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right and principle on her side they were powerless to hurt her, but if she had not, then she came in not as a wharf company but as one of the persons described in this bill, and that was all there was in it. The bill said nothing about the wharf company. It was a mere declaration of the broad principles of law, a mere declaration that the Legislature should provide the mode procedure by the county and district attorneys and the Attorney-General, to ascertain if the charges were made by the authority of law. It was not to divest any man of his rights, to injure widows and orphans, or to strike down the prosperity of the leading city of the State. They asserted merely the right to inquire into the authority of any company to levy a tax—for it was a tax when they charged toll upon anything of public use. A man might open a highway across his own land, but once opened it could not be closed by a gate, nor could he charge for it or run a stream through it, or bridge it over. He had not intended to go into a discussion of the rights and wrongs of the wharf company, in which he had not a cent's interest either way. All he had done was, when, at the request of the mayor of Galveston, he had endeavored to arrange an amicable agreement between them and the city of Galveston, and failed and published an opinion thereon. The law was not the science of principles, but the science of exceptions. The great feature of the common law was its flexibility and adaptability to the wants of the time, and all that was desired in this bill was to make it conform to the present elements of society and the needs and requirements of the State. He held that the bill was not retroactive and was intended to guard the interests of the State in the future rather than affect the past. He thought there was nothing in it calculated to have brought out this discussion, and he was sorry so much time had been wasted on it.

MR STEWART opposed the views of Mr. Flournoy.

Mr. Nugent's amendment was adopted, and the bill engrossed.

#### SIXTY-EIGHTH DAY

WEDNESDAY, NOVEMBER 24, 1875<sup>125</sup>

The last day of the Convention was free from debating, and was taken up with the necessary routine matters.

<sup>125</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 25, 1875.

MR. JOHNSON, of Collin, rose to a question of privilege. He had been assailed in that body and throughout the whole State. Some one had sent the report to his home paper that he had chosen to sit among the negroes in the Convention. He would like to know what member of the Convention had done this. He had had to take the seat he had drawn, though he would have preferred to be somewhere else. He had carried every point he had started out with when he left his county. They had "fit" the opposition carefully and beaten them. There were thirty-six lawyers in that body, but they had been superior to them. They had beaten the talent of the Convention all along the line.

MR. WEST and twelve other members entered a protest in the journals against certain parts of the homestead clause in the general provisions.

MR. DEMORSE had entered upon the journals a protest against the passage of the ordinance on private corporations.

MR. WEST filed a protest against the judiciary article. He claimed that the low salaries would exclude the best legal talent in the State.

MR. FLOURNOY, COLONEL FORD, and others presented a memorial to the United States Congress, requesting frontier protection. The Convention voted to print 500 copies, and to request the Governor to send a copy to the President of the United States, and to the Governor of each state in the Union.

JUDGE BALLINGER filed his protest against low salaries and an elective judiciary, as provided in the Constitution. His protest was printed in the journal.

MESSRS. ABNER, McCABE, AND REYNOLDS (colored) entered their protest against newspaper reports that the colored men in the Convention had been controlled by Mr. Mills. Their protest was entered on the journal.

The clerk began to read the Constitution at 4 o'clock. The reading was finished at 7 o'clock.

The final vote on the adoption of the Constitution was 52 to 11.<sup>126</sup>

After a short farewell address by the President, which was printed in the journal, the Convention was declared adjourned *sine die*.

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<sup>126</sup>The "nays" included the following: Ballinger, Brady, Cline Cooley, Lockett, Mitchell, Murphy, Renfro, Reynolds, Smith, and West