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The Areas of Racial Discrimination

Report of the Committee on Grievances at the State Convention of Colored Men of Texas, 1883

The convention movement among blacks did not cease with emancipation. On the contrary, since its primary concern before the Civil War was the status and the treatment of free blacks, it had even more reason for being after the remaining slaves were freed. When federal support was removed from Southern blacks at the end of Reconstruction and power reverted to the former ruling class, conventions were called to deal with the problem of growing segregation and the raising of new caste barriers.

In 1883, a national convention was scheduled to be held in Louisville, Kentucky; preliminary to that meeting, various state conventions met to elect delegates and draw up recommendations. The document reprinted here is the report made at the Texas convention by its grievance committee. From it one can get a clear idea of some of the ways in which legal segregation was beginning to take shape. It is interesting to note that the committee of black Texans was prepared to accept separate facilities if they were truly equal.

Mr. Chairman and Gentlemen

We, your Committee on Grievances, beg leave to make the following report: We find that the denial to the colored people of the free exercise of many of the rights of citizenship, is due to the fact of there being such great prejudice against them as a race. This prejudice was engendered from the belief which underlay the institution of slavery, and which kept that institution alive, and built it to the enormous proportions which it has attained; that is, the belief that the Negro was intended by the Divine Creator as servants and menials for the more favored races; hence, was not to be accorded the rights and privileges exercised by other races. Very naturally, then, was it thought fitting and proper, and in keeping with Divine intention, to keep the Negro bowed down in slavery. The sudden change from a status wherein we were slaves to one in which we were made freemen; and then, further, to that in which we became citizens equal before

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FROM *Proceedings of the State Convention of Colored Men of Texas, Held at the City of Austin, July 10–12, 1883* (Houston, 1883), pp. 12–17. Reprinted by permission from a pamphlet in the Library of the University of Michigan, Ann Arbor.

the law, was so unexpected and contrary, both to the training and teaching of our former owners, that they have never fully accepted said changes, though they have affected to accept them, because their acceptance was made the only condition upon which they could regain their former position in the Union. We submit, that it is contrary to the natural order of things for them to have surrendered their belief in the matter simply because they were physically overpowered. And, not only is the belief in the Negro's inferiority and creation for servants, deeply rooted in the minds of its advocates, but it has culminated in what seems to be a bitter hatred and fixed prejudice. This culmination was brought about by the Negro being taken from the position of a slave and forcibly placed equal to his former master; also, by his being subsequently utilized in carrying on the war against the unfortunates of the lost cause after the battle had been transferred from the field to the ballot box; and in doing this he adhered to a political party which he kept up by his support, and which was nearly identical with the triumphant party which had caused their former owners' defeat on the bloody field of battle. This is the outcome of a train of circumstances naturally liable to produce just such a result. The reason given by our debasers, when attempting to justify themselves in regarding us socially so grossly inferior is, that it always has been their policy to do so, and hence it will always be. This remark refers to the fact that they regarded us thus during slavery as a ground upon which they justified slavery, and as they have experienced no change of mind they will continue thus to regard us. Your committee arrived at this conclusion: that if our former owners deny our social equality, they cannot be expected to be swift in respecting our legal equality or equality before the law; for it is the social regard one has for another as a member of society, which impels him to protect and accord unto such a one his legal rights. Hence, if there be a class who socially regard us less favorably than they do other races, to an extent that they are prejudiced, such a class certainly are indifferent as to whether we obtain our legal rights or not. Accordingly, social disregard may well imply absolute indifference as to another's legal rights, but never that *mutual* regard which is supposed to possess citizens of a common country. It is a true rule that the degree to which any right is enjoyed as a citizen, is measured by the willingness of the whole body of citizens to protect such a right; if there is lack of regard there is, therefore, lack of the will to protect. We find, therefore, that this social disregard is the sole cause of all the infringements upon our rights as a race, as we shall specify:

MISCEGENATION LAW

Prominent among the enactments in furtherance of this social disregard, is a law of this State punishing as felons all persons who intermarry when one is a descendant of the Negro race and the other is not. The same series of laws impose an insignificant fine only for the same persons to live to-

gether in unlawful wedlock, or have carnal intercourse with each other without being married. In most cases, say ninety-nine cases in one hundred, parties of the two races thus unlawfully cohabiting are not even reported, or if reported not punished. And, sad to remark, in many cases officers of the law are disqualified to try such cases; in many others, those who would in good faith testify against offenders of this class, would do so at the risk of their lives. The result of this series of crimes, tolerated and encouraged by our Criminal Code, which makes pretensions to preserving public morals, common decency and chastity, is to increase immorality in the lower classes of both races to an alarming extent. The law should never imply that a thing otherwise lawful is a felony, and that a thing of the same nature unlawful in itself is less than a felony. Colored females, victims of this well-laid plan, called a law to protect public morals, and common decency and chastity, are severely censured, and our whole race indiscriminately described as a race without morals. A careful consideration of the operation of the law convinces all fair-minded persons, that the law was intended to gratify the basest passions of certain classes of men who do not seek such gratification by means of lawful wedlock. We are pained to announce that the law bears its evil fruits. The committee dismiss the consideration of this dark subject with the recommendation that the Convention urge upon our next Legislature the necessity of an amendment to this law that will punish as rigidly for all carnal intercourse between the two races, unlawfully carried on, as it punishes them for intermarrying. If the Legislature do this, they will show a willingness to stop the tide of immorality that now makes such inroads upon the morals of some of our most promising females.

FREE SCHOOLS

The Constitution, and laws made in pursuance thereof, make provision for the education of the youth of the State, without regard to race or previous condition. Further, they make provision that cities may assume the control of school affairs within their limits, on condition that they make a special taxation upon their property in order to lengthen the school term to ten months. What we complain of is, that notwithstanding the Constitution, laws, courts, and the Board of Education have decided that provision for each race must be equal and impartial, many cities make shameful discrimination because the colored people do not own as much property on which to pay taxes as the white people do, in proportion to the number of children in each race. They utterly refuse to give colored schools the same provision as to character of buildings, furniture, number and grade of teachers as required by law. The result of this discrimination is, that the white schools of such cities show good fruit, while the colored show poor fruit or none at all. We here say that this charge of discrimination is not made against all cities, but against only such as really discriminate. And

again, there are many colored teachers appointed mainly on account of their personal relation with the individuals composing the Boards, and not with reference to the peculiar needs of the pupils to be benefitted, neither the fitness of the teacher nor the wishes of patrons.

We are glad to say, however, that many school boards, exclusively white, do their full duty towards colored schools. Still we deem it proper and just, in recognition of our rights, to assist in supervising and controlling, to have some colored man or men appointed on school boards in cities where there is a large number of colored pupils and patrons — especially where suitable men can be found. We make no complaint against the provision made by the Legislature of our State for the education of our children, but against the partial manner in which those provisions are executed by some of the local authorities.

TREATMENT OF CONVICTS

Another sore grievance that calls for the consideration of this Convention is the treatment of convicts, a large proportion of whom are colored. It is inhuman and cruel in the extreme. We do not refer to those that are kept within the walls. They are under the immediate care and supervision of the management, and we believe considerably treated. But most of the convicts are scattered over the State on farms, having no one to administer to their physical, moral or spiritual needs but a host of inhuman, brutal convict guards. When a fresh convict is carried to the farms, he is taken down by the other convicts and beaten, at the command of the guard, and that, too, with a large piece of cowhide. The guard takes this method of taming the newcomer. Of course this lays him up, but in a few days he is hauled out of his sick quarters and put to work, whether he is physically able to do it or not. The law provides that a convict physically unable to work shall not be required to do so, such inability to be ascertained by the examination of the penitentiary physician. But, convicts on farms, who are mostly colored, have no physician to determine such inability, and even when sick and dying have none, unless the hiring planter, who has no particular interest in saving his life, sees fit to employ one. In many cases sick convicts are made to toil until they drop dead in their tracks. Many again, driven to desperation by inhuman treatment, seek to relieve themselves by attempting to escape when the chances are against them, thus inducing the guards to shoot them, which they are ready to do on the slightest pretext. Others are maltreated by being placed in the pillory or stocks until they are dead or nearly so. When convicts are brutally murdered, nothing is done with their slayers unless the indignant citizens are prompt in insisting upon their punishment. In nine cases out of ten, parties sent to investigate these occurrences report the killing justifiable, because guards and their friends find it convenient to make it appear so. When legislative committees visit one of these convict camps, they always

find the convicts ready to report that they are well treated, because all of them, both white and black, are previously warned by their guards to report thus or accept the consequences which will surely follow. Again we will state, although the law justifies the killing of a convict escaping from the penitentiary, when his escape can be prevented in no other way, still we fail to see wherein it can be justified when the convict is carried on a farm, away from the penitentiary, and given a chance to escape only to be deliberately shot down in attempting to do so. We believe such to be deliberate murder, and should be punished as such. Believing that most of the evils can be remedied by the appointment of a colored inspector who is a humane man, having power to investigate the affairs of convict camps and the management of convict labor on private farms, therefore, we recommend to the Governor and Board such an appointment at the earliest possible moment. We recommend also, that as most of the State convicts are colored, that there be appointed at least one colored commissioner of penitentiaries. Though our men and youths are sent to the penitentiary to be reformed, in most cases they are made worse by the inhumanities and immoral habits of their guards, who, in many cases, are worse morally than the convicts themselves. We think that this Convention should pass a resolution condemning, in strongest terms, the practice of yoking or chaining male and female convicts together. This is an act of officials, done only for the purpose of further demoralizing those persons, especially so where they are only county convicts.

RAILWAYS, INNS AND TAVERNS

The criticism and censures of many, that colored persons in demanding admission to first class cars are forcing social intercourse, are unjust and unwarranted. For those who censure know that if the companies were to furnish accommodations for colored passengers holding first class tickets, equal to the accommodations furnished white passengers holding the same, though such accommodations be in separate cars, no complaint will be made. But selling two classes of passengers the same kind of tickets, at the same time and price, certainly sell to them the same accommodations and privileges. The colored people, like any other class of citizens, will contend for the right in this matter as long as our Constitution reads, "all men when they form a social compact have equal rights," and even longer.

We would also state that we do not contend for the privilege of riding in the car with whites, but for the right of riding in cars equally as good, and for the mutual right of riding in their car if they have a separate one, whenever they are permitted to ride in ours if we have a separate one. We believe the State laws to be adequate to protect us in every right, and that there is no necessity of appealing to a law of Congress unless the laws and government of our own State refuse to recognize and protect these rights.

As for accommodations at public inns, taverns and hotels, we have the

same right as other races to be accommodated on equal terms and conditions, though we cannot compel them to accommodate us in the same room, at the same table or even in the same building, but the proprietor can be compelled to make provision as good. We recognize the fact that our State law is as adequate to protect a colored man in the exercise of his rights as it is to protect a white man. While not encouraging the contention for our rights at hotels when we can make other provision, we recommend our people to invoke the aid of the courts when their rights with reference to railroads are violated, and ask that they assert our rights thereon by such damages as are sufficient to assert them.

JURIES

The prevailing practice among sheriffs and jury commissioners of summoning jurors exclusively white or nearly so, is in direct violation of the laws of this State, for no person is disqualified as a juror on account of his color. If the sheriff and commissioners exclude any one by practice on account of color, it is such an exclusion as is not contemplated by law, for the parties summoning cannot excuse themselves by saying they knew of none who could read and write, for that is a qualification they are to assume and let the court test jurors' qualifications after they are summoned. A juror who sits in judgment on a case involving the rights of a man whom he regards with less consideration than he does members of his own class, is in law an incompetent juror, and should by law be excluded on evidence of such lack of regard. We deem it to be the duty of all judges to, at all times, specially instruct sheriffs and commissioners with reference to correcting these abuses, so as to secure to every individual, white or black, a fair and impartial trial by a jury composed of men acknowledging themselves to be his peers.

In furtherance of a desire to effectually and legitimately prescribe a remedy for the evils and wrongs complained of, we recommend the formation of an organization to be known and called "The Colored People's Progressive Union." It shall have for its object the protection of the rights of the colored people of Texas, by giving aid and direction in the prosecution of suits in the support of every right guaranteed to colored people as citizens. We recommend that our delegates to the National Convention be instructed to urge upon said Convention the necessity of organizing a national convention of the same name and for the same object, under which, if organized, this State Association shall act as a branch.

All of which is respectfully submitted.

– MACK HENSON, Chairman
– A. R. NORRIS,
– J. N. JOHNSON,
– J. Q. A. POTTS.