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representative and Washington County, on account of its excess of population, two.

Pending the question, the House adjourned.

### SIXTY-FIFTH DAY

SATURDAY, NOVEMBER 20, 1875<sup>122</sup>

The pending question was Mr. Moore's amendment to give Burleson County one representative. It was lost by a vote of 20 to 40.

The apportionment article was then passed by a vote of 51 to 11.

#### *Judiciary Article—Third Reading*

JUDGE BALLINGER moved to strike out of Section 2, line 24, "more" and insert "less," and after "dollars" the words "which shall not be increased or diminished while they are in office." He spoke of the case of Judge Wheeler, whose last days were embittered by the meagreness of his salary, and whose indigent circumstances had led to his unhappy end. Judge Hemphill was a bachelor and was therefore able to get along on a small salary, while Judge Lipscomb had been made comfortable by a wealthy marriage. He said these things in reply to the argument that their most eminent judges had not received high salaries.

The amendment was lost by a vote of 32 to 42.

The article was then passed by a vote of 40 to 20.

MR. JOHNSON, of Collin, introduced the following ordinance:

"Be it ordained by the People of Texas in Convention Assembled, That in view of the financial misfortunes now existing, no railroad chartered or holding grants under this State, which has heretofore organized and commenced work in good faith, shall be considered as having lost any of its rights, privileges, or grants, prior to the close of the next session of the Legislature of this State, by virtue of the lapse of time between now and that time; and said Legislature has the power, if deemed compatible with the public interest, to grant such relief in time as is deemed best for the interest of the State; provided, that this ordinance shall not be so construed as to relieve railroad companies from compliance with the condition contained in this article of the Constitution in relation to railroads."

<sup>122</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 21, 1875

MR. GERMAN moved to refer the resolution to the Committee on Railroad Corporations.

MR. FLANAGAN: "I hope it will not be referred. It is known by the members of this Convention that our labors will soon come to a close, and I think if this were settled we would be ready to sign the Constitution at noon on Monday, and I am at a loss to see why we should not do so."

PRESIDENT PICKETT: "We want to do so if we can."

MR. FLANAGAN: "Yes, Mr. President, I think it is our duty to do so, and I have persistently worked with the President, knowing it to be to the interests of the country that we should adjourn at that time. Therefore, I hope that this ordinance will not be referred to a committee, which has virtually ceased to exist. We have performed all the duties we had to perform; our report has been laid before you, and therefore, virtually, our duties have been completed. If we desire to settle this question, let us do it this evening. It can as well be done on the extension of time to railroads as on any other question, or at any other time."

MR. GERMAN: "I withdraw my motion."

MR. FLANAGAN: "You can not do that."

MR. GERMAN: "I can, and I withdraw it, and move to lay the ordinance on the table."

MR. WEST: "No, sir, you can not do it. Mr. President, I favor adoption of the resolution. I was hoping that the gentleman from Fannin and myself might agree on something, and cast our votes the same way. I favor the adoption of the resolution, but do not understand what the proviso is that is talked about. If we are going to give relief to these railroads, let us do it like men, and I may as well say here and in my place as at any other time—because the Convention is sure to hear of it when the Constitution comes up for adoption, when the sentiment of the people will be adverse to your judgment—and it will be construed into hostility to railroads. The war made on railroads in Wisconsin, Illinois, and Pennsylvania may have had some reason in it. They had their roads and they had abuses which led to the war, but a war made by a country with only fifteen hundred and odd miles, and which needs 5,000 or nothing, and which should foster the building of railroads and the binding together of the interests of this great State, is folly, and so will the people write their verdicts when they come to pass upon it. Why should we not have the extension? Is any one to be benefited by a forfeiture of the charter? Nobody that I know of, not a human being. What harm can result then by an extension for a short time—until the Legislature meets and then—as the gentleman from Collin says—if these companies are corrupt, don't extend their time; but if they are going forward in good faith, going on with their work—and it is to their interest more than ours that they should do so—

let their time be again extended, but let us act like men and not like the fabled jackass who cut off his own nose to spite his face." (Laughter.)

MR. KING: "Like the member from Travis I hope the motion to refer this resolution will *not* prevail. It is short, clear, and plain, and I think it is a reflection on this body to suppose that there is a member on this floor who does not understand it fully and completely. Every member is fully prepared and can as well vote on this question now as on Monday next. The question is a great one. Vote this ordinance down and you have strangled—as I stated the other day—in my humble judgment, one of the greatest works of modern times; one in which every person in this city, State, and country is interested. I said that if the telegraph could flash the intelligence that this Convention had refused to pass this ordinance to extend the time to this railway (Texas & Pacific) and the others, and keeping their charters alive until the next meeting of the Legislature, it would carry pain to the friends of Texas all over the world, and would be a source of grief and disappointment to the friends of progress and the well wishers of Texas throughout the State and country. Having been a member of the Thirteenth Legislature, and familiar with the origin and passage of the bill giving the present grants of land to the Texas & Pacific, I say there is not one of its provisions which do not render it amenable to the Legislature. This ordinance does not relieve it of any of its obligations, and a proviso could state most stringently what was meant by the Convention, and guard against the interests of the State being in any way jeopardized in this matter."

MR. GERMAN: "As I stated a few days ago, my understanding has been all along that this was a Convention called by the people, and that it was for the purpose of framing a Constitution for the State of Texas. It was not for the purpose of legislating for the Texas & Pacific and other railroads. What will the people say if we take up this resolution and act upon it? They will say that the Legislatures heretofore have granted all and everything that any railroad asked for; that they have heretofore controlled all our Legislatures, but we thought we had elected men to draft a Constitution that they could not control, but we are mistaken. That is what the people will say. This is a question that we have no control over, and that we have nothing to do with whatever. It is fairly outside of our jurisdiction. We were not sent here for any such purpose. I think it is our duty to reject this resolution, and by permission I will withdraw my motion to refer."

Leave was given.

MR. GERMAN: "I now move to lay on the table."

MR. NUGENT: "I second it."

MR. KILGORE: "I move a call of the House."

MR. FLANAGAN: "We don't want it. If the Convention is willing to lay it on the table, all right. We do not ask to prolong this Convention beyond 12 o'clock on Monday."

PRESIDENT PICKETT: "The motion to lay on the table is in order."

MR. FLANAGAN: "Of course it is. We can beat them anyhow." The motion to table was lost by a vote of 14 to 61.

MR. DILLARD moved the previous question, which was ordered by a vote of 52 to 20.

The question recurred upon Mr. DeMorse's amendment, which read as follows: "And further provided that this ordinance shall be submitted to the people of this State for their approval and shall have no effect if disapproved."

Mr. DeMorse's amendment was adopted by a vote of 41 to 34.

The ordinance was then passed by a vote of 40 to 26.

At the night session the article on county and county lands was engrossed, as was also the division of the powers of government, and the article appropriating lands for public buildings. These articles were passed under a suspension of the rules, and without debate.

## SIXTY-SIXTH DAY

MONDAY, NOVEMBER 22, 1875<sup>123</sup>

The Committee on Printing and Contingent Expenses presented the following resolution:

*Resolved*, That any newspaper in the State of Texas that will publish the Constitution about to be submitted to the people of the State for their ratification, not to occupy more than four weeks in its publication, the last issue not less than two weeks before the time fixed for voting on same, shall each receive as compensation for such publication the sum of \$20 provided, that a satisfactory proof of such publication shall be made to the Secretary of this Convention, who shall pay the same out of the fund appropriated to pay the expenses of this Convention."

MR. COOK, chairman of the committee, said it was believed that a large proportion of the voters of the State would not have an opportunity of reading the Constitution as printed in pamphlet form before the election, as it was well known that the pamphlet would not be universally distributed, and the committee thought it would

<sup>123</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 23, 1875.