

Senator Marion Butler's Position on the Proposed Constitutional Amendment and the Simmons-Goebel Election Law

WASHINGTON, D.C. Jan. 1, 1900

Hon. George Wilcox, Carbonton, N.C.:
My Dear Sir:

Yours in regard to the election law and the proposed Constitutional Amendment, received.

With reference to the proposed amendment, permit me to say that I have seen so much of the evils of the so-called race issue being injected into politics that I did not hastily take a position on it. This so-called race issue has been used by the democratic politicians of the Hansom-Simmons Machine type as the most effective barrier to the advancement of the principles of the People's Party, and in fact, to prevent any independent thought or action along any line. We all know that if the dishonest politicians, who have trifled with the interests of the people so long, could be prevented from raising the bogus race issue, behind which they hid themselves and their records when necessity requires it, that we could successfully expose them and at the same time untie the people to vote for their interests. We also know that the man who conducted the redshirt campaign of prejudice, abuse, lawlessness and violence, and apart of whom composed the last legislature, do not desire to remove the race scarecrow from campaigns. To do so would be as foolish from their standpoint as it would be for a man up a tree to deliberately saw off the limb on which he sat, and to saw it off between himself and the tree. These Ransom machine politicians kept themselves in power thirty years by riding the negro scarecrow into office, and then, when in betrayed the interests of those who had been deluded and frightened by the cry of "nigger."

SOLEMN CAMPAIGN PLEDGES BROKEN

These same politicians, headed by Mr. F. M. Simmons, (one of Ransom's machine lieutenants and a man who Senator Vance denounced as unfit to hold a position of trust and whose nomination for Internal Revenue Collector he defeated in the United States Senate), promised the people in the last campaign that if they were put in power that they would not attempt to disfranchise a single illiterate voter. Mr. Simmons, acting as State Chairman, issued an official address to that effect Mr. James H. Pou, and Ex-State Chairman not only made the same pledge on the stump, but, when one of his audience expressed some doubt about the matter, he went further and made an affidavit to that effect, Besides a majority of the Democratic candidates for the legislature, to say nothing of the other Democratic speakers, made the same pledge to the voters of the State.

But, notwithstanding that these politicians have, but submitting the proposed Constitutional Amendment, broken and betrayed their solemn campaign pledges; and while I knew they did not, in submitting the amendment, intend to rob themselves of their only effective campaign issue by removing the negro cry from politics, yet I decided that if the proposed Amendment was Constitutional and would result in any way in making it

less possible for them to use that demagogical and dishonest cry, and if there were no danger lurking behind it, that I would support it, or, at least, not actively oppose it. These reasons caused me to examine and study the proposed amendment with great care before taking any position on the question. Now, not to weary you with too long a letter, I will state the conclusions I have reached; and, briefly the reasons that force these conclusions.

SHOULD IT BE ADOPTED EVEN IF CONSTITUTIONAL?

First, for argument's sake, let us admit that Section 5, known as "the grandfather clause" is constitutional and that it and the Amendment as a whole will stand the test of the Courts. If this is so and it should be adopted, what would be the result? Would it make it impossible for these Ransomites to raise the old negro cry in subsequent campaigns? What class of the negro population would be disfranchised by the amendment? It would be the good old country darkey who was as faithful and true as steel to our mothers, wives, and sisters during the late war, and who is a good citizen and a good laborer, who has never been offensive in politics nor in other ways.

WILL NOT KEEP THE MACHINE POLITICIANS FROM RAISING THE NEGRO CRY

Now what class of negroes would be left to vote? There would be about fifty thousand negroes who would still vote, and this number would include all of that element who have been active and offensive in politics, and who, either from innate perversity or for Democratic pay, have furnished the capital necessary to enable the Democratic machine politicians to raise the negro cry and appeal to race prejudice. In short, the only negroes who have ever made the race issue possible would be those who would not only be eligible to vote but to hold office under the proposed Amendment. The trifling town negro who walks the street of our towns with eye glasses and with hat cocked on the side of his head, who talks loud and takes up all of the sidewalk, would be left with full power to vote. This class would be sufficient in number to be the balance of power in politics and to furnish an object lesson at any time to help the Democratic "negro howling politicians" to raise their old cry. When necessary to make the object lesson stronger these politicians would not hesitate to hire one of these negroes to run as a candidate for office. If the last legislature had desired to remove this constant and fruitful source, which furnishes them with an ever ready opportunity to raise the race issue, they would have submitted an amendment to prevent the negro from holding office. That would be constitutional. It was pointed out to them that no race prejudice was ever raised when the negro simply voted, because they compose only about one-third of the voters of the State, but that it was only when the negro held office or aspired to office that race prejudice and antagonism was or could be aroused. But they refused to submit to such an Amendment, though requested and urged by prominent men in their own party to do so. They not only refused to submit that provision but, on the other hand, they explicitly provided in their Amendment that the negro should be eligible to hold office. It is clear from this that these politicians are carefully nursing and preserving the race issue for use in future campaigns.

Look for a moment at the other states that have pretended to restrict negro suffrage. Has the race issue been solved in any of them? Have they not had during the last few years as many race conflicts, as many outrages and more than in North Carolina? Is not the negro the slogan in their campaigns? Is not every man who attempts to raise his voice against the existing order of things at once shut up with the cry of negro domination?

Look at Mississippi. Does not that condition exist there? In fact the white people of that State have been so disgusted with the farce of holding elections that a very large part of the white voters have ceased to pay any attention to the elections and do not vote. In that state there are over 200,000 citizens of voting age. How many voted or got their votes counted in the last Congressional election? Only 27,187. Do we want to put an autocratic machine in power that will reduce the number who can vote in this state to that figure?

Look at Louisiana, a State that has already adopted this same amendment. We find the Machine there preparing to do the same thing. In the last campaign the howl of "nigger" was as loud and as lusty as ever; and, besides, a political machine has been enthroned that has resulted in practically disfranchising the rank and file of the Democratic party, if they dare oppose the Machine.

TO DISFRANCHISE THE POOR, HARDWORKING 12 YEAR OLD BOYS

There is another great objection to this Amendment. It provides that after 1908 every white man of voting age who is not then able to read and write any section of the Constitution, shall be disfranchised. Think of the number of boys in North Carolina today who are twelve years of age and under who may not be able to get an education, by the time they are twenty one years of age? These boys are sure to be disfranchised and put on a plane lower than the town darkey with his eye glasses and cocked hat. How many fathers and mothers are there in the state to-day, struggling to make both ends meet, who have managed to raise their boys until they are now ten or twelve years of age, an age at which these boys are just beginning to help them on the farm or in the factory? In how many cases is such a boy the mainstay of a father and mother who are dependent upon his work to support the family until he is twenty-one years of age? How many of these boys will reach twenty-one without getting an education? Yet it is this kind of a noble boy who will be called upon each year to pay taxes, to work the road, and to shoulder his musket and do the fighting if his country needs his services. This is the boy who will be expected to do the fighting and give his life for his country, while Mr. Simmons, who is trying to disfranchise him, will no doubt, like Cleveland, hire a substitute.

THE POLL-TAX RECEIPT SCHEME

Another objectionable feature is the provision requiring the presentation of the poll tax receipt before voting. What does this mean? Every man in the State who is on the delinquent tax list or who has not paid his taxes as much as six months before the election, will be disfranchised. How many good men are there in the State who are

unfortunate or who from any reason can not pay their poll tax before the election, much less pay them six months before the election? Yet these are the men and every one of their sons who are not more than twelve years old now, whom Mr. Simmons is trying to disfranchise under the false and specious cry of “white supremacy.” A man may have paid his taxes in April or May, as long as four or five months before the election, and yet hold disfranchised at the election in August or November, unless he has paid his poll tax as far back as the first day of March previous.

A SCHEME TO TRICK OR BRIBE VOTERS

There is another provision in the same poll tax section that is intended to encourage a man not to pay his taxes so that he may be disfranchised thereby. Its purpose is to try to trick or bribe the voter into not paying his tax before the first day of March so that this Simmons Machine may get rid of his vote. The result will be not only to cut off thousands from voting, but to also rob the State and the public school fund of tens of thousands of dollars of taxes which the public schools will lose, or which other tax payers will be forced to make up by increased taxation. The evident purpose of this Simmons autocratic Machine is to try to restrict the suffrage of the people down to as small number as possible, so that they may the better manipulate elections and fortify their Machine in power.

These are some of the many objections to this undemocratic disfranchising scheme, even if it were constitutional. And these are to my mind sufficient reasons why it is not safe to adopt such a scheme, if there were no others.

BUT IT IS CONSTITUTIONAL?

But we now come to consider a still greater and more serious question. It is: Is this proposed amendment constitutional? Every voter has taken up oath to support (and not to violate) the Constitution of the United States. So, in the first place, if this amendment is unconstitutional, every voter has sworn to vote against it.

WHO SAYS IT IS CONSTITUTIONAL?

Practically nobody but the Democratic lawyers of North Carolina who are backing the Simmons Red Shirt Machine. They adopted it as politicians, therefore their legal opinion about its constitutionality is discounted in as much as they are simply interested partisans.

WHO SAYS IT IS UNCONSTITUTIONAL?

An overwhelming number of lawyers of standing and reputation outside of the State of North Carolina unhesitatingly pronounce it unconstitutional. I have discussed the question myself with nearly every one I have met in Congress and from other parts of the country. The practically unanimous verdict is that Section 5 (known as the “grandfather clause” of this Amendment) is unconstitutional. The only question they differ about is whether the Court will declare Section 5 unconstitutional, leaving the remaining section

to stand or whether it will declare that all of the other sections will fall with Section 5. Now, in as much as every voter in the State must vote for or against the Amendment as a whole, therefore every one who believes Section 5 is unconstitutional must vote against the whole Amendment or violate his oath to support the Constitution of the United States. Besides, it is of the greatest importance for every one of us to consider what would be the result if the Court should declare section 5 unconstitutional (as it clearly is), and leave the remainder of the Amendment to stand.

WHAT WILL BE THE RESULT?

No one will deny that the result will be to disfranchise fifty or sixty thousand white voters of the State, many of them old men and Confederate soldiers who are too old to start to school and get an education even if they had the time and money to do so. These men, who compose some of the very best and most substantial citizens of our State, would be disfranchised, while to town negro with his cocked hat and eyeglasses would vote and be eligible to hold office according to the provisions of the amendment. I regret to say it, and would not advertise the fact if the threatened danger of disfranchisement of our good honest voters did not demand it, that North Carolina has a larger per-centage of illiterate voters than any other State in the Union. Therefore, the adoption of such a disfranchising scheme would, if Section 5 is knocked out as unconstitutional, result in disfranchising more good substantial men in our State than in any other State. The very political Machine that is now trying to disfranchise these men is the political Machine that is responsible for this illiteracy and for these good men being forced to go through a life handicapped by ignorance. You will remember that when you and I were in the Alliance legislature of 1891 that we not only called attention to the alarming percentage of illiteracy in the State, but also to the fact that little had been done by the Democratic politicians to remove this blot upon the State—this crime against our citizens. We succeeded in getting that legislature to make a larger appropriation for public education than had ever before been made. We have since, in the legislature of 1895 and 1897, added largely to this fund. The amount is still insufficient to make it possible for all of the boys who are now twelve years of age or under to get an education before they are twenty-one; and it is too late, eve if the amount were sufficient, to educate the older men who are also in danger of being disfranchised by this scheme. Besides, the poll tax trick in the Amendment will rob the public school fund of thousands of dollars and make it still more difficult for poor boys to get an education. Now shall these fifty or sixty thousand white men, to say nothing of their sons, be disfranchised when their ignorance is no fault of theirs? That this may happen is not only possible, but probable. Is there a voter in the State who will say that he wants to do this? Is there a voter in the State who will say that he is willing to vote for something that may result in this?

WHAT IS THEIR PURPOSE?

As I have already said, these politicians did not intend to settle the race issue, and they have carefully prepared an Amendment that will not do it. But they have prepared one that in my judgement will do something else – one that will (of any of its sections survive the test of the Supreme Court) surely disfranchise about sixty thousand white voters. It is

true that they deny this was their purpose, but in reply I ask that if this will be the result is it not fair to say that this was their purpose? They claim their legislature was composed of the brains of the Democratic party. Then surely they must have intended what is clear will be the result. Besides, why should not the Simmons Machine desire to disfranchise a sufficient number of good, poor, plain people of the State to make their leadership and supremacy certain in the future? Let us see for a moment who this Mr. Simmons is. He was one of Ransom's political lieutenants and Machine henchmen. Ransom always feared the good, plain people because he knew they loved Vance, and that they and Vance hated the methods of Ransom's political Machine which was organized to defeat the people's will in convention and at the ballot box so that it could with impunity betray their interests. In payment for such machine work, Ransom had Cleveland to name Simmons for Internal Revenue Collector. Vance knew Simmons, and he knew that this nomination was to pay him for dirty political work. Vance stood in the Senate and denounced the nomination on the ground that this man Simmons was unfit to hold a position of trust and honor, and fought his nomination. If Vance had lived he never would have been confirmed. The persecution and misrepresentation heaped upon Vance's head during his last day (and which no doubt hastened his death), was inspired and instituted by this Ransom Simmons Machine. Now of course Vance's admirers (and he had no greater admirers than the plain people who loved him) do not love Simmons. They came within a few votes of controlling the last Democratic State convention and overthrowing Mr. Simmons and all the old Ransom Machine. Mr. Simmons knows they will yet do this unless he can get rid of them. The only way to do this is to rob them of their votes. But he also knows that if a straightforward Amendment professing to do this directly were submitted, it would surely be defeated. So to carry out his scheme it was necessary for him to get up a dishonest device known as the "grandfather clause," which would pretend to protect all of these white voters, but which the Court would be sure to declare unconstitutional after the hands of the voters were tied by the adoption of the other sections which are constitutional. Mr. Simmons has no doubt figured it out that if he can pass the Amendment which will disfranchise about fifty thousand Democratic voters that then the Ransom Machine will for all time to come control the Democratic machinery. He is satisfied to disfranchise this many Democratic voters to secure his own leadership in the party, if at the same time he can have the Amendment disfranchise about sixty thousand negroes and ten thousand white Republicans, because this would still leave the Democratic machine under his control stronger than the Republican party. Since nearly all of the Populists can read, he knew he could not disfranchise many of them with the Amendment, so he adopted the Goebel election law with which to steal their votes. I am aware that they will indignantly deny that this is their purpose, just like they indignantly denied in the last campaign the charge that they intended to disfranchise anybody, white or black. They fooled the people then; I do not think they can fool them again.

But let us for argument's sake, admit that they had no such purpose; yet the result, if the Amendment is adopted will be the same as far as the voters who are disfranchised are concerned. No matter what the purpose was, when they are disfranchised it will do them no good to be told it was not done on purpose. It will not give back to these sixty thousand white voters when disfranchised the power to vote unless the Constitution could

be again amended. And remember, these sixty thousand white voters could not (not a single one of them) vote to change the Amendment and wipe out the wrong; and remember also, that the machine politicians only fear the voter so long as he has a vote. They would not fear, and therefore would not care for these sixty thousand disfranchised citizens when they no longer had a vote. The simple fact that there is danger of this being the result is sufficient cause for every man who does not favor disfranchising these men and having the state ruled by a small autocratic machine while the masses will be denied a voice in government and forced to pay taxes to support it – to vote against this disfranchising scheme.

WHAT SENATOR STEWART SAYS

I discussed this question at some length a few days since with the venerable Senator from Nevada, Senator William M. Stewart, who is admitted by every one to be a great lawyer. Senator Stewart is an especially high authority on this question, for he is the author of the 15th Amendment to the Constitution of the United States, and is the man who led the fight to put the measure through Congress. He is the only man who was in the Senate at that time, who is still in the Senate. He said he had examined the Louisiana Amendment and the proposed Amendment in our State and that it was his opinion that section 5 of the proposed Amendment was clearly unconstitutional, and that he was satisfied the Supreme Court of the United States would so declare when the question came before it.

WHAT THE LOUISIANA SENATORS SAY

Now let us see also what the two Democratic Senators from Louisiana say about this Amendment. As you know, Louisiana is the only state that has adopted a disfranchising scheme, containing the “monstrous absurdity” known as the “grandfather clause.” The two Senators from that State are recognized by every one to be able lawyers, and one of them was Chief Justice of the State when he was elected to the Senate. They have both publicly declared that section 5 was unconstitutional and must fall when it reaches the Court. Surely every one will admit that their opinion is very high authority.

WHAT THE LEADING DEMOCRATIC PAPER IN LOUISIANA SAYS

Besides, the New Orleans Times-Democrat, the leading Democratic paper in Louisiana, has also admitted that Section 5 is unconstitutional, and has expressed regret that the amendment was ever adopted in that shape. In the last issue of THE CAUCASIAN there is copied an able editorial from that paper, in which it says “the Amendment is not only unconstitutional but dangerous, besides.”

.....I believe that the good people of the State will never endorse but will ever condemn ballot-box stuffing and election fraud, and that they will band themselves together and fight until these evils are removed and the red shirt mob is driven from power. It can be done; it must be done! The liberty of the plain sturdy citizens, and the welfare of the state demand it. Let every good law-abiding citizen prepare for the contest.