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Kinney, Moore, Murphv, Norvell, Nugent, Reagan, Ramey, Robertson of Bell, Russell of Wood, Spikes, Scott, Sessions, Stockdale, Stavton, Whitehead, Whitfield—48.

Mr Whitfield moved the previous question

Withdrawn

Mr Waelde then offered the following as a substitute for section 3

“The Legislature shall provide for the levying and collection of an annual tax, of not more than one-sixth of one percentum upon the taxable property, real and personal, of this State, and also a poll-tax of two dollars on each voter of the State, and the taxes so levied and collected, as well as the income from the fund herein provided, shall be annually distributed for the education of all children between the ages of eight and fourteen years, among the several counties or school districts, according to their respective scholastic population”

Pending discussion of the amendment offered by Mr Waelder, on motion of Mr McCormick, the Convention adjourned until 9 o'clock A M to-morrow

THIRTY-SECOND DAY

HALL OF REPRESENTATIVES, }
AUSTIN, TEXAS, October 12, 1875 }

Convention met pursuant to adjournment, roll called, quorum present, prayer by the Rev Mr Lee, Rector of St. David's Church, Austin

Journal of yesterday read and adopted

Mr Weaver submitted the following motion.

To the Honorable Members of the Constitutional Convention

The undersigned does not believe that this Convention is actuated by a spirit of Jacobinism He trusts that all men here wish to ascertain what is right and to do it There are grave questions coming up that demand discussion There are also legal questions to be settled, and there are in this body men who, by common consent, rank among the ablest lawyers of the State. He, for one, desires to hear their views, as well as those of other gentlemen No man can define his position intelligibly, or give reasons for his vote on important questions, in five minutes He does not believe it is the wish of this body to act hastily and un-

thinkingly on so grave a matter as making a constitution for a million and a half of people—an irrevocable law, and believing it is due to the people that important matters should be fully and freely discussed in a deliberative body of the gravity, magnitude and importance of a Constitutional Convention, and believing with Shelley, that “the man who dare not reason is a coward, the man who will not reason is a *bigot*, and the man who can not reason is a fool,” he respectfully moves a reconsideration of the vote limiting debate to five minutes

All of which is respectfully submitted

W S WEAVER

The motion to reconsider was carried by the following vote.

YEAS—Allison, Abernathy, Arnim, Brown, Ballinger, Blassingame, Barnett, Bruce, Crawford, Chambers, Cook of Gonzales, Cooke of San Saba, Cline, Cooley, Douglas, DeMorse, Dohoney, Darnell, Davis of Brazos, Erhard, Ford, Fleming, Ferris, Flanagan, Graves, Henry of Smith, Henry of Limestone, Holmes, Johnson of Franklin, King, Kilgore, Killough, Lockett, Lacy, McLean, Martin of Navarro, Martin of Hunt, McKinney of Denton, Moore, Norvell, Nunn, Nugent, Pauli, Reagan, Ramey, Robertson of Bell, Ross, Russell of Harrison, Sessions, Smith, Stockdale, Stayton, Sansom, Weaver, West—55

NAYS—Dillard, Holt, Johnson of Collin, Lynch, Morris, Mills, McCormick, Murphy, Rentfro, Russell of Wood, Spikes, Scott, Whitehead—13

Mr Graves then moved to so amend the rules as to leave no limitation to the time of debate

The question was then taken on the adoption of the proposed amendment limiting members to five minutes debate and the amendment was lost

Mr McCormick presented a memorial from Wm. B Scates, of Colorado county, “relative to a pension”

Referred to Committee on General Provisions

Mr McCormick offered the following resolution.

Resolved, That this Convention will adjourn *sine die* on the 5th day of November next, *provided*, that should it be necessary to continue longer in session, that no *per diem* shall be drawn by any of the delegates after such date

Mr Mills moved to refer the resolution to the Committee on Printing and Contingent Expenses

Lost

The question then recurring on the adoption of the resolution, it was lost by the following vote

YEAS—Brady, Dillard, Fleming, Flanagan, Graves, Holt, Henry of Limestone, Holmes, Johnson of Collin, Lockett, Lacy, Lynch, Morris, Mills, Mitchell, McCormick, Murphy, Nunn, Ross, Russell of Harrison, Russell of Wood, Scott, West,
—23

NAYS—Allison, Abernathy, Arnim, Brown, Blake, Ballinger, Blassingame, Barnett, Bruce, Crawford, Cook of Gonzales, Cooke of San Saba, Clune, Cooley, Cardis, Douglas, DeMoise, Dohoney, Darnell, Davis of Brazos, Davis of Wharton, Erhard, Ford, Flournoy, Ferris, Gaither, Henry of Smith, Johnson of Franklin, King, Kilgore, Killough, McLean, Martin of Navarro, Martin of Hunt, McKinney of Denton, Moore, Norvell, Nugent, Pauli, Reagan, Ramey, Rentfro, Robertson of Bell, Spikes, Sessions, Smith, Stockdale, Stayton, Sansom, Wade, Whitehead, Weaver—52

Mr Ramey offered the following resolution.

Resolved, That the Legislature shall authorize the different county courts in the State to establish such public roads in their respective counties as the public interest may demand, and require them to be kept up by the labor of all male persons between the ages of eighteen and forty-five, and that no person within those ages shall be exempt from working the public roads except for disability, *provided*, that any person may have the privilege to pay such equivalent for the time each person may be required to work the public roads as the Legislature may establish

Referred to Committee on General Provisions.

Mr. King offered the following resolution.

Resolved, That the following provision be incorporated under its appropriate article as a section of the constitution:

“Sec — The Legislature shall make adequate provision for the equipment and maintenance of such of the militia forces of the State as the Governor may call out to protect the frontier from hostile incursions by Indians or other marauding bands”

Referred to Committee on General Provisions

The unfinished business was then taken up, being the further consideration of article —, on education, with a pending amendment, offered by Mr Waelder on yesterday

Mr Dohoney offered the following as an amendment to the amendment.

“Provided that the taxes raised under this provision shall be applied to the public schools in the county where they are collected”

Mr Waelder amended the amendment offered by him, by

striking out the word "two," in regard to the number of dollars as a poll tax, and insert "one."

The amendment of Mr. Dohoney was lost.

Mr. Martin, of Navarro, offered the following as a substitute for the whole subject matter under consideration:

"Section 1. The principal of all funds arising from the sale or other disposition of lands and other property, granted or intrusted to the State for educational purposes, shall forever be preserved inviolate; and the income therefrom shall be faithfully applied to specific objects of the original grants and trusts.

"Sec. 2. The Legislature shall make such provision, whenever deemed practicable, by taxation or otherwise, as, with the income arising from the school trust-fund, will secure a thorough and efficient system of common schools throughout the State; and no religious, or other sect, shall ever have exclusive right to, or control of, any part of the school funds of the State.

"Sec. 3. All public lands which have been heretofore, or may hereafter be granted, to the various counties of this State, for public schools, are, of right, the property of said counties respectively to which they are granted and entitled thereto, is hereby vested in said counties; subject to the trust created in the grant.

"Sec. 4. The Legislature shall have power, whenever deemed advisable, to provide for the sale in part, or in whole, of all lands heretofore granted for the benefit of the Lunatic Asylum, the Blind Asylum, the Deaf and Dumb Asylum, and the Orphan Asylum, together with such donations as may have been, or may hereafter be made, to either, are hereby set apart to provide a permanent school fund for the support and maintenance and improvements of said asylums.

"Sec. 5. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both."

Mr. Nunn moved that the majority report, and all pending amendments, be referred to a select committee of seven.

Mr. Cook, of Gonzales, moved to reconsider the vote taken on yesterday, refusing to adopt the amendment offered by Mr. Johnson, of Collin, to the pending article.

On motion of Mr. Allison, the Convention adjourned to 2½ o'clock P. M.

EVENING SESSION—2½ O'CLOCK.

Convention met pursuant to adjournment, at 2½ P. M.; roll called; quorum present.

The pending business resumed, viz: the motion to refer the article on Education and pending amendments to a select committee of seven.

Mr. McLean moved to amend the motion by striking out "seven" and inserting "fifteen," and that the committee have their own time to report.

Lost

The question then recurring on the original motion of Mr. Nunn to refer to a select committee of seven, was adopted by the following vote:

YEAS—Ballinger, Brady, Crawford, Cook of Gonzales, Cline, Cooley, Dillard, Dohoney, Darnell, Davis of Brazos, Davis of Wharton, Erhard, Ford, Fleming, Ferris, Flanagan, Henry of Smith, Holmes, Johnson of Franklin, King, Lockett, McLean, Martin of Navarro, Martin of Hunt, Morris, Mitchell, McCormick, Moore, Murphy, Nunn, Pauli, Reagan, Ramey, Rentfro, Ross, Russell of Harrison, Sessions, Smith, Stockdale, Stayton, Wade, Weaver, Waelder—43.

NAYS—Allison, Abernathy, Arnim, Blake, Blassingame, Barnett, Bruce, Chambers, Cooke of San Saba, Douglas, Flournoy, German, Gather, Graves, Holt, Henry of Limestone, Johnson of Collin, Killough, Lacy, Lynch, McKinney of Denton, Norvell, Nugent, Robertson of Bell, Russell of Wood, Spikes, Scott, Sansom—28.

The next business in order was the consideration of "Bill of Rights."

On motion of Mr. Barnett, the Convention decided to consider section by section.

Mr. McCormick moved to strike out the first article.

Adopted.

Mr. Moore proposed to amend section 4 by striking out all of line 54 after the word "sentiment."

Lost.

Mr. Flournoy proposed to amend section 3, line 51, by striking out the words "but in consideration of public services."

Lost.

Mr. Ferris offered the following amendment to section 1:

Section 1, lines 39 and 40, strike out all to the word "and" in line 40, and insert the following: "Texas is a free and independent State, subject only to the Constitution of the United States."

Adopted.

Mr. Norvell offered the following amendment:

Amend by striking out all the section after the word "belief" in line 58, section 5, and insert the words "provided that no atheist shall be a competent witness."

On motion of Mr. Dillard, the motion was laid on the table.

Mr. Murphy offered an amendment to section 5, line 58, as follows:

Insert between the word "affirmation" and the word "shall" the words "in legal tribunals."

On motion of Mr. Russell, of Harrison, the amendment was laid on the table.

Mr. DeMorse offered the following as a substitute for section 1:

"Texas is one of the free and independent States of the United States of America, holding that independence in conformity with the Constitution of the United States, and that the maintenance of free institutions and the most enduring support of the Federal Union depend upon the preservation of the right of local self-government in all the States composing that Union."

Lost.

Mr. Norvell moved to amend by striking out section 5.

Lost.

Mr. Abernathy offered to amend section 6, line 61, by adding the word "Almighty" between the words "worship" and "God."

Mr. Russell, of Harrison, moved to lay the amendment on the table.

Lost and amendment adopted.

Mr. Cooley moved to amend section 6 by inserting after the word "protect," in line 68, the word "equally."

Adopted

Mr. Holt moved to amend section 6 by adding: "provided, nothing in this section shall be so construed as to prohibit the Legislature from passing laws preventing ordinary work being done on Sunday."

On motion of Mr. Weaver, the amendment was laid on the table.

Mr. McLean moved to amend section 8, line 79, by adding after the word "matter" the words "is true and."

Mr. Moore offered the following as a substitute for the amendment offered by Mr. McLean:

In section 8, line 78, strike out all after the word "jury," and add the following words: "who shall have the right to determine the law and facts, under the direction of the court, as in other cases"

Mr. Reagan offered the following as a substitute for both the amendment and substitute:

“In prosecutions for the publication of papers investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.”

Mr. McLean’s amendment adopted.

Mr. Moore withdrew his amendment, and Mr. Reagan’s substitute for the section was adopted.

On motion of Mr. Russell, of Harrison, the Convention adjourned until 9 o’clock A. M. to-morrow, pending section 9 of the Bill of Rights.

THIRTY-THIRD DAY.

HALL OF REPRESENTATIVES, }
AUSTIN, TEXAS, October 13, 1875. }

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. Mr. Dodge.

The chair announced the following select committee, to which was referred the article on Education: Mr. Nunn chairman, Messrs. Norvell, Moore, Ross, Ballinger, Martin of Navarro, and Robertson of Bell.

The following communication was presented by Mr. Ballinger:

MATAGORDA COUNTY, October 6, 1875.

To the Hon. E. B. Pickett, President of the Convention.

SIR—In consequence of disasters resulting to me from the recent tornado, I find it impossible for me longer to attend as a delegate to the Convention from the Twelfth Senatorial District, and therefore tender my resignation. Hoping wise and harmonious action by the body over which you have the honor of presiding, I have the honor to be, with great consideration and respect, sir, your most obedient servant.

E. S. RUGELEY.

Mr. Ballinger offered the following resolution:

WHEREAS, The Hon. E. S. Rugelev has resigned his place as a delegate to the Constitutional Convention from the Twelfth District;

Resolved, That the Governor of this State is hereby authorized and requested forthwith to issue a writ of election to said