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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.

the Grangers would be of advantage to the latter. The more they attacked him the stronger would be his conviction that he was right.

Suffrage

COLONEL CRAWFORD offered an amendment to Section 4, of the committee report on suffrage, which would add, "but no law shall ever be enacted requiring the registration of voters in this State."

MR. DEMORSE moved to add, "except in cities having 10,000 population."

MR. FLOURNOY particularly requested that Galveston should be excepted. It wanted no registration then or thereafter.

MR. DEMORSE withdrew his amendment.

JUDGE REAGAN said he hoped they would not tie their hands in the wrong place. He did not wish to impose any restrictions on Galveston, but it might be found from experience in the future that to do so would not have been unwise. There was no proposition to force registration on the City of Galveston, but rather to leave the question in such condition that Galveston might have registration if the people of that city so desired. He renewed Mr. DeMorse's motion. He said he knew that no suggestion that came from any source in opposition to the popular will of the Convention would have any chance of success.

MR. DOHONEY favored the original clause.

JUDGE BALLINGER said the question of registration was a very odious one and mainly so because they had had a very iniquitous registration law. But there was a very unfounded prejudice against registration. He said occasions might arise when it would be required, and thought a wise system of registration in towns and cities might be useful.

MR. FLOURNOY said he regretted to oppose the views of Judge Ballinger, but he was compelled to deny that registration would preserve the purity of the ballot box. Registration had originated in New York, and the name of Tweed ought to be sufficient censure. The amendment was aimed at Galveston, since she was the only city with 25,000 and upwards. If necessary, he could put the registration manager of Galveston on the stand and prove that 500 fraudulent voters had been registered in one day, despite his vigilance. His people were freemen, and he protested, especially since the

suffrage throughout the State had been made free against any voter being liable to disfranchisement. Mr. Ballinger was personally very popular in his city, and yet both that gentleman and himself had polled a very small vote in the late election for delegates. The people would not turn out, and it was only in times of great political excitement that they would turn out. He knew that he represented the sentiment of the people of Galveston when he said that they wanted no registration.

MR. NUGENT said he protested against Mr. Flournoy's construing everything as an attack on Galveston. Why he did this, God only knew. Registration was a good thing for cities, and he favored it.

JUDGE REAGAN said Mr. Flournoy could not deny that other cities had the right, and might want to exercise it in the future, to regulate matters respecting property, themselves, etc., and he had no right to assume that Galveston was the city referred to, or that the Convention was making an effort to force registration on Galveston. When a man was so dull as not to understand a proposition, he was sorry for him; but, when endowed with reason, he assumed to force a construction on the Convention in opposition to the plain intent of the words, he experienced another feeling respecting him. He was tired of such conduct, and should express his disapprobation of it every time. The question was, whether the people were incapable of self-government, incapable of determining their own interests, and of protecting them. It was assumed that the members of the Convention were wiser than the future millions of Texas for all time as to what should constitute the organic law.

JUDGE BALLINGER said his colleagues had indulged in a very wholesale denunciation of registration wherever it had been tried. It had been rejected so far as the State had been concerned, but that fact constituted no argument against its being adopted in the City of Galveston or any other city at some future time. Neither was it the experience of this country that registration in cities or towns was injurious, for there was not a larger city in the United States which had not adopted, in some form or other, a system of registration. It was true that fraud was practiced in spite of registration, but more would be practiced without it. Judge Cooley admitted the propriety, and even the necessity, of registration. The new Constitution of Missouri, though opposed to an odious system

of registration that would enslave the people, yet made it incumbent on the Legislature to provide a general registration in cities and counties. In cities where local option laws had force, it was necessary to have registration to determine what constituted a legal majority. It was unwise to say that there should be no registration. Again, in cities where it was proposed to subsidize corporations, it was unjust to tax them by votes which were not legal. Galveston had 6,000 votes on her lists at the time of the last election, and although there was no registration required, and no one opposed the voting of any citizen, only a very small vote was cast. He held that that was an argument for registration and not against it.

MR. FLOURNOY said that the argument in regard to subsidies was a dead one. The Legislature would be directed not to allow cities to subsidize any one.

MR. ROBERTSON, of Bell, said the amendment would be sustained. He thought it was a move in the right direction. He agreed with the gentleman from Galveston (Mr. Flournoy) that the people had had enough of registration, but this amendment referred to a very different matter. It was right, and the people demanded that the cities and towns should be protected in some manner or other. Many delegates had come instructed to control local authorities with respect to their action with corporations. He wished to leave the people of Galveston and other cities in charge of their own governments, and wanted the people to have the power to control them as necessity might require. The men who owned property in the cities were the men he proposed to stand by, and he hoped the amendment would be adopted.

MR. ABERNATHY said he was tired of registration in any form.

COLONEL CRAWFORD moved to amend Judge Reagan's amendment as follows: "that no registration shall be enacted for any city, except on the consent or request of said city."

The amendment was accepted and adopted.

MR. DEMORSE said that on the preceding day the Convention had acted hastily on some matters of grave importance and not with the dignity befitting such a body; that he had proposed in different form the substance of the substitute for Section 3 offered by him the day before, and had the approval of many members, and trusted the

Convention would adopt it. He proposed the following as a substitute for Section 3:

"SECTION 3. All qualified voters of the State, as hereinbefore described, who shall have resided for six months immediately preceding an election, within the limits of any city or incorporated town, shall have the right to vote for mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; provided, that no poll tax for the payment of debts thus incurred shall be levied upon the class debarred from voting in relation thereto."

MR. KILGORE moved to lay the amendment on the table. His motion was lost by a vote of 19 ayes to 63 nays.

Mr. DeMorse's substitute was adopted by a vote of 57 to 19.

GENERAL WHITFIELD offered the following amendment: "provided every qualified voter shall vote in the precinct where he resides."

MR. KILGORE offered the following substitute for the amendment: "strike out after the word 'voters' all words and insert, 'shall vote in the precinct of his residence.'" Accepted by General Whitfield.

The question on the adoption of the amendment was put and it was adopted by a vote of 45 to 32.

The article was then ordered engrossed.

Education

MR. H. CLINE, of Harris, presented a minority report on education. It differed from the majority report in that it provided specifically that the Legislature should maintain the public schools for a term of not less than four months of each year, and put the school ages at from 9 to 15 years, inclusive. It provided further that, in lieu of the majority report of one-tenth of the general revenue for school purposes, "not less than one-fourth of 1 per cent tax upon all subjects of general taxation," this to be added to the income from school lands, bonds, etc., for the support of a public school system.

One hundred copies of the Cline resolution were ordered printed.

MR. DOHONEY moved to amend Section 1 of the majority report by adding, "for at least four months each year for the instruction of all scholastic population between 9 and 15 years."⁶⁰

⁶⁰Mr. Dohoney proposed to accept the provision of Mr. Cline for length of term and scholastic ages, but would have accepted it as an amendment to the majority report section.

MR. RUSSELL, of Wood, offered the original minority report as a substitute for the majority report. It had been presented seven days earlier, and was signed by Mr. Sansom and three others. It proposed to forbid the State to levy a tax to support free public schools, and would have distributed the income from the lands and bonds belonging to the school fund among the counties, to be used for the education of indigent orphans only. Mr. Russell spoke as follows in support of his position:⁶¹

“Mr. President, I offer the minority report on education as a substitute for the majority report and article I offer this amendment and substitute for the purpose of testing the decision of this body, this representation of the people of Texas, as to whether the people of Texas will be left free to raise their children and educate their children in their own way, or whether people who are able to raise families are incompetent to manage and educate their children I have for the last twenty-five years combated the idea that the Government had the right to lay their hands on the money of the people for anything but purely general revenue purposes. A state, nation, or empire has no right to touch one farthing more than is required to support the three branches of Government, and when the Government claims such right, and exercises any such right, and wrings out the pockets of the poor, hard-working people, I contend that they have the same right to take the money to clothe, shoe, and support their neighbors’ children. I hold that a man has the right to everything, except a pittance to support the Government, and when the Government takes it for any other purpose his natural and inalienable rights are violated, and the nation that does it is destined to sink and be lost.

“In my opinion this is the gravest subject, the most solemn and grave subject the people of Texas have to decide upon. Upon it hangs the weal or woe of Texas. The God of Heaven has granted him the privilege of raising a family. If we recognize that, and if we decide that he has the right to educate his children as he pleases, that action will go down in history as the proudest moment to the wisdom of this body. But if, on the contrary, this right is denied, I can see in it dangers which threaten to overthrow free government. There is no doubt that when the present Constitution was inaugurated, the party in power knew that then the children of the State were to be educated into monarchial ideas. The whole point and object of it was to blot out the original principles of free government and establish a strong central monarchial government. This same principle is in this majority report, and it is the principle I am fighting.

⁶¹Mr Russell’s remarks are taken from the *Galveston News* of October 13, 1875.

The tenth of the revenue it is asking for is a mere pittance, it is true, but if one-tenth can be taken all can be taken, and the money used to buy just such books and apparatus as was used under the late administration—such books in use and such men in power as the people of this country had no knowledge of; books that made the children hate the doctrine their fathers and grandfathers contended for and fought for. Have you ever looked into it to see that under this law, this majority report, your children could be seized upon by the authorities, dragged out and placed in the power of just such men as they may desire? Now, gentlemen, I hope that with the vast amount of the educational fund, the lands, the moneys, and the United States bonds, and the money to be derived from the sales of public lands, with about sixty million acres of school lands—I ask, if with all this we may not stop this principle of taking money out of a man's pocket to educate his own and his neighbors' children? I favor, as I believe the Convention does, turning over county school lands to counties. I favor the system in the minority report. The public domain is ample to educate every child in the State. I am willing to give half of it, if necessary.”

(And more in the same strain.⁶²)

GENERAL WHITFIELD answered in behalf of the majority of the committee:⁶³

He said: “Mr. President, though in feeble health, as Chairman of the Committee on Education, from which have been presented a majority and two minority reports, I feel compelled to give expression to my views on the momentous question now before this body.

“I will avoid all trite expressions about the perpetuity of free government resting upon the intelligence and virtue of the people. These points are conceded by every one who has the capacity to think.

“These premises being conceded, the grand problem to be solved by this Convention is, how can we best obtain the desired end? The answer involves the whole question and demands the scrutiny of every member of this body. There are two extreme views on the question, each advocated by able and conscientious gentlemen, to neither of which can I subscribe. The one view would substantially refuse to do anything to promote through State agencies the education of the children of the State. The other would go too far in the opposite direction, by imposing upon the people of today

⁶²The *News* reporter had apparently become disgusted with the argument. He stopped, it would seem, in the middle of the speech, and appended the above parenthesis.

⁶³General Whitfield's remarks were printed in full in the *State Gazette* for October 12, 1875.

burthens which would be not only unjust but also unwise. There is, I am assured, a medium ground upon which all can unite and accomplish the greatest good possible within our reach.

“Mr. President, it would be unjust to impose upon our present population too great a burthen for the purpose of maintaining free public schools for an arbitrary length of time in each year. Let us rather look at the means we have, and see what we can safely and justly do with the means at our command, without imposing too heavy a burthen on the present population of the State. All will admit that we have so laid the foundation for future endowment and development, that in a few years Texas will be largely ahead of all other states in her educational fund; the land grants already secured are enormous. Each county of the State has of its own right, four leagues or 17,712 acres of land dedicated by the wisdom of the fathers of Texas to educational purposes. These lands, so far as most of the old counties are concerned, are valuable now. Three of them at least—Fayette, Harris, and Ellis—have the lands in their own borders, and can sell them at once at high prices, especially Fayette and Ellis.

“It is not doubted but this Convention will allow the respective counties to dispose of these county lands, through their county courts, as they deem best, and that the interest on the proceeds may be used annually as an available school fund. In this way most of the old counties will be greatly relieved at an early day. We then come to the general fund, based on the alternate sections of all lands granted to railroad, canal, and other companies, amounting in the grand aggregate to about sixty-four millions of acres. It is true that a large part of this munificent endowment is prospective in actual value, being land on the frontier and requiring time and the expansion of population to give it cash value; yet, it is equally true that much of it is now so situated as to command a fair price from actual settlers, so that, under the law of the Fourteenth Legislature, we may rely upon a rapid annual increase of the educational fund from that source.

“The great difficulty is the want of a sufficient available fund for the time being, from the interest of which to sustain common schools, until the interest on the proceeds of these bonds shall be sufficient to sustain such schools without any direct taxation of the people. We all look forward to the early day, possibly within five or six years, when this land fund will be sufficient to meet this cherished desire, and taxation for schools will be no more.

“But, Mr. President, until this auspicious day arrives, I hold it to be our duty as patriots and statesmen having in view the welfare of the State, to assume such reasonable burthens, by way of taxation, as can be imposed without serious hardship upon the people. Precisely how far we may justly go in this direction, it is impossible

for any man to say; but, sir, after calm deliberation, a majority of the committee determined to follow the example of our illustrious predecessors in the Convention of 1845, believing that the people of today, as of that period, would cheerfully sustain the work inaugurated by Rusk, Hemphill, Anderson, Lipscomb, and the eminent men who shed luster on Texas in that memorable convention.

"I dissent, Mr. President, from some of the opinions so clearly and boldly announced by the gentleman from Williamson (Mr. Sansom) and the gentleman from Wood (Mr. Russell). However, as an abstract proposition, it may seem unjust to tax one man to aid in giving a little education to the child of his poorer neighbor, sometimes the child of the struggling widow—often to the orphan, without either father or mother—yet, sir, another great principle is evoked by the suggestion. It must be classed among the abstract rights, based on apparent natural justice, which we individually concede to the State, for the general welfare, when we enter into a great compact as a commonwealth. I boldly assert that it is for the general welfare of all, rich and poor, male and female, that the means of a common school education should, if possible, be placed within the reach of every child in the State; and it is upon this exceptional, yet well established, ground that a general levy for educational uses is justified. We do not propose compulsory education or the slightest invasion of the right of the parent over the control of his child. That right is sanctified by the laws of nature and of God, and may not be invaded by any human power; but the duty to place the means of knowledge, so far as to secure an intelligent citizenship, within the grasps of all is a different thing. It is no invasion of parental right, but a high and sacred duty, because it directly promotes the general welfare.

"Our actual available school fund, commencing with the adoption of the proposed Constitution, even with one-tenth of the annual revenue, will fall short of what we should desire for two, three, or four years to come; yet by judicious legislation under the proposed plan, it will do a vast amount of good. By the sales of land it will materially increase each year and within the scholastic years of thousands of children now under 10 years of age, Texas may have one of the finest school systems yet seen in this or any other country.

"I know full well, Mr. President, that the people of today after four years of devastating war followed by years of bad government, and until recently of oppression, should not be unreasonably burthened for the benefit of posterity; but, sir, I have endeavored, however feebly, to draw a plain line between the extremes on this subject. Let us do that which we may in prudence and justice now, and leave time and the people, through the Legislature, to develop and carry on such a system as experience may prove to be just, wise, and best for our descendants."

MR. DOHONEY spoke in favor of the majority report.⁶⁴

He said: "Mr. President, the perpetuity of free government depends upon the intelligence and virtue of the people. I had not supposed that gentlemen here would call that proposition in question. Sir, when we say that the perpetuity of free government depends upon the virtue and intelligence of the people we say that the great mass of the people will not be capable of perpetuating their liberties unless they are an intelligent and virtuous people. The statistics of crime show this. The real question is one which the gentleman from Wood has totally misconceived. It is not that we proposed to establish the Prussian system of compulsory education, or even such a system as was established in this State in 1871. It is not a question of whether men are to be deprived of any of their natural rights, that the rights of the parent over the child are to be infringed upon. We all contend for these rights. But if we admit any proposition already laid down, and we refer to the statistics of crime, we find that the virtue of people depends upon their intelligence, that the great mass of crime is owing to ignorance, and where most crime and most ignorance prevail there you will find the most expensive systems of criminal law. It therefore becomes a practical question of economy whether it is not better to encourage general intelligence in the interest of safety and economy, whether it is not better for the State to educate the children for their own good and for the welfare of the State. Carefully prepared statistics show that the large mass of inmates of prisons are uneducated. In France in a given time whole number of arrests were 444,133; of this number 442,000 were unable to read or write. In England in a given time the arrests were 187,000, of which number some 152,000 could not read or write. In the states of New York and Pennsylvania and the Northwestern states 33 per cent only were able to read or write. In our own State the report of the inspector of the penitentiary for 1874 shows that they received 728 State convicts, of which number 554 possessed no education whatever, 70 a little education, could read and write a little, and only six had a good education. In 1875 there were received 976 State convicts. Of these 760 had no education, 198 a little education, and 18 a good education. Only 90 of the whole number were temperate. So it appears that nine-tenths of our convicts are from the ignorant classes.

"Now, going back to our maxim that the perpetuity of free government depends upon the virtue and intelligence of the people, it appears that if all the children of the State had parents or guardians who were able and willing to educate them, a vast amount of expense would be saved the State in the trial and maintenance of these convicts, and there would then be no necessity for this system

⁶⁴His remarks were printed in the *Galveston News* of October 13, 1875.

of public education. I concede it would be better to have the children educated and rendered virtuous by a system of private education; but when we look abroad in the land and find the large number of orphans, and large number of children of the poor people, and the large per cent uneducated, the large number which private education can never reach or benefit, and ignorance growing up with crime and vice and intemperance, we know well that nothing short of public education will reach the case. We have waited a long time for private charitable institutions, but with little result, and with these long lists of statistics still presenting themselves. It then becomes a plain, practical question, whether it is cheaper to educate them and render them industrious, virtuous citizens and intelligent voters, or to go to the expense of trying them, putting them in prison, and punishing them. I am willing to admit that if we could have them educated by private means it would be better. But there is another important consideration. By the action of the United States Government and people, universal male suffrage has been established. and yesterday upon this question of suffrage, this Convention decided by more than two-thirds vote, that universal suffrage should have full swing. The action of the United States in clothing all this ignorance with power, in declaring that crime and ignorance shall have its voice by vote, admonishes us of the dangers to free institutions through the power of all this ignorance.

“Now the object of this amendment is to force the Legislature to provide education for the children, saving the expense of trying, supporting in jail, and supporting in the State prison those, who through lack of education, become criminals. It is true that the minority report here proposes to reach the indigent orphan children of the State between the ages of 8 and 16; but will any gentleman explain how this proposition is practical, how this class of children can be educated without injustice to others? The poor men will be found too proud—hundreds of them too proud—to say, ‘I am too poor to educate my children, they are indigent children’; and they will not get any of the benefits, while the children of idle, intemperate, and vicious parents will be educated. It should be left optional for people to educate their children in private or public schools, as they may choose. I am glad that the majority of the committee have recognized the great principle to which I first referred. (Reads first section of the report.) That is the very proposition I have stated. But here they acknowledge the duty to provide these means of education, and yet make no adequate provision to enforce it, leaving it indefinite. Now the interest of the bonds belonging to the school fund is about—

Say	\$125,000.00
One-tenth of the revenue.....	175,000.00
Poll tax.....	200,000.00
	<hr/>
Total of.....	\$500,000.00

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

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

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

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

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

THIRTIETH DAY

SATURDAY, OCTOBER 9, 1875⁶⁵

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

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