would say I was much impressed by the language of the gentleman from Williamson when he denounced the folly of compelling the citizen to do all manner of service; work on roads, serve on juries, and fight the battles of the country. And yet he might be denied the privilege of a free man, because of the failure to pay \$1 or \$2 poll tax. I thought then, and think now, that the justice of this will be apparent to all when we consider that no other dereliction of duty, however great, short of a felony, can work the forfeiture of the political franchise.

"The citizen may avoid working the roads, he may shirk the jury box, he may fail of service in the hour of his country's peril—yea, he may prove craven when that country is being pressed into the

⁵⁷Mr Johnson's speech was printed in full by the *State Gazette* (Austin), October 13, 1875.

very issues of life and death—yet, this poll tax paid, he stands defiantly before a free and open ballot box, none daring to challenge, whilst, sir, the true man, who has denied his country no service, responded to her every call, it may be had his very limbs shorn in her service, stands before a closed ballot box, which his valor helped to save, challenged and humiliated—and for what? Simply because the pressing necessities of life could not spare the pitiful sum to pay this tax. But, Mr. President, I would call your attention to another serious objection, its corrupting influences upon the elections of the country; opening wide a gate to the ballot box, through which bribery can go and will go in and out at pleasure. Those candidates for office who are evil and corrupt will seek out that class of voters who are of easy virtue and slip into their hand the silver key that will readily open this lock, that gentlemen are trying to place upon the ballot box of a free people.

“The crafty and unscrupulous politician will and can alone avail himself of the political advantages accruing from this corruption, and thus the very honesty of his competitors will multiply his chances of success.

“I am not, sir, unaware that some of my friends imagine that this clause will cut off a large black vote, but, sir, the effect will be the very opposite of this; dishonest candidates will see to it that none of this class is disfranchised because of their poverty; he will loan them the money, and when we consider how passionately fond they are of voting, we can easily see how they will not likely forget those that helped to gratify this passion; do him this timely favor and he will be yours until death. But, sir, the honest white yeomanry of the country, however poor they be, will repel such an advance as an insult and shrink from the acceptance as from the touch of pollution, and if some outside pressure, in a moment of weakness, one should yield, the very thought of the act for years would fester in memory, and the face ever afterwards would blister with shame at the sight of the ballot box which he had so degraded and dishonored. Nor, sir, would the black voter shrink from carrying to the polls the certificate of the payment of this tax; indeed, he will exhibit it with pride and esteem it as a badge of honor. But the white voter will show this certificate with shame and esteem it a badge of slavery, this we know to have been the effects of the odious registration law.

“Further, sir, in the face of all that has been said to the contrary, I repeat that the restriction proposed will operate a discrimination in favor of the property holder, in that it may compel the one to pay all dues to the Government previous to voting, and the other only a fractional part of those dues. To illustrate: the non-property holder owes none other than a poll tax, the property holder may owe \$501 for protection to property and person. The \$1 is all that is required

of either, leaving the \$500 to be collected months afterwards. It is true, as the friends say, that the property is bound for it, but nevertheless delay is obtained, and this delay may be all important in times of monied stringency, giving time to move the crop to market. But you say any monied man can raise a dollar. So he can, but I tell you there are times in many households in this country when the pressing demands of the family will admit of no diversion of that dollar. Sir, the two gentlemen who have so ably championed this measure, the gentleman from Marion (Colonel Crawford) and the gentleman from Anderson (Judge Reagan), tell us that they have belonged to, and still belong to, the poorer classes. Sir, when we remember that these two gentlemen stand at the head of their honorable profession and that rich clients daily throng their doors, we can but interpret the latter part of their statement as a mere matter of pleasantry. I would repeat the apt reply made by you on this floor, Mr. President, it is not their kind of poor people whom we are afraid of hurting. We honor these gentlemen all the more that they have risen from the humbler walks of life to their present high positions. This but reminds us that nearly all men of distinction in this body or out of it in this State have so risen. Indeed, sir, it is one of the grand sights to be seen in this country, our young men bravely going up from poverty and obscurity to the high places; but, sir, I would tell those gentlemen, and I would repeat it with emphasis, that there is a still grander spectacle, and one far more sublime—it is the young man climbing up from the lower valley and as he climbs he carries with him all the sympathies that were wont of yore to twine around the toiling masses, until reaching and standing on the highest summit of human greatness, he finds that he has left his heart with his old comrades at the foot of the hill. The Divine hand with the signet of heaven stamps such a man as a statesman. In this favored land we have many such. I had fondly hoped to find such a character in the gentleman from Anderson. If it be so, shame and mortification must sooner or later surely await him. From the operation of this restriction upon suffrage—for if it operates successfully it must operate against some one—it must exclude some one from the polls; on the election day, that should be in a republican government the proudest day of all the days in the year, some man must stand before the ballot box, which should be the proudest insignia of that government's freedom, and be made to feel that he is no man and has no part nor lot in that government; I repeat, who is to abased? Who is to be degraded? It is said, 'No man knoweth his destiny.' It may not be you or any man in this House, it may not be your prosperous neighbor, but it may be some man who is quite as honest, as true, a man whose flesh like yours quivers when the pincers tear. At each of the 2,000 voting places in this State some man on every election day will be

challenged with the despicable words, 'paid your tax?' and will be driven away in confusion, feeling dishonored and degraded.

"Now, sir, if this gentleman be in sympathy with all those to whom this thing will work an abasement of pride, and there will be many for its inauguration day will be a day of humiliation of manhood, how painful and bitter must be his mortification for sympathy. I take it it means more than pity, more than sorrow to feel as the sufferer feels. If so, he will not, he cannot escape the feeling that pertains to the wounded spirit.

"Permit me, Mr. President, to draw a faint picture of an election day under the working of this law in one place only—and this picture, with few exceptions, will be multiplied at every voting place in this State—in the town of Palestine, the beloved home of him (Judge Reagan), whom we sometimes love to call the Great Commoner of Texas. The people are gathering from all the country far and near. The honorable gentleman himself is there, and is looking interestedly upon the great gathering, for an election day is a proud day to him, associated as it is with all his rising fame. As the multitude move toward the ballot box his great soul sways to and fro with thoughts and feelings unutterable; for to him it is but the freshly uncovering of the steps that carried him to the dizzy heights upon which he now sits. In that multitude casting their ballots, not one of whom escapes his penetrating eye, appears an old man well stricken in years. He had seen better days, but misfortune after misfortune had befallen him, until he could scarcely keep the wolf from the door. But today he feels younger, than he had for ten years, because he imagines that he had helped to make one great man, and is about to start another off on the same road. On the ticket in his uplifted hand is the name of a bright-eyed young man, and with a sort of innocent vanity he turns to an old neighbor to tell him what a big part he used to take in elections, when a hard, austere voice shrieks in his ear, '*paid your tax?*' The old man creeps off, realizing for the first time in his life *how a dog feels*. There seemed to be something in those words which wilted his soul as the fire wilts the green leaf. Scarce gone is he ere another takes his place. He stands as if under the heavy weight of years, yet the deep furrows on his face look not like the scars of age nor of sin, but rather the cuttings of the sharp knife of grief. He lifts his hand toward the ballot box, but motionless that hand rests in the air, for the sight of the emblem of his country's freedom conjures up memories of the past; his thoughts have wandered far away to a field dyed with patriots' blood; two noble sons are sleeping there. His wounded soul is debating the solemnly momentous question, the cost of human liberty. 'Have you paid your tax?' The mournful reverie is broken. Then comes the gloomy response, 'I have not paid the tax, but I have given two sons to my country, as noble

boys as were ever dangled on a father's knee; and is this all the reward of my heart's great sacrifice? Sleep on noble boys, it is some relief at least to know that the bright eyes that never dimmed before the foe cannot gaze upon a father's humiliation.' On that high pinnacle I behold the sword manly borne. Rising from his seat, a dark frown settles on his brow as the offended majesty of truth. Slowly he lifts his hand above his head and swears by his first love, and by the eternal heaven above, that he will no more eat, nor drink, nor sleep, until the last vestige of this odious restriction of suffrage is forever wiped out from the organic law of his beloved land. (Applause.)

"Mr. President, we have had too much of new and untried theories. Let us go back to those great principles which time and experience have sanctioned. Some gentlemen say that this law has been inserted in some of the Constitutions of the Northern states. Well, sir, it may suit that people; it may be there a transcript of the public mind. But here I know it is not. I am not seeking for a model of government beyond the Alleghany. In trying to follow these strange lights during the past few years we have turned more than one sharp corner without reaching good government. One member said that Tennessee had this provision. The gentleman who would fling the shame of my native state into my teeth will bear with me if I seem incredulous until I see the record. I know that that great and noble state has endured much in the last few years, and it may be that, humbled from misrule, she may have forgotten her former pride, her past renown. If it be so, it is but another sad instance of how the noble spirit may be broken by oppression and wrong. But this I would say for her, and say it proudly and defiantly, too, in the time of her Polks, her Browns, and her Keebles, and her host of other martial spirits, in the day of her glory she would have spewed this thing out of her mouth.

"Now, sir, in closing, I would ask why press this measure, if it be inexpedient, if it be unjust, if it be oppressive, if it be obnoxious to the spirit of the people, if it be attractive to the dishonest and repellent to the honest, if it humiliates many and honors none? I own that it does all of this. Is it to save to the State, and it can be nothing else, this pitiful sum? Is it that the citizen, however poor and helpless, may escape the excise man? Then, if nothing else will do, make him work the roads, punish him, imprison him, and if need be hang him. But spare us this self-abasement, spare our country this humiliation, and let the ballot box be now and forever as of old, the mightiest expression of human liberty that can be uttered in this free and enlightened land."

MR. DOHONEY, Chairman of the Suffrage Committee, replied to Mr. Johnson. He attacked the position of President Pickett, as

founded on the Bill of Rights. He said Mr. Pickett had assumed that political power was inherent in the people, and therefore the Legislature could in no manner interfere with it. It had been shown by the gentleman from Galveston (Judge Ballinger), that if political power was inherent in the people it belonged to all of the people, men, women, and children. That was the condition his *major premise* placed him in, and would force him to give the suffrage to females. Mr. Dohoney denied that sovereignty was an inherent right. It was not that, but a conventional right. The Convention had the right to say that the man who would not contribute anything to his State Government should not exercise the right of voting. If it did not have that right, the country would be at the mercy of demagogues and a quasi-criminal population. No inherent right embraced the right of suffrage. It was the "roughs" and riff-raff who would rule under the principle laid down by Mr. Pickett. The question was purely one of expediency. There could be no doubt about it. Mr. Dohoney restated the position he had assumed at the beginning of the debate, replied to the arguments of Mr. Flournoy concerning the Fourteenth and Fifteenth Amendments, and quoted Cooley to show that suffrage was a privilege and not a natural right. He held that the right of suffrage was granted on the ground of general policy, and that it should be made as general as possible.

MR. DOHONEY replied to Judge Ballinger also, respecting the arguments of the latter concerning the act of Congress readmitting Texas into the Union. He claimed that it was a dead letter, or if not a dead letter it had no practical effect. He also urged that if the poll tax payments were placed to the credit of the school fund a respectable system of education would be kept up. The committee had not intended that any poll tax should be collected except such as accrued after the adoption of the new Constitution.

MR. MARTIN, of Hunt, again opposed the committee report. He said he had thrown out his amendment the day before merely as a skirmisher hoping it might lead to a general engagement. He was glad to see that it had done so, an engagement in which the horse, foot, and artillery had all been engaged. He quoted the act of Congress referred to by Judge Ballinger and others. While he doubted its legality, he had no doubts of the might and the will of the dominant party to enforce it. He referred to the great restriction

placed on colored votes in New York, the restrictive clauses in Massachusetts, Vermont, and other states, but said all of that amounted to nothing in Texas and other Southern states, where might was made right by the will and hatred of the dominant party. If they would say that all the people must pay their taxes, rich as well as poor, he was with them; otherwise he was not. It was claimed that it would make men honest. He thought that if honesty was to be the test it would be a better plan to adopt his amendment and make all men pay their debts as a prerequisite for voting.

He said he would not harrow up their souls or freeze their young blood by appeals to the poor man or a recital of what poor men had undergone. He regarded all that sort of thing as simply "bosh" and nothing else. What did the State of Texas have to do with their poverty? He would ask nothing in behalf of the poor. Let them adopt that report and it would be nothing but class legislation. It would never reach the disease it was intended to cure. It was pure "bosh" to say that the poor man was as much interested in government as was the rich man. Did a beggar want a lock placed on his door? Did a poor man want protection for property he did not possess? Was he not already as independent as it was possible for him to be? Then, let the Convention treat citizens all alike. If they would make rich and poor pay their debts to the government, he would be ready to help them; otherwise he would not do so.

MR. FLANAGAN moved to table the amendment of Judge Reagan.

His motion carried by a vote of 52 to 28.

MR. NORVELL offered a substitute for the second section. It omitted the poll tax qualification and provided that foreigners who were not subject to the usual disqualifications and who had declared their intention to become citizens six months before an election, who had resided in the State a year preceding such election, and the last six months in the county or district in which they offered to vote, should also be deemed qualified electors. Should any qualified elector happen to be in any other county than that of his residence, situated in the district in which he resided at the time of an election, he should be permitted to vote for district officers;

provided, that the qualified electors should be permitted to vote anywhere in the State for State officers.

This substitute was adopted by a vote of 61 to 20.⁵⁸

TWENTY-NINTH DAY

FRIDAY, OCTOBER 8, 1875⁵⁹

GENERAL WHITFIELD rose to a question of privilege and protested against the remarks of the *Austin Statesman* of that morning. He said he had never heard such a thing hinted as the combination between the Republicans and Grangers on the poll tax question. For himself, he denied it. He knew of no combination of the Grangers for political purposes, either then or for the future, and he was speaking then as a Granger.

MR. LYNCH said that he, too, was a Granger. He denied that any compact of a political nature had been made by the Grangers in the Convention. For a long time he had refused to join the Grangers Association, because he feared it was political in character, but he was assured to the contrary. Finally he joined them, and experience had proved that it was not a political organization.

MR. WEAVER read the article in the *Statesman* and defended Mr. Johnson, of Franklin, from the imputation sought to be put upon him. He said Mr. Johnson was a man of pure character, of good morals, a minister of the gospel, above calumny, a man who had dared to stand up for the truth when few men had had the courage to do so.

MR. JOHNSON, of Collin, said the Grangers had been supporting this description of gents—officeholders—from the foundation of the world. He thought all the *Telegraph* and *Statesman* said against

⁵⁸The State press took great interest in the proposal to make the payment of a poll tax a prerequisite for voting. A great majority of the papers favored the original clause restricting suffrage to poll tax payers, the usual argument being that without some such clause East Texas would be given over to negro rule. But the plea of extreme retrenchment, and a desire to get as far as possible from the registration provided by the Constitution of 1869, defeated the poll tax requirement. Only one Republican delegate favored the poll tax clause.

⁵⁹The proceedings for this day were taken from the *State Gazette* (Austin), October 9, 1875.