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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

be well to publish it in the local newspapers of the State. It therefore recommended, that every newspaper that would publish the entire Constitution for four weeks, should receive \$20. It was a poor compensation, it was true, but many papers would publish it whether compensated or not, and by the compensation proposed a larger number would publish it. It was assumed that fifty newspapers would publish it at \$20 each, which would not amount to more than \$1,000 to \$1,500, which the committee deemed a wise expenditure of money in having the Constitution published throughout the entire State. It was well known that there was great opposition to the Constitution in advance of a knowledge of its provisions, and this publication would give the people of the whole State a knowledge of its provisions.

MR. WADE said he was opposed to publishing it in newspapers that would publish the Constitution for the pay and abuse it section by section. Why pay \$20 for what could be obtained at 3½ cents a pamphlet? He thought they ought to publish 200,000 pamphlets and send one to every voter.

The resolution was lost by a vote of 29 to 30.

MR. MILLS offered the following: "Whereas at the close of the late Civil War, many citizens of the Southern States, unwilling to live under our National Government, betook themselves and their families to Brazil and there became impoverished, disappointed in their hopes, losing everything and enduring among strangers cruel hardships; and whereas, the President of the American Republic, learning of the distressed condition of these voluntary exiles, has at various times furnished them free passage to their native land and has recently dispatched a Government steamship to Brazil to provide for the free return to the United States of these unfortunates, therefore, be it

"Resolved, That the thanks of this Convention are due and are hereby tendered to the President of these United States, for the generous and considerate conduct thus displayed in behalf of Texans and other Southerners which has invested his name and personal character with enduring honor, and

"Resolved, That our presiding officer be instructed to convey to President Grant this expression of the feeling of this Convention."

MR. WEAVER said that, while making no objection to the resolution, he felt that if the exiles had stopped at home and struggled along with the rest, it might have been better for them and the country.

MR. ROBERTSON, of Bell, said he had no disposition to thank the President for merely performing the duties of his office. It was the oppression of the Government of the country that drove the exiles from their soil. The Government had had ten years to redeem its action, and if, at this late day, it had felt disposed to do it through the President, he was scarcely deserving of thanks. He hoped members would consider well their action before adopting the resolution.

JUDGE REAGAN said it was not an ordinary duty of the President. He supported the resolution.

JUDGE BALLINGER offered the following substitute for the Mills resolution:

“Resolved, That the Constitutional Convention of Texas tender thanks to President Grant for his efforts to assist the return of American citizens in distress, among whom were a number of citizens of Texas, from Brazil to the United States, and that the same be conveyed by the President of this Convention to President Grant.”

MR. MILLS accepted the substitute.

MR. CRAWFORD: “It is a matter of regret to me that anything of this sort should be injected into this Constitution. It is true, many American exiles are in Brazil, but they left their country because the fortunes of war crushed them to the earth, and confiscation and oppression on the part of the Government drove them to it. Believing, under these circumstances, that after there had been a restoration of reason, that these exiles should have been invited to return to their homes, I deem it entirely unnecessary to thank the President for his action. I have fresh in my mind the memory of one man who came quite early from voluntary exile, who, when the war was going on, demanded men to follow the cross of Texas and him to the field. He was the very Marat of the South, and he invited them to follow his standard, and when all was over and the oppressions were too much for him, he left for foreign soil; and when this Government invited him to return to his home and he did return, there was no man who so delighted to oppress the people of Texas as this modern Marat (General W. H. Parsons). There is an example of the leniency of the Government. If there is one poor exile who is sent to his home, I rejoice in it, but not at the price of an

abandonment of principle as the price of ship money from foreign shores. I will never consent to the abandonment of all that is held dear to the heart of a Texan, in order that cheap capital may be made for a third term in behalf of the President, and I move that this Convention, representing the sovereign will of the people of Texas, in justice to themselves and the poor and patriotic men who bowed their shoulders and necks to long years of cruelty, outrage, and wrong, that the cheap adulation conveyed in this resolution be laid upon the table."

MR. MILLS said he had never asked for an office, although men who were far less entitled to it had done so. He was a third term man, but did not want politics to have anything to do with the matter before the Convention.

Colonel Crawford's motion was lost by a vote of 24 to 38.

Judge Ballinger's substitute was adopted.

### *The Texas & Pacific*

MR. DARNELL said that at the beginning of the session he was understood as being opposed to railroads. He was not opposed to them. He was opposed to this road if it did not go on with its work, and as soon as his constituents informed him that the Texas & Pacific had contracted to build the road from Eagleford to Fort Worth his opposition had ceased. This was in accordance with the instructions from his constituency. He explained these matters to show that he had not acted inconsistently. He had been instructed to work for the extension of the road, and he had done so. If no relief was extended to that road on the first of January, their reserve would be thrown open to every class of certificate held by anybody or any number of persons, at the expense of the Pacific road. The Texas & Pacific road wanted the ordinance from that Convention to use before Congress. Without the extension they would go with poor grace before the United States Congress for favors. It was too late to say that the adoption of the ordinance sought to be abrogated was contrary to duty, after having passed the ordinance suspending the general election and providing for the holding of another. Supposing the Constitution were not adopted, where would they stand? They would have no Legislature, and the whole Government would be disorganized. They had the power to pass that ordinance, for it was adopted by a large majority, and if that was so what could prevent their adhering to the vote passing the one extending time to

railroads? It was said that the charter would expire anyhow by the first of January, and the Legislature will not have met until the second Tuesday of that month. But there was only a few days difference there, while by the alteration of the day of election we have made it one of months, in which time its reserve would be swallowed up by the certificates of newer roads. All that was asked was that the Convention would not destroy this road but place it in the same condition with the next Legislature it would have been had it met in January. Why destroy the Texas & Pacific to build up other roads? He had voted for the other ordinance to postpone the election, and he hoped his friends would sustain the ordinance extending help to the Texas & Pacific. He could vote for both of them because there was nothing wrong with either. Texas wanted the road and would get it if the aid they asked for was granted them, and the people would be the beneficiaries.

MR. STOCKDALE said he believed that the Convention had the power to pass the ordinance postponing the action with reference to the election, and it had the power to pass the one extending time of the charter of railroads. He saw no distinction between the two cases as a matter of power. The object of the gentleman from Collin, who introduced the ordinance extending the charter of railroads, was in consequence of the Legislature not meeting in January, and the roads would be thereby injured. The question was simply whether the Convention would go back on its action and place all these roads in a worse condition than they would have been if the Legislature had met in January. Mr. Darnell had alluded to the fact that if the time was not extended to the Texas & Pacific its reservation would be opened to other roads and certificates. That was true, and to that extent he (Mr. Stockdale) was interested in favor of the reservation being left open, as the railways in his section would have the right to enter it and locate their certificates. If he properly construed the ordinance before the Convention, other railroad companies than the Pacific might go into the reservation and locate, and if the Constitution was defeated their locations became good; this made it practically to the interest of all the railroads in the country, except the Texas & Pacific, to defeat the Constitution. He had heard the argument made that if they adopted the ordinance they would get all the railroads to sustain it. On the contrary, it would be to the interest

of the railroads to defeat it so as to enter the reserve, and because by the defeat of the Constitution the next Legislature would be left without authority to extend the time of the Texas & Pacific. So far as he knew the railroad men living in Texas, they would judge the Constitution abstractly from their own personal interests; but if they studied their own interests they would be bound to oppose it at any rate. Hence, the Convention was decidedly wrong if it imagined it would bring strength to the Constitution.

MR. NUGENT favored the ordinance and moved the previous question on its passage, and was sustained.

The ordinance passed by a vote of 42 to 31.

MR. STOCKDALE presented an ordinance submitting the Constitution to a vote of the people, and calling a general election of all State, county, and district officers under the new Constitution, the two elections to be held on the same day.

JUDGE BALLINGER moved to strike out the clause providing that the two elections should be held on the same day. It seemed to him that if the officers were elected on the same day as the election was held on the adoption or rejection of the Constitution, it would thereby secure the assent of every officer to be elected under it and the whole mass of office-holders. He, for one, thought his amendment would be honest and just to themselves, and urged that the Constitution should stand or fall on its own merits.

MR. BROWN said the Constitutions of 1836 and 1845 were voted upon at the same time officers under the proposed Constitutions were elected.

JUDGE BALLINGER produced proof to show that Mr. Brown was mistaken in the case of the Constitution of 1836.

MR. BROWN spoke of the last Constitution of Arkansas as an example.

Judge Ballinger's amendment was tabled.

The ordinance was then passed by a vote of 52 to 18

#### *General Provisions*

MR. WEST proposed to strike out of Section 52 the following: "provided, that the same shall be used for the purpose of a home, or as a place to exercise the calling or business of the head of a family."

He protested against the proviso. A man might build a magnificent hotel worth \$50,000 and being a home it would be exempt. But if he built a house and rented a portion of it, living in the back part of it himself, the sheriff and creditors would come in. He thought the Convention had been deceived in adopting the amendment.

MR. STOCKDALE said it was at his suggestion that the provision was made, and there was no deception in it. He explained the provision at length.

MR. WRIGHT said he agreed with Mr. West. He spoke of a case which had come under his own observation, where a man had been accustomed to raise vegetables for his family. Thinking he could achieve the same object better by putting up a little store, he did so, and his creditors came in on him immediately.

MR. WEST said the section was rascally.

MR. STOCKDALE asked if the term was intended to apply to him.

MR. WEST said it was intended to apply to the section, and not intended personally. He also strongly condemned the difference between the town and county homestead.

The amendment was lost.

The article was passed by a vote of 50 to 13.

## SIXTY-SEVENTH DAY

TUESDAY, NOVEMBER 23, 1875<sup>124</sup>

GENERAL WHITFIELD presented a supplementary report from the Committee on Education. It recommended that the Legislature provide for the maintenance and establishment of a university of the first class, to be located at or near the city of Austin, and to be styled "The University of Texas," for the promotion of literature and the arts and sciences, including an agricultural and mechanical department. The Agricultural and Mechanical College at Bryan was made a branch of the university, and the Legislature was directed at its next session to appropriate \$40,000 for completing and placing it in successful operation. The report also provided for a branch university to be situated near Austin, for the benefit of the colored youth of the State. In addition to lands theretofore granted, the bill set

<sup>124</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 24, 1875.