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MR. McCORMICK spoke for the majority report, which had been substituted, he said, by a very small majority. He said he was entirely opposed to the Flournoy substitute, as it would not give the relief of the courts asked for.

## FIFTY-SEVENTH DAY

WEDNESDAY, NOVEMBER 10, 1875<sup>112</sup>

The vote engrossing the article on public lands and Land Office was reconsidered by a vote of 44 to 16.

The pending question was then the motion of Mr. McLean to table Mr. German's motion to reconsider the vote adopting the substitute of Colonel Crawford. The Convention, by a vote of 22 to 49, refused to table, and reconsidered the substitute by a vote of 50 to 21.

JUDGE REAGAN gave his reasons for voting for the substitute, the principal one of which was that it allowed actual settlers on the lands to be hereafter granted to railroads, and settle thereon on payment of the actual value of the land, the price of which was to be regulated by law.

MR. FERRIS contended that the substitute allowed the Legislature to set apart a reservation of lands to railroads. This was denied by its friends, but there was nothing in it prohibitory that he could see. The section providing for broad and narrow guage roads, he thought was out of place in a Constitution. He objected to the language in the last clause, which might furnish means for litigation, as it opened all lands granted to railroads to actual settlers, on the payment of the maximum value, \$2.50 an acre, while railroad lands in his own county were worth \$5 an acre. He favored the bill as reported by the committee.

MR. ROBERTSON, of Bell, moved to amend the substitute by adding: "Provided that the Legislature shall have no power to extend the time or grant relief to any company obtaining a grant or a certificate after the adoption of this Constitution."<sup>113</sup>

COLONEL CRAWFORD defended his substitute. He claimed it was just to the railroads, just to the citizen, just to the high interests of

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<sup>112</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 11, 1875.

<sup>113</sup>Mr. Robertson's defense of this amendment has been given heretofore. See page 269 above.

the State, just to her duty to educate the youth, and just to the taxpayer. If there was anything in the substitute capable of misconstruction he was willing to have it amended, and would aid in doing it; for he had no pride in it otherwise than for the benefit of the whole people of Texas.

(Mr. Stockdale in the Chair.)

PRESIDENT PICKETT contrasted the original section with Colonel Crawford's substitute, and claimed that it was much more liberal, except in the single provision of allowing the settler to settle on the railroad lands at a fixed valuation, than the substitute. If the exception referred to was thought a good one, it might be engrafted in the original section.

MR. WAELDER moved to strike out the proviso in Section 3, as follows: "The Legislature shall no power to extend the time of or grant leave to any company obtaining a grant or certificate after the adoption of this Constitution."

MR. WAELDER pointed out the fact that the Galveston, Harrisburg & San Antonio Railroad was then within forty-five miles of San Antonio. It would be finished probably to the Guadalupe River crossing by the first of January, which would bring it to within twenty-eight miles of San Antonio. That company had built more road than any main line in the United States, since Jay Cook's failure. It was physically impossible to complete the road before the first of January. If prevented by the Convention, it would be impossible for them to complete the road at all, unless they had previously secured the right of way and would complete it at their own expense. There was not a railway in the State that would not probably require an extension of time. Surely, if railroads were necessary to the welfare and prosperity of the State, it was necessary to give them time to complete them.

JUDGE BALLINGER spoke of the Galveston, Colorado & Santa Fe Railroad as another case of the same kind.

MR. MOORE referred to the Houston Narrow Gauge Railroad.

MR. STOCKDALE spoke of the Texas & Pacific Railroad as a case in point.

MR. ROBERTSON said his amendment referred to railroads to be hereafter built.

MR. STOCKDALE said that the road in course of construction to San Antonio was more likely to be completed than one by a new company chartered to run from San Antonio and connect with it.

Mr. Robertson's amendment was lost by a vote of 14 to 52.

Colonel Crawford's substitute was lost by a vote of 17 to 48.

MR. MCCORMICK said he hoped the Waelder amendment would be adopted, for he was convinced that if San Antonio once got its road they should hear no more talk of State division.

Mr. Waelder's amendment was adopted by a vote of 53 to 12.

The article was then engrossed by a vote of 42 to 20.

### *The Judiciary Article*

MR. DOHONEY argued at length against the Flournoy substitute. He said he favored the majority report, and next to that the minority report of Mr. Norvell.

JUDGE BALLINGER opposed the substitute of Mr. Flournoy, and spoke for the majority report.

MR. FLOURNOY replied to both speakers, condemning the county court system, which he said was really nothing but additional district courts. He held that they would not reduce the expense of the judiciary in the least, but on the contrary would increase it.

## FIFTY-EIGHTH DAY

THURSDAY, NOVEMBER 11, 1875<sup>114</sup>

### *The Judiciary Article*

The article on judiciary came up as unfinished business.

GENERAL WHITFIELD moved to lay the Flournoy substitute on the table.

The convention refused by a vote of 32 to 33.

MR. HENRY, of Smith, said he supported the majority report. He spoke, not as a lawyer, but as a citizen. He thought efficiency should be consulted before cheapness. A cheap but inefficient judiciary would be blighting to the public interests. He claimed that the system of the majority report was the best adapted to the wants of the time. The system advocated by the substitute would fill the county

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<sup>114</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 12, 1875.