

## **EdChoice Voucher Scheme Does Not Align With the Intentions of the Delegates of Ohio's 1850/1851 and 1873/1874 Constitutional Conventions Regarding the Public Common School System—Part 3\***

### **Part 3 Continued: The Use of Public Common School Funds for Sectarian Education**

The first segment of Part 3 showed that the 1850/1851 Constitutional Convention delegates diligently protected the constitutional language which forbids religious or other sects from controlling any part of the common school funds. This section of Part 3 refers to debates during the 1874/1875 Constitutional Convention regarding the same matter. A Delegate in that Convention proposed striking the prohibitive language—“but no religious or other sect, or sects, shall have any exclusive right to, or control of any part of the schools funds of this state.” The proposal was strongly opposed by most delegates. Delegate Pease was emphatic. He stated, “the moment we abandon our common schools, the moment we begin to cut down and lessen the effect of this general education, that moment we submit ourselves to become a prey to these theories of ‘isms,’ and schisms, and divisions, and the anarchy resulting therefrom.” Once again, Constitutional Convention debates demonstrate that delegates felt that different sects of schools were the “greatest impediment” and posed an existential threat to their public education goals. Delegate Hill voiced his opposition to the motion by stating, “there can be no Church and State here. They are, and ever will be separate...The churches have their secular schools and colleges. This is right. They are free to build and maintain them as well as to teach their respective theologies. But, while they are untrammelled in this, I would not appropriate one dollar of the people’s money from the public treasury to aid in the erection or maintaining secular schools and college”.

Near the close of this debate, Delegate Voris emphasized that “[t]hese schools are the offspring of a free people’s grandest contribution to liberty; and so long as we keep them in healthful vigor, our people will be free— free in politics, free in intelligence, free in faith, and triumphant in all the elements of human greatness” and that “[i]t is our duty and privilege to perfect and jealously guard our public school system.” The delegates felt compelled to guard the public school system from the diversion of its public funds to religious schools, and the divisive nature they anticipated would result.

The debates also feature the proposal that funds be apportioned on a pro rata basis, such that Catholic schools would receive public funds. The Delegate behind this proposal, Delegate Carberry, stated he was concerned for persons choosing to send their children to Catholic school. He believed that it was wrong for parents who wished to send their children to Catholic school to have to pay taxes that would fund the common schools and not the ones that their children would be attending. This proposal to divide the common school fund was heavily criticized, and persistently rejected. Delegate Root criticized the proposal and claimed, “your

common schools, to be successful, must be union schools.” “Union” is defined as “[c]oncord; agreement and conjunction of mind, will, affections or interest” in the 1828 An American dictionary of the English Language. He believed that apportioning funds to the Catholic schools was a great danger to the harmony that was desired for the common school system, and noted:

[c]ome what may, I will stand by the common schools. Why, sir, what will become of your common school fund, if you are to distribute it out to every sect, every church... Who is to enforce discipline? Who is to prescribe rules? What kind of a common school system would you have but for uniform rules and uniformity of discipline, and by whom are these prescribed? By the legislative power— the highest power in the State. They may relegate the details to certain officers, but it must come from them, disguise it as we will.

The Delegate felt strongly about reserving public school funds for the common school system, and that religiously affiliated schools, such as Catholic schools, were not and could not be part of the common school system. Religiously affiliated schools could not be a part of the common school system because they lacked the desired uniformity, so they could not lay claim to any public-school funds.

Delegate Miner, another Delegate in opposition of dividing the common school fund stated:

I am utterly opposed to a constitutional provision, or to any legislation, having in view the allotment of any part of the common school fund to any schools except those established, maintained and controlled by, or under the authority of the state. The moment we consent to do so, we deal with a death blow to the system of common schools, upon which, expanded and improved by increasing experience and wisdom, more than upon anything else, it is my profoundest conviction, depends on the perpetuity and efficiency of our American institutions and government.

The Delegates’ intentions are definite— public funds are exclusively designated for public schools and there was opposition for “any part of the common school fund to [provide funds to] any schools except those established, maintained and controlled by, or under the authority of the state”. The proposal for the division of funds was rejected, and the desire to— entirely— preclude religious schools from public school funds was repeatedly made clear.

The EdChoice voucher scheme is clearly a violation of the intent of the Delegates to the Constitutional Conventions of 1850/1851 and 1873/1874.

\*Research for this post and much of the content of it is credited to Ohio State University Moritz College of Law Juris Doctor Candidate, Kira Sharp.