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THE HISTORY OF EDUCATION IN TEXAS DURING  
THE RECONSTRUCTION PERIOD

THESIS

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## CHAPTER I

### THE EARLY STRUGGLE FOR PUBLIC EDUCATION IN TEXAS

The necessity of providing for public education has been recognized by Texans since the beginning of the Republic. In the declaration of the independence of the Republic of Texas, adopted in 1836 at Washington, Texas, the complaint was made that the Mexican government had failed to establish any system of education, though possessed of almost boundless land resources, and this despite the fact that "it is an axiom in political science that unless a people are educated it is idle to expect the continuance of civil liberty or the capacity of self government." This matter of a system of education was taken care of in the general provisions of the Constitution of the Republic of Texas by the provision, "It shall be the duty of Congress, as soon as circumstances will permit, to provide by law, a general system of education."<sup>1</sup>

The Houston administration, with great press of matters demanding immediate attention, paid no heed to the constitutional requirement that a system of public education be established. Beyond chartering a

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<sup>1</sup>Hans Peter Nielson Gammel, Laws of Texas, I, 26.

few private schools and academies, the government took no interest in education.<sup>2</sup>

In June, 1837, President Houston approved the charters of Independence Academy and the University of San Augustine, both in San Augustine County, and Washington College, near the town of Washington, on the Brazos. The charters provided that they should be accessible to all white students, irrespective of religion or politics. The property of such institutions was generally but not always exempted from taxation, and in some cases special provision was made for Biblical instruction where the charters were for the benefit of colleges to be established under church auspices. In other instances the charters prohibited the sale of intoxicants near the school. These colleges did not compare with our colleges of today and would be considered inferior to our modern high schools.<sup>3</sup>

An appraisal of the University of San Augustine will give some idea of the nature of these early schools chartered by the first Congress of the Republic of Texas. Chartered in June, 1837, in San Augustine County, the institution was endowed with four leagues of land. In 1840 one of the four leagues of land was exchanged for a building about fifty feet square, containing a basement and two other floors. The institution

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<sup>2</sup>Ralph W. Steen, History of Texas, p. 186.

<sup>3</sup>John J. Lane, History of Education in Texas, p. 26. Accessibility was naturally limited to white students.

was finally ready to begin operation in 1842 with Marcus A. Montrose, a Presbyterian minister and a graduate of the University of Edinburgh, Scotland, in charge.

The university itself was organized into introductory, junior, and senior departments; in connection with it were operated a female academy and a grammar school open to children of both sexes under twelve years of age. The university offered instruction in many fields of knowledge, including courses in Greek, Latin, French, rhetoric, logic, differential calculus, chemistry, mineralogy, nautical astronomy, fortifications, conchology, and gunnery. At one time the university enrolled about one hundred and fifty students, but the handicaps were too great, and in 1847 its brief career came to a close.<sup>4</sup>

The most influential newspapers in the republic, the Houston Telegraph and The Texas Register, advanced the claim that Texas yielded to no other country in realizing "the importance of firmly establishing beyond the reach of all vicissitude or chance of change that rock on which the whole structure of freedom rests, the education of the whole people."<sup>5</sup> The constitution of the Republic enjoined Congress "to provide by law, a general system of education," and, in 1838, A. J. Yates, a lawyer, and sixty-one other persons petitioned Congress to pass this

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<sup>4</sup>Steen, History of Texas, p. 240.

<sup>5</sup>There had been much talk about education in Texas in 1838, but very little had been done toward establishing a school system.

provision, with the result that various bills were introduced into Congress. But the immediate impetus for the passage of educational acts was afforded by a stirring and often quoted portion of the message which President Mirabeau Buonaparte Lamar sent to the Congress of the Republic in December, 1838:

Education is a subject in which every citizen, and especially every parent, feels a deep and lively concern. It is one in which no jarring interests are involved, and no acrimonious political feelings excited; for its benefits are so universal that all parties can cordially unite in advancing it. It is admitted by all, that a cultivated mind is the guardian genius of Democracy, and while guided and controlled by virtue, the noblest attribute of man. It is the only dictator that freemen acknowledge, and the only security which freemen desire. The influence of education in the moral world is like light in the physical; rendering luminous what before was obscure. It opens a wide field for the exercise and improvement of all the faculties of man, and imports vigour and clearness to those important truths in the science of government, as well as of morals, which would otherwise be lost in the darkness of ignorance. Without its aid, how perilous and insufficient would be the deliberations of a government like ours. How ignoble and useless its legislation for all the purposes of happiness. How fragile and insecure its liberties. War would be conducted without the science necessary to insure success, and its bitterness and calamities would be unrelieved by the ameliorating circumstances which the improved condition of man has imparted to it; and peace would be joyless, because its train would be unattended by that civilization and refinement which can alone give zest to social and domestic enjoyments. And how shall we protect our rights if we do not comprehend them? And can we comprehend them unless we acquire a knowledge of the past and present condition of things, and practice the habit of enlightened reflection? Cultivation is as necessary to the supply of rich intellectual and moral fruits, as are the labours of the husbandman to bring forth the valuable productions of the earth.

But it would be superfluous to offer to this Honourable Congress any extended argument to enforce the practical importance of this subject. I feel fully assured that it will, in that liberal spirit of improvement which pervades the social world, lose not the present auspicious opportunity to provide for literary institutions, with munificence commensurate with our future destinies.<sup>6</sup>

Following the suggestion of President Lamar, Congress in 1839 provided that three leagues of land should be set apart in each county for the support of an academy, and fifty leagues were provided for the endowment of "two colleges or universities" for the Republic. The next year a fourth league was set aside in each county, the proceeds from which were to be used for the equipment of schools. But, as we have already seen, land was so abundant and so cheap that no money could be realized from these grants, and there is no evidence that any of the counties used its land for the establishment of schools. As late as 1855, only forty-one of the ninety-nine counties had completed their surveys.<sup>7</sup>

Among the reasons for this neglect may be mentioned the sparsity of population and the fact that the people, generally immigrants from the old South, believed in private and religious educational training. The real importance of these educational acts of the Republic lies not in the fact that a system of public education was actually established,

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<sup>6</sup>William Kennedy, Texas, The Rise, Progress, & Prospects of the Republic of Texas, p. 145.

<sup>7</sup>Herbert P. Gambrell and Lewis W. Newton, Social and Political History of Texas, p. 215.

but in the fact that an endowment which President Lamar said was greater than that provided by any other American state, was begun for the support of public education.<sup>8</sup>

Land was so plentiful and opportunities to sell it at a fair price, or to lease it, were so rare, that in most of the counties the school lands were not surveyed until long after these grants were made. There was a general feeling that the school lands were an endowment to be set aside for future generations, and that they should not be sold until the lands should increase in value. Neighborhood schools began to flourish in most of the settlements, and several academies and colleges were chartered. Usually these had an elementary department to which neighborhood children were admitted.<sup>9</sup>

A public school was established in only one town, Houston, where, in 1839-40, the city council employed Richard Salmon to conduct a school, with low tuition rates and free instruction for the indigent. Salmon was an Episcopal minister from New York who had brought a small group of immigrants to Brazoria in an abortive effort to establish a church colony in Texas. This colony had suffered indescribably from poverty, sickness, and death, while Salmon himself and his family had been so hampered by sickness that he had been unable to preach

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<sup>8</sup>Ibid., p. 216.

<sup>9</sup>Charles W. Ramsdell, The Book of Texas, p. 223.



regularly until after his appointment as chaplain of the Senate of the first Congress. This teacher of the first public school in the Republic of Texas had not found it a beneficent land, and he accepted a teaching position to relieve his monetary distress. The school opened on February 11, 1839, but in the following January the city council accepted his resignation after investigating "some supposed evils" in his administration.<sup>10</sup>

The next step in the development of a public school system in Texas was the passing of the school laws of 1840. In February of that year laws were passed providing for a board of school commissioners with power to organize school districts, inspect schools, give certificates to teachers, etc.<sup>11</sup> A school law for free public education had been passed in Texas, but very little was to be accomplished by it. Very few communities built school buildings for their children. Little of the land that was given to the counties for schools was even surveyed. Education was left more or less up to the parents of the children. Parents who had the money hired a private teacher or sent their children to a private school in many instances in the United States. Sometimes several families would go together and build a school building, each helping to pay the salary of the teacher. If the parents were educated, they might even teach their own children. Most frequently, however,

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<sup>10</sup>William Ransom Hogan, The Texas Republic, p. 138.

<sup>11</sup>George P. Garrison, Texas, A Contest of Civilization, p. 275.

the parents had very little wealth and being illiterate were unable to teach their children.<sup>12</sup>

School teachers of those times were not to be envied. There was no public school fund to draw upon and no private fund, either, to speak of, except such as farmers happened to have. Most schools were taught in a log cabin having neither floor nor windows, nor even a door. A couple of the lower logs were often left uncut in the doorway, over which the little tots had to be lifted; this arrangement prevented the ingress of pigs into the school house. Many times the teacher was paid off in a load of corn which he had to haul to market to sell, and Austin was the only market in the Republic of Texas in 1839.<sup>13</sup>

The ordinary rural or village school was in session from early morning until nearly sundown. In the first month or two the pupil read the beginning of Webster's spelling book in which the letters of the alphabet were printed up and down the page. Then he was promoted to words of one syllable, to "baker" and "crucifix," and on to "Constantinople" and "immateriality." During this time he pursued the various readers by McGuffey, if they were available, and afterwards advanced to the arithmetic class, where he studied arithmetic books by Pike, Smiley, or Emerson. These texts often were too

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<sup>12</sup>Noah Smithwick, The Evolution of a State, p. 231.

<sup>13</sup>Ibid., p. 232.

difficult for the immediate comprehension of the youngsters, and it sometimes took one or two years to learn the most elementary arithmetic. After the boy had mastered the multiplication tables, he might become a "trusty" and retire to the shade of a tree, where in solitary communion with himself he worked arithmetic problems on his slate.<sup>14</sup>

Grammars by Murray, Smith, and Kirkham were those most often used. The most advanced reading class studied the writings of eminent authors, including a few poets. The most common geography textbooks were those written by Smith, Parley, Olney, and Adams; but the subject was not stressed. Textbooks in all subjects were always at a premium, even though the stores in Houston and Galveston generally offered a few for sale. Advanced students usually were inducted into the mysteries of chemistry (taught chiefly by the lecture method), history, rhetoric, and "natural, mental and moral philosophy," and less often were given training in bookkeeping and other business subjects. Practically all schools, from the elementary to those offering college work, closed their sessions with public examinations. At these exercises, diaries kept by advanced students were exhibited and their compositions read to the patrons, and the head of the school invariably gave an address on "Education" or a similar subject that manifested "a correct moral tone."<sup>15</sup>

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<sup>14</sup>Hogan, The Texas Republic, p. 141.

<sup>15</sup>Ibid.

The problem of the education of the children in strictly rural districts was even more difficult than in the towns. In the half-isolated areas mothers attempted to give their children the benefit of what education they might possess, or families sometimes combined to employ teachers, who lived in the homes of the patrons and took part of their pay in produce. The teachers, who often were ill-trained, rarely taught in one neighborhood for more than a year or two and usually regarded their positions as providing only temporary means of subsistence. Log cabins, frequently lacking floors or windows, were utilized as school buildings. All of the books of any kind in the neighborhood were gathered together for use in the school; all too often the supply was inadequate. The time and length of the terms were regulated by the state of the weather, the condition of the crops, and the likelihood of Indian attacks. Thus, many Texans of this generation reached manhood or womanhood with only a smattering of formal education.<sup>16</sup>

Parents who could raise the money and who were particularly anxious that their children secure well-rounded educational training sent them to schools in the United States. Planter Jared E. Groce arranged to have his children remain in Southern institutions for several years, while Jose Antonio Navarro of San Antonio, a Mexican who

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<sup>16</sup>Ibid., p. 142.

had been a signer of the Texas declaration of independence, sent his son to a college in "the States." The younger members of the family of planter James F. Perry were educated at Kenyon College in Ohio, Trinity College in Connecticut, and other American schools. One of his wife's sons by a former marriage, Guy M. Bryan, drew more heavily on Perry's agents than he thought necessary. He therefore wrote to Guy that he would allow him five hundred dollars each year for his expenses at Kenyon College and enjoined him to try to live within his income. President Lamar's own daughter, Rebecca Ann, was educated in Georgia until her death in 1843, and Henry Austin made severe financial sacrifices to keep his children in Kentucky schools.<sup>17</sup>

The alluring vision of an American education for their children constantly was held in mind and sometimes realized by many other parents. Few letters from children in the schools of the United States to their families in Texas have been preserved, but one letter bearing a New Jersey postmark and written after the end of Texas' independent existence as a nation from a girl to her father in San Augustine, bears the poignancy of extreme homesickness that must have marked many such communications, particularly from the very young:

It is now Sunday evening (wrote Mary Garrett) and I have again to sit down to write you to come for me—but I know you are very tired of listening to me. I beg you to

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<sup>17</sup>Ibid., p. 146.

let me come home. I can't help it for it is very disagreeable to stay here, we have no fire in our rooms and I tell you it is so cold we do not know what to do, the ice is on windows where we breathe and the windows is wet. It is frozen in the mornings thick and the water that we have to wash in so cold that it makes our fingers ache so that we can scarcely make our bed up . . . this is a very lonesum place although there is so many girls but they will not go with us they think that they are too good. Pa, you must be sure and come after me. I cannot keep from crying to think of the many happy days I have spent at home, and then to think that I will have to stay here. I could not think of such a thing I know I would die. Just to think of home that sweet place home Pa you do not know how much we suffer here it is so hard for us to stay. I know that you can not say no when I have asked you so often to let me come home . . . you must excuse all mistakes and the bad writing, and write immediately to your daughter.<sup>18</sup>

The following revealing interview between a committee of the board of trustees of a school and a school teacher of high intellectual background was held in 1841. It was evident that no one in the town was adequate for conducting the examination of so learned a man. The committee, consisting of I. D. Thomas, Matthew Cartwright, and Phillip A. Sublett, decided to make it a mere matter of form. Mr. Thomas asked, "Can you figure?" Mr. Montrose, who was a master of calculus, modestly admitted that he thought he could, and Mr. Thomas announced that he was satisfied. Mr. Cartwright then asked, "Can you calculate interest?" Mr. Montrose thought that he would be equal to the task, and Mr. Cartwright declared himself satisfied. Mr. Sublett

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<sup>18</sup>Ibid., p. 147.

then asked, "Can you turn the grandmothers' trick?" (a trick at cards well known among gamblers). This puzzled the worthy Scotchman, and he was obliged to confess his ignorance. "Then I am satisfied," exclaimed Mr. Sublett. And Mr. Montrose was accordingly employed.<sup>19</sup>

The Telegraph and Texas Register of Houston printed many editorials concerning the school situation in Texas. The following editorial of October 28, 1840, is typical of the many published in this progressive little newspaper:

It is a great shame that notwithstanding the liberal appropriations which Congress has from time to time made for the purpose of establishing public schools in the several counties of the Republic, that not one has been organized. There is a woeful indifference to the subject of education manifested by those who have been appointed its guardians. We know of very few instances in which even the land granted by Congress has been procured or surveyed. Many opportunities of the most valuable location has been allowed to pass by unembraced, and the liberality of the Government and their benevolent intentions thwarted by the grossest neglect. It was made the duty of the school commissioners first to inquire if land in their several counties of a good quality could be covered by the grants, and then there was a choice of all vacant lands of the government. We can frame no excuse why this duty has not been performed. The County Treasurer was authorized to pay a certain sum for the expenses of locating these lands, and it was permitted to make absolute sale of one league of them in order to furnish the necessary books, instruments, etc., for the use of the schools. We do sincerely hope this matter will be attended to. No man of common feeling can ride through this country seeing

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<sup>19</sup>Ibid., p. 149.

sufficient cause to lament its destituteness of means of educating children. The want of schools is felt not only as a serious injury to our families, but it is a great weight in preventing other families from settling among us. No good father could be induced by any prospects of gain to emigrate to a place where he could not educate his children, and therefore viewed as a matter of mere loss or gain we defraud ourselves of much pecuniary advantage.

As this is a subject to which too much attention cannot be devoted, we would respectfully recommend to the Congress, to vest in the county courts authority to levee a school tax limited to certain ratio and the mode of its expenditures strictly defined. Let a school house be built, a teacher hired who shall be a graduate of some college, let an annual salary be paid him and all expenses of the institution defrayed out of the funds created by this tax. This is the plan pursued in the most enlightened States of the Union, and it has been found to answer an admirable purpose. When every man is taxed to support a school he will be sure to send his children there, and the rich as well as the poor will be glad to avail themselves of the opportunity of affording their sons and daughters at home an education as good as could be obtained abroad. We make these suggestions in the firm persuasion that the establishment of common schools upon this plan through the length and breadth of Texas would greatly conduce to the happiness of its people.<sup>20</sup>

The early advocates of the education of Negroes were of three classes: first, masters who desired to increase the economic efficiency of their laborers; second, sympathetic persons who wished to help the oppressed; and third, zealous missinnaries who taught slaves the English language in order that they might learn the principles of the Christian religion. As a rule, most of our Negro education was carried on along these lines up until the reconstruction period in the South.<sup>21</sup>

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<sup>20</sup>Frederick Eby, Education in Texas, pp. 188-189.

<sup>21</sup>Thomas O. Fuller, Pictorial History of the American Negro, p. 98.



According to the census of 1850, there were in Texas 58,558 Negroes, representing 27.5 per cent of the total population; 397 were free Negroes, of which twenty were in school and fifty-eight were illiterate adults. The assumption is that the remaining 217 free Negroes were literate. On the education of the 58,151 enslaved Negroes there are no statistics, but available data indicate that a portion of the slave population had been instructed in the basic rudiments of reading and writing.<sup>22</sup>

During the period from annexation to the Civil War the population of the state grew with incredible rapidity, and numerous new towns sprang up. Meanwhile, a succession of abundant crops materially multiplied the wealth of the people, and in consequence of these developments the foundations of a settled civilization superseded the pioneer stage of society. During the early fifties the problems of internal improvement replaced those primitive struggles which had formerly absorbed the energies of the entire population. First of all, the need for transportation brought the problem of building railroads, and at the same time there arose the question of establishing a system of public schools. Strange as it may appear, these two movements came to have a vital relation to one another in the subsequent development of the state.<sup>23</sup>

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<sup>22</sup>Walter Prescott Webb, The Handbook of Texas, I, 544.

<sup>23</sup>Eby, Education in Texas, p. 206.

The Congress of the Republic of Texas had much to say about a system of education, but, in fact, few schools had operated in the Republic. To some extent, the same statement holds true for the early period of statehood. The state constitution, written in 1845, made it the duty of the legislature to establish free schools throughout the state and to provide for their support by taxation, the income from which was to be set aside for the use of the schools. This was done, but few schools were established to make use of the money thus provided.<sup>24</sup>

In 1850, Texas surrendered her claim to the portion of New Mexico east of the Rio Grande and accepted her present boundaries. In return, she received from the Federal Government \$10,000,000 in United States bonds. During the transitory period of great wealth following the boundary settlement of 1850, the agitation for the establishment of schools greatly increased. By some quirk of fate, the school problem and the railroad problem became curiously entwined. The idea was advanced, and rapidly became popular, that it would be wise to set aside part of the boundary settlement money as a permanent endowment for the schools. The money could then be loaned to the railroad companies, thus furnishing the capital so badly needed at

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<sup>24</sup>Steen, History of Texas, p. 282.

the time, and the schools would receive the interest on the money loaned.<sup>25</sup>

Two million dollars of this settlement was set apart as a permanent school fund, the interest being distributed among the counties to be used in the support of the schools. As the bonds were maturing and being paid off, the money began to accumulate in the state treasury, and the schools suffered the loss of the interest. It was, therefore, desirable to find some method of investing the money, which would be safe and would yield a return to the school fund. At the same time, the railways were greatly in need of ready cash. They had lands and labor in many cases, but they found it extremely difficult to raise enough money to pay for ties and rails and rolling stock. It was, therefore, proposed that the state lend the school fund to the railway companies, and take a first lien on the roads as security.<sup>26</sup>

Accordingly, an act was passed in 1856, providing that when a railroad company could show a continuous section of twenty-five miles or more of road completed and ready for the rolling stock and another like section graded and ready for the rails and ties, it should be entitled to receive money from the public school fund to the amount of \$6,000 for every mile actually completed. In return, the company was

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<sup>25</sup>Ibid.

<sup>26</sup>Eugene C. Barker, Readings in Texas History, p. 568.

required to execute its bond to the state for the amount of money received, and to pay thereon 8 per cent per annum, 6 per cent as interest to the state and 2 per cent to create a sinking fund for the retirement of the bonds at maturity. The act created a board of school commissioners composed of the governor, the comptroller, and the attorney general, and provided for the appointment of a competent engineer to inspect the roads and see that they were constructed in a "good and substantial manner."<sup>27</sup>

Under the terms of this act, loans were made from the school fund to six companies, the loans being made either in United States bonds or in money. No loans were made after the Civil War. The following table shows the amount loaned to each company:<sup>28</sup>

Houston and Texas Central . . . . .	\$450,000
Buffalo Bayou, Brazos, and Colorado . . . . .	420,000
Texas and New Orleans . . . . .	430,000
Houston Tap and Brazoria . . . . .	300,000
Southern Pacific (Texas and Pacific) . . . . .	150,000
Washington County Railroad (H and T C) . . . . .	66,000
Total	\$1,816,000 <sup>29</sup>

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<sup>27</sup>Ibid.

<sup>28</sup>Ibid., p. 569.

<sup>29</sup>Ibid.

The endowment of a system of public schools and the loaning of the fund to encourage the construction of railroads became the political issue of the election in 1853 and absorbed the attention of the candidates for the governorship and for the legislature. E. M. Pease made the school question the chief plank in his platform and was elected governor. Fully two thirds of the members of the legislature were pledged to make liberal provision for the establishment of a school system. Eager plans were proposed. Some of the most enthusiastic wished to apply the entire sum of ten million dollars from the boundary settlement to the schools.

The initial effort to establish a state system of schools was launched in 1854 with considerable wisdom and enthusiasm; but a reaction followed rather speedily, and comparatively little was accomplished. The Act of 1854 was an elaboration and an improvement of that of 1840. It set aside as a permanent educational fund two million dollars of the 5 per cent bonds received from the United States, and provided that the interest thereon should be distributed among the counties in proportion to the number of free white children between six and sixteen years of age. It required the division of the counties into school districts, in each of which the people must provide a good and properly furnished school building before they could obtain their share of the public money. This money was to be expended only in the payment of

the teachers, and the balance due, over and above the amount of the public fund, was to be paid by the patrons of the school, each contributing in proportion to the number of pupils he sent and the time they were in actual attendance.<sup>30</sup>

In the state school system the chief justice (county judge) and county commissioners were made the Board of School Commissioners in each county. The county was divided into school districts by these commissioners and an election was held to elect three trustees in each district. The trustees were to select one of their number to be chairman. The county assessor and collector was required to make a list of all of the free white population of the county between the ages of six and sixteen from each school district. This information was forwarded to the state treasurer on or before July 1 of each year. The state money for education was to be distributed to the different counties according to how many scholastics they had between six and sixteen. The law also stated that no money was to be drawn from the county treasury for school purposes in any school district, until the people of such a district provided a good and substantial school house, with the necessary seats and other fixtures, and that the money appropriated by this act be applied only toward the payment of teachers in each school.<sup>31</sup>

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<sup>30</sup>Garrison, Texas, p. 277.

<sup>31</sup>Eby, Education in Texas, p. 275.

The school board and the patrons of the district were to decide how long a school term they desired, qualifications of their teacher, salary, etc. The school board was to hire the teacher, visit his classes to see that he was doing a good job, expel the pupils for misconduct, etc. The school board filled the job and performed the duties that are today assumed by the superintendent of schools.

The teacher was required to keep a roll or day book, and at the end of the term furnish a list of the names of pupils, parents, and the number of days attended by each pupil. This was to be turned over to the school trustees. The trustees, when they received their designated part of the state funds, were to give this to the teacher for his salary. If this amount did not cover his agreed-upon salary, the parents were to pay their portion toward paying the teacher according to the number of children and the time that they spent in school. If the parents were poor and unable to pay, the state would pay this part after being furnished with sufficient evidence of indigence.<sup>32</sup>

A report revealing the results of the School Law of 1854 was made by the state treasurer, who was made ex officio superintendent of schools, on November 10, 1854. He reported the number of children in each of the counties from which returns had been received. Out of the hundred counties in the state, eleven had failed to make any returns

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<sup>32</sup>Ibid.

up to that date. But the treasurer made estimates for the children in these eleven counties, showing that the whole number of children of scholastic age was 65,463 in the whole state. The total amount of the common school fund for distribution was only \$40,587.06. After deducting for expenses, this gave but sixty-two cents for each scholastic in the state for the year. The counties that did not establish schools under the law did not, therefore, receive their pro rata share of the money, but they were still entitled to receive their money, which was retained in the treasury for them. Galveston County reported 477 children, and was entitled to \$295.74. Denton County reported 472 pupils and received \$292.64. Cherokee reported the largest number of all the counties, namely, 2,400 children. The amount paid to the counties was \$26,742.14, and the amount subject to be called for by other counties was \$13,921.30. The next year, each county received \$1.50 per child, which represented a large increase over the preceding year.<sup>33</sup>

The condition of the public schools of Texas during the 1850's was not very desirable. Were a New England traveller to pass through Texas, his curiosity might have been excited; not, however, on account of the barren and unproductive wastes of land which might meet his

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<sup>33</sup>Ibid., p. 276.



view, but the great scarcity of churches and school houses might attract his attention and be the subject of his inquiries. Even though there were not many school houses at this time in Texas, education was receiving a good degree of attention in the state. The country was not sufficiently supplied with teachers who had good qualifications for the teaching profession. The great scarcity in the state often caused the people to employ those who were not competent to assume the important responsibility of instructing the youthful minds.<sup>34</sup>

School teachers at this time had to supplement their salary from the state by tuition charged their pupils. Usually, the teacher spent at least two days contacting their patrons and making arrangements for the amount of tuition, which did not always come in money payments. The teachers were sometimes paid with corn, hams, eggs, etc.<sup>35</sup>

Many of the school houses were little dirty log huts, with open doors and open cracks in the walls, a loose floor of dirty boards, the chimney about as high as the head, in the north end of the house, so that every spell of weather in which fire was needed, the smoke would be blown through the room. It might be stated that this type of school building was generally found in the rural communities of the state. In towns like Nacogdoches there were very commodious and respectable

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<sup>34</sup>Ibid., p. 363.

<sup>35</sup>Ibid., p. 364.

buildings. Here a school was in operation under the supervision of competent teachers, and it was exerting salutary influences upon the town and the community.<sup>36</sup>

One thing that made it especially hard for the teacher to accomplish much was the fact that every pupil furnished his own books, which might include every edition of Webster's speller, from the first to last, greased, torn, backless, and almost leafless, with but few exceptions. Arithmetics from every author, from Dilworth the ancient to Smith the modern calculator were present in the schools. The same was true with the reading books. Another thing to complicate matters was the fact that the pupils were all at different stages of advancement in these individual books, making it hard to accomplish the desired results. Although much had been accomplished during this period in Texas history, much remained to be done in the public schools.<sup>37</sup>

While the School Law of 1854 was crude and imperfect, it offered a good working basis for the development of a system of public instruction, and during the next few years there was considerable progress along that line. The main trouble was that the existing available school fund was too small, and that it left too much dependent upon the uncertain contingency of private co-operation in the support of education. In

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<sup>36</sup>Ibid., p. 380.

<sup>37</sup>Ibid., p. 381.

1860 there were in existence, under the provisions of this law, about twelve hundred semi-public schools; but only about one fifth of the cost of their maintenance was met by public funds. The day of the free public school proper in Texas had not yet come.<sup>38</sup>

The healthy strength of the sentiment in favor of public education is perhaps most strikingly manifest in the measures looking toward the establishment of a state university. The act of 1839, by which fifty leagues of land were appropriated for the purpose of establishing two colleges or universities, has already been mentioned. No doubt, the reason that two were provided for was that it was considered necessary to have one in the eastern part and one in the western. It was, however, subsequently claimed that the intention of the law was to provide one institution on higher educational levels for men, and another for women. Whatever may have been intended, the idea of having two colleges or universities was abandoned for that of one, which was, on its organization, made coeducational. The act of February 11, 1858, was a more definite step toward realizing the plan of a state university. This provided for the creation of an endowment for an institution of higher learning by setting apart for the purpose one hundred thousand dollars of United States bonds in the treasury, and every tenth of the alternate sections of land reserved by the state in the grants to railroads

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<sup>38</sup>Garrison, Texas, p. 177.

made in pursuance of the statute of January 30, 1854. The statute referred to granted sixteen sections of land for each mile of railroad to be built thereafter in the state, the land to be surveyed in solid blocks, and alternate sections to be reserved by the state. The act of 1858 provided also for the organization of the university, but this was prevented by the approach and outbreak of the Civil War.<sup>39</sup>

Although much energy had been expended toward the creation of public schools before the Civil War, a workable system had not evolved. However, it is easy to underestimate the educational activity of the people of Texas before the Civil War and to fail to see its real value. Relying on their rather meager resources, they displayed great energy and initiative in keeping alive the desire for a good public school system.

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<sup>39</sup>Ibid., p. 178.

## CHAPTER II

### POST - WAR EDUCATIONAL REAWAKENING

Although many influential men had worked eagerly to bring about the annexation of Texas to the United States, only fifteen years later some of them were just as eager to help Texas withdraw from the Union.

It should be remembered that, in considering secession, Texas did not act alone but in connection with ten other Southern states that felt they were not receiving fair treatment from the Federal Government. The right of a state to secede from the Union was held by many Southerners to be constitutional. That is, they believed that when the Constitution was written, it was recognized that the states were older than the nation, and that as the states had voluntarily entered into the Union, and in that way had in reality created the United States, they had the privilege also of withdrawing when it pleased them to do so. This viewpoint was not generally accepted in the North, and even in the South there were many who disagreed with it. Another group of Southerners thought the states could withdraw if they felt it necessary, basing the action on what they called expediency, the right to do the best for themselves in an emergency; that is, they said, the people

always had the right to resist unfair treatment by their government. And since the Southern states, in the opinion of these secessionists, were not receiving fair treatment within the Union, the proper thing to do was to withdraw quietly and form a government more suitable to their needs. Both groups, therefore, believed in a state's right to secede. One group said it was a constitutional right; the other, a human right. These, briefly, were the two attitudes toward seceding from the Union taken by the people of Texas and the South generally from about 1850 to 1861.<sup>1</sup>

When the election of Lincoln became definitely known, the secession leaders made plans to take Texas out of the Union. Under their influence, mass meetings were held in all parts of the state, and numerous resolutions were adopted calling upon the governor to convene the legislature in special session in order that it might call a convention to chart a course for the state.

Governor Houston paid no heed to these petitions and steadfastly refused to call the legislature in special session. The secessionists were not to be denied, however, and on December 3, 1860, a group of them, without any legal basis for the act, called upon the people of Texas to elect delegates to a convention to meet at Austin on January 28, 1861. Some counties, including practically all of those which

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<sup>1</sup>Clark Garrett, A History of Texas, p. 289.

were strongly Unionist in sentiment, refused to choose delegates to the convention, with the result that practically all men elected to serve in the convention were secessionists.<sup>2</sup>

In an attempt to offset the convention, Houston now called the legislature to meet in special session one week before the meeting of the convention. In his message to this special session Houston reiterated his theory that the interests of Texas would best be served by remaining in the Union and stated that, in his opinion, the convention was without legal authority. The legislature, however, had little sympathy with the governor's views and endowed the convention with full authority to act for the state, with the provision that a decision to secede would have to be submitted to a vote of the people.

At the time the convention met, South Carolina, Georgia, Florida, Alabama, and Mississippi had already declared themselves to be outside the Union; and with the incentive of these examples before them, the members of the convention immediately set to work to have Texas join in this exodus. An ordinance of secession was hurriedly drawn and was passed on February 1 by a vote of 166 to seven. The ordinance gave as reasons for this move the failure of the Federal Government to protect the lives and property of citizens living on the frontier, the hostility of the Northern states to the institution of slavery, and the

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<sup>2</sup>Steen, History of Texas, p. 292.

election of a President whose policy would, if carried out, bring about the "ruin of the slaveholding states."<sup>3</sup> In keeping with the instructions of the legislature, the ordinance of secession was submitted to popular vote on February 23 and was approved by a vote of 44,317 to 13,020.

The convention adjourned on February 5, but it assembled again on March 2 to count the vote on secession. Before adjourning, the convention chose seven delegates to meet with representatives of the other seceded states at Montgomery and created a committee of nineteen from among its own members to remain in session during the recess.<sup>4</sup>

When Texas seceded from the Union, it became immediately necessary that a new constitution be adopted. The Secession Convention which met in Austin in 1861 assumed the responsibility of forming a new constitution for Texas. They used as their guide the constitution of 1845.

The convention was confronted with many problems, among them the problem of raising money to meet the extraordinary expenditures, such as money for the support of schools. A committee was appointed to find a solution to these financial problems of the new Confederate state. From statements made to the committee by the comptroller of

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<sup>3</sup>Ibid., p. 293.

<sup>4</sup>Ibid., p. 294.



the state, there was an apparent certainty that a large deficit would exist by January in the current income of the state. In looking about for resources belonging to the state, resources promising immediate availability, the committee found themselves confronted on the one hand by an empty treasury, and on the other by a sum known as a school fund, in which successive legislatures had accumulated a nominal amount of money for the expansion of public schools.<sup>5</sup>

Members of the committee looked to the school lands, the permanent school fund, and the 10 per cent school tax on property as sources from which this sorely needed revenue might be obtained. They reasoned that the schools could subsist on a fund to be obtained from the sale of the school lands, thereby making the 10 per cent property tax revenue available for state expenses. But it was found to be a virtual impossibility to sell the school lands without amending the constitution. Hence, the committee wanted to amend the constitution to provide for the sale of this land so that the money afforded by such sale could be placed in the common school fund for the use of the counties.

In line with this aim, Mr. Throckmorton of Collin County made the following motion to the legislature:

Resolved, that the committee on the constitution report an amendment to the 3rd Section of the 10th Article of the Constitution to provide for the sale of the four leagues

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<sup>5</sup>Journal of the Secession Convention of Texas, 1861, pp. 130-131.

of school lands belonging to each county in the state, so that the same may be made available to the common school fund of the respective counties.<sup>6</sup>

The committee wanted to use the 10 per cent tax fund for the general revenue of the state. They reasoned that few persons possessed anything like a correct idea of the vastness of the common school fund. In railroad bonds, and indemnity bonds of the United States, there was the sum of \$2,417,500. Besides this, four leagues of land had been given to each county as a school fund, and nine tenths of the railroad reserves and other lands. Competent judges had said that the fund in money and lands amounted in value from four to five millions of dollars. This being the case, the school fund would not be seriously affected by taking from it the 10 per cent fund.<sup>7</sup>

A minority group was opposed to taking the 10 per cent tax fund away from the schools and to the selling of school lands to raise money for current school expenses. They were looking to the future of public education in Texas. This element felt that the school population fifty years hence, would have increased to millions, and notwithstanding such vast increase in the population, as they would certainly expect to take place, the school fund would have so increased that not only the poor and orphan children would be educated by the state, but also

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<sup>6</sup>Ibid., p. 132.

<sup>7</sup>Ibid., p. 153.

every child in Texas, whether his parents be rich or poor, would be liberally cared for and educated. They were opposed to repealing the constitutional provisions in regard to education.<sup>8</sup>

The views of the minority group were followed when the constitution was finally amended in 1861 with provisions that it should be the duty of the legislature to make suitable provisions for the support and maintenance of public schools. The legislature was to establish free schools throughout the state and provide for their support by taxation on property. It was also to be the duty of the legislature to set apart not less than one tenth of the annual revenue of the state derivable from taxation, as a perpetual fund. No law was ever to be made diverting this fund for any other use. No public lands which had been granted for public schools, to the various counties or other political divisions of the state, were to be alienated in fee, nor disposed of otherwise than by lease for a term not exceeding twenty years, in such manner as the legislature was to direct. The counties in the state that had not received their quantum of lands for the purposes of education were to be entitled to the same quantity heretofore appropriated by the Congress of the Republic of Texas to the other counties.<sup>9</sup>

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<sup>8</sup>Ibid., pp. 159-163.

<sup>9</sup>Francis Newton Thorpe, The Federal and State Constitutions, VI, 3569.

Despite these excellent precautions, the Civil War brought disaster upon the educational institutions throughout Texas. From 1861 to 1870 no funds were appropriated from the treasury of the state for the support of the school system. Some few schools of an elementary character retained a rather precarious existence for a few months each year. The more pretentious institutions for men ceased except in a very few instances, and all were seriously affected. The schools for girls, however, were somewhat more fortunate.<sup>10</sup>

And yet, even during the war, people were concerned with the problem of providing an education for their youth. Governor Murrah emphasized this concern in his inaugural address of November 5, 1863, when he said:

In the midst of this revolution, the education and the training of the rising generation appeals with peculiar force to the whole society and to the authorities of government, so far as they have control over the subject. We are losing many men by the casualties of the war, and many others are absent from home beneath the banner of their country contending with the foe, some of whose sons cannot be educated unless they receive aid from the State through that system which finds its foundation in the Constitution. The lapse of but a few years will introduce the youth of the land upon the stage of active life, to act their part in society for good or for evil. Every consideration as to the welfare of society, and of government, under our institutions, requires that they should be trained, educated and prepared for the stern and varied duties that lie before them as citizens.<sup>11</sup>

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<sup>10</sup>Eby, Education in Texas, p. 407.

<sup>11</sup>Executive Record Book, Governor Pendleton Murrah, 1863-1865, No. 280 (III-44), manuscript, State Archives, p. 5.

In comparison with the other ten Confederate states, Texas suffered little by the war except for the drain upon the strength of its citizenship and upon its material resources, and the latter were recruited in ways not possible for the other Confederate states. It was the only one of them that was not overrun by invasion. Crops were planted and gathered while the conflict was in progress, and business went on with a degree of security and regularity that prevailed nowhere else in the South. The line of the Rio Grande was the one border of the Confederacy that could neither be blockaded nor controlled by Northern armies. It was more or less infested by robbers, and there were one or two raids up the river by Federal troops in the course of the war, but there was no effective interference with the commerce back and forth across the river. As much of the cotton raised in Texas as could escape the state and Confederate taxgatherers might pass out through the wide gap freely, and a great deal did go that way; but the means of transportation were so inadequate and costly that the trade was greatly handicapped. On the whole, Texas saw little of the worst actualities of the war as they appeared in the states where the hostile armies met and struggled; and when it was over she was soon ready to begin anew the march of intellectual and material progress.<sup>12</sup>

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<sup>12</sup>Garrison, Texas, p. 291.

The first step toward progress was the organization of the Texas government. This was accomplished under President Johnson's plan of reconstruction. On June 17, 1865, President Johnson appointed A. J. Hamilton provisional governor. Hamilton had been prominent in the politics of the state before the war; had been a member of Congress when secession took place and had refused to resign; had been a brigadier-general in the Federal army and military governor of Texas by appointment of President Lincoln in 1862. Towards the end of July, 1865, he arrived in Texas and began his work. Meanwhile, on June 19, General Gordon Granger, of the United States Army, had taken military possession of the state, and had issued a proclamation declaring all acts of its government subsequent to secession illegal, and the Negroes free. Governor Hamilton issued a proclamation to the Negroes, who had now been released from slavery by the thirteenth amendment to the United States Constitution, informing them that the government could give them nothing, and advising them to go to work for themselves. He then called a convention to provide for the reorganization of the government. Those whites who had supported the Confederacy qualified as voters at the election of delegates by taking the oath of allegiance to the United States Government.<sup>13</sup>

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<sup>13</sup>Ibid., p. 293.

In 1866 this convention met in Austin in order to carry out the recommendations of the President and to write a new constitution.

In February of 1866 while this convention was considering the provisions for education for the new constitution, Mr. Whitfield, a member of the convention, offered this resolution:

That the Committee on Education ascertain from the Governor and Heads of Departments such information as they may be able to impart as to the amount of funds on hand belonging to the Common School Fund, the amount due from the State, and the several railroads, to said fund.

Also, that the Committee ascertain what amount of the public lands have been surveyed and set aside for Common Schools, and under what laws, if any, the unappropriated public domain, or the proceeds arising from the sale thereof, have been set aside for school purposes.

Also, that the Committee ascertain from the Commissioner of the General Land Office the amount of lands that have been surveyed for the several counties, under the law of the Republic, and the Constitution of the State, granting to each county leagues of land for school purposes.

That the Committee be instructed to report such measures as may be deemed proper to secure the various amounts due the school fund.

Also, that said Committee inquire into the expediency of providing in the Constitution for the electing, by the people, of a Superintendent of Common Schools.<sup>14</sup>

The committee had requested information about the state of the school funds. This information was supplied by Mr. Taylor of Houston. The information on this subject was as follows:

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<sup>14</sup>Journal of the Texas State Convention, February, 1866, p. 36.

Balance due upon principal of railroad com- panies in bonds . . . . .	\$1,753,317.00
Interest due on same, to March 1, 1866 . . . . .	300,614.90
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Total amount due by railroads . . . . .	2,053,931.90
Total amount due on land sales . . . . .	158,409.32
School Fund . . . . .	1,139,651.24
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Whole amount of School Fund . . . . .	\$3,351,992.46

The state is indebted to the University Fund as follows, viz:

To United States Bonds . . . . .	\$100,000.00
Interest on the same . . . . .	9,888.92
Amount received on account of University lands sold . . . . .	197,798.12
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Total amount of University Funds . . . . .	\$397,686.04

The several counties in the state were entitled by law to four leagues of land each, for school purposes. Eighty-two counties had received patents for the full amount of their lands; twenty-three counties only a portion; and fifty-one counties none at all. Acres of University lands located totaled 220,866; acres sold, 58,683; total amount of University lands located and unsold, 162,183 acres.<sup>15</sup>

The convention then took up the task of considering article ten on education in the Constitution of 1845, with the intent of using it in the Constitution of 1866. After due consideration, it was made a part of this constitution with but very minor changes. One of the changes was found in section nine:

Section Nine. The four hundred thousand acres of land that have been surveyed and set apart, under the provisions of a law approved, 30th August, A. D. 1856, for the benefit

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<sup>15</sup>Ibid., p. 91.



of a Lunatic Asylum, a Deaf and Dumb Asylum, a Blind Asylum, and an Orphan Asylum, shall constitute a fund for the support of such institutions, one-fourth part for each; and the said fund shall never be diverted to any other purpose. The said lands may be sold and the fund invested under the same rules and regulations as provided for the lands belonging to the school fund. The income of said fund only shall be applied to the support of such institutions; and until so applied shall be invested in the same manner as the principal.<sup>16</sup>

After much consideration, the convention adopted the constitution in force in the state before secession, with amendments recognizing the abolition of slavery, renouncing the right of secession, conferring certain civil rights on freedmen, repudiating the debt incurred by the state in waging the war, and assuming the tax that had been levied by the United States Government on Texas from the time the state had seceded. The revised constitution was submitted to the people and ratified by them, and on the same day a general election was held in which J. W. Throckmorton, one of the seven who had voted against the secession ordinance of 1861, was elected governor.<sup>17</sup>

The Constitution of 1866 included, among other things, a provision for the State Superintendent of Public Instruction. It also stated that his term of office was to be for four years at the salary of two thousand dollars a year. The Constitution also provided for a Board of Education made up of the governor, the comptroller, and the superintendent of

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<sup>16</sup>Gammel, Laws of Texas, V, 885. Article X of the Constitution of 1845 had been concerned with the establishment of a public school system in the newly annexed state.

<sup>17</sup>Garrison, Texas, p. 291.

public instruction. They were to have the general management and control of the perpetual school fund, and of the common schools of the state under such regulations as the legislature might prescribe.<sup>18</sup>

This was the first time that the position of superintendent of public instruction had been created in the state. This seems to indicate a very noteworthy action, in that a person was needed to head the educational system of the state who could devote all of his time to supervising the work of the public schools. Before this, the supervision of schools had been under the control of the local community which, because of the apparent lack of co-ordination, had not proved very successful.

Money to run the school system was needed in order to start operation. One method that was provided for raising this revenue was through the sale of school lands. This was taken under careful consideration with most legislators and the governor being against the sale of the lands unless a fair price could be obtained for them. Governor Throckmorton's attitude toward this question can be seen in his message to the legislature on August 18, 1866, in which he said:

The Constitution requires the Legislature to make suitable provisions for the support and maintenance of Public Schools, making it obligatory, as early as practicable, to establish a system of Free Schools throughout the State. An ample amount of the public domain has been

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<sup>18</sup>Gammel, Laws of Texas, V, 885.

set aside, together with one-half of the proceeds arising from the sale of all lands, as a basis for a perpetual school fund. The fourth section of the tenth article of the Constitution says: "The Legislature shall provide, from time to time, for the sale of lands belonging to the perpetual school fund, upon such time and terms as it may deem proper." And it is of the greatest importance to get the system to work at the earliest practicable period, and as it cannot be done, except by using the interest as it accrues on the principal of the fund invested, or by resorting to taxation, it becomes a question for you to determine whether or not laws should be enacted at this session to carry into effect this requirement.

These lands should not be forced into market in large amounts, and only such as are most likely to command reasonably fair prices.<sup>19</sup>

Further evidence of a general reluctance to negotiate the sale of school lands can be seen in the following report from the legislative committee on education:

The Committee on Education, to whom was referred a House bill to be entitled "An Act providing for a sale of the county school lands," have had the same under consideration, and instruct me to report the bill back to the Senate, and to state that in the opinion of the committee, the political condition of the country is so unsettled, and the actual demand for unimproved land so small, that it would be impolitic to authorize the police courts to put the school lands upon the market at this time, lest a part of that valuable endowment should be squandered by improvident management. The Committee therefore recommend that the bill do not pass.<sup>20</sup>

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<sup>19</sup> Journal of the House of Representatives, Eleventh Legislature, State of Texas, p. 74.

<sup>20</sup> Journal of the Senate of Texas, Eleventh Legislature, p. 274.

The legislators decided not to sell the lands because of the low prices right after the Civil War, but to hold these lands until prosperity and high prices returned.

An act regulating public schools was approved on November 12, 1866. This act provided that the Police Court should be the Board of School Commissioners for each county. These courts were to form their respective counties into school districts of convenient size. They were to take into consideration in forming these districts, the convenience of neighborhoods, and to ascertain that each district contained a sufficient number of children for the maintenance of a school. These school commissioners were to order an election to be held in each district for the purpose of electing three trustees for each district.

These trustees were to hold office until the first of August, 1868, but thereafter were to be elected annually. They were to select from their number a chairman, who was to set the dates of their meetings, preside at these meetings, and perform such other duties as might be assigned him. It was to be the duty of the district trustees to fix the time and place for holding an election in their district for the location or selection of school houses within their district. They were to appoint an officer to preside at this election. The chairman of the board of trustees was to have written notices of the election posted in three public places in the district at least five days preceding

the election. The returns of the election were to be presented to the chairman of the board of trustees, who was to examine them in the presence of his co-trustees. A majority of the votes was to be necessary to determine the permanent location of the school house; and no change in the location of a school was to be made, except by a majority of two thirds of those voting in such election.

The police court was to distribute the funds to which each school district might be entitled, to the district trustees of the same. These funds were to be applied to the erection of good, substantial school houses, or to the payment of tuition, as a majority of the trustees might determine.

As soon as practicable after their election, the school trustees were to call a meeting of all the patrons of the school in their district. A majority of those present were to indicate to the trustees the length of time during the year they desired, the kind of teacher they wanted, and the amount of salary they were willing to pay. The trustees were to employ teachers of suitable moral character and qualifications, to visit from time to time, the district school, or schools, under their charge, to expel pupils for misconduct, to examine all complaints between teacher and pupil of a serious character, to discharge teachers for incapacity or improper conduct, and generally to exercise supervision over the affairs of the school within their district.

The chairman of the board of trustees for each school district was to present, at least once a year, his application to the county judge of his county for the amount of the public school fund as his district might be entitled to receive, according to the number of children between the ages prescribed, within his district; and the county judge, having duly informed himself that the same was correct, would draw upon the county treasurer an order for the amount so due, and applied for.

No county was entitled to receive its portion of the school fund until after a return of its scholastic population census. The assessor and collector of each county in the state was to make out a list of all the free white population of his county between the ages of six and eighteen years, and transmit the same to the county clerk of the county, and a certified copy to the treasurer of the state, on or before the first day of July in each and every year.

The clerk of the police court was to file and preserve in his office the list furnished by the assessor and collector. The treasurer of the state was to ascertain from the abstracts transmitted to him by the assessor and collector, the aggregate population between the ages of six and eighteen years. And the public school fund was to be apportioned among the different counties in the state, according to the number of scholastic population in each county, subject to the order

of the police courts, and payable to the respective county treasurers, upon the order of the police courts, or such amount to be placed to the credit of the assessor and collector of taxes of such county, upon his payment into the treasury of his county, the amount so appropriated to such county, and filing the receipt of the county treasurer, acknowledged by the treasurer before the clerk of the police court, and by the clerk duly certified, and the seal of his court properly affixed, together with that of the treasurer of the state.

The assessor and collector of each county, for the year 1867, and for all succeeding years, received for his compensation for discharging the duties imposed upon him by this act, twelve cents per child for two hundred children or less; eight cents per child for all less than three hundred and more than two hundred; six cents per child for all less than four hundred and more than three hundred; five cents per child for all less than five hundred and more than four hundred; four cents per child for all less than a thousand and more than five hundred; three cents per child for two thousand and more than one thousand; two cents for all over two thousand; and should the assessor and collector refuse to comply or fail to take and report the census of the children as required by this act, he must forfeit the whole of the compensation allowed, and be fined not less than twenty-five nor more than one hundred dollars, at the discretion of the police

court. And in case of failure, from any cause whatever, of the assessor and collector, in making a report of the census of his respective county, to the police clerk, on or before the first day of July in each year, the police court would be authorized to appoint some suitable person to perform this job, who would be entitled to the same compensation as allowed to assessors and collectors under this act; provided that he would make his returns by the first day of September following. Assessors and collectors, or other persons appointed to take the census of scholastic population, would not be entitled to compensation for their services unless their returns were made within the time prescribed by this act.

The treasurer of the state was ex officio treasurer of the public school fund. It was his duty after the first day of the fiscal month in each year to record the abstracts of children of lawful age, in different counties, apportion the money as herein contemplated, distributing to the several counties the amount to which each was entitled, according to its scholastic population. And it was the duty of the treasurer to keep a correct account of all the moneys and matters appertaining to the school fund, and report to the governor annually, at the close of the fiscal year, the condition of the school fund, and distribution of moneys. The fiscal scholastic year would commence and end upon the fiscal year of the state treasury.



In every case where a school claiming the benefit of this act was attended by scholars who resided in a county other than that in which the school was taught, the trustees of such school would report to the police courts of the several counties where the scholars resided, and would be entitled to a distributive share of the county school fund in the same manner as if the school were taught in the county of the residence of such scholars.

A board of school examiners was to be appointed by the police court of each county, consisting of five persons, three of whom would constitute a quorum, authorized to act, who would attend to, upon application, and examine all persons proposing to teach public schools within the limits thereof; and upon finding, after examination, such applicant properly qualified to discharge the duties of a teacher, would grant him or her a certificate, stating the branches he or she was qualified to teach; and no teacher would be employed, or permitted to teach, until the teacher had obtained a certificate of qualification from the school examiners. It was made the duty of the school examiners of each county to exercise a supervision over the schools of their respective counties, and to require that all schools be conducted in accordance with the provisions of this act. No school could receive the benefits of this act unless it taught the English language.

The treasurer of the state was to furnish forms for reports of the several police courts and county treasurers, which forms were to

be followed in making their several reports; and the treasurer was to cause a sufficient number of forms, together with this law, to be printed, as would furnish ten copies for each police court in the state.

The county treasurer of each county was required to give bond, with two or more securities, payable to the county, in twice the amount of the school fund to which the county would be entitled, as soon as the county judge was notified by the treasurer of the state, of the amount to which his county was entitled. This bond would be conditioned, requiring that the county treasurer keep an account of the money committed to him, as a school fund for his county, and pay over the same only upon the order of the county judge of the county. He was required to keep an accurate account of all moneys received and paid out by him, to register and number all orders paid by him, or accepted to be paid. He would, between the first and tenth of the fiscal month of the treasury in each year, renew his bond; and all suits upon such bonds would be in the name of the county, and in other respects they would be governed by the laws regulating the bonds of county treasurers.<sup>21</sup>

In addition to the preceding laws, the legislature passed another law providing for the education of the indigent white children of the state. The police courts of the state were to levy and collect a tax for this purpose in their respective counties. The police courts were

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<sup>21</sup>Gammel, Laws of Texas, V, 1088-1092.

to compile a list of the indigent white children in their respective counties. The funds collected from the taxes were to be used to pay the tuition of those contained in these lists. This tax made it possible for all children to attend schools although they might not possess the money for tuition.<sup>22</sup>

An evaluation of this educational system would show a very clear resemblance between the school law of 1854 and that of 1866. The same old views on education were again put into action. It provided for districting of the state for school houses, the selection of private schools as public schools, and the same democratic control in selecting the teacher and the determination of the length of term and the amount of salary to be paid. This new law was a compromise between those who wanted free public schools and those who wanted private schools. No reference was made in this law to provide for the education of the poor, but a special law was passed to take care of this matter. The one tenth of the annual revenues which had for many years been set apart for schools was now abolished. In place of this provision for education, large tracts of public lands were to be granted for the endowment of the school system. It is impossible to see whether or not this school system would have worked. Before any action resulted from these provisions, Congress nullified the new

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<sup>22</sup>Ibid., pp. 1113-1114.

constitution, and all of these plans were thereby declared to be null and void.

Negro education during the early years of the reconstruction period in Texas was undergoing a great change. In the South there were many schools being established by a union of churches and other institutions for the purpose of educating the freedmen. There were very few of these schools in Texas, however, although such schools did exist in Galveston, Houston, Hempstead, and Matagorda. These schools were under the direction of Northern teachers who came to the South with a missionary's zeal to lift the black man from his bed of thorns and tribulations. Superintendent John Watson Alvord exercised a limited control over the schools due to his position, which placed him in charge of education for the Freedmen's Bureau.

By 1868 opposition was almost universal against Yankee teachers and "nigger schools." In his report of January 1, 1868, Superintendent Alvord declared that the "revived rebel spirit of the South" had "thickened about" the schools. Many of the teachers had become discouraged and afraid to continue their work. "The truth is," said one of his assistants, "we are in the midst of a reign of terror, and unless something is done and done speedily for the relief of the persecuted Union people and friends of humanity, our educational work and interests must seriously suffer." In July he reported continued bitterness

toward the teachers. Almost all had received threats, both open and anonymous, and several had abandoned their schools under the pressure of opposition. He knew of none who had been injured, but he believed it advisable to withdraw all teachers from the small towns and rural districts, and to employ them in the larger towns and cities, where they could be protected "until after the November elections." Even in Alabama, heretofore reported as cordial toward Negro education, the superintendent reported that the opposition was so strong that it would be "impossible for one at a distance to form any correct conception of the state of public sentiment." Everywhere there was determined opposition to the education of freedmen. Schools had been burned, teachers threatened, even beaten and driven away. "Never was the spirit of opposition more bitter and defiant than at the present time," Alvord reported. Accounts of murders, outrages, and burnings now began to appear in the journals of the associations. For example, in September, 1868, the editor of the American Missionary warned his readers that the storm was gathering, and that the freedmen needed friends and advisers as never before. The September issue pointed with horror to the 968 murders in Texas, of which 379 were murders of freedmen by whites, and only ten of whites by Negroes. Outrages were said to be the order of the day in Mississippi, North Carolina, Texas, and Louisiana. The Northern teachers who were in

Texas soon after this gradually left for the "cooler" climate of the North.<sup>23</sup>

The Freedmen's Bureau was another agency that tried to help educate the Negro in Texas as well as in other states. The educational work of the Freedmen's Bureau was under the charge of Lieutenant E. M. Wheelock, who, by the end of January in 1866, had been able to set into operation twenty-six day and night schools with an enrollment of about sixteen hundred pupils. These schools were supported partly by voluntary contributions and partly by a small tuition fee. These schools did not last very long, either, and they soon disappeared. Outside of these two attempts, that by the churches of the North and that of the Freedman's Bureau, very little was done to educate the Negro in Texas during the time of reconstruction.<sup>24</sup>

The Texas people retained, for the most part, the Southern pre-war prejudice against the education of the Negro. The fact that the colored people showed an eager thirst for learning, thinking that by this means they would speedily be on a level with their former masters, tended to increase the opposition. A deep-seated suspicion was current that the Radical leaders favored the education of the colored race in order to gain their political support, thus to continue with their

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<sup>23</sup>Henry Lee Swint, The Northern Teacher in the South, pp. 129-130.

<sup>24</sup>Charles William Ramsdell, Reconstruction in Texas, p. 255.

assistance the control of the government. Moreover, there was the danger that such an alliance would further increase the tyranny of the school regulations and finally perhaps coerce the white children to attend the same schools as the colored.

Neither the provisions for white education nor the haphazard beginnings of Negro education proved satisfactory to the new administration which was to secure control of the Texas government with the advent of the Radical Republican reconstruction after 1867. The Republican Party, by allying themselves with the newly freed colored population, and the carpetbaggers, soon came into power, after taking over the control of the political affairs of the state from the Democratic Party. The leaders were Northern sympathizers who looked upon the Southern people as largely ignorant, and believed strongly in free public schools offering equal opportunities for the blacks and the whites. They represented the New England educational tradition which had spread westward through the Northern states and from early days had been exerting only a minor influence in Texas. Under their control a new system of education was projected and forcibly imposed upon the people.

## CHAPTER III

### THE RADICAL REGIME

In March, 1867, Congress passed a bill placing the South again under military rule, which did away with the Constitution of 1866. The President vetoed the bill; Congress passed it over his veto. The South was divided into five military districts, and General Sheridan was made military commander of District Number 5, which included Texas and Louisiana. Some four thousand troops were stationed in the state, under the command of General Griffin, with headquarters at Galveston. All civil elections were forbidden until they should be ordered by the general government. The tests of registration were made more severe; preventing many from holding office.

The Radical Republicans refused to accept the lenient provisions of Presidential reconstruction, their refusal being prompted by various considerations: the plight of the Negro, racial disorders, the desire for continued control of national politics by the Republican Party, reactions of Southerners to the Johnson plan of reconstruction, etc. Primarily, however, the Radicals had convinced Northern citizens that the South was not qualified to resume its place in the Union without further



change; otherwise, the results of the war itself would be lost. Hence, they demanded military rule.

During these trying times, Governor Throckmorton tried to carry out the commands of Sheridan's officers and yet act justly toward his state. In spite of this, on July 30, he was removed from office by General Sheridan, and E. M. Pease was appointed governor.

Sheridan was now removed, and General Hancock was placed in command of Texas. Hancock forbade the military to interfere to such an extent with civil affairs; he encouraged the people to take matters into their own hands; and made the registration laws more lenient. But these actions displeased the extreme leaders of Congress, and Hancock was displaced.<sup>1</sup>

On August 13, 1868, the Republican state convention met in Austin for the purpose of setting up a party platform. When the report of the resolutions committee was drawn up, the question of the previous legislature's right to accept railroad warrants in payment of interest due the school fund furnished a point of major disagreement. When the majority of the members of the resolutions committee refused to add the resolution "that the pretended laws of said pretended legislature authorizing payment in so-called state warrants of interest due from the railroads to the school fund, were in fraud of the rights of the

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<sup>1</sup>Anna J. Hardwicke Pennybacker, A History of Texas, p. 248.

children of the state, and pretended payments made thereunder were null and should not be regarded in making settlement with said railroads,"<sup>2</sup> thirteen of the more extreme Radical delegates withdrew from the convention. Among the bolters were E. J. Davis, E. Degener, and James P. Newcomb.

The delegates who withdrew from the regular Republican convention then proceeded to hold a convention of their own. This convention became known as the Radical Republican Convention of 1868, and it proceeded to formulate a platform in keeping with the ideals of the national Republican Party. This platform included the resolution, "That the encouragement of manufactures and internal improvements, under some general and effective system, should, in our opinion, be made a part of law. But of first importance is the establishment and support of a complete common school system, and we recommend that all money, claims and property belonging to the school fund should be collected without delay and appropriated to this purpose and other means, if wanting, should be supplied."<sup>3</sup> Thus the Radicals early went on record as favoring an enlarged public school system, a stand which was designed to gain party support from the Negroes and poorer whites who could not afford tuition schools.

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<sup>2</sup>Austin Daily Republican, August 15, 1868.

<sup>3</sup>San Antonio Daily Herald, August 21, 1868.

In 1868 a convention to form a new state constitution was called according to the instructions of Congress. This was done with a view of gaining the readmission of Texas into the Union. Little interest was taken in the matter by the majority of the citizens, who seemed to have fallen into a state of indifference concerning all public matters. When, on June 1, the convention met in Austin, two opposing factions sprang up, and great bitterness of feeling was shown. After a session of three months, which cost the state \$100,000, the convention adjourned without being able to formulate a constitution. In December they met again, and finally, in February, 1869, amid the greatest confusion, no quorum being present, the convention ceased to exist. Through the efforts of General Canby, then military commander of Texas, from the rough copy of the minutes of the convention, a constitution was prepared to be submitted to the people.<sup>4</sup>

Provisional Governor Pease was greatly concerned with public education and wanted to see Texas have a good school system. In his message to the constitutional convention of 1868, he urged the members to recognize the importance of establishing a school system: "It is not my province to make recommendations for your action; but I trust that it will not be considered improper for me to suggest that in the constitution you are about to form, it is expected that you will

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<sup>4</sup>Pennybacker, A History of Texas, pp. 248-249.

make a liberal provision, by taxation upon property, for the immediate establishment of Free Public Schools for the education of every child in the state."<sup>5</sup> When Mr. Talbot, a member of the convention, offered a resolution, requesting the governor to transmit to the convention the latest report of the superintendent of public schools, Governor Pease readily complied with this request, sending the report to E. J. Davis, the president of the constitutional convention.<sup>6</sup>

The superintendent of public instruction at this time was E. M. Wheelock. In his report, the superintendent reviewed the development of public education in Texas from the time of the Republic up to 1868, pointing out the good and bad features of education in Texas during each period of the history of the state. He pointed out how education had been financed in Texas and how this money had been spent. He recommended that instead of the one tenth of the annual revenue that had previously been set aside for schools, this amount should be doubled to one fifth of the annual revenue. He estimated that the state revenue for the next five years would be about \$500,000 per year, one fifth of which would yield for public education the sum of \$100,000. According to Mr. Wheelock, this would suffice to set on foot a system of primary schools suited to the peculiarities of the country and the population, and placing instruction within the reach of every child

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<sup>5</sup>Journal of the Reconstruction Convention of 1868, p. 14.

<sup>6</sup>Ibid., pp. 42-43.

in the state of Texas, whatever his color, condition, or race might be.

He claimed that the sum asked for was not large as compared with the ability of Texas or with the expenditures of other American states. He stated that 52 per cent of the ordinary taxation of Ohio was expended yearly in support of education. The state of Vermont, rocky and poor, with a stationary population of 315,000, and with a smaller aggregate of fertile soil than many of the Texas counties possessed, paid out in 1866 for common schools \$421,441; while all other expenditures for carrying on civil government were less than \$193,000. Iowa, settled and admitted into the Union later than Texas, with a population of 900,000 in 1867 and with not a tithe of the natural wealth and resources of Texas, expended in 1867 upward of two millions of dollars for public schools.

He also stated that in view of the fact that the convention was about to assemble to revise the fundamental law of the state, he would like to suggest the desirableness of securing, in the educational clause of the new constitution, the following features of a school system:

A common school fund, consisting of whatever values may be realized from the wreck of the former fund; the proceeds of fines, forfeitures, estrays, and of the estates of deceased persons to which the State may become entitled by law; the county school lands; and the reserved sections of railroad lands; the public domain not otherwise appropriated. The principal of the fund not to be diverted or diminished, and the income to be devoted to the support of common schools by the payment of the salaries of teachers.

One-fifth of the aggregate annual income of the State to be yearly expended as above.

The Legislature to be authorized to provide, by the levying of a tax, for the erection of school buildings, etc.

The supervision of public instruction to be vested in a Board of Education, and a State Superintendent of Schools, whose powers and duties shall be prescribed by law.

The Legislature to provide by law, at the first session, for the division of the State into districts of convenient size, and for the inception of a general and uniform system of common schools to continue at least four months in every year, equally open to all children between the ages of five and eighteen, wherein tuition shall be without charge, and every child of requisite age required to attend, unless educated by other means.

He ended his report with the statement that so many people were so dangerously ignorant that it was a moral imperative that they be educated. In a country where all are rulers, all must be educated, or the lower level drags down all above. Universal suffrage necessitated universal education.<sup>7</sup>

The convention of 1869 having adjourned without finishing a new constitution, the final constitution became largely a patchwork constructed from the papers and files of the convention. In November, 1869, the new constitution was ratified by the people. At the same time, according to military orders, an election for state officers was held, and Edmund J. Davis was chosen governor.<sup>8</sup>

In the Constitution of 1869 provision was made for a superintendent of public instruction, this being the second time that Texas had

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<sup>7</sup>Ibid., pp. 65-73.

<sup>8</sup>Pennybacker, A History of Texas, p. 249.

created such an office to head its school system. In the Constitution of 1866 this same office had been created to supervise the schools of the state. Under the new government, the first superintendent was to be appointed by the governor with the consent of the Senate,<sup>9</sup> but thereafter he was to be elected by the public. His term of office was to be for four years with an annual salary of two thousand five hundred dollars. The superintendent was to have the supervision of the public free schools of the state. It was also to be his duty to recommend to the legislature such provisions as might be found necessary to the establishment and perfection of a complete system of education, adapted to the circumstances and wants of the people of the state. He was required to give a complete report of all the free schools of the state at each session of the legislature. Whenever required by either house of the legislature, it was to be his duty to furnish all information called for, in relation to the public schools of the state.

The constitution provided for compulsory attendance at school, and the legislature was to provide by law for this provision as soon as possible. This was a relatively new educational law in the United States at this time, since only two states, Massachusetts and Vermont, had adopted the policy of compelling attendance at the public schools. Texas was helping to pioneer something new in education in this country.

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<sup>9</sup>Undoubtedly the appointment of the first superintendent by the governor was provided for in order to assure the selection of a Republican friendly to the new school system.

The constitution also provided for financial support for the public schools. A public school fund was to be established from all funds, lands, and property that had been set apart for the support and maintenance of public schools. Also, any money that might come from the sale of any portion of the public domain of the state of Texas was to be added to this same fund. One fourth of the annual revenue derivable from general taxation and a poll tax of one dollar on each male citizen between the ages of twenty-one and sixty years was to be set aside for the benefit of public schools. This was the first time that Texas had used the poll tax as a means of helping to finance schools of the state. This tax has continued to be used even up until modern times. Taxes might be levied in districts to furnish funds for building school buildings. The task of actually establishing the school system was delegated to the legislature.<sup>10</sup>

In February, 1870, the Texas Legislature ratified the fourteenth and fifteenth amendments to the United States Constitution, and on March 30, by act of Congress, Texas was re-admitted into the Union. Her senators and representatives once more entered the halls of Congress and military rule was withdrawn.

Edmund J. Davis was governor of Texas during the "Radical era," and in line with Republican promises, he was very interested

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<sup>10</sup>Thorpe, The Federal and State Constitutions, VI, 3609-3610.



in establishing a good system of schools for the state. In 1870, in an address to the state legislature, he asked that legislation be passed for the establishment of an educational system:

Next in importance to the measures necessary to the establishment of law and order, you will find the question of providing for the education of the children of the State. No better civilizer has been found than a liberal system of education. Aside from the provisions of our constitution, which make it "the imperative duty" of your body to provide for the education of all children of the scholastic age, experience will hereafter prove that, from any point of view, no money discretely expended in promotion of universal public education can be considered lost in an economical point of view. It has been found as serviceable to the farmer and artisan as to the professional man.

I have already noticed its effects in abating the catalogue of crimes, but there is a special necessity for education in our country where the government depends upon the people themselves. The success of Republican institutions and universal suffrage is assured by universal education. The expenditures for this purpose must necessarily be heavy at the outset, in organizing, building school-houses, providing books, apparatus, etc.<sup>11</sup>

The vigorous urging of the governor led to prompt action from the legislature.

In setting up the new system of education, the legislature passed an act creating the officer of superintendent of public instruction to head the program, and in line with the constitution, his term of office was to be for four years. The first superintendent was to be appointed, but thereafter all superintendents would be elected by the people. He

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<sup>11</sup>Senate Journal of the Twelfth Legislature, State of Texas,  
pp. 15-16.

was to receive a salary of \$2,500 a year. His duties were many, but chiefly consisted of supervising the whole program of education in Texas.

The members of the county courts were made the school commissioners of the county. It was their duty to divide the county into districts and see that elections for school trustees in the districts were carried on. The number of trustees for each district was set at three. The county board was responsible for the locating of school houses in each district. They had the responsibility of levying and collecting taxes for school purposes in the county. This tax was to be an ad valorem tax on the taxable property of the county, and was not to exceed 1 per cent. The money that was collected from this source was to be used in the building of school houses of the district. The county board was to appoint three competent persons as school examiners. These officials were to examine persons who wished to teach, as to competency, sobriety, and good moral character, and to give them certificates of recommendation.

Provision was also made to enforce the compulsory attendance of school-age children. The county board as authorized under the provisions of this act was to require all parents or guardians to send their children to school at least four months out of the year. Schools were to be taught at least for four months, but could remain open

longer if desired and if their money held out. This county board had the power to settle all difficulties which might arise in a school. They could make such rules, regulations, and by-laws for the government of schools as might seem to them best for the interests of education in their respective counties, not inconsistent with the constitution and the laws of the state, to insure justice, equality, and impartiality to all the scholastic population of their respective counties. This board was to receive fees for their time spent in this work for the public schools of Texas.

The English branches of education were to be taught in the public free schools of the state; and the school examiners were not to recommend any person as a teacher who was not competent and well qualified to teach said branches, especially spelling, reading, writing, arithmetic, grammar, and geography, and who was not of good moral character and sober habit. The board of school directors might permit in any public school in their respective counties the teaching of a foreign language.

The one fourth of the annual revenue derivable from taxation, and the annual poll tax of one dollar that was to be collected for the benefit of the public schools, and the interest that accrued upon the permanent school fund, would be called the available school fund. This would be applied exclusively to the payment of teachers' salaries

and to the expenses of the educational bureau, and no part of this fund was to be used for any other purpose, except by law. This act was approved August 13, 1870.<sup>12</sup>

The governor in his message to the legislature in January, 1871, recommended the passage of an efficient school law declaring the law of 1870 impracticable. Very little had been accomplished by the school law of 1870 in organizing a school system, with only a few schools being organized. The Radicals were ready to do the governor's bidding since they were angry because the school law had been such a miserable failure. Immediately they started working on a new school law to replace the school law of 1870.<sup>13</sup>

On April 24, 1871, the legislature passed a new act to organize and maintain a system of public free schools in the state. This act stated that the superintendent of public instruction was to have supervisory control of all the public free schools of the state, and was to receive a salary of three thousand dollars per annum. He was to keep a record of the number of children in each county of scholastic age, from six to eighteen years of age; apportion the money of the school fund of the state to the several counties according to the scholastic population. He was required to keep a correct account of all moneys

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<sup>12</sup>Gammel, Laws of Texas, VI, 287-292.

<sup>13</sup>Report of the Commissioner of Education, 1872, p. 328.

of the school fund and matters appertaining thereto, and report to the governor annually, at the close of the fiscal year, the condition of the school fund, distributions of moneys, and such suggestions in regard to the school system as might be deemed advisable. The fiscal scholastic year would be the same as the fiscal year of the treasury. He prescribed and furnished all necessary forms for teachers and all other subordinate officers of the bureau of education, and he would direct the manner and times of making reports by those officers and persons, and would examine and approve all accounts for compensation of teachers and employees of the bureau of education and for school books and apparatus purchased for public schools before the same would be paid at the treasury.

The superintendent of public instruction, with the approval of the governor, was to appoint for each judicial district of the state one supervisor of education for such judicial district, who would hold his office for four years, unless sooner removed. Each supervisor of education received, as compensation, the sum of five dollars per day for the time actually employed in attending to the duties of his office; provided, that the total to be paid to any supervisor during any one year would not exceed the sum of twelve hundred dollars. The supervisors of education could be removed by the superintendent of public instruction, on the approval of the governor, for incompetency,

malfeasance, or neglect of duty. The supervisors of education were empowered to lay off and subdivide the counties of their respective judicial districts into school districts, and were empowered to appoint five school directors for each school district; but the authority of the supervisors in these respects was subject to the control and revision of the superintendent of public instruction. It was the duty of the supervisors to enforce, in their respective districts, all rules and regulations adopted by the board of education for the government of public free schools in the state.

The superintendent of public instruction, with the governor and the attorney general, were to form a board of education for the state. It was the duty of this board, subject to the constitution and laws of the state, to adopt all necessary rules and regulations for the establishment and promotion of public schools; to provide for the examination and appointment of teachers; and to fix their compensation; to define the course of studies for the public schools, and direct the kind and class of apparatus and books to be used therein; to prescribe the duties of the boards of directors; and generally do all things not inconsistent with the constitution and laws of the state necessary to establish and maintain a system of public free schools; provided, that the board of education of the state would prescribe no rule or regulation that would prevent the directors of the school districts from making

any separation of students that the peace and success of the school and the good of the whole might require.

The board of education for the state was required to report for action of the legislature from time to time such amendments of the school laws of the state as might be found necessary, stating in their report the facts and reasons which, in their opinion, rendered necessary such proposed amendments.

The available school fund, liable to appropriation for the support of public schools, was declared to be all interest which had accrued, or might accrue, to the school fund from railroads or otherwise, from the thirtieth day of March, 1870, one fourth of all the ad-valorem and occupation taxes assessed since that date, and such other taxes as had or might be provided by law for the support of public schools. Accounts against this available school fund were to be paid out of any part of it that might be in the treasury, on appropriation therefor by the legislature. The directors of each school district were to have the authority to levy a tax of not exceeding 1 per cent for the purpose of building school houses and maintaining schools in their respective school districts; and the manner of the collection and disbursement of this tax was to be prescribed by the board of education for the state.

The board of school directors were to require the attendance at their respective district schools of all the scholastic population in the

district, for a term of at least four months of each and every year; and should any of the scholastic population neglect or refuse to attend school, each and every parent or guardian of such child or ward neglecting or refusing to attend would be deemed guilty of a misdemeanor, and upon trial and conviction therefore before any court of competent jurisdiction would be fined in a sum not to exceed twenty-five dollars for each and every such offense, and would pay the costs of the prosecution; and all moneys collected for fines, under the provisions of this section were to be paid into and become a part of the public school fund of the district where the penalty was incurred; provided that when any child or ward of scholastic age might be shown to have received regular instruction from any private teacher having a proper certificate of competency, or when it was shown that said child or ward was prevented by ill health from attending school, or that there was no public school within three miles of the residence of the child or ward or that absence was caused by reason of danger from hostile Indians, this would exempt them from the operation of the penalty contemplated by the law; and further provided, that nothing in this act was to be construed as to compel the attendance of a child under ten years of age in the public free schools when there was no school established within one mile of the residence of the child or ward. The foregoing regulations established a new school system for Texas.<sup>14</sup>

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<sup>14</sup>Gammel, Laws of Texas, VI, 959-962.



To bring this highly centralized organization into operation, the governor did not appoint an experienced educator, but a young military officer, Jacob C. De Gress, who had never taught. Born in Prussia, he came to Missouri with his father when ten years of age. After receiving some education, he entered the United States Army in 1861 and served in various capacities. Retiring from the army on account of wounds, he was appointed superintendent of public instruction by Governor E. J. Davis and held the office from May, 1871, to February, 1874. He undertook to organize and manage the school system with military rigor and without due regard to the wishes or the financial ability of the people.<sup>15</sup>

The board of education, which consisted of Governor Edmund J. Davis, Attorney General William Alexander, and Superintendent J. C. De Gress, on May 17, 1871, made the rules and regulations under which the new school system would operate. These rules controlled the actions of the supervisors, boards of directors, teachers, and pupils who made up the new system of schools.

The rules controlling the supervisors consisted of such rules as the following: A supervisor, upon receiving information from school directors, or otherwise, that any teacher in his district has treated a pupil in a harsh or cruel manner, was at once to direct the school

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<sup>15</sup>Frederick Eby, The Development of Education in Texas, p. 161.

directors in whose district such an occurrence took place, to inquire into the facts of the case, and forward their report through him to the superintendent. A supervisor was also to forward to the superintendent the names of all persons of scholastic age who have not attended school for four months as provided in the act of April 24, 1871, which established the state system of public schools.

After the board of directors had been organized, they were to levy a tax of 1 per cent "for the purpose of building schoolhouses and maintaining schools in their school districts." This tax had been provided for in section five of "An act to organize and maintain a system of public free schools in Texas," approved April 25, 1871. Immediately after they had levied this tax it was to be their duty to select sites on which to build school houses in their respective districts. After having selected sites, they were to send information through the supervisor to the superintendent, give the number of children who lived in the neighborhood of the different sites and who would attend school at each place, and such other information as might be necessary to enable the superintendent to send them plans for the different school houses to be built. After receiving the plans for each school house, the school directors were to advertise in the official paper of their respective judicial districts and the State Journal at Austin, inviting bids for building different school houses, a blank form for

which was to be furnished from the office of the superintendent. The cost of this advertisement was to be paid out of the funds collected from the special tax levied by the school directors. No contract made by the school directors for building school houses would be carried into execution until it had been approved by the superintendent.

Under the rules for the government of the public schools of Texas the scholastic year was to commence on the first Monday in September, and continue until the thirtieth day of June, exclusive of the Christmas holidays, and was to be divided into three terms of thirteen weeks each. The schools of the state were granted classifications which graded them into three classes.

Under the School Act of 1871 and by the school rules that were set up, a teacher who held a certificate of the third class was to receive for every month's labor (twenty teaching days) seventy-five dollars, the second class ninety dollars, and first class one hundred and ten dollars; provided, that no teacher was to receive pay for a higher class than that actually taught. A principal was to receive for every month's work from one hundred and fifteen dollars to one hundred and fifty dollars, according to the number of schools under his or her direction. No teacher could teach in a school in the state until he or she had subscribed to the following oath:

I do solemnly swear (or affirm) that I will honestly and faithfully support the Constitution and laws of the United States and of the State of Texas; that I will endeavor to inculcate in the minds of youth sentiments of patriotism and loyalty, and will fully, faithfully, and impartially perform the duties of a teacher to the best of my ability; so help me God.<sup>16</sup>

Teachers were not to exercise any sectarian influence in their schools. In maintaining discipline in their schools, teachers were authorized to use any proper and judicious means to accomplish that end, and in doing this they were to receive the full backing of the board of education. Teachers were held strictly accountable for any harsh or cruel punishment they might inflict upon their pupils, and such punishment was forbidden. Those teachers who were most successful in preserving order and discipline among their pupils through kindness and good counsel, were to receive preference over all others in promotion.

Teachers were given the right to establish night schools and use the school houses of their respective school districts for that purpose, but no person of scholastic age visiting such schools was to be excused for such reason from regular school attendance.

There were also rules which concerned the pupils who were of school age. No pupil was allowed to leave school before the usual

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<sup>16</sup>First Annual Report of the Superintendent of Public Instruction of the State of Texas, p. 28.

time, except when sick, or on account of some pressing emergency of which the teacher was to be the judge. The sickness of a pupil, or family sickness, was the only valid excuse for non-attendance at school; of the urgency of such excuse the teacher was to be the judge. It was not considered to be a good excuse for a pupil to be absent at a regular school session for the purpose of taking music, singing, or dancing lessons. Cleanliness in person and clothing was required of every pupil, and whenever a pupil neglected to comply with this rule, the teacher had the power to suspend such pupil for not more than a week.<sup>17</sup>

On September 4, 1871, Superintendent De Gress put his school system into operation. He had appointed the supervisors for the thirty-five districts into which he had divided the state. Each supervisor had appointed the five members of the board of directors of their respective districts and these in turn had been approved by the state superintendent as specified in the school law. For the first time in the history of the state, public schools opened their doors to the children of the state.

In a letter written to Dr. B. Sears, the agent of the trustees of the Peabody Fund, J. D. De Gress, superintendent of public instruction, sums up the conditions which existed in the school system after one year's operation:

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<sup>17</sup>Ibid., pp. 68-86.

Austin, Oct. 28, 1871

Dear Sir: Your favor of the 13th instant is received. I regret that I am compelled to make so short and unsatisfactory a report of the schools in Texas. Until the present year we have been without any kind of an organized system. Numerous school laws have been passed by the different legislatures, but by far the greater part of them for the purpose chiefly of directing the bountiful school fund into other channels than that of educating the youths of Texas. The public free schools opened on the 4th ultimo, for the first time in the history of Texas; hence I have no report for the scholastic year ending August 31, 1871. I send you a copy of the new school law, and the rules and regulations adopted by the board of education for the government of public free schools, which contain full information relative to the manner of conducting the schools.

As there was no superintendent for a long time previous to my appointment in April last, I found nothing, save the law passed this year by the legislature, as a nucleus upon which to organize a system. Owing to the vast territory of the State, with its poor mail facilities, I have received reports from but a small number of the supervisors, and it is impossible to give the number of supervisors, and it is impossible to give the number of school teachers and pupils in the State. I have, however, sufficient returns to know that the system promises to be a success, notwithstanding the prejudice and strong opposition of a large portion of the people. In the county of Travis the schools opened with 35 teachers and 1, 779 pupils; and in McLennan County, with 39 teachers and 1, 768 pupils.

No school houses have been built by the State, but preparatory steps have been taken, and by the opening of the schools for the next scholastic year it is expected a large number of houses will be completed. For the present they are rented, and generally for a nominal sum.

I give you a few instances of the maltreatment of teachers, and burning of school houses. At Brenham a lady teacher of a private school attended a political meeting of her friends, for which the patrons of her school withdrew their children.

At Millican a teacher of a public school cast his vote for the candidate of his choice, and his school was broken up in consequence. A school house near Galvert, in which was a colored school, was recently burned by unknown

parties; also, a school house in Collin County, and another in Houston County. Not long since a teacher of a colored school in Bastrop County was taken from his home at night, tied to a tree, and whipped near to death; his school house was also burned, and a short time since another teacher was whipped in the same county. On the 21st instant a school house for the colored people in Towash Hill County was burned by unknown parties, but I am informed the people have already raised the money to build another. It is with great difficulty that houses can be procured for the colored schools in the State, on account of the great opposition to the education of the blacks, and it has been even more difficult to find persons willing to teach such schools, as they have in all cases been ostracized from society. I am in hopes that the prejudice will die out, but fear it will not, until the people who fought to keep the colored race in slavery are made to know that the rights of the colored people will be permanently protected by the strong arm of the Government. The scholastic population (between six and eighteen) of this State, is about 235,000. The legislature has made an appropriation of \$504,000 for school purposes, for the scholastic year ending August 31, 1872, of which appropriation the sum of \$450,000 is for the support of teachers and employes. In addition to this, the levy of an ad valorem tax on all real and personal property has been authorized for the same year, from which the sum of \$2,000,000 is anticipated, for the purpose of building school houses and maintaining schools. The permanent school fund consists of \$1,457,517 railroad bonds, bearing 6 per cent interest in gold; \$61,000, 6 per cent registered United States bonds, together with the accumulated arrears of interest due by railroads; \$320,367.13, 5 per cent State bonds; \$82,168.82, 6 per cent State bonds, the proceeds of the sale of the public domain of the State, and all sums arising from fines and forfeitures, set apart by law for school purposes. The available school fund consists of interest on the securities above mentioned; one-fourth of the annual revenue derived from taxation; the one per cent tax hereafter referred to, and the State annual poll tax of \$1, levied on every male person above twentyone years of age.<sup>18</sup>

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<sup>18</sup>Report of the United States Bureau of Education, 1871, p. 14.

In his annual report, Superintendent J. C. De Gress points out how the Texas school fund compared with the funds in the other states of the Union:

I have endeavored in this report to bring to your consideration every matter of interest connected with the free public school organization and the condition of all school moneys, securities, and lands. By comparison, I find that out of thirty-seven states, Texas ranks as the seventh in the possession of a large permanent school fund, as per table annexed:

Indiana . . . . .	\$8,826,665.03
Illinois . . . . .	6,132,086.28
Ohio . . . . .	3,912,497.00
Iowa . . . . .	3,174,578.01
New York . . . . .	2,915,533.04
Michigan . . . . .	2,700,834.63
Texas . . . . .	2,670,798.12 <sup>19</sup>

This shows that Texas compared favorably with the other states of the United States as far as the size of the school fund was concerned.

In its first year of operation the public school system under the direction of Superintendent De Gress spent more money for public education than any school system in the history of the state, up to that time. In the annual report that the state superintendent of public instruction was required to present each year to the state legislature, the following information was given as to how money appropriated by the state legislature was expended:

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<sup>19</sup>First Annual Report of the Superintendent of Public Instruction of the State of Texas, p. 19.



For salary of superintendent of public instruction . . . . .	\$ 1,000
For mileage and traveling expenses of superintendent . . . . .	,300
For support of public schools, being salaries of teachers and employees . . . . .	50,000
For fees of scholastic census takers for the years 1867, 1868, 1869, 1870, and 1871 . . . . .	50,000
For books, blanks, stationery, printing, school books and apparatus for public schools . . . . .	10,000
For expenses of advertising and sale of railroads . . . . .	1,800
For fee of Thomas J. Durant for prosecuting suit against George W. Paschal in the United States Supreme Court, at Washington, D. C., to recover school funds in his possession . . . . .	,500
For fees due Thomas J. Durant for recovering school fund . . . . .	,454
	Total . . . . .
	\$114,054 <sup>20</sup>

Figures from the 1870 census indicated a dire need for these educational activities. The census returns in 1871 of illiterate persons ten years old and over revealed by the census returns show, of whites, 70,895; of colored persons, 150,617. This illiteracy was not confined especially to either sex, for the division of male and female illiterates shows that this illiteracy existed in the sexes in nearly equal proportions. The number of male illiterates was 110,448 and the number of females, 111,064, and the aggregate was 27 per cent of the population. Add to this the number of children between the ages

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<sup>20</sup>Ibid., p. 18.

of six and ten years, not included in the above figures, who had never experienced any of the advantages of even a primary education and the result was alarming in its proportions.<sup>21</sup>

Despite the obvious need for public schools, however, many people were very dissatisfied with the school law of 1871 because of the compulsory feature which required children to attend the public schools, the centralized control of the system (particularly with the Republicans in control of the state), and the additional taxation imposed upon propertied elements for the education of the masses. These people felt that they were being deprived of their sacred liberties and rights. Many speeches and editorials were presented by influential people trying to build up opposition to the newly created school law.

The Democratic Statesman, an Austin newspaper, published the following editorial in opposition to the compulsory attendance feature of the school law:

Those who heard Judge Hancock in his speech at Barton's Spring, on the 1st inst., will remember with what clearness and force he brought to view this odious and tyrannical feature in the Radical School Law, and declared it against common right—a usurpation by government of the natural rights of parents in relation to their children, etc.

It now appears that the views of Judge Hancock, our candidate for Congress, upon this point accords precisely with the decision of the Supreme Court of Illinois, and rests upon a solid principle, without which free government and personal liberty cannot exist.

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<sup>21</sup>Ibid., p. 19.

In speaking of this subject, our able contemporary, the Columbus (Miss.) Democrat, says:

"The Supreme Court of Illinois recently dealt a very wholesome blow at one of the most favorite schemes of a certain class of reformers. The decision it rendered was upon the question whether the Legislature possessed the right to establish a reform school and provide for the summary commitment to it of children who are destitute of proper parental care, and growing up in mendicancy, ignorance, idleness or vice. It denied the right, and maintained that its existence would be unconstitutional and subversive to the principles of republican institutions; that parents were the legal and proper guardians of children, and that their right over the children was superior to the State. A writer in the American Law Register commends this decision in the strongest terms, and says, there can be no question, it is a very creditable advance in favor of liberty, among the children of white parents, as well as those of a more sombre hue. All classes of men, and women too, under it, may keep their own children at home and educate them in their own way.

The idea that it is the right and duty of the State to enforce education by taking children from their parents is the legitimate result of the views which gave rise to the common school system. The latter have no more ground to rest upon, either in reason, or a constitutional government, than the former. And while the decision of the Illinois court may be a creditable advance in favor of liberty, a complete overthrow of the whole plan by which the State is converted into an agent for educating the masses would be a vindication of the principle of enlightened progress as we find them developed in a wise and beneficent philosophy.

The class of reformers who are endeavoring to make of society a huge machine, with the crank at the seat of government, are simply adopting the exploded theories of another age. Under their system every grade and every class would be compelled to look to the central power for that which they should find in their own brain and muscle, and as a consequence universal stagnancy and retrogression would take the place of progress and improvement. Their views have taken hold of a large portion of the people of this country—indeed the Black Republican party is enforcing the common school system of the South, have carried them into full practice—and if something is not done to counteract

their baleful effects we may calculate with safety upon a dreary future.

The incompatibility of this tyrannical and barbarous feature of the Radical school system, with true liberty, is so obvious as hardly to have escaped the attention of its authors; but we presume it was adopted for that very reason. It was framed as a means of buying votes to keep the party in power, for it provided salaries for many thousands of officials, to be paid by taxation of the people who are to be subjugated by its operation to the will of these unscrupulous tyrants. The more the subject is considered, the more glaring will its iniquities appear. Now, believing that this compulsory part of the law is destruction of vested rights and void, we hope our citizens may refuse to acquiesce in its enforcement until this question shall be determined by the court of final resort in the county. If our rights and liberties are not worth this struggle, they are not worth having. Here is opened to the patriotic and aspiring sons of the law a glorious field for the display of their learning and eloquence. In some sense, the lawyers of a State are responsible for the good and legal government of the people. Their aid is now loudly called for. In the glowing language of Judge Bledsoe of Kentucky, more than forty years ago:

"Even one great and good lawyer and statesman is a blessing to his country. His goings forth resemble a messenger from Heaven—beautiful as the morning to the sons and daughters of affliction, but to the oppressor terrible as an army with banners."<sup>22</sup>

Prominent politicians lent support to this opposition, even from within the ranks of the Republicans. M. C. Hamilton, who had violently opposed secession, was a Republican United States Senator from 1870 until 1877. He was opposed to the common school system because he felt that it was being used by the state administration as a political machine for the advancement of Republican influence in the

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<sup>22</sup>Austin Democratic Statesman, August 22, 1871.

state. Senator Hamilton wrote the following article which was printed in the Democratic Statesman:

The Board of Education seems to think it desirable to expend two and a half or three millions of dollars in a single year to build schoolhouses, when one-twentieth of that sum would meet the wants of the several districts for the present. The enormous sum must be wrung from an already over-taxed people, that the present authorities may, in after years, have the credit of having not only organized the public school system, but purchased sites in the several school districts, and completed handsome and substantial structures for the accommodation of all the scholastic population. This is the pretense—while the great army of needless functionaries quartered upon the school fund are literally swarming all over the State engaged in manipulating county meetings, and packing nominating conventions, and other political jobbery. The people feel disinclined to trust such men with so large a sum of money. They have no confidence in the judgment of such men, and little more in their integrity.

What other community, whether wealthy or otherwise, ever undertook or thought of undertaking the completion of such a work as the establishment of a public school system, with all the necessary buildings, furniture, fixtures, and books, in a single year? Why, it has been the work of two generations in many of the wealthiest States of the North and West. These are now getting up good schoolhouses generally, though the work is not finished. If we shall have reason to congratulate ourselves, we must exercise more wisdom and discretion than have, up to now, been apparent. It is not desirable, in fact, that public schools should be maintained by the State, or that they should be, even could the means be raised without oppressing the people. The system should grow up, as all systems have done that have outlived their organization. No successful individual or government ever prosecuted any enterprise in so injudicious a manner as is now proposed in regard to the school system of this State. Neither the United States nor any other government ever contemplates, as a rule, the completion of great works in a day, however easy it may be to raise the necessary funds. Many of the public buildings, docks, arsenals, forts and other public works, are on hand for many years, small appropriations being made from year to year as the work progresses.

The design of collecting, from an unthrifty people, in a single year, in the face of a blighted harvest, so large a sum of money to be disbursed by the board of education, when the labor of the inhabitants in the several school districts might supply the needed buildings, for school purposes just as well, has engendered a strong suspicion of the ability, if not the good intentions, of the supervisor. His appointments, notoriously made to influence political results and their active employment under his direct supervision in the dirty work, as well as the characters of many of the appointees, so far from relieving him from the suspicion, only serves to strengthen it. He and his staff have been the chief architects in shaping the resolutions complimenting themselves and the Governor, at Houston and New Braunfels, and placing in nomination for Congress in the third district a candidate distasteful to the party.<sup>23</sup>

In answer to the Republican charge that the opposition was trying to break down the free school system, the Democrats replied in the Democratic Statesman, on November 18, 1871. The following article gives their defense:

. . . The Democratic party is not pledged to break down the free public schools, but it is pledged to break down the infamously corrupt system adopted by Radical thieves and public plunderers, by which the money paid by our citizens to educate the children of this State is diverted from its legitimate purposes, and is now used to keep thousands of imaginary officials in place. The munificent fund provided by the Constitution and laws for public free school purposes is ample to educate every child in the State, if properly and economically expended. The Governor, Attorney General, and Superintendent of Public Instruction, were appointed a board to adopt rules and regulations for putting schools into operation. Under this general authority, they published a code of laws that was obnoxious to the people in every portion of the State. These laws were condemned by parents and school patrons everywhere, as not calculated to accomplish the objects contemplated by the originators of

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<sup>23</sup> Austin Democratic Statesman, October 10, 1871.

the free public school idea. Hundreds of thousands of dollars are used to subsidize the Radical press and to pay officers created only for partisan political purposes, and wholly unnecessary to the proper application of the school fund. A course of study is prescribed which was intended, surreptitiously, to instill into the minds of the children of Texas the infamies of Radicalism. This wicked purpose was deliberately devised to prevent the great mass of the white people from a participation in the benefits of this fund, and then heavy penalties are prescribed for failing to send children to these political schools. The cry of indignation raised in every quarter, has caused a partial modification of some of the more odious features of these rules, but the system as now being forced on the country, does not meet with favor by the tax-payers, who furnished the school money; and they are compelled to send their children to other than the public schools.

Then, too, fraudulent attempt is being made to extort a tax of one per cent, ad valorem, on all property of the State, ostensibly to build school houses, but really to furnish chicken pie to the Radical official press, when there is no law in force authorizing such a tax. The fraudulent attempt of the Governor, by wrongfully dating his approval of the Tax and School Bills, to give validity to this repealed law, has so often been exposed that it cannot impose on any one at this time, and the people very properly refused to pay this so-called tax. If this be treason, make the most of it. If this will lead to revolution and a second reconstruction, as predicated by the Union, then we say to the experienced writer for the Union, in setting up revolution, to begin his revolt, for this school-house tax fraud will not be acquiesced in by the tax-paying people of Texas.

It is these wrongs and this oppressive system that the Democratic party is pledged to break up, and not the schools. We want a system adopted that will be just, fair, economical, and that will commend itself to those interested in its success. All the children of the State can be educated by this school fund, and the Democratic party when in power will see to it that it is done. <sup>24</sup>

At the end of its first year of operation, the Republicans claimed the school system a huge success. They maintained that the success

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<sup>24</sup>Austin Democratic Statesman, November 18, 1871.

of the schools had exceeded their greatest expectations. Their claims were obviously not without justification, for the records show that with a scholastic population of 229,568, from the opening of school in September to December, 1,324 schools were put into operation with 63,504 pupils enrolled. There were 1,578 teachers engaged in teaching the children of the free public schools in Texas, and the average appropriation per child was \$1.75. The school year was the best school year that Texas had experienced up to that time.<sup>25</sup>

The report of the superintendent for the year 1872 indicated a steady progress up to that date in educational matters and a gradual change of public sentiment favorable to free schools. The scholastic records showed a total of 280,000 scholastic population, with the number enrolled in school, 129,542—a substantial increase over the preceding year. There were 2,207 teachers engaged in teaching in the public school system. Private schools had decreased to the number of 1,100, their best teachers and nearly all of their pupils having been absorbed into the public schools, leaving only a few higher grade private schools or academies in operation.

There had also been a marked advance in the qualifications of the teachers, and the prejudice against them reported the previous year had decreased. Occasions of personal violence or outrage upon

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<sup>25</sup>Report of the Commissioner of Education for the Year 1871,  
pp. 327-329,



them had become rare, notwithstanding the large proportion of those engaged in teaching colored children. From being subjects of social ostracism, they had become favorites, and with the exception of the vexation of delay in the payment of their salaries, their positions had really become pleasant.<sup>26</sup>

The fight over the public school system waxed hot as the presidential election of 1872 approached. Each party was called upon in the conventions to rally to the cause and fight to the bitter end. The rupture in the ranks of the national Republican Party caused the leaders of the party in Texas to lay great stress on the necessity for harmony. The call for a convention was issued early; among the objects of the meeting was specified a thorough reorganization of the party. In regard to the public school system the delegates placed the following plank in their platform:

The Republican party in Texas regard the free education of all the children of Texas as a sacred duty, the first and most sacred of all our public duties; and we hereby pledge ourselves to secure to the children of all the facilities of free public education at the smallest cost possible to the people; and we will hedge the system of public education with all possible safeguards, endeavoring to secure the most rigid economy and the best administrative experience. Free public schools shall ever be the dearest motto of the Republicans of Texas.<sup>27</sup>

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<sup>26</sup>Report of the Commissioner of Education for the Year of 1872, p. 382.

<sup>27</sup>Winkler, Platforms of Political Parties in Texas, pp. 140-143.

In the call for a state convention, the Democratic executive committee pointed out that the meeting would be the most important that perhaps had ever assembled in Texas since, on the wisdom of its counsels and the harmony to be established, would depend the future success of democracy in Texas. In their convention which met in Corsicana, they set up the following platform on education:

Whereas, the school fund, sacredly set apart for the education of the children of this State, has, under the political misrule of the last two years, been plundered by speculation, squandered, and perverted to political purposes: The Democratic party deem it fitting on this occasion to reaffirm the opinion that agreeably to the policy the party has hitherto pursued, it is the duty of the State to establish common schools and furnish the means of a good common school education to every child in the State.<sup>28</sup>

The opposition to the school law of 1871 was becoming greater. The conflict between the Republican Party and the Democratic Party for the control of the government was becoming more bitter. A battle was to be fought, a victory won or lost; and both partisan groups declared themselves as guardians of a free public school system. The continuation of the centralized system instituted by the Radicals obviously depended upon their continued control of the state's legislative and executive branches.

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<sup>28</sup>Ibid., p. 143.

## CHAPTER IV

### COUNTER-REVOLUTION: THE RETURN OF THE DEMOCRATS

Democrats and conservative Republicans united in attacking the Radicals. In September, 1871, the representatives of ninety-four counties met in Austin as a taxpayers' convention to protest the extravagance of the administration. Such men as A. J. Hamilton and E. M. Pease united with ex-Confederates to show that the Davis party was bankrupting the state. At a special election in October, 1871 (made necessary because the legislature, in violation of the constitution, had postponed the general election until November, 1872), the Democrats elected all four of their candidates for Congress. This was accomplished in spite of Davis' supervision of the polls by peace officers and militiamen and the efforts of the canvassers to reject enough votes to win a seat for one Republican. In 1872 Horace Greeley, the Democratic nominee for President, outran President Grant in Texas by almost 20,000 votes; the Democrats again won all of the seats in Congress and gained control of the state legislature. With the Democrats again in power, it was impossible for the program of the Radicals to continue.<sup>1</sup>

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<sup>1</sup>Rupert Norval Richardson, Texas, The Lone Star State, pp. 282-283.

Experience had already demonstrated a growing resentment to the public school system established by the Radicals, and public sentiment speedily demanded its repeal. The changes effected, no matter how salutary, were the product of a discredited regime and as such were subject to general condemnation.

In 1873 a new school law was enacted that furnished a striking illustration of the tendency of public opinion to run into extremes. A more liberal participation in the management of school affairs was conceded to local school officials than was compatible with an efficient and economical administration; and strange, too, as it may seem, they were authorized to levy a greater tax than even 1 per cent, and in the exercise of their official functions they were above the law and beyond the jurisdiction of the courts. Hence, it may be reasonably inferred that under the operation of such laws the cause of education incurred stubborn opposition which materially slowed its forward progress.<sup>2</sup>

On April 30, 1873, an act to establish and maintain a system of public free schools in the state of Texas was passed by both houses of the legislature. The foregoing act was presented to the governor for his approval on the second day of May, 1873, and returned by him to the house in which it originated, with the following objections:

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<sup>2</sup>Eby, Education in Texas, pp. 578-579.

The constitution directs the legislature to establish a uniform system of free schools, throughout the state; but this act, though it proposes in its title to establish such a system, in reality does away with all systems. . . . Instead of having one system for the state, we may have as many as there are organized counties, or say 135 systems.

It further strikes at uniformity of system by dispensing with the board of education for the state. . . .

It provides that the schools shall only remain open for four months annually. This provision alone will if adopted put an end to the public schools on a scale of efficiency and permanency in any respect worthy of our state. . . .

The expense attending the county organizations under this act and the multiplicity of officers it creates should be noted. . . .

The act repeals all previous acts, thus repealing the taxes assessed under those laws. . . .<sup>3</sup>

After being returned by the governor, the act was passed by a two-thirds vote of both houses of the legislature, and returned to the office of the secretary of state.

In this new school act, a superintendent of public instruction was to be elected by the qualified electors of the state for a term of four years. Before entering upon his duties, he was required to take and subscribe to the oath of office prescribed by the constitution, and he must also execute a bond in the penalty of fifty thousand dollars, payable to the state of Texas, with securities to be approved by the governor, conditioned for the prompt discharge of his duties and for the faithful application and disposition of all school moneys that might come into

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<sup>3</sup>Report of the Commissioner of Education, 1873, p. 383.

his hands. Any time that he failed to fulfill the above conditions, he was subject to impeachment, trial, punishment, and removal from office in the same manner as other state officials.

The superintendent was to keep an office at Austin. He was to file all papers, reports, and public documents transmitted to him by the school officers of the counties of the state each year, and was required to keep and preserve all the public documents, books, and papers relative to schools in the state which might come to him. He was to keep these in readiness to exhibit to the governor, or to any committee of either house of the legislature, and to keep a fair and correct record of all matters pertaining to the business of his office.

The state superintendent was to supervise all of the public free schools in the state and be the general adviser and assistant of county superintendents of schools in the state. From time to time, he was to send circular letters to the county superintendents, giving advice as to the best manner of conducting schools, constructing school houses, furnishing the same, and examining and procuring competent teachers.

Each year the superintendent was to make a report to the governor on the condition of the schools of the state. In his report the superintendent had to give the number of schools that were taught in each county, the number of pupils in attendance in these schools, the number of persons in each county over six and under eighteen years of

age, the amount of interest on the public school fund and the county fund annually paid out, the amount of money raised by an ad valorem tax, the whole amount annually expended for schools, the number of school houses, their kind and condition, the number and description of books and apparatus purchased for the use of schools and school libraries under the provisions of this new school law. He also was to report any other information and suggestions that he might deem important in relation to the school laws, schools, and the means of promoting education throughout the state.

Other duties of the superintendent included furnishing county superintendents, teachers, and trustees with the forms, blanks, etc., that might be necessary in filling out their reports to him. He was responsible for obtaining all of these reports from these lesser school officials at the end of the school year. If one of these school officials failed to make these reports, his salary would be withheld until the report was made. It was also his duty to determine the amount of money each county was to receive from the state school fund and to see that each county received its designated amount. He was to perform all other duties required by him in the constitution.

For performing all of these duties of his office, he was to receive an annual salary of three thousand dollars, plus all expenses for books, postage, and stationery pertaining to his office. To help him with his

work he was furnished one clerk, who received the salary of one thousand eight hundred dollars per year.

In a sweeping move toward decentralization of education, each county was to elect five school directors, who would hold office for a term of four years. These school directors made up the county board of school directors. These directors were to elect one of their number to be the president of the board. This president was also to be the county superintendent of schools. They were to divide their county into school districts of convenient size and were to order elections in each school district, for a board of school trustees.

On the last Saturday of each month, the county superintendent was to meet with all persons who were desirous of passing an examination for a teacher's certificate. This meeting was to be held in the county seat in some suitable room provided for this purpose. This examination was to test the applicant's ability to teach orthography, reading in English, writing, arithmetic, geography, English grammar, history of the United States, practical physiology, and the laws of health. No one was entitled to a certificate unless he was of good moral character, and was well qualified to teach the above subjects. For his part in giving these examinations, the county superintendent was allowed to charge each applicant the sum of three dollars.



The county board of directors could be called together by the president of the board any time that there was business for them to conduct. For their services they were to receive four dollars a day, provided the number of days did not exceed ten days in any one year. The county superintendent was to receive four dollars for each day employed in the work of this office, provided that the number of days did not exceed thirty days each year. The salaries for these county officials were to come from the funds provided for each county by the state.

On the first Tuesday of September of each year, the qualified voters in each school district were to elect three school trustees, who were to hold office for one year. Immediately after their election these trustees were required to take the census of the scholastic population of the district, making separate lists of the white and colored children. They were also required to provide the necessary schools and school houses for the scholastic population of their district, separating the children, and so arranging the schools and school houses that good order, peace, and harmony might be maintained in the schools. They were to employ competent teachers for all the schools in their district and to see that the schools were taught and properly conducted for at least four months in the year. The free schools could continue for a longer period than four months, if the amount of the

school fund was sufficient, or if the citizens of the district, by payment of tuition or subscription, could supply the deficiency. If the school district did not have enough money to keep the schools operating in the district for four months, an ad valorem tax upon all taxable property could be levied to make up the amount needed.

An ad valorem tax for the scholastic year commencing September 1, 1873, of twenty-five cents upon each one hundred dollars of taxable property was levied for the purpose of building and repairing school houses. This tax was to be collected like the other taxes of the county. This tax money was not to be used for any purpose other than those stated above.

Every teacher of a public free school was required to keep a record of the names of students attending school, their age, the district in which they lived, daily attendance, the names of parents, and to make a monthly report on the last Friday of each month of the number of students and daily attendance during that month. This report was sent to the county superintendent at the end of the four months required by law to be taught. The teacher had to teach every day except Saturdays and Sundays as many as six hours, excluding hours of recreation.

All of the scholastic population of the state was required at this time to attend the public free schools at least four months in each year, unless prevented by ill health, feeble physical condition, or by reason of

danger from hostile Indians, or by the prevalence of any contagious or infectious disease. No child under ten years of age was required to attend the public free schools, when there was no school within two miles; provided, that when any of the scholastic inhabitants might be shown to have received regular instruction for four months in each year, from any private teacher having a proper certificate of competence from the county superintendent, or from the president, principal, or faculty of any incorporated seminary, college, or university in the state of Texas. All of the scholastic inhabitants failing to attend the public free schools, except for the above causes, would forfeit their interest in the public school fund for the time they failed to attend the public schools.<sup>4</sup>

The available school fund for the support of public free schools was declared to be: all interest which had accrued, or might accrue, to the school fund from the railroads or otherwise, since the thirtieth day of March, 1870; one fourth of all the ad valorem and occupation taxes assessed since that date; and such other taxes as had been or might be provided by law for the support of the public free schools, and all sums of money that might come to the state of Texas from the sale of any portion of the public domain on record as belonging to the state.<sup>5</sup>

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<sup>4</sup>This was not much punishment for not complying with compulsory school attendance, especially when compared with the compulsory attendance penalty under the school law of 1871. The penalty at that time was \$25 and costs of court. This penalty was more or less "window dressing."

<sup>5</sup>Gammel, Laws of Texas, VII, 536-547.

In June of 1873, Chairman J. G. Tracy, of the state executive committee, issued a call for a state convention of the Republican Party. The call fixed the basis of representation. It set forth the issues upon which it was expected to gain the victory. It foreshadowed the fierce political campaign about to be initiated. About five hundred and fifty delegates attended. Eighty-four counties were represented. It was not a "nigger" convention, reported the official organ, but was composed of all classes of the people in proper proportion. This convention held its meeting in the city of Dallas on August 19 and 20, 1873. The convention set up the following platform on education:

We are earnestly in favor of the establishment and maintenance of a system of public free schools such as is imperatively required by article nine of our State constitution, and of such improvements as experience has shown to be desirable, and we strongly condemn the practical abolition by the thirteenth legislature of the system that was in operation.<sup>6</sup>

The call for the state convention of the Democratic Party was issued July 14, 1873. It was a long document, entering in detail into the recent accomplishments of the party and surveying what still remained to be done. The attendance exceeded the capacity of the Hall of Representatives, which contained seven hundred chairs for the exclusive use of the delegates. The basis of representation adopted by the convention provided that each county represented be entitled to

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<sup>6</sup>Daily State Journal, Austin, July 19 and 20, 1873.

one vote for each hundred votes cast for the Democratic candidate for Congress, either at the election in November, 1871, or in October, 1872, taking the maximum vote, and one vote for each fraction of twenty-five votes or more; provided that each county be entitled to at least one vote. This convention met in Austin on September 3, 4, and 5. They set up the following platform on education:

We congratulate the people of Texas on the repeal by the thirteenth legislature of a number of the oppressive, odious, and unconstitutional acts, passed by the twelfth legislature, in pursuance of the Radical policy to overthrow the government of the people; and among which acts were:

The act relating to public free schools, which, among other bad features, provided the means of enabling public officials to speculate in school books, in the building and furniture of school houses, in the salaries of teachers, and furnished high salaries for a large and useless number of officers, which gave the Radical party the means to pay their political missionaries who traveled for Radical purposes and frauds from one end of the State to the other.

The school fund, sacredly set apart for the education of the children of th State, has, under the operation of the misrule of the party in power, been plundered by speculation, squandered, and perverted to political purposes. The Democratic party, through us, reaffirms its past opinion and the policy it has ever pursued, that it is the bounden duty of the State to maintain an efficient system of free common schools, and secure the means of a common education to every child in the State; and we advocate the gradual sale of the alternate sections of land belonging to the common school fund, as also of the asylum and university lands, under such restrictions as will secure the funds arising therefrom to the purposes for which they were intended, and giving in such sales proper preferences to actual settlers in good faith thereon.<sup>7</sup>

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<sup>7</sup>Winkler, Platforms of Political Parties in Texas, pp. 159-160.

In an effort to get votes and to inform the citizens of Texas as to the issues at stake in the coming election, the Democrats called many political rallies throughout the state. In addition to these rallies, many circulars were printed and distributed. An example of how the Democrats tried to get their views over to the public can be observed in the circular that was printed and circulated to the voters of Bastrop County in November, 1873:

Fellow Citizens:

In order to correct the misrepresentations that have been purposely prepared and industriously circulated by the Radical press and candidates throughout the entire State, the undersigned have been appointed by the Democratic Executive Committee of Bastrop County to collate and present, for your consideration, such facts as will illustrate the true character of the present political contest, and will enable you to correctly determine which of the two parties is the better entitled to your suffrage. As an accomplishment, in part, of the duties assigned us, we submit the following:

. . . it is upon the repeal of the school law of 1871 that the Radicals hope to carry the coming election. In order to convince the candid mind of the wisdom of the 13th legislature in securing the repeal of this law, it will be necessary to recall only a few of the principal features of said law:

. . . The opportunity for speculation, fraud and illegal disbursement. Notwithstanding there was no constitutional provision or law providing for the removal or impeachment of the Superintendent, or requiring him to execute bond for the safekeeping and proper disbursement of the public moneys, yet the 12th Legislature authorized him, and he did in fact draw from the State Treasury sums amounting to \$50,000 and \$75,000 at a time, filing his vouchers, therefor, afterwards, often not until several months had transpired after his obtaining the funds.

Now what did he do with this money? With whom was it deposited? Why did he not permit it to remain in the vaults of the treasury, in the custody of a bonded officer charged with the disbursement of public moneys? Is not the inference irresistible that this irregular and "wholesale" withdrawal of the public funds from the treasury by the superintendent led to the depreciation of teachers' vouchers and delay in their payment? Again, all of the school books, apparatus, slates and patent furniture were purchased from particular establishments in the North. What a splendid opportunity for speculation! Think you that these establishments did not pay a pretty large bonus to DeGress and Co. for their monopolies?

Why not permit our people to go into the market generally and buy from such as would sell cheapest, and why confine the entire trade to a few houses? There are many other reasons why the old law should have been repealed, as sound and convincing as those already suggested, but we must forbear a further expose of the evils of the system. Now, what are the main features of the present school law? Beginning with the superintendent it subjects him to the same penalty as other officers for like offenses; it requires him to execute bond and does not permit him to handle any of the public funds. The employes in his office are limited to two in number and receive moderate salaries. If he desires to make a political canvass he must do so at his own expense. No "pin money" is allowed him. The cost of his correspondence is limited to three hundred dollars, and telegraphing has not been considered a necessity to the success of the schools. The present law does away with the boards of education and of examiners, with supervisors and inspectors, and limits the percentage of the county treasurer to one per cent upon the money disbursed; it permits you to elect your own trustees and directors, and requires that one director shall live in each precinct; it subdivides the county into districts and apportions the money arising from the State tax according to the scholastic population; it requires each district to build its own houses so that the extravagance of one may not be a burden to the others; it permits you to purchase your books wherever you please and to build such houses as suit you best; it authorizes you to employ such teachers as you may deem most capable.

In a word, it gives you the entire control of your schools. The system is a good one, and if properly conducted will rebound to the benefit of yourselves and your children.<sup>8</sup>

This circular was signed by the committee, composed of T. C. Cain, J. A. Hooper, G. A. Schneider, and J. W. Kennedy.

The Democratic candidate for governor in 1873 was Richard Coke. Against him the Republicans ran for their candidate Edmund J. Davis, who had been the governor of the state the preceding term. Richard Coke won the election by a vote of 85,549, compared to 42,633 for Davis.<sup>9</sup>

In a message to the legislature of Texas on January 26, 1874, Governor Coke seemed satisfied that the changes in the school law in 1873 would be sufficient for the time being, with perhaps a few minor changes. He favored a policy of waiting to see how effective the school system would be, then gradually changing it to meet the needs of the time. He especially pointed out that the school fund should be invested in such a way that the revenue realized from it would be sufficient to take care of the finances of the public schools without having to resort to a tax program for the support of the school system. He said:

I commend to your especial consideration our system of public free schools, and the necessity of bringing it to

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<sup>8</sup>The Bastrop Advertiser, November 8, 1873.

<sup>9</sup>Ibid., p. 645.



such perfection that the children of the State may realize the benefits contemplated therefrom by the fathers of Texas.

The present law upon this subject, passed by your immediate predecessors, has not been on trial sufficiently long to justify a conclusion as to its sufficiency in meeting the requirements of the times. While an examination of its provisions may disclose some defects requiring action at your hands, it occurs to me that in the main it was a salutary enactment, and that its efficient execution will demonstrate the wisdom of its framers. It certainly brings the machinery of the system home to the people themselves, and places the offices thereof directly under their supervision and accountable to them.

I have full confidence that this admirable feature can be preserved, along with proper efficiency, and we should bend our efforts to this consummation. We must have common schools fully adequate to the wants and requirements of the State. At the same time we must remember that a proper system is of slow growth to be amended and developed according to the dictates of experience and the state of our available resources. In this connection I respectfully call to your attention the necessity of utilizing, in some manner, the magnificent school fund of our State, and of placing it in such condition that an annual revenue may arise without the necessity of resorting to taxation.

The demand for education in our State is urgent and pressing, and we should begin to utilize every source of revenue in our reach for this purpose.

The children of the present generation are as much entitled to the benefits of public education as those who may come after them, and I cannot see the practical wisdom of keeping the almost entire school fund of the State locked up and lying dormant in unproductive lands, many thousands of acres of which are in settled counties, retarding each day their proper growth and development. . . . <sup>10</sup>

Although he advised changing the school system gradually, his recommendation was not heeded because a short time later the entire system was completely altered. His advice that the school fund be so invested

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<sup>10</sup> Sinclair Moreland, Governors' Messages, Coke to Ross, pp. 20-21.

as to provide enough money for schools that taxes would not be necessary was not followed by the legislature. Neither did they follow his suggestion as to the raising of money for education by selling school lands.

The accumulating wrath of Texas Democracy reached high tide in the convention which assembled to rewrite the constitution in September, 1875. As was to be expected, a bitter struggle engaged the representatives of the two political parties with their diverse and antagonistic sociological and educational traditions. Other subjects of contention were numerous, but none was so violently fought over as the article on education. The variety of opinions on every phase of this subject was astonishing. At one extreme were many who did not believe in public education in any form; men who saw in it only a new kind of tyranny which had its origin in New England and the monarchies of the Old World. At the other extreme were the strong partisans of the highly elaborate and centralized system of the departing Radical regime. A powerful faction favored the pre-war method of pauper education. A number of the members of the committee on education in the constitutional convention reported in favor of this outworn plan. They reiterated all of the old arguments against a free state-supported system, declaring it was antagonistic to the law of God, who divinely authorized parents to control the training of their

offspring, and contrary to the principle of religious liberty. A committee composed of R. Sansom, Asa Holt, A. J. C. Dunnam, and G.

B. Cooke made a report to the convention expressing these views:

They believe the education of children to be a private duty—devolved upon the parent by God, as is manifest both from the laws of nature and revelation—and to the end that the parent may be enabled to discharge this great duty, the same laws confer on him the right to control his children; and they do not believe that a democratic government can, without violating the great principles of personal freedom and individual right upon which it is founded, either relieve the parent of this duty by laying it upon the shoulders of another, or deprive him of this right by assuming it.

They are unable to see how a government established for the protection of private property can without subverting the purposes of its creation, take by taxation the private property of a portion of its citizens and apply it to the use of another portion of its citizens, unless it be given in compensation for services rendered the State or for the preservation of life. <sup>11</sup>

They also believed that it was a violation of justice in taxing one man to help educate the children of another, as pointed out by the preceding committee report. This view was further expressed by a committee headed by E. S. C. Robertson, which proposed resolutions as follows:

That the industrious farmer and mechanic can never rise, or accumulate property, if you levy an annual tribute on him for the education of the children of his less industrious neighbor.

That he does not believe that it ever was the intention of the founders of our republican form of government to take the entire control of the education of the children

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<sup>11</sup> Journal of the Constitutional Convention of the State of Texas, 1875, pp. 243-247.

of the country out of the hands of the parents or legal guardians.

That the history of the country, from the first landing of the Pilgrims down to the present time, will not warrant the conclusion that any species of compulsory education was intended or would be tolerated.<sup>12</sup>

Theirs was the slogan, "Away with free schools; let every man educate his own child." This extensive group included the partisans of sectarian schools, who desired to perpetuate the old policy of state subsidies for the private and denominational institutions.

On one point there was universal agreement. There must be separate schools for the white and colored children. Very early in the convention there were resolutions made to establish separate schools for the two races. Mr. Weaver made a resolution to this effect on the fifth day of the convention:

That this Convention, by proper ordinances, so guard the fund arising from said school revenue as to prevent it from being squandered or appropriated to any other purposes; and thereby securing forever to all the children of this State the greatest wealth of a free country, educated children; and, provided, that separate free schools shall be established for the education of the Negroes.<sup>13</sup>

The contest in the convention over the article on education raged for many days. The first report of the committee consisted of a majority report, signed by nine members, and two minority reports. After much further acrimonious discussion, numerous amendments,

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<sup>12</sup>Ibid., p. 395.

<sup>13</sup>Ibid., p. 45.

resolutions, and proposals, the entire subject with all these recommendations was referred to a new special committee of seven members. After further lengthy deliberation, this special committee failed to agree, and a majority report signed by six members and a minority report signed by one member were introduced.

The article on education as finally adopted after so much wrangling was naturally a disappointing compromise which fell far short of meeting the real needs of the times. In its intense hatred of the Radical school system the convention blindly wrecked the entire organization, destroying the features which were good together with those which were bad. Many of the policies favored by Democrats in former days were swept away in the era of political reaction. The new constitution abolished the office of state superintendent of public instruction, together with all other supervisory functions. It eliminated compulsory attendance and all provisions for the districting of the counties for school purposes. The free school age now became the period from eight to fourteen years. Local taxation for building school houses and maintaining schools by public funds was rendered impossible under the new conditions. The county school lands which the Constitution of 1869 had placed under the control of the legislature were now returned to their respective counties. The proportion of the general revenue set apart for the support of schools was restricted

to one fourth or less of the occupational and ad valorem taxes that might be collected.

Furthermore, it was declared "the duty of the legislature of the state to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." But no suggestion was given as to what was to be understood by the term "efficient system"; and in the absence of all recognized standards of educational merit, this catchword was not merely meaningless but deceptive and harmful. Provision was made for the school fund which was henceforth to include all funds, lands, and other property set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the state out of grants heretofore made to the railroads or other corporations; one half of all the public domain of the state; and all sums of money which might come to the state from the sale of any portion of the same. In all, this amounted to something like 45,000,000 acres of land available for the endowment of public schools. This was exclusive of the four leagues granted to each county. At the same time, the permanent school fund invested in government bonds amounted to \$3,256,970.<sup>14</sup>

A consultation of Democrats was called to meet at Austin on November 10, 1875, by the new chairman of the state executive

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<sup>14</sup>Gammel, Laws of Texas, VIII, 809-813.

committee, Joseph D. Sayers. At this consultation it was agreed that the state convention should be held at Galveston on the first Wednesday in January, 1876. A few days later a formal call was issued:

As important an election as was ever held in a free country will be before you. Not only the selection of proper officers—thereby ensuring an honest successful administration—but also the consideration of a new organic law, and its adoption or rejection, will devolve upon you.

Whether it should endorse the new constitution was the great issue before the convention. In its meeting at Galveston, the Democratic convention set up the following platform on education:

The Democracy now, as in the past, adhering to its policy of maintaining an efficient system of general education, declares it to be the duty of the legislature of the State to specify, speedily establish, and make provision for the support and maintenance of public free schools, and to this end to exercise the whole power with which it is vested.<sup>15</sup>

The call was also sounded for a convention of the Republican Party by Chairman E. J. Davis when he issued the statement:

After consultation with many Republicans of Texas and members of the State Central Committee, it has been deemed advisable to hold a convention of Republicans of the state to decide the policy of the party in the approaching canvass for state officers and the ratification or rejection of the constitution framed by the Constitutional Convention.

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<sup>15</sup>Houston Daily Telegraph, January 6-8, 1876.

The Republicans also held their convention in the city of Galveston five days after the Democrats had left. They adopted the following resolution on education:

That we denounce the Constitution framed by the late convention at Austin, and now submitted to the people of Texas for ratification, as unfit to become the organic law of the State for the following, amongst other, reasons:

Because the said Constitution seeks to cheat the people with specious provisions in relation to schools, while it utterly fails to secure an efficient system of free public schools, which is the greatest necessity of the State, as well as the surest guaranty of progress and the best defense of liberty.

That because of the inefficiency and failure of the present State administration to enforce the laws in this State and protect citizens in their rights, it becomes necessary for us to call on the general government to assist, so far as the Constitution and the laws of the United States will permit, in maintaining order and protecting our citizens; and we further request the President of the United States to instruct the civil officers of the government of the United States, within this State, to see that the Kuklux and other protective laws are duly enforced, and that school-house burners be brought to punishment.

That the Republicans will expose the trick on the part of the Democracy to prevent the education of the poor of the State, and that the attention of the civil officers of the United States government will be called to the act of Congress readmitting Texas into the Union under certain conditions, viz.: that the constitution of Texas shall never be so changed as to deprive any citizen or class of citizens of any of the school rights guaranteed therein, and ask that said act be enforced.<sup>16</sup>

In the election of 1876, Richard Coke was re-elected as governor of Texas over his opponent William Chambers. The new constitution

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<sup>16</sup>Ibid., January 13-15, 1876.



was also ratified by the people of the state. With the ratification of the constitution, a new school law had to be written.

The new legislature rewrote the school law in accordance with the policies set forth in the new constitution. A state board of education was authorized and set up, which was to have general oversight of the schools, so far as any central control was to be exercised. This board was permitted to secure the services of a secretary; but beyond collecting the reports of the school officers and dispensing useful information, he was merely a clerk without supervising powers. There was no office of state superintendent of public instruction, as there had been in the school law of 1871.

The method of school organization adopted in the new law was as simple and as loose as it could possibly be. In the absence of any authority for dividing the counties into suitable school districts, the parents and guardians were permitted to unite and organize themselves into school communities, embracing such population as might agree to take advantage of the benefits of the available free school fund. The parents submitted to the county judge, who was ex officio county superintendent of schools, a list of the children whom they wished to send to the school. This official was required to appoint three trustees to act for the term in which the school was to be in operation. These trustees were charged with the employment of the

teacher, and the general oversight of the school. This entire process had to be repeated yearly. There were no definite boundaries for the school communities, and the patronage of schools shifted from year to year. Any group of children, however few there might be, could form a school. The community was a purely voluntary district in the exact sense of the term, having legal existence for one year only.<sup>17</sup>

This vast decentralization was averred by the Democrats to offer many advantages over the previous system. It gave to parents the greatest possible freedom in determining for themselves the kind of education they desired for their children and the character of teacher they wished to employ. There were no restrictions as to the number of children necessary to make up a school community. The system was, therefore, adapted to the sparsely settled areas of Texas and fitted also those sections which were growing rapidly and in which changes were frequent. The district had formally been given a trial and was not found to fit these conditions. The parents could enjoy the use of the state school fund, together with the minimum of state interference. Moreover, it lodged the responsibility of educating the children upon the parents, where, as they believed, it belonged; and did not permit of local taxation, by which the rich man is forced to pay for the education of the poor man's children.

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<sup>17</sup>Gammel, Laws of Texas, VIII, 1025-1046.

The numerous disadvantages of the system were less obvious to the Democrats. Under this system no local taxes could be collected, as there were no fixed boundaries for the school community. The schools, having no permanent organization, but merely existing for a few months, to be reconstructed anew each successive year, could erect no permanent buildings. A number of small and ineffective schools were usually conducted in communities which were scarcely large enough for one good one. It offered a means by which petty jealousies, prejudices, and often sectarian bitterness rather than community co-operation controlled in the maintenance of schools. The annual reorganization produced continual controversy among the patrons. It tended toward the disintegration and dissipation of the school resources. The school fund, which should have been expended in fostering an enduring school spirit and a stable organization, was dispensed from year to year without lasting results. Under these circumstances, no continuity of action or sentiment for public education was possible. There was an entirely new board of trustees every year, and even these might be removed by the petition of the majority of the patrons. There was no fixed place for the school, but its location was determined anew each year. A parent might join in the organization of a school ten or fifteen miles from his residence without any intention of patronizing it, thus seriously crippling the school in his own neighborhood.

With the passage of the school law of 1876 the Radical element of the state lost their control of all parts of the state government, never to gain it again. The reconstruction period also came to a close in Texas at this time. Although political developments had held the center of the stage during this era of great change, fundamental changes had been made in the public education system. Unfortunately, the discrediting of the Radicals' political system led to similar reaction in public education. The end of the period of reconstruction saw few of the reforms instituted by the Radicals being retained, but reforms had been made and had been tried. They would again be adopted once the "Bourbon Democracy" became, in turn, discredited.

## CHAPTER V

### THE LEGACY OF RECONSTRUCTION

During the Radical reconstruction period the program of education in Texas did not suffer from lack of good school laws or good organization. The educational system of the state during this period was based on sound, progressive school laws. Many of the features of the school system of that time are being used in the school system of Texas today.

If a state is to have a good public school system, it must first have a financial setup which will support its public schools adequately. This requires sound taxes in which all can participate for the support of public schools. For many years people revolted against the idea of paying taxes for the educating of the children of other people. This old idea is no longer held, since it is a fact that everyone benefits from living in a country where the people receive a good education. During this time the state passed a law which set up a permanent school fund which was comprised of money from the sale of the public school lands. The money in this fund was invested in United States bonds. The interest from these bonds was placed in the available

school fund. In addition to the income from investments of the permanent fund, the state levied an ad valorem tax on property. Income from this tax structure was also placed in the available school fund. An occupations tax was also passed which added still more money to this fund. A poll tax brought in revenue for the available school fund at the rate of one dollar for each male of twenty-one to sixty years of age. School districts could also pass an ad valorem tax in the individual district for the purpose of providing money for the construction of school buildings. This financial system, used for the first time in the reconstruction period, evidently influenced the school financial system of today, since practically the same plan is used.

The legislators of the reconstruction era created the office of superintendent of public instruction. This was very desirable, since a school system needs some person to act in a supervisory capacity in order that it may be directed toward its highest possible standards. The legislators of today have copied those of the reconstruction period in that they have also established the office of commissioner of education. These superintendents of both periods were aided in their work by supervisors. Texas is such a large state that it would be almost impossible for one man to administer all of its schools.

During the period of reconstruction, uniform textbooks were required in the schools of the state. This greatly aided in the teaching

of the various subjects. This also insured that every child would have an equal opportunity to gain the same subject matter. Uniform, state-adopted textbooks are required in our school system of today.

Teachers of that day were required to hold certificates which entitled them to teach. They had to fulfill certain requirements before they could obtain one. This would tend to keep out undesirable people who were not qualified to teach the children of the state. Today Texas follows the same procedure in that teachers are required to have teaching certificates before they are allowed to teach in the public schools.

One of the bitterest issues concerning the public schools was over the question of compulsory attendance. During the reconstruction period, children of school age were compelled by law to attend school. In Texas at the present time we still have a compulsory school law on our statutes.

One of the features of the school law during reconstruction was the separation of the school system into two parts, one for the whites and one for the blacks. This situation has existed through the years, even till this day. Although the Negro was supposed to have equal educational opportunities, it is generally accepted that this is not true. Their school buildings and facilities probably would not compare favorably with those for the whites. However, separate schools for the

two races were advisable at that time in that public opinion would not have been ready for Negroes to attend the same schools that white children attended. Much violence would have resulted from such attendance at that time. Today Texas still has separate schools for the two races, but there has been a growing tendency to allow Negroes to attend institutions of higher learning in company with whites. Eventually there is the possibility that Negroes will be allowed to attend all white schools.

The present tendency is toward the county unit in the state school system which was adopted by Superintendent De Gress. There has likewise been a steady growth of power of the state department of education over the school system, somewhat like that of the reconstruction period school system.

It is unfortunate that the public school organization of the Radical Republicans was discontinued when the Democrats regained power. The main reason why it was discontinued was because of the political differences between the two parties. Political reaction against the Radical Republican regime led to a concurrent reaction against the public school system which they had established. In Texas, as in the rest of the South, the cause of free education received a set-back with the return of the Democrats to power. As one eminent educator once noted, "The truth is, the victory of home rule in 1876 was followed by



a period of indifference, if not hostility, to the cause of public education."<sup>1</sup> And yet even though the school system of the Radicals was discontinued for a time, eventually a great many of its good features were later revived and are now in use; so it served a good purpose in the furtherance of public education in the future.

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<sup>1</sup>William K. Boyd, "Some Phases of Educational History in the South Since 1865," in Studies in Southern History and Politics Incribed to William Archibald Dunning, p. 264.

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