

JOURNAL
THE SENATE

OF THE

STATE OF TEXAS,

BEING THE

First Session of the Sixteenth Legislature,

BEGUN AND HELD AT THE

CITY OF AUSTIN, JAN. 14, 1879.



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JOURNAL OF THE SENATE.

SIXTEENTH LEGISLATURE.

SENATE CHAMBER, }
AUSTIN, TEXAS, JANUARY 14, 1879. }

In pursuance of law the Senate of the Sixteenth Legislature met in the Senate chamber, at the city of Austin, at 12 o'clock M., and was called to order by the Hon. Wells Thompson, president *pro tempore*.

Prayer by the Rev. John Lovejoy.

The roll being called, the following senators answered to their names:

DISTRICT.	NAME.	DISTRICT.	NAME.
No. 1—	Edwin Hobby.	No. 17—	W. M. Burton.
2—	P. F. Edwards.	18—	Charles Stewart.
3—	J. W. Motley.	19—	A. P. McCormick.
4—	Walter Ripetoe.	20—	W. K. Homan.
5—	W. H. Tilson.	21—	W. M. Brown.
6—	W. J. Swain.	22—	J. W. Moore.
7—	John M. Duncan.	23—	W. R. Shannon.
8—	John Young Gooch.	24—	J. H. Davenport.
9—	C. D. Grace.	25—	A. W. Terrell.
10—	John C. Buchanan.	26—	W. H. Ledbetter.
11—	William Blassingame.	27—	S. C. Patton.
12—	W. D. Lair.	28—	Ellsbury R. Lane.
13—	.....	29—	J. S. Ford.
14—	F. M. Martin.	30—	A. W. Houston.
15—	T. J. McCulloch.	31—	L. J. Storey.
16—	J. R. Burnett.		

Senators Buchanan, Burnett, Davenport, Duncan, Gooch, Homan, Houston, Lair, Lane, Martin, Patton, Shannon, Stewart, Swain, Terrell and Tilson, being newly elected senators, approached the president's desk and took the oath of office prescribed by the constitution.

The president of the senate addressed the Senate as follows:

Gentlemen of the Senate:

While it is not expected on an occasion like the present, that any extended address should be made by the presiding officer of this body, I shall congratulate you on the auspicious circumstances surrounding your meeting. Since many of you last met in this chamber the military

rule set over the States of Louisiana and South Carolina has been withdrawn, and the governments of those states are now in the hands of their own people. This should be a cause of rejoicing to us, because we ourselves have felt the pernicious effects of a like tyrannical rule and know its corrupting influences on our system of government. We have also seen in the late presidential election such a conflict between the great political parties of the country as to shake our governmental fabric to its very foundation, resulting almost in a civil war more terrible than the one from which we have so lately emerged. Happily, however, we are now at peace, and as it is a divine provision that from all civil commotions endangering the existence of government, the statesman comes forth more wise, and the patriot more devoted, so let us hope that from these serious lessons we may draw such wisdom that the future shall bring forth nothing calculated to destroy this, the best hope of human liberty. Here, in Texas, we are specially blessed with most that should make a people prosperous; we were spared during the past year from a scourge that fell upon our kindred in the East as direful as any of the plagues that afflicted the European or Asiatic countries within the period of authentic medical history. Only a few years ago Texas was among the most insignificant States of the Union, as to wealth and population, but, having a good government and such climate and soil as is unsurpassed by any other country in the world, her crops have been large and remunerative, her population has increased so rapidly till to-day she stands ahead of all the Southern States, and when the next census shall have been taken we shall have the proud satisfaction of seeing her abreast of many of the leading States of the North. With you, however, depends much of her future greatness and prosperity, for you will, in part, as one of the co-ordinate branches of the Legislature, be called on to inaugurate the new State government and shape its policy during its administration. You will have to provide for the repression of lawlessness and crime and the enforcement of the laws; devise ways and means to defray the expenses of government and the establishment of common schools; to pass on the codification of the entire statutes of the State, civil and criminal, which shall for years to come control the rights of persons and property. Yet these are only a part of the grave duties that will devolve upon you. If, then, in the discharge of these responsibilities, your deliberations are calm and dispassionate, marked with that wisdom which those who sent you have reason to expect, you will find that you have contributed no little to your country's good, but have also "erected for yourselves a monument more enduring than brass, more lasting than the pyramids of Egypt." Knowing, then, the trusts reposed in you will not be betrayed and the high hopes cherished will not be disappointed, I declare the Senate organized.

The Senate then proceeded to organize by the election of officers.

Nominations being in order for secretary of the senate, Senator Motley nominated Leigh Chalmers, and Senator Edwards nominated J. F. Beall.

There being no other nominations Senators Motley, Edwards and McCormick were appointed tellers.

The first ballot resulted as follows:

Chalmers, 22; Beall, 7.

Mr. Chalmers having received a majority of all the votes was declared duly elected secretary of the senate.

He then took the oath of office.

Nominations being in order for first assistant secretary of the Senate Senator Shannon nominated Wm. A. Fields, Senator Hobby nominated Nat. Q. Henderson and Senator Storey nominated John W. Lane.

The first ballot resulted as follows:

Fields, 13; Henderson, 9; Lane, 8.

There being no election the Senate proceeded to ballot the second time, with the following result:

Fields, 15; Henderson, 9; Lane, 6.

There being no election the Senate proceeded to a third ballot, with the following result:

Fields, 17; Henderson, 9; Lane, 4.

Mr. Fields having received a majority of all votes cast, was declared duly elected first assistant secretary of the senate.

He came forward and was qualified.

Nominations being in order for second assistant secretary, Senator Stewart nominated A. F. Brigrance, Senator Lair nominated B. C. Williams and Senator Motley nominated Wm. Neal Ramey.

The first ballot resulted as follows:

Williams, 5; Brigrance, 8; Ramey, 18.

Mr. Ramey having received a majority of all the votes cast, was declared duly elected second assistant secretary of the senate.

He was then duly qualified.

Senator Terrell moved to postpone the election of the enrolling and engrossing clerks until Tuesday next.

Motion withdrawn.

Nominations then being declared in order for engrossing clerk, Senator Storey nominated A. M. Belvin.

The first ballot resulted as follows:

Belvin received 29 votes.

Mr. Belvin having received a majority of the votes cast, was declared duly elected engrossing clerk of the senate.

He immediately came forward and took the oath of office.

Nominations being in order for enrolling clerk, Senator Ledbetter nominated J. M. Swisher, Senator Tilson nominated T. P. Martin and Senator Brown nominated H. C. Surghnor.

The first ballot resulted as follows:

Swisher, 4; Martin, 17; Surghnor, 8.

Mr. Martin having received a majority of all the votes cast, was declared duly elected enrolling clerk of the senate.

He immediately came forward and took the oath of office.

Nominations being in order for calendar clerk, Senator Edwards put in nomination J. W. Swindells and Senator Houston nominated W. D. Ward.

Upon the first ballot Swindells received 24 votes and Ward 5.

Mr. Swindells having received a majority of all the votes cast, was declared duly elected calendar clerk and came forward and was qualified.

Nominations being in order for sergeant-at-arms, Senator Ford nominated J. M. Barton; Senator Moore, N. R. Stegall; Senator Stewart, Lee Hall; Senator Davenport, C. Harde-man; Senator Ledbetter, L. L. Shropshire; Senator Houston, A. J. Houston.

On the first ballot Barton received 14; Stegall, 2; Lee Hall, 7; Harde-man, 2; Shropshire, 2; Houston, 3.

No one having received a majority of the votes cast, a second ballot was had with the following result:

Mr. Barton received 11 votes; Mr. Stegall, 1; Mr. Hall, 14; Mr. Hardeman, 1; Mr. Shropshire, 1; Mr. Houston, 2.

No one having received a majority of the votes cast, a third ballot was cast.

Senator Ledbetter withdrew the name of Mr. Shropshire.

Senator Houston withdrew the name of Mr. Houston.

On the third ballot Mr. Barton received 14 votes, Mr. Stegall 1, Mr. Hall 14 and Mr. Hardeman 1.

No one having received a majority of the votes, another ballot was had.

Senator Davenport withdrew the name of Mr. Hardeman.

The fourth ballot resulted as follows:

Mr. Barton 16 votes, Mr. Stegall 1 and Mr. Hall 13.

Mr. Barton having received a majority of all the votes cast, was declared duly elected sergeant-at-arms of the senate, and immediately qualified as such.

Nominations being in order for assistant sergeant-at-arms, Senator Swain nominated Walter P. Fisher, Senator Storey nominated R. W. Winchell, and Senator Ford nominated Isaac C. McCall.

The first ballot resulted as follows:

Fisher, 16; Winchell, 8; McCall, 5.

Mr. Fisher having received a majority of all the votes cast, was declared duly elected assistant sergeant-at-arms of the senate, and came forward and received the oath of office.

Nominations being in order for doorkeeper, Senator Brown nominated John P. Ferrell, Senator Houston nominated Cooley Mann, Senator Lair nominated William Fitzhugh, Senator Swain nominated Henry Stout, Senator Gooch nominated M. B. Irwin, and Senator Storey nominated Lon Wells.

The first ballot resulted as follows:

Farrell, 3; Mann, 2; Fitzhugh, 12; Wells, 4; Irwin, 3; Stout, 4; Phillips, 1.

No one having received a majority of the votes cast, the second ballot was had with the following result:

Ferrell, 6; Mann, 1; Fitzhugh, 12; Wells, 6; Irwin, 3; Stout, 2.

No one having received a majority of the votes cast, a third ballot was had with the following result:

Mr. Ferrell received 6 votes, Mr. Fitzhugh 15, Mr. Wells 4, Mr. Irwin 2, and Mr. Stout 2.

No one having received a majority of all the votes cast, another ballot was had.

Senator Gooch withdrew the name of Mr. Irwin; Senator Houston withdrew the name of Mr. Mann; Senator Swain withdrew the name of Mr. Stout; Senator Storey withdrew the name of Mr. Wells.

The fourth ballot resulted as follows:

Mr. Ferrell received 8 votes and Mr. Fitzhugh 21.

Mr. Fitzhugh having received a majority of the votes cast, was duly elected doorkeeper of the senate, and was qualified as such.

Senator Brown offered the following resolution:

Resolved, That the election of chaplain of the senate be indefinitely postponed.

Senator Swain moved to lay the resolution on the table.

Carried.

Nominations now being declared in order for chaplain, Senator Terrell nominated Rev. O. Fisher; Senator Motley, Rev. C. C. Chaplin; Senator Lair, Rev. John Lovejoy; Senator Ford, Rev. W. J. Jones, and Senator Shannon, Rev. H. D. Bantan.

The first ballot resulted as follows:

Mr. Fisher received 8 votes; Mr. Chaplin, 12; Mr. Lovejoy, 5; Mr. Jones, 2; Mr. Bantan, 2; Mr. "No one," 1.

No one having received a majority of the votes cast, a second ballot was had with the following result:

Mr. Fisher, 7; Mr. Chaplin, 13; Mr. Lovejoy, 5; Mr. Jones, 2, and Mr. Bantan, 2.

No one having received a majority of the votes cast, another ballot was had.

Senator Shannon withdrew the name of Mr. Bantan, and Senator Ford withdrew the name of Mr. Jones.

The third ballot resulted as follows:

Mr. Fisher, 8; Mr. Chaplin, 17; Mr. Lovejoy, 4, and Mr. "No one," 1.

Rev. Mr. Chaplin, having received a majority of all the votes cast, was declared duly elected chaplain of the senate, and was qualified.

Senator Motley moved to adjourn until 3:30 p. m.

Lost.

On motion of Senator Storey, the Senate adjourned until to-morrow at 9 o'clock a. m.

SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 15, 1879. }

Senate met pursuant to adjournment; president *pro tempore* presiding. Roll called; quorum present.

Prayer by Rev. C. C. Chaplin, chaplain elect of the senate.

Journal of yesterday read and adopted.

Senator Terrell offered the following resolution:

Resolved, That the rules adopted by the Senate of the Fifteenth Legislature shall govern the proceedings of the Senate until changed.

Adopted.

The president announced the following appointments, to wit:

Eddie Andrews, Charles Swindells, Quitman Finlay and Alexander Noble as pages. Lee Blocker, Ed. Morton, Sam. Norwood and Henry Mitchell as porters, and C. M. Holmes as postmaster.

Senator Storey offered the following resolution:

Resolved, That a standing committee be appointed by the president of the senate, to whom shall be referred the report of the commission to revise and digest the laws of the State appointed under an act of the Fifteenth Legislature, approved July 28, 1876.

Adopted.

Senator Grace offered the following:

Resolved, That the engrossing, enrolling and calendar clerks be required to act as committee clerks until this body shall have created

work for the engrossing and enrolling committees and for the calendar clerk's desk.

Lost.

Senator Shamon offered the following resolution:

Resolved, That the secretary of state be authorized to deliver to the secretary of the senate any of the unfinished business of this body, taking his receipt for the same.

Adopted.

Senator Hobby offered the following:

Resolved, That the secretary notify the House that the Senate is organized and ready to proceed to business.

Adopted.

Senator Stewart offered the following:

Resolved, That a committee of three senators be appointed to notify his excellency the governor that the Senate is organized and ready to receive any communication he may see proper to make.

Adopted.

The president appointed on said committee Senators Stewart, Lair and Motley, who immediately performed the duty required and reported the same through their chairman, Senator Stewart.

Senator Ledbetter offered the following:

Resolved, That the members of the Senate holding over retain the seats as drawn at the last session of the Legislature.

Adopted.

Senator Duncan offered the following:

Resolved, That the members of the Senate qualified at the present sitting of the Legislature occupy in the Senate chamber the seats of their respective predecessors.

Adopted.

Senator Moore offered the following:

Resolved, That the sergeant-at-arms furnish the members of the Senate a copy each of Paschal's Digest of the statutes, and also a copy to each senator of the constitution, and a copy of the general laws and of the rules of the Fifteenth Legislature.

Adopted.

Senator Moore also offered the following:

Resolved, That the sergeant-at-arms of the senate be and is hereby required to contract for and purchase all necessary postage stamps for the use of the Senate.

Adopted.

Senator Blasingame offered the following resolution:

Resolved, That the sergeant-at-arms be instructed to procure the stoves formerly in the Senate chamber, and in the event they be worn out or destroyed, that he be instructed to purchase two stoves and set the same up immediately.

Adopted.

Senator Terrell offered the following:

Resolved, That the sergeant-at-arms be required to purchase all stationery which may be required for the use of the Senate, under the direction of a committee of three, to be appointed by the president of the senate, who shall approve contracts for purchase before the same are consummated.

Adopted.

A message was received from the House announcing the adoption of the following resolution:

Resolved, by the House of Representatives of the State of Texas, the Senate concurring, That a committee consisting of three members of the House be appointed by the speaker, to act with such members as may be appointed by the Senate, to meet the congressional committee having charge of the remains of the late Hon. Gustave Schleicher, and now on their way to Texas to deposit them in the land that the deceased loved so well, and also to co-operate with the congressional committee in all other fitting honors and care of the remains of the distinguished dead.

Resolved, That it is the desire of the House of Representatives that the mortal remains of the late Gustave Schleicher, his family assenting, be interred in the cemetery of the State at Austin, which has been expressly established and set apart as a burial ground for the illustrious dead, whom the people of the State of Texas desire to hold in perpetual honor for services rendered to the people.

The resolution of the House was read and on motion of Senator Lane was adopted.

The president in pursuance of the said resolution announced the following committee: Senators Lane (chairman), Storey, Houston and Ford.

The president announced the following standing committees of the Senate for the present session:

STANDING COMMITTEES OF THE SENATE.

Judiciary Committee No. 1—Senator Terrell, chairman; Senators Edwards, McCormick, Shannon, Ford, Lane, Swain, Buchanan, Davenport, Duncan.

Judiciary Committee No. 2—Senator Stewart, chairman; Senators Hobby, Guy, Ledbetter, Grace, Gooch, Patton, Houston, Brown, Homan.

Committee on Constitutional Amendments—Senators Edwards, Houston, Terrell, Stewart, Davenport, Guy, McCulloch, McCormick, Shannon, Grace, Duncan, Buchanan, Patton, Tilson.

Committee on Educational Affairs—Senator Ledbetter, chairman; Senators Brown, Blassingame, Motley, Patton, Terrell, Tilson, Ford, Lair, Martin, Burnett, Burton.

Committee on Internal Improvements—Senators Shannon, Storey, Lane, Buchanan, Gooch, Duncan, Edwards, Davenport, Martin, Moore, Swain, Stewart, Brown, Homan.

Committee on Finance—Senator Storey, chairman; Senators Edwards, McCormick, Guy, Lane, Ford, Hobby, Motley, Ledbetter, Martin.

Committee on Private Land Claims—Senator Guy, chairman; Senators Grace, Motley, Moore, McCulloch, Lair, Tilson, Burnett.

Committee on Penitentiary—Senators Swain, Motley, Blassingame, Houston, Storey, Gooch, Brown, Moore, Lair, Patton, Duncan, Ripetoe.

Committee on Statistics of Industry, Public Health and History of Texas—Senators McCulloch, Motley, Ford, Blassingame, Martin, Lair, Gooch, Hobby, Tilson.

Committee on Military Affairs—Senators Grace, Ford, Shannon, Guy, Ledbetter, Lane, Duncan.

Committee on Public Lands—Senators Lane, Terrell, Swain, Stewart, Martin, Houston, Davenport, Brown, Blassingame, Homan.

Committee on State Affairs—Senator Houston, chairman; Senators

Storey, Terrell, Patton, Tilson, Buchanan, Gooch, Moore, McCulloch, Motley.

Committee on Commerce and Manufactures—Senator Moore, chairman; Senators Hobby, Martin, Houston, Stewart, McCormick, Burnett, Homan.

Committee on Public Roads, Bridges and Ferries—Senator Blassingame, chairman; Senators Brown, Martin, McCulloch, Homan, Burton.

Committee on Public Claims and Accounts—Senators Patton, Ford, Guy, Grace, Motley, Hobby, Gooch, Edwards, Duncan, Ripetoe.

Committee on Contingent Expenses—Senators Brown, Buchanan, Davenport, Lair, Ledbetter, Shannon, Lane.

Committee on General Land Office—Senators Guy, McCormick, Ledbetter, Swain, Houston, Shannon, Lane, Gooch, Buchanan, Edwards.

Committee on Federal Relations—Senators Buchanan, Shannon, Davenport, Ford, Houston, Swain, Blassingame, Grace.

Committee on Counties and County Boundaries—Senators Tilson, Martin, Lair, Houston, Davenport.

Committee on Public Debt—Senators Gooch, Duncan, Lane, Storey, Terrell, Stewart, McCormick, Patton, Houston.

Committee on Public Printing—Senators Davenport, Ford, Homan, Grace, Motley, Martin, Hobby.

Committee on Frontier Protection—Senator Ford, chairman; Senators Davenport, Shannon, Houston, Lane, Guy, Blassingame, Lair.

Committee on State Asylums—Senator Motley, chairman; Senators Grace, McCulloch, Blassingame, Lair, Terrell, Patton.

Committee on Stock and Stock Raising—Senator Patton, chairman; Senators Lane, Ford, Shannon, Davenport, Martin, Blassingame, Stewart, Tilson, McCormick.

Committee on Agricultural Affairs—Senator Martin, chairman; Senators Brown, Motley, Ledbetter, Storey, Terrell, Lair.

Committee on Retrenchment and Reform—Senator Buchanan, chairman; Brown, Edwards, Moore, Blassingame, Shannon, Grace, Homan.

Committee on Treasurer's and Comptroller's Departments—Senator Storey, chairman; Brown, Gooch, Ledbetter, Edwards, Swain.

Committee on Privileges and Elections—Senator Duncan, chairman; Senators Hobby, Grace, Ford, Stewart, Patton.

Committee on Public Buildings and Grounds—Senator Terrell, chairman; Senators Ledbetter, Storey, Stewart, Duncan, Homan.

Committee on Revision of Rules—Senator McCormick, chairman; Senators Edwards, Storey, Hobby, Grace.

Committee on Engrossed Bills—Senator Brown, chairman; Senators Patton, Gooch, Duncan, Burnett.

Committee on Enrolled Bills—Senator Grace, chairman; Senators Lane, Ford, Davenport, Lair.

Committee on Revision of Code—Senator Hobby, chairman; Senators Stewart, Terrell, Storey, Edwards, McCormick, Patton, Duncan, Houston, Lane, Gooch, Buchanan, Swain, Ledbetter, Guy, Homan.

Senator Patton introduced a bill entitled "An act regulating the removal of the disability of minors."

Read by caption and referred to judiciary committee No. 1.

Senator Shannon introduced a bill entitled "An act concerning judgments."

Read by caption and referred to judiciary committee No. 1.

Senator Storey offered the following joint resolution:

“Joint resolution amending sections 1, 2, 3, 4, 5, 6, 8 and 16 of article v of the constitution, and to make valid laws passed in harmony therewith by the Sixteenth Legislature.”

Read by caption and referred to the committee on constitutional amendments.

Senator Edwards offered the following joint resolution:

“Providing for the publication of the daily journals of each house of the Legislature.”

Read and referred to the committee on public printing.

Senator Ford moved that the president appoint three additional members to be added to the committee heretofore appointed to meet the congressional committee escorting the remains of the Hon. Gustave Schleichler to Texas.

Adopted.

The president appointed Senators Edwards, Martin and Grace on said committee.

Senator Gooch introduced a bill entitled “An act to amend section 3 of an act to provide for the holding of district courts when the judge thereof is absent, or is from any cause disabled or disqualified from presiding,” approved August 15, 1876.

Read by caption and referred to judiciary committee No 1.

On motion of Senator Storey the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION—3 P. M.

Senate met pursuant to adjournment. Roll called; quorum present.

On motion of Senate Terrell the rules were suspended and judiciary committee No. 1 were permitted to make a report.

COMMITTEE ROOM,
AUSTIN, January 15, 1879. }

Hon. Wells Thompson, President of the Senate:

Your committee on judiciary No. 1, to whom was referred a bill to be entitled “An act to amend section 2 of ‘an act to provide for holding of district courts when a judge thereof is absent, or is from any cause disabled or disqualified from presiding’, approved August 15, 1876,” have had the same under consideration and instruct me to report—

That in their judgment the proposed act remedies an obvious defect in the existing law. More than one instance has occurred where parties charged with capital felonies have improperly delayed the administration of justice on account of defects in the present law.

The third section of the present act provides that when the district judge or a special judge is disqualified from trying a cause, the parties or their attorneys have the right to select or agree upon an attorney, etc., ‘to try the case,’ but contains no provision for the trial of the cause if the parties fail to agree in the selection of the judge. The proposed bill remedies this defect.

The committee have instructed me to report the bill back and recommend its passage.

TERRELL, *Chairman.*

On motion of Senator Terrell the rules were suspended and said bill was placed on its second reading by the following vote.

Brown,	YEAS.	Patton,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Swain,
Duncan,	McCormick,	Terrell,
Ford,	McCulloch,	Tilson,—23.
Gooch,	Moore,	
	Motley,	

NAYS—none.

Senator Hobby offered the following amendment:

SEC. 3. That an imperative public necessity requires the suspension of the constitutional rule requiring the reading of this bill on three several days, and that the rule be so suspended.

Adopted.

On motion of Senator Gooch the bill was read second time and ordered engrossed by the following vote:

Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—23.
Gooch,	Motley,	

NAYS—none.

On motion of Senator Gooch, the rules were further suspended and bill passed to its third reading, by the following vote:

Brown,	YEAS.	Patton,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Swain,
Duncan,	McCormick,	Terrell,
Ford,	McCulloch,	Tilson—23.
Gooch,	Moore,	
	Motley,	

NAYS—none.

Bill was read third time and passed by the following vote:

Brown,	YEAS.	Patton,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Swain,
Duncan,	McCormick,	Terrell,
Ford,	McCulloch,	Tilson—23.
Gooch,	Moore,	
	Motley,	

NAYS—none.

The president appointed on the stationery committee provided for by the resolution offered by Senator Terrell, Senators Terrell, Ford and Davenport.

On motion of Senator Shannon the Senate took a recess of half an hour, to await the organization of the House.

Recess expired. Roll called; quorum present.

Senator Homan introduced a bill "To repeal an act to levy a tax on

the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same."

Read and referred to the committee on judiciary No. 2.

Senator Buchanan offered the following resolution:

Resolved, That the president of the senate appoint a committee of senators to act jointly with a like committee on the part of the House, for perfecting the arrangements for counting the vote for governor and lieutenant governor, and to provide for the inauguration of said officers."

Adopted.

Senator Duncan introduced a bill to be entitled "An act regulating the election of county and district clerks in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore holding both offices.

Read by caption and referred to judiciary committee No. 2.

Senator Burnett introduced a bill to be entitled "An act to prevent the hiring or operating of convicts outside of the prison walls."

Read by caption and referred to the committee on penitentiary.

On motion of Senator Moore, the Senate adjourned until to-morrow morning at 9 o'clock.

THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, JANUARY 16, 1879. }

The Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

The president announced the following committee to act jointly with a committee of the House to perfect arrangements for counting the vote for governor and lieutenant governor, etc., as per resolution adopted yesterday: Senators Buchanan, McCormick and Shannon.

The committee on stationery, appointed yesterday, reported that as the law provided that their duties should be performed by the committee on contingent expenses, they asked to be discharged from the said committee.

Request granted and committee discharged.

A message was received from the House announcing that that body had perfected its organization by the election of Hon. John H. Cochran, speaker; Will Lambert, chief clerk; J. W. Booth, first assistant clerk; A. Duggan, journal clerk; Jas. L. Autry, enrolling clerk; B. W. Newton, engrossing clerk; M. M. Boggess, sergeant-at-arms; C. Hardeman, assistant sergeant-at-arms; F. W. Pattie, chaplain; and W. I. C. Autrey, door-keeper.

(Senator Ledbetter in the chair.)

Senator McCulloch offered the following:

Resolved, That each member of the Senate, who may desire to do so, shall be entitled to take through the sergeant-at-arms five copies of the *State Gazette*, and five copies of the *Daily Statesman*, two daily newspapers published in the city of Austin; *provided*, however, that said newspapers shall publish the journals of the Senate.

Resolved, That members of the Senate not wishing to take said daily papers aforesaid, shall have the right as aforesaid to take ten copies of

any other papers, whether daily or weekly, which may publish a fair synopsis of the proceedings of the Senate.

Resolved, That the sergeant-at-arms shall, within.....days, make out a list of all papers ordered as aforesaid, and that said papers shall be paid for out of the contingent fund of the Senate; *provided*, that the cost of said papers shall not exceed the regular published rates of subscription of such papers.

Read and referred to the committee on printing.

Senator Swain offered the following resolution as a substitute for the resolution of Senator McCulloch.

Resolved, That the printing board are instructed to contract for one thousand copies of one of the daily papers published in the city of Austin, printing the proceedings of the Legislature, and that said number of copies shall be distributed by the sergeant-at-arms equally among the members of the Senate.

Read and referred to the committee on printing.

Senator Shannon introduced a bill entitled "An act to regulate the management of railroad companies."

Read by caption and referred to the committee on internal improvements.

Senator Stewart introduced a bill entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors to pay their wages when due."

Read by caption and referred to judiciary committee No. 2.

Senator McCormick introduced a bill entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged."

Read by caption and referred to judiciary committee No. 1.

Senator Lair introduced a bill entitled "An act for the relief of persons whose lands have been sold for taxes and purchased by the State."

Read by caption and referred to the committee on finance.

Senator Duncan introduced a bill entitled "An act to amend an act, entitled 'an act fixing the times of holding the district courts of the seventeenth judicial district of the State of Texas,' approved August 16, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Burnett introduced a bill entitled "An act to provide for the election of a district attorney in the fourth judicial district of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

(Senator McCormick in the chair.)

Senator Ledbetter introduced a bill entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas."

Read by caption and referred to judiciary committee No. 2.

Senator Ledbetter also introduced a bill entitled "An act to provide for the time and place of holding the supreme court of the State of Texas."

Read by caption and referred to judiciary committee No. 2.

Senator Brown, chairman of the committee on engrossed bills, made the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills, to whom was referred a bill to be

entitled "An act to amend section 3 of 'an act to provide for holding of district courts, when a judge thereof is absent, or is, from any cause, disabled or disqualified from presiding,' approved August 15, 1876," have carefully compared the bill, as engrossed, with the original, and find the same correctly engrossed.

BROWN, *Chairman.*

A message was received from his excellency the governor by the honorable secretary of state, which was the message of his excellency to the Legislature of Texas, accompanied with the reports of the heads of the different departments of the State government. The message was taken up and read and, upon motion of senator Stewart, of Houston, ten thousand copies were ordered printed.

MESSAGE OF THE GOVERNOR.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 14, 1879. }

*To the Honorable Senate and House of Representatives of Texas, in
Legislature Assembled:*

GENTLEMEN—I welcome you to the capitol to legislate for the State and to devise ways and means for sustaining her credit, lessening the burthens of government, encouraging the development of our material resources, as well as by wise enactments to more securely protect the life and liberties of the citizen. I congratulate you, likewise, on our bountiful harvests, our exemption from pestilence and famine, our general prosperity, as well as on the possession and enjoyment of the blessings of free government vouchsafed to the people of Texas during these recent years, and continued up to this auspicious day.

While, in large degree, we attribute this grateful fruition to the industry, frugality and traditional energies of our people; and our political security to the genius of our laws, it nevertheless becomes us to acknowledge our dependence upon the supreme power, who controls the destinies of states in all periods of their life and history.

I need not remind you that there has been placed in your hands a great and sacred trust to be administered not in the interest of self or section, but for the welfare of a confiding constituency, without regard to locality, religious creeds or political faiths.

That your high duties may be thus discharged, fearlessly and with wisdom, is the earnest invocation of the executive who reposes confidence in the purity of your patriotism and in the statesmanship of your councils.

To better enable you to enter upon the important work, imposed by your election, with an intelligent understanding of the subject-matters of legislation, it has been wisely demanded by the Constitution that "the governor shall, at the commencement of each session of the Legislature, and at the close of his term of office, give to the Legislature information by message of the condition of the State, and he shall recommend to the Legislature such measures as he may deem expedient."

In obedience, therefore, to this constitutional obligation, as well as in accordance with the honored custom of my predecessors in the executive office, I submit this communication to your honorable bodies, together with the reports of the heads of departments, showing the past and present condition of the State, since the first day of December, 1876, on which date the executive department was committed to my hands.

In the same connection, and as the result of the experience of more than two years' service in this office, I have the honor to respectfully recommend such measures as, in my judgment, are demanded in the interests of a just and economical administration of the State government.

STATE FINANCES.—REPORTS OF THE COMPTROLLER AND TREASURER.

The reports of the comptroller and treasurer, exhibiting the operations of their respective departments since August 31, 1876, to the close of the last fiscal year—August 31, 1878—I have the honor to transmit for your information in considering the financial condition of the State.

Their reports are able and exhaustive, leaving no receipt or disbursement by the State unaccounted for, and complying intelligently and fully with all the requirements imposed by the Constitution and the laws upon these officers. The statements hereto subjoined exhibit the present financial status of the State; the amounts received, constituting the general revenue from taxation, and the disbursements made in pursuance of general or specific appropriations; the amount of the public debt, and the changes which have occurred therein during the two years of the present administration of the State government.

	<i>Receipts.</i>	<i>Currency.</i>	<i>Specie.</i>
Balance August 31, 1876.....		\$6,366 26	\$397 95
Receipts from all sources since that date....		3,299,693 56	80,899 15
Total currency and specie.....		\$3,306,059 82	\$81,297 10

Disbursements.

For ordinary expenses of government, for public free schools, frontier defence, interest on public debt, and disbursements on special accounts from Aug. 31, 1876, to Aug. 31, 1878.....	\$3,227,362 55	\$49,880 77
Balance in treasury Aug. 31, 1878.....	78,697 27	31,416 33
Total currency and specie.....	\$3,306,059 82	\$81,297 10

The receipts in the treasury, included in the foregoing statement, represent funds of every denomination, trust and special funds, proceeds of sales of bonds and revenues collected for the support of the State government, the exact amounts and character of each being given specifically in the reports of the treasurer and comptroller, to which the attention of the Legislature is earnestly directed.

PUBLIC DEBT OF THE STATE.

Bonded Debt.

Bonds for funding State debt, act November 9, 1866.....	\$125,100 00
Less amount redeemed during 1877 and 1878,	119,600 00
Leaving outstanding.....	\$5,500 00
Bonds for funding State debt, act May 2, 1871, outstanding.....	75,000 00
Frontier defence bonds, act August 5, 1870.....	692,000 00
Bonds for funding State warrants, act May 2, 1874, outstanding.....	1,600 00

Revenue deficiency bonds, act December 2, 1871.....	500,000 00
Bonds for payment of floating debt, act March 4, 1874, out- standing.....	1,000,000 00
Pension bonds, acts August 13, 1870, and April 21, 1874, outstanding.....	1,115,009 00
Bonds for redemption of State debt, act July 6, 1876.....	1,645,000 00
Total bonded debt.....	\$5,084,109 00

Floating Debt.

Warrants on general revenue unpaid August 31, 1878.....	\$34,064 05
Approved pension claims not bonded.....	18,610 00
	52,674 05
Total debt.....	\$5,086,783 05

Thus it will be observed the bonded and floating debt of the State of Texas at the close of the fiscal year, August 31, 1878, aggregated the sum of \$5,086,783 05.

The public debt of Texas (exclusive of the debt of doubtful validity,) on the 1st day of September, 1876, amounted to.....	\$5,210,073 95
The public debt (exclusive of debt of doubtful validity,) on 1st day of September, 1878, amounted to.....	5,086,783 05

Thus showing a decrease of..... \$123,290 90

It is a source of congratulation that in the midst of great financial stringency and shrinkage of values of all our real estate and personal property, and of unremunerative prices, especially of the great leading products of southern labor, since the adjournment of the Fifteenth Legislature, our revenues, though far less than was anticipated by your predecessors, have enabled the State to honor her outstanding bonds as they fell due, and were presented to the treasury for redemption.

It is to be hoped that this reduction of the public debt of the State will mark a period in our financial history, from which, henceforth, there shall be no further increase of indebtedness.

In this connection, I most respectfully call your attention to the report of the comptroller showing the amount and character of the public debt, from which you will observe we have outstanding pension bonds, and approved pension claims not bonded, to the amount of \$1,133,619 00. These pension bonds (\$1,115,009 00) and claims (\$18,610 00) aggregating the amount stated, bear interest at the ruinous rate of ten per cent. per annum. Fortunately they are redeemable at the option of the State from and after the first day of July, 1879.

I concur in and earnestly recommend to your honorable bodies the suggestion of the comptroller that a sale be authorized and ordered at not less than par of bonds bearing interest at a rate not higher than six per cent., said bonds payable in lawful money or gold coin, as you may deem best for the interests of the State, with which to call in and retire said ten per cent. pension bonds and claims.

This policy would not, it is true, diminish the principal yet due to the State's creditors, but there would be, out of the current revenue, the large sum of *forty-five thousand three hundred and forty-four dollars and sev-*

enty-six cents annually saved in interest alone to the tax-payers of this State.

From the recent and most gratifying experience of the State in the sale of the half million of six per cent. interest bearing bonds, authorized to be sold by the governor at his discretion, it is my opinion that a Texas bond, bearing *five* per cent. interest, could now and hereafter be placed in the leading financial markets of the United States for a *premium* at least equal to, if not greater, than that obtained during the year 1877, to-wit: 102½ for our six per cent. bonds. The experiment is at least worthy of being made, with a view to economy and a more rapid reduction of the interest upon our public debt.

The same recommendation is also respectfully made in connection with such bonds as may be issued to supply deficiencies in the revenue under section 49, article 3, of the Constitution.

BALANCES IN THE STATE TREASURY ON FIRST SEPTEMBER, 1878.

By reference to the following summary, carefully compiled from the reports of the comptroller and treasurer, the exact amount to the credit of each fund and the character thereof will be ascertained, and to it I direct your careful attention:

	Cur. and Specie.
State revenue	\$110,113 62
Available school fund (\$1000 bonds)	321,428 37
Permanent school fund (of which \$82,168 82 is invested in 5 per cent. state bonds; \$1,275,867 13 is invested in 6 per cent. state bonds; \$24,000 in 7 per cent. state bonds; \$77,280 in ten per cent. state bonds, and \$1,753,317 in 6 per cent. railroad bonds, making total amount bonds \$3,212,632 95) which, with the amount of \$7,491 40, specie and currency, makes a total amount of.....	3,220,124 85
Agricultural and Mechanical College fund—\$35,000 6 per cent. state bonds; \$174,000 7 per cent. state bonds, and \$3,116 06, specie and currency, making a total of.....	212,116 66
University land sales in 6, 7 and 10 per cent. state bonds, and one certificate of public debt \$235,296 41	
Specie and currency.....	1,870 21
	237,166 62
Blind asylum land sales account, currency.....	5,194 21
Deaf and dumb asylum land sales account, currency.....	8,313 37
Lunatic asylum land sales account, currency.....	4,939 47
University fund account, (5 per cent. state bonds).....	134,472 26
Special revenue account, currency.....	5 31
Escheated estates account, notes, specie and currency.....	7,697 49
Settlement of estates account, currency.....	4,276 54
County tax account, currency.....	28,415 72
Tax titles account, currency.....	626 60
Special school fund, currency.....	13,858 62
Assessors' fees account, currency.....	27 50
Audited state debt account, currency.....	56 41
Special loan tax account, (certificates of indebtedness).....	79,409 50
Municipal tax account, currency.....	382 37
Ten per cent. treasury warrants account, currency.....	7,928 19
Public debt certificates account, currency.....	929 65
Article 8, section 12, Constitution, currency.....	2,060 24

Redemption of 6 per cent. bonds of 1866, currency.....	5,500 00
“ “ 10 “ “ “ “ 1873-4, “	1,548 73
Interest and sinking fund, Sherman city bonds, currency..	\$ 4,626 99
“ “ “ “ Dallas “ “ “ ..	3,059 99
“ “ “ “ Tyler “ “ “ ..	41
“ “ “ “ McKinney “ “ “ ..	1,137 86
“ “ “ “ Harrison county “ “ “ ..	75 49
“ “ “ “ Walker “ “ “ ..	1,536 23
“ “ “ “ Brazos “ “ “ ..	311 73
“ “ “ “ Smith “ “ “ ..	461 47
“ “ “ “ Anderson “ “ “ ..	4,692 66
“ “ “ “ Galveston “ “ “ ..	23,554 58
“ “ “ “ Waxahachie city “ “ “ ..	286 01
“ “ “ “ Bexar county “ “ “ ..	5,607 83
<hr/>	
Total balance in treasury	\$4,451,943 08
Consisting of—	
Promissory notes (in escheated estates account).....	\$375 00
Certificates of public debt.....	89,709 91
Six per cent. railroad bonds.....	1,758,317 00
Currency.....	\$541,574 69
Specie.....	38,182 27
<hr/>	
	\$579,756 96
Five per cent. state bonds.....	\$216,641 08
Six “ “ “	1,486,367 13
Seven “ “ “	203,000 00
Ten “ “ “	121,776 00
<hr/>	
	\$2,027,784 21
Ten per cent. Brazos county bonds.....	1,000 00
<hr/>	
Total as stated above.....	\$4,451,943 08

From the foregoing statements, there will be seen—

1. The receipts and disbursements of the State;
2. The present bonded debt;
3. The present floating debt;
4. The decrease in the public debt; and,
5. The amount in money and securities remaining in the state treasury at and up to the close of the past fiscal year.

From which official data the executive and legislative departments of the state may be guided in future legislation upon the subject of finance, revenues and taxation, and in making certain provisions to meet all maturing obligations, whether of principal or interest of the public debt at home or abroad.

I recommend that the floating debt and the unpaid balance of the debt of the late Republic audited under the act of 1848 and acts subsequent thereto—which items of indebtedness are fortunately small—be at once funded, or otherwise lawfully canceled, and that all just deficiencies which have resulted from a failure of the general appropriations of the Legislature to meet the estimated and necessary lawful expenditures of the government, be also funded in the mode authorized by the Constitution. These just claims against the State mainly grow out of the grave mistakes heretofore made by the Legislature in their too low estimates of current expenditures and their too sanguine expectations that the taxes

imposed upon the estimated value of property to be rendered and unrendered, and the amount to be collected would yield a revenue equal to, if not in excess of, the absolute expenditures of the government.

Unfortunately, there is now recalled to mind no fiscal year of Texas, from 1845 down to the present date, but what has witnessed the same mistake repeated by Legislatures. Such, at least, is our financial history. In early times these annual deficiencies were met by borrowing from the several millions in gold received from the United States government for our sale to it of the Santa Fe territory; and at others by the issuing and sale of bonds of the State. The comptroller in his very able report, announces the fact that to-day the credit of Texas bonds is higher than that of any other state in the entire Union. While the fact is and should be a just source of pride to every citizen of Texas, I respectfully and earnestly urge upon your consideration *that other fact*—not so much a source of pride as of extreme regret—that the debts we owe to our own fellow citizens *at home*, to the teachers of our public schools, clerks of courts, state's attorneys, judges of district and supreme courts, soldiers in the military service, veteran pensioners, to sheriffs for transportation of prisoners and divers other claimants, have become too often the subject of speculation and at the mercy of capital, and all because there is no adequate provisions to meet these claims in cash when presented at the state treasury.

Neither in law nor in morals ought an invidious distinction be made by the State between the domestic creditors and the foreign bondholders. *Both are just claims* and should be honored alike by the Legislature. To this end I respectfully recommend that all our floating debt and every other dollar justly due as a *deficiency* be at once ascertained and provided for; so that in the future our Legislature, taking warning from the errors of the past, shall see to it that there be *no more annual deficiencies* and no more special and invidious favors conferred upon one class of our creditors over another, especially when that distinction is made *against our own people* at home who have performed equal service for and are therefore entitled to equal protection from the State; and last, but not least in vital importance to the prosperity of the State, that there shall be no further increase of the public debt of Texas, but a steady decrease thereof.

SALE OF BONDS.

Under the act of July 6, 1876, entitled, "an act to provide for the payment of the bonds of the State of Texas that will become due and that are retirable in the years 1876 and 1877, and to make adequate provisions for the floating indebtedness of the State, and to supply deficiencies in the revenue by the sale of these bonds of the State, and to make an appropriation to carry into effect the provisions of the same," the governor was authorized to have engraved bonds of the State of Texas of the denomination of one thousand dollars each, to the amount of eight hundred thousand dollars (\$800,000) and also to have prepared bonds of such denomination as the interests of the State and the parties purchasing might require, to the extent of eight hundred and seventy-five thousand dollars (\$875,000) to be known as registered bonds. These bonds to be payable in thirty years from first day of July, A. D., 1876, in gold coin, and to bear interest at the rate of six per cent. per annum, payable semi-annually in gold coin of the United States, etc.

The principal and interest of the eight hundred one thousand dollar

coupon bonds were to be payable in the city of New York, through an agent or agents, as the governor of the state might select; and it was also provided that no agent should receive more than one-fourth of one per cent. for paying said bonds or interest under said act, the principal and interest of the registered bonds to be payable in the city of Austin, at the office of the state treasurer.

It was further provided by the fifth section of said act that "the comptroller of public accounts shall sell the bonds provided for in this act at such times, and in such places, and in such amounts as the governor may direct, provided the same shall not be sold for less than one hundred cents on the dollar." The act also makes it my duty to report to the Legislature the amount of bonds sold, to whom sold, the amount realized therefrom, the name of the agent or agents through whom sold, and the commission, if any, allowed the agents or agents through whom sold.

In compliance with this demand I have the honor to report that all of said bonds necessary and required to meet the debts of the State which became due in 1876, or which were retirable at the option of the State, had been issued by my predecessor (Governor Coke), and the proceeds applied as the law directed. There still remained, after I succeeded to the executive office, retirable at the option of the state government at any time after July 1, 1877, the sum of five hundred and three thousand, four hundred dollars (\$503,400) of ten per cent. interest bearing bonds, issued under the act of May 2, 1874.

Realizing the necessity of reducing the rate of interest from ten to six per cent. on over a half million of dollars, I ordered the issuing of bonds to the amount of five hundred thousand (\$500,000), bearing six per cent. interest, and in all respects complying with the act of July 6, 1876, aforesaid. Notice of the issuance of said bonds, their character and amount, was made public to all our leading capitalists and the public generally in Texas, and bids were invited for said bonds. It was the desire of the executive to have placed these bonds in the hands of our own citizens on such terms as, in my opinion and that of the comptroller, would render our action satisfactory to the Legislature and the people. I received no bids higher than par, and certainly no premium was offered for these bonds by any citizen of Texas.

While the law would have protected the executive and the comptroller in accepting one hundred cents on the dollar, we were advised and believed that such securities were worth more than par, and, failing at home, I informed the comptroller that he would be expected to take these bonds to the city of New York (justly regarded the great financial market of the continent) and to effect a sale of the same. He did so in the month of August, 1877, and effected the sale of \$500,000 of said bonds at the most gratifying figure of *one hundred and two and a half cents on the dollar*—a premium of two and a half cents.

As compared with former sales it showed a rapid and steady rise of the credit of Texas—a confidence in our honor, as well as in our almost unprecedented strides toward material wealth and power. The actual amount of bonds sold as aforesaid, under the act of July 6, 1876, was \$500,000, at the rate of 102½, for which the State realized...\$512,500 00 Had they been sold at the minimum fixed by law, the State

would have received	500,000 00
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The sale as made realized a profit of	\$12,500 00
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Had these bonds been sold at par, as the law permitted, and a commission of one-fourth of one per cent., as provided by law, allowed, the State would have received for the \$500,000 bonds the sum of \$498,750.

The above bonds bear interest at six per cent., and, as heretofore indicated, were sold to call in a like amount bearing interest at ten per cent., thus saving to the State in the item of interest alone the sum of \$20,000 annually.

The "American Exchange National Bank of New York" became the purchaser of said securities, having offered the highest and best bid therefor to the agent, Hon. S. H. Darden, then and now the comptroller of the state. No commissions were paid as the law allowed, he being a salaried officer of the State; but for the expenses incurred by him in going to and returning from New York at his own expense, as well as for his expenses while there, he is justly entitled to a fair and liberal compensation. There being no fund out of which these personal expenses could be paid, I respectfully recommend that an appropriation be made therefor. The law required him to sell "at such time and place," etc., as the governor might direct; hence his expenses were incurred in performing his duty as required by law.

In this connection, I take pleasure in acknowledging the obligations of the executive and the comptroller to Hon. M. Kopperl, of Galveston, for the voluntary services rendered by that worthy and patriotic citizen in behalf of the State in the matter of the sale of these bonds in the city of New York.

As authorized by the third section of the act of July 6, 1876, I have designated the "American Exchange National Bank of New York" as agent for Texas to pay the semi-annual interest as it accrues on said securities.

TAXABLE VALUES OF THE STATE, RENDERED AND UNRENDERED.

In order to obtain a proper knowledge of our basis for taxation and the levies to be made to meet *promptly* and *surely* the necessary expenses of the government, I have the honor to call your attention to the subjoined official summary of the values of the taxable property of this State, real and personal, and the classifications of the same, both as to amount and character.

The assessment rolls for 1878 furnish the following figures:

CLASSES OF PROPERTY ASSESSED.	RENDERED BY OWNERS.		UNRENDERED.	
	Numbers.	Values.	Numbers.	Values.
Land assessed in acres	61,665,964	\$123,193,654	13,467,724	\$15,205,655
Town lots		45,688,337		3,634,708
Railroads assessed in miles ...	1,734 25	14,193,836	195	1,055,246
Telegraph lines " "	2,059 25	136,264	41 2	2,675
Land certificates, acres	484,701	105,563	14,862	3,900
Steamboats, sail'g vessels, etc.	387	215,048	152	106,800
Carriages, wagons, etc.	129,212	4,826,902	1,605	78,392
Manufacturers' tools and im- plements		3,946,253		101,706
Materials and manufactured articles		352,927		13,720
Horses and mules	929,563	19,409,376	30,996	395,433
Cattle	3,395,447	18,842,165	116,965	696,389
Jacks and jennets	4,781	166,095	130	2,253
Sheep	2,494,658	3,302,784	194,044	231,772
Goats	265,770	197,819	6,352	4,615
Hogs	1,650,326	2,449,279	7,600	13,047
Goods, wares and merchandise		15,356,336		215,189
Money on hand		6,221,761		386,223
Miscellaneous property		21,811,356		658,926
Total value		\$280,415,775		\$22,786,649
State ad valorem tax		1,402,182 52		113,940 24
245,918 polls at \$2 00 each		491,836 00		8,375 00
Total ad valorem & poll tax		1,894,018 52		\$122,315 24

Total state tax

Average value of rendered land per acre

" " " unrendered " "

From the foregoing official statement it will be observed that the total value of all property rendered by property owners for taxation is.....

Amount of property not rendered

Total taxable property, 1878

The assessment rolls for 1877 showed property rendered for taxation

Unrendered

Total taxable property, 1877

Thus it will be observed there has been a shrinkage in the taxable values of the State from 1877 to 1878, in the sum of fifteen millions, seven hundred and thirty-three thousand, three hundred and forty-one (\$15,733,341) dollars. The amount of revenue, therefore, which will be collected in the present fiscal year *must necessarily* be over seventy-eight thousand (\$78,666 70) dollars less than that collected in the fiscal year which ended August 31, 1878.

That there has been a rapid depreciation in the value of property of all kinds, that our industries have been unremunerative, that there has been

and now exists a financial pressure but seldom witnessed, are unwelcome facts which must be recognized. In view of our wonderful growth and development, the annual immigration into this State of over two hundred thousand people, bringing wealth and thrifty toilers to our shops and fields; that there should, under these circumstances, be in one year a falling off in the value of our taxable property of over fifteen millions of dollars can scarcely be credited.

In this connection, I respectfully direct your attention to the necessity of devising a more just, certain and uniform system of assessing the property and collecting the revenues of the State.

It will be observed that there are 245,918 persons who pay a poll tax, each, to the State, which yields a revenue of \$491,836, and that there are 4188 persons who have not rendered their names for poll taxes, from which the revenue due is \$8,376. The total state tax which may be realized on the hypothesis that every dollar assessed is collected, will be \$2,016,333 76. Out of this amount, under authority of the Constitution, one-half the poll tax (both rendered and unrendered) must be deducted, say \$250,106 50, and to said one-half the poll tax should be added \$379,030 69, being the one-fourth of the general revenue (exclusive of poll tax) set apart, together with the aforesaid one-half of the poll tax for public free schools. These two amounts make a total of \$629,136 19, to be deducted from the total state tax of \$2,016,333 76, leaving a balance of \$1,387,197.57 to be applied strictly to the expenses of the state government (out of which the cost of assessing and collecting should be deducted) as "general revenue," *exclusive* of public schools.

A considerable per centum of this estimate will never be collected. If ten per cent. be deducted for a *safe estimate*, then there would be realized (\$1,248,477 82) one million, two hundred and forty-eight thousand, four hundred and seventy-seven dollars and eighty-two cents, to be further diminished by assessors' and collectors' fees, upon which the Legislature may safely *rely* as the certain revenues to be collected and received into the treasury. Will that amount be sufficient for the support of the state government? This, it is earnestly insisted, is the gravest problem which concerns the representatives of the people. On its solution depends whether the customary and ordinary expenditures *must* be *reduced* or additional taxes levied to meet the demands of the State.

In this connection I respectfully and especially call the attention of your honorable bodies to the estimates of appropriations reported to the executive by the heads of departments. The estimates furnished have been calculated for only *eight months*, from January 1, 1879, to August 31, 1879, and they aggregate \$806,485 60.

As a basis of calculation, the following would be the estimates required for *an entire fiscal year*, to-wit:

Executive office.....	\$25,029 93
State department.....	8,622 49
Treasury department.....	9,279 87
Comptroller's office.....	31,949 95
General land office.....	59,449 86
Lunatic asylum.....	60,000 00
Institution for the blind.....	19,179 96
Institution for the deaf and dumb.....	17,866 95
Adjutant general's office, including appropriations for frontier defence.....	210,690 00

For conveying prisoners to penitentiary.....	30,000 00
Quarantine expenses.....	12,000 00
Pensions, old and new.....	106,800 00
Attorney general's office.....	9,699 96
Judiciary.....	209,159 82
Public buildings and grounds.....	2,049 96
Department insurance, statistics and history.....	8,949 93
Interest on public debt (annual).....	390,000 00

Total estimate for one year..... \$1,210,728 68

The entire state tax on the assessed taxable property for 1878, including *ad valorem* and poll taxes, we have seen amounts to the sum of \$2,016,333 76. Of this amount only \$1,387,197 57 can be applied to *current expenses*, the remainder being for the support of public free schools. If the collectors of taxes fail to collect of this rendered and especially of this unrendered list ten per cent. of the aggregate, we have also seen that but \$1,248,477 82 can be relied on with reasonable certainty.

From these figures we deduce the following brief statement:

Estimated net revenue on present assessments.....	\$1,248,477 82
Estimated expenses of state government one year.....	1,210,728 68

Excess of assessments..... \$37,749 14

Against which must be placed the estimated amount of assessors and collectors' fees to be deducted out of the aforesaid \$1,248,477 82, which fees, I am informed by the honorable comptroller, will be nearly \$200,000, of which general revenue will have to pay about..... 140,000 00

Estimated deficiency..... \$102,250 86

Thus if the estimates of the departments be adopted, and they are less than those for the years 1877-8, on the most liberal calculation that can be made, there will be at the close of the twelve months ending December 31, 1879, a deficiency of over one hundred thousand dollars, and this, too, without any estimate for extraordinary appropriations, expenses of the Legislature, etc. On the other hand, there should be placed against said deficiency, increased as it will be by the extraordinary expense above referred to, such taxes as may be collected on tax lists prior to those of the current year.

The amount of back taxes that will so be collected it is impossible to state.

I respectfully call your attention to the fact that the estimates are in some instances too low. I do not refer to the estimates for salaries of officers or employes, but to those for transportation of prisoners and costs to be paid sheriffs, clerks, district and county attorneys, etc., as now demanded by positive laws. The estimate, for instance, for transportation of prisoners is \$30,000, yet the actual reports show that the expenses for the transportation of convicts, in pursuance of the statutes, have cost the State *annually* more than that amount from fifty to sixty thousand dollars per annum.

There have heretofore been large deficiencies in the appropriations for clerks, district and county attorneys and sheriffs, all for services rendered in pursuance of the statutes.

The estimates for the present fiscal year make no allowance for much needed improvements in our institutions of public charity; for the early organization of the recently completed penitentiary at Rusk; for state colleges, or any extraordinary appropriation, as before intimated, which the Legislature in its wisdom may adopt. The conclusion is therefore inevitable, that unless the expenses of the government be lessened, the estimated revenues will fall far short of meeting the actual expenditures of the State.

It is well to look this danger squarely in the face, for we have reached that point, it is respectfully submitted, in our financial history, when the cry of "retrenchment and reform" becomes no longer, as it too often has been, the cheap watchwords of the demagogue, but rather a palpable and imperious necessity to the legislation of Texas, from this day henceforth. Can the machinery of the state government be kept in motion, on the *present basis of taxation*, without abandoning old and cherished public policies, the protection of the frontier, and the maintenance of public free schools? Can it be done without reducing the compensation of the judiciary or otherwise impairing the vigor and efficiency of the various other departments of the state government?

Believing that our expenditures may be thus lessened, I beg to submit, with great deference, but earnestly and with strong convictions, the following

RECOMMENDATIONS IN THE INTEREST OF ECONOMY AND REFORM.

1. The funding of the pension bonds has already been respectfully advised, which if funded in five per cent. bonds after July, 1879, will save annually thereafter to the State in interest fifty thousand dollars, (just as in the recent funding of \$503,400 ten per cent. bonds into six per cent. bonds, saving in the latter case annually over twenty thousand dollars).

2. I respectfully advise that the law be amended providing for the transportation of prisoners to the state prisons, so as to enable the governor to contract for the transportation of said convicts, as follows:

That he be authorized to let their transportation to the *lowest responsible bidder*, whose duties shall be strictly defined by law, and they be bound by a contract and *bond* to transport and deliver within certain reasonable times all parties convicted of felonies and sentenced to the penitentiary, to such prison or prisons as the law may direct.

For the years 1873 and 1874-5 the cost to the State for transporting convicts averaged sixty-five thousand dollars annually. The last two scal years the cost has averaged fifty thousand dollars.

Under the present law the district judges, at discretion, appoint the number of guards; and the experience of the past shows that about two guards to each prisoner is *the general rule*. When we take into consideration the great distance of our border counties from the penitentiary to Huntsville and the magnitude of our territory, it is to be expected that such transportation would necessarily impose heavy expense upon the State. If the transportation be let to one man, or company of men, nebg the best and lowest responsible bidder, a more perfect system and discipline could be organized by those who might thus contract with the State. They would thus transport safely and promptly at regular periods all prisoners from given judicial districts, and so the contract shal require. We are not without precedent in this proposition. Texas has now over seventeen hundred convicts (1738), and our sister state of Georgia about 1300. That state *leases all her convict labor* and the

lessees pay the state \$25,000 per annum, and are bound by contract to transport all convicts from the counties where convicted and sentenced to the penitentiary free of all expense to the State. The experiment there has resulted in an annual saving in the item of expense incident to the transportation of convicts of many thousands of dollars over the old system, which she has discarded, but which is yet in force in this State. The average cost *per capita* of the transportation in that state is less than ten dollars. Here each convict costs the State not less than one hundred dollars in their transportation. It is believed that at least one-half of the present expenses incurred could be saved by this system; and should the State continue any military forces in her service, and should make this—transportation of prisoners—a part of their duty, the saving might be made *still greater*. The experiment can do no harm, since, if the bids received do not on their face show a saving to the State, the law should, of course, authorize the executive not to accept the same. It is estimated that the State could thus reduce the present expenses in this line annually twenty to twenty-five thousand dollars.

3. With a view of adding to the revenues, and in the interest of justice and equality as well, I also respectfully recommend that the present system of compensation of all officers (not salaried) who *are commissioned* by the State, be changed, for the following considerations: The standard of all fees or salaries of office should be measured by the importance and responsibility of the office to be filled and the duties to be discharged. We pay our judges of the supreme and appellate courts thirty-five hundred and fifty dollars each per annum, because they are the tribunals of last resort, and demand the highest ability, learning, integrity and experience. We pay our district judges twenty-five hundred dollars each annually, because they are next in judicial rank and importance. The executive and other departments of state are compensated upon the same hypothesis; and yet, while this is true, there are many subordinate officers, many of them purely ministerial or clerical, who receive much larger compensation than the governor of the state, the judges of the courts or the heads of the departments of the state government. In the largest and most populous counties of this State, the fees and commissions received by sheriffs, assessors, collectors, etc., amount to a compensation far in excess of the highest salaried officers of the State. I, therefore, earnestly recommend that a *maximum limit of compensation* be fixed by law for all officers, county as well as state. If the Legislature should determine that the said maximum of compensation should be (after allowing for all absolutely necessary curtailments) as much as district or supreme court judges, (\$2500 or \$3550) then let it be provided that when, if at all, the fees of these said officers reach such maximum limits, then the overplus collected be turned into the general revenue as other taxes to the State's credit. It is on this basis that the present law compensates the attorney general. He is allowed only two thousand dollars salary, "but may receive four thousand dollars, *provided* the fees of his office reach that amount," etc. All over that limit he turns into the treasury. Why limit the chief law adviser and place no limit on the other class designated?

In counties where the compensation never reaches the maximum no change is effected. I recommend that such limit be applied to *all officers* other than those receiving fixed salaries under the present constitution and laws of the State. It is estimated that a rigid execution of such a proposed law would add to our revenues annually about \$60,000.

4. The Constitution provides the Legislature *may* appropriate one-fourth of the general revenue for public schools annually.

With such resources in lands, and in funds already invested in bonds as a permanent school fund, there is no reason why at an early day this drain on the general revenue should not cease. The policy inaugurated under the act of April 24, 1874, has not met the expectation of the State. From that date till now, the sales of the school lands have only yielded *an annual* available school fund of \$7154.

The rapid increase of our scholastic population over the increase of the available school fund, derived from the sale of the school lands, as illustrated from 1874 to the present date "renders it evident (as the honorable comptroller reports,) that a change of policy is necessary." With that officer, I respectfully and earnestly recommend for consideration, the propriety of amending the law referred to, so as to permit parties desiring to purchase the State school lands, to buy without limit as to quantity, and that the restriction of selling to only actual settlers be removed. It would result in a rapid increase of the *available school fund*, and the lands thus sold, becoming *taxable* would largely increase the revenue of the State. There are twenty millions (20,000,000) of acres of school lands. The minimum price fixed by law is one dollar and a half per acre. The minimum price would eventually yield *thirty millions of money*. A sale of about one-half of these lands, at the minimum rates, would create a fund the interest of which would relieve all claims of the public schools on the general revenue, and this within a period of a very few years, thus saving nearly a half million of dollars (*ad valorem* and poll taxes now imposed,) to the pockets of the people. Our financial condition demands that the school lands should be sold at the earliest day, so as to relieve the overburdened general revenue. This policy, it is believed, would in less than a decade of years from this date yield a fund of thirty millions of dollars, such an endowment as would educate every child of Texas, irrespective of scholastic ages, and without expense to them or to the State.

5. While recognizing, in its full force, that the government in the support of her institutions of charity, her colleges, universities and free schools, should bestow an intelligent liberality worthy of our age and civilization, we cannot forget that this fostering care should never involve expenditures beyond our means to pay promptly and with honor.

The large increase of our scholastic population, beyond the corresponding increase of our available school fund, and the failure to realize any considerable proceeds from the sales of the school lands, render it necessary, I suggest that there be a reduction of the standard of our school population from 8 to 14, to 10 to 14 years of age. This reduction would enable the State to maintain the public free schools, with efficiency and for the same length of time, at a saving of *one-fourth* of that part of the general revenue now transferred each year to the available school fund, which saving, the honorable comptroller informs this department, would be very nearly \$100,000.

Therefore, as a matter of economy, growing out of our financial condition, and to avoid any *increase* of taxation, it is earnestly recommended to the Legislature to reduce the present scholastic limitation to the ages of ten and fourteen years. At these figures we have at this time between the ages of ten and fourteen years, as shown by the scholastic census, one hundred and twenty-one thousand, four hundred and sixty-five (121,465) children to educate in our public free schools.

As our resources are developed and we realize from the sale of the most magnificent educational endowment possessed by any people on earth of the same population (twenty millions of acres of land besides our university and school lands), then the doors of our common schools may indeed be thrown open, irrespective of age, to receive every child in Texas for the entire year, and without a dollar of taxes imposed directly upon the tax-payers of Texas.

6. I recommend that the law be so amended as to authorize the secretary of state to charge fees in certain cases, for all commissions and certificates under seal, etc. I especially call your attention to the able report of the honorable secretary of state in that connection, wherein he recommends such a policy. The office can thus be made at least *self-sustaining*, and the State desires no more. Our inquiries have developed the fact that in nearly all the states besides Texas their state departments are self-sustaining, and in the mode indicated. The annual appropriation (\$8,622 49) may thus be hereafter saved.

7. I respectfully call your attention to the recommendation of the superintendent of public buildings and grounds, who advises that the office of superintendent may now be dispensed with without injury to the State.

I concur in his recommendation, which will save to the State annually \$1200.

8. The departments of insurance and the general land office are already self-sustaining. The last might, besides, be made to yield a revenue. Hereinafter I propose briefly to refer to the large amounts *now due* (nearly one hundred thousand dollars) to the general land office for work and labor done, but to *compel the immediate payment* of which there is now no legal remedy. From this source *alone* many thousands of dollars may be at once realized to the State by the action of the present Legislature. I have called attention at this time and place to these departments out of their regular order *only for the purpose of submitting under the general proposition* I am, with great deference, urging: the ways and means of relieving directly the burden of taxes and of increasing the revenue of the State. I invoke their candid consideration by the Legislature. While an enlightened and liberal statesmanship cannot indorse a "penny wise and pound foolish" policy, which drives, by miserly compensations, the wisest judges or ablest counselors from the bench, or the other high trusts of power, or the faithful clerk, employe or soldier of the frontiers, from humbler positions; nevertheless, all history teaches us that the strongest safeguard to the purity and stability of free institutions is a government which places its heel on *wasteful prodigality*, and extends its hands alike to welcome an intelligent economy in finance and *moderation* in the counsels of State.

FRONTIER DEFENCE—REPORT OF THE ADJUTANT GENERAL.

For a very full and exhaustive review of the movements and services of the frontier battalion, under command of Major John B. Jones, and of the independent company commanded by Captain Lee Hall, I respectfully refer your honorable bodies to the accompanying report of the adjutant general of the state.

On my entrance upon the duties of the executive office, on the first day of December, 1876, and on succeeding to the command of the military forces, I found that an appropriation of \$150,000 per annum for the maintenance of a battalion of six companies of rangers had been made

by the Fifteenth Legislature, extending up to Dec. 31, 1878. Major Jones had been appointed to the command by my predecessor, and continued by me, after his retirement from the executive office.

I recognize from the date of the organization of this force in 1874 the imperative necessity which *then* existed for its creation, which opinion became a *conviction* after my official connection with and observation of the great services rendered by them to an exposed and defenceless frontier. At no period of my administration has the necessity for these rangers ceased to exist. Under the law authorizing this force the governor has had the right, at any time, and now has, to disband said battalion and muster it out of service. They were continued in the field because it was believed that the extension of our settlements as rapidly as possible to the westward, the consequent reclamation of large districts of country from the savage to civilization, the consequent additions to our taxable property, and the last, but not least, consideration, the protection of the lives of the women, children and men of our border—*these were considerations* involving life and liberty which could not be measured by the "red tape" of the national war department, or by the dollars and cents of our own state government.

The treaty of annexation required that the federal government should protect all our frontiers. And yet, since 1845 to 1879, a period of more than thirty years, Texas has been compelled to spend over *two millions of money* in her own defence. Her claims for this service have been time and again recognized by our Legislatures, and presented by successive governors—including the present executive—to congress for payment through our senators and representatives.

This battalion has been reduced so as to always come within the limits of the appropriation. Under the vigilant and sagacious military eye of their commander this force has been so disposed as to guard our frontiers, at the passes of the mountains and at other salient points, and have given invaluable protection to a line of border reaching from Laredo to Red River.

All honor is due to these gallant and faithful officers and men, for the soldierly service they have performed for the State.

HALL'S COMPANY.

The company commanded by Captain Hall, under an act for the "suppression of lawlessness and crime," I also found in the field when I became governor. The reasons calling for the creation of this company continued in force, in my opinion, and have so continued to this day.

An appropriation of forty thousand dollars was made by the Fifteenth Legislature to maintain this special force. Under the act of July 22, 1876, and in the second section thereof, it is provided, "That said company shall be mustered into the service of the State of Texas for the period of six calendar months, *or longer, should the Governor deem it necessary.*"

The original organization of this company was of fifty men, rank and file.

In the month of ———, 1877, I was advised by the adjutant general that the appropriation of \$40,000 would soon be exhausted.

The company was, therefore, reduced to half of its original size, and continued some months longer under said appropriation.

Orders were then issued for the disbandment of said company. Before this order was executed many patriotic citizens of the west, whose lives and property was exposed to, and in the language of the act of the Leg-

islature of July 22, 1876, "now being depredated on by bands of criminal and lawless men, too strong to be suppressed by the civil authorities unaided, and by bandits and robbers from Mexico," these men volunteered to maintain this force by supplies and money, if the executive would continue it in the field. My reply, expressed in writing and on file, was that recognizing their condition, I would continue this company "for a longer period than six months," on the condition that the State, by my said act, should in no wise become responsible either to the men or those who advanced them supplies; and that they must look alone to the Legislature for a just recognition of these claims.

The company also, as well as others, understood these conditions. I then, and now, expressed the individual opinion that, under the terms of the law, the governor had the power to continue these troops in the military service, and that *because* of such authority these claims of the unselfish and patriotic men who advanced their private means should be reimbursed by your honorable body, to whom *all sections* of a great State look for justice and protection.

I am glad to know that the general proposition of the duty of the State, in our thinly settled communities of the west, as well as on our Indian and Mexican borders, to furnish such protection as aid to the civil authorities by military forces, *is not* a distinctive feature of any one political party. Here all political creeds and faiths find common ground of agreement, as illustrated by the record they have left of their public counsels.

To the wisdom and generous recognition of your body I commend the just claims of our fellow-citizens.

The district judges, state's attorneys, grand juries, sheriffs and county officers of *every* judicial district west of the San Antonio river, and northward to the Red river, have urged upon the executive the retention of these commands, and in their official capacities have said, that had they been withdrawn, in a large majority of cases, their courts could not have been held, and the settlements would have been driven eastward toward the Colorado, nearly one hundred miles. The following summary of arrests made by the rangers, *in aid of the civil authorities*, since the last report of the adjutant general, shows that they have not been idle, but have performed important and perilous service for the State.

For murder.....	207
Assault to kill.....	93
Theft of horses, cattle, etc.....	395
Bank robbery.....	5
Robbery.....	14
Railway train robbery 9, stage robbery 5.....	14
Burglary.....	6
Rape.....	7
Releasing prisoners from custody.....	1
Jail breaking.....	23
Resisting civil authorities.....	2
Disturbing peace (mobs).....	16
Arson.....	1
Forging land titles and other forgeries.....	22
Escaped convicts.....	12
Embezzlement.....	3
Perjury.....	1
Organizing in violation of neutrality laws.....	48

Other arrests for felonies not stated.....	140
Miscellaneous and minor offences.....	94
Bigamy.....	4
Swindling.....	11
Bribery.....	3
Total number of arrests.....	1,122

Besides the above service, they have stood guard at their posts, and have followed twenty-one (21) Indian trails, pursued seven hundred and nine (709) felons, engaged in nine hundred and sixteen (916) scouts, acted as escorts to prisoners, or courts, etc., in two hundred and twenty-seven (227) instances, assisted civil authorities two hundred and seventeen (217) times, guarded fifty-seven (57) jails, recovered and restored to their owners two thousand eight hundred and twenty-eight (2828) head of horses and cattle. Of criminals killed and wounded, in resisting arrest, there have been twenty-eight (28), and of the rangers, two have been wounded, and five killed on duty.

A reference to the rapid growth in the wealth and population of the counties on our frontier *since* the organization of these state forces, gives indisputable evidence that the State has been richly repaid in revenues alone, imposed upon said increase of the taxable property. For instance, the assessment rolls returned to the comptroller in 1874, of the *then* border counties of Bandera, Brown, Burnet, Clay, Comanche, Eastland, Frio, Gillespie, Hamilton, Jack, Kerr, Kinney, Lampasas, Llano, Mason, Maverick, Menard, Montague, Palo Pinto, Parker, San Saba, Wise and Young, showed only a taxable property valued at ten millions, four hundred and twenty-six thousand, four hundred and twenty-three (\$10,426,423) dollars. The rolls for the same counties for 1878, on same basis of valuation, show a taxable property of twenty-one million, nine hundred and ten thousand, two hundred and forty-five (\$21,910,245) dollars; an increase of over eleven millions of dollars. The same proportion of increase is observed in the counties more recently organized.

It is a well established fact that the presence of the frontier forces enabled the counties of Young, Clay, Shackelford, Eastland, Coleman, Kimble, Tom Green, McCullough, Presidio, Pecos, Taylor, Stephens, McMullin and Callahan to organize and settle, while other counties from the same causes are now ready to organize.

It is a fact that for more than twelve years prior to the creation of the frontier battalion and its service in the west, *no new county had been organized.* "On the contrary," the adjutant general reports, "three counties (Young, Coleman and Stephens) had been depopulated and had lost their county organizations, and hundreds of citizens had been *compelled* by the Indians to abandon their homes in the *other* frontier counties."

If the same progress marks the history of that section under like causes in the future, many years will not elapse before the savage will be a stranger within our lines, and the State, along her border, will be securely protected by a "living wall" of her own hardy and patriotic people.

The presence, hitherto, of the rangers has given *peace* to that country, so that there is to-day less lawlessness and crime in the field occupied by them than in the interior of the State among older communities and

under the very shadows of the temples of justice and amid crowded populations.

The noted and outlawed criminals—many of them only through their aid—have either been killed in their capture, sentenced to the penitentiary, or have met their just doom upon the gallows.

I earnestly recommend that the present frontier policy be continued in such manner as the wisdom of the Legislature shall determine.

PUBLIC LANDS—GENERAL LAND OFFICE.

The very exhaustive and interesting report of Hon. Wm. C. Walsh, commissioner, herewith transmitted, presents a most satisfactory statement of the condition of the public lands, and of the general land office, during the last fiscal year.

From this report we have the number of acres *patented* during said period, 5382 patents, embracing 2,921,992 acres.

The fees and dues received at the general land office for the same period are as follows:

Office fees.....	\$15,691	27
Patent fees.....	32,723	50
Government dues.....	511	33
Pre-emption dues.....	20	00
Total amount received.....	\$48,946	10

The denomination of certificates, with quantity of land issued, were—

To railroad companies.....	1,312,000	acres, and to state, 1,312,000	acres
“ irrigation “.....	42,240	“ “ “	3,840 “
“ counties, under act March 13, 1873.....	123,984	.....	“
Special act certificates.....	5,885	.....	“
Totals issued.....	1,484,109	“	1,315,840 “

The liabilities of the State, on the public domain, are as follows :

Increase of liabilities.....	2,799,949	acres
Liabilities heretofore reported.....	127,724,033	“
Total present liabilities.....	130,523,982	“
The estimated area of the State is.....	172,604,160	“
Liabilities as above.....	130,523,982	“
Area against which there is no outstanding claim.....	42,080,178	“
From this last amount should be deducted the area in our bays, etc.....	1,722,880	“
Also the Texas and Pacific railroad reservation (not now subject to location).....	9,322,000	“
Aggregating.....	11,054,880	“

to be deducted, which leaves to the State to-day only thirty-one million twenty-five thousand two hundred and ninety-eight (31,025,298) acres, against which there is no outstanding claim whatever.

UNIVERSITY LANDS.

The commissioner reports the university lands located as follows :

Cooke.....	22,218
Fannin.....	39,520
Grayson.....	72,700
Hunt.....	7,544 $\frac{3}{4}$
Collin.....	2,582 $\frac{3}{4}$
Lamar.....	12,146
McLennan.....	41,193
Shackelford.....	17,420
Callahan.....	4,582

Aggregating a total of..... 219,906 $\frac{1}{2}$ acres

whose average value is estimated at three dollars and a half per acre, making \$769,672.

ASYLUM LANDS.

The asylum lands are located in the counties of Callahan, Comanche, Eastland, Jones, Shackelford, Stephens, Taylor and Tom Green, as follows:

Orphan asylum.....	103,229 acres
Deaf and dumb asylum.....	101,644 "
Institute for the blind.....	102,642 "
Lunatic asylum.....	100,100 "

Total number..... 407,615 acres

The amount of receipts of the general land office for the four fiscal years ending respectively August 31, 1875, 1876, 1877 and 1878, has been.....	\$245,097 61
Amounts appropriated.....	229,900 00

Amount of receipts in excess of appropriations.....	\$15,197 61
To which should be added <i>unexpended</i> balance for same year.....	5,987 11

Total excess of receipts..... \$21,184 72

Included in the above appropriations is the amount of salaries of two clerks and one draftsman for compiling abstract of titles for the use of the comptroller and the assessors' offices—no part of the legitimate expenses of the department—which is \$4500 per annum for three years, making \$13,500 additional, which should be a *credit* to the land office. This would make the receipts of this department for the two years above named \$34,684 12, *in excess of expenditures*. This important office, therefore, is *self-sustaining*, and instead of draining, rather adds to the state revenues.

I respectfully call your attention to the present pressing necessity for legislation in connection with this department.

The commissioner reports that there are now in his office three thousand patents, which have been issued on the application of owners or agents, and which are retained for non-payment of patent fees, amounting to *twenty thousand dollars*. He also reports that there are over five thousand claims which have been placed on the maps "examined and made "ready for patenting; in fact," as the commissioner states, "all the

“work of this office completed, except the writing out of patents, for which no patent fees are deposited, nor do the owners care to pay the fees, being *satisfied* that their claim to the land is now beyond question.”

I am informed by the commissioner that the aggregate amount of fees thus due to the land office approximates *eighty thousand dollars*. Cannot some measure be enacted by the Legislature to *compel* the speedy payment to the State of this large amount, for which the labor of this department has already been rendered? Might not the amount of fees thus due be added to the taxes on said lands and required to be collected as ordinary *ad valorem* taxes? *It is due*, and the *lands* in some manner should be made liable therefor without any unnecessary delay of suits in court.

For the *future*, at least, to prevent a recurrence of this evil, by requiring the deposit of the patent fee when the certificate and field notes are filed, the revenues of the office would be largely increased; and when the work is done the patents could be forwarded to the owner at once or kept subject to his order.

There are other recommendations contained in this able report of the commissioner, which cannot now be enumerated. I concur in them all, and respectfully call your attention thereto and recommend their adoption.

Upon the decease of Hon. J. J. Groos, late commissioner of this office, on the 15th day of June, 1878, Hon. Rhoades Fisher, then and now chief clerk, became the acting commissioner until the first of August last. To the intelligent zeal and fidelity with which he discharged the duties of this important office during that period, I testify with great pleasure, in this formal and public manner. On the first of August, 1878, I tendered the appointment for the unexpired term of the late commissioner (Hon. J. J. Groos) to the present and recently elected commissioner, Hon. W. C. Walsh, whose knowledge of that department, and whose executive ability, thus far manifested by him, give promise of a most useful and honorable administration in the future control of the general land office.

PENITENTIARY.

When I entered upon the duties of my office I found upon the statute book of the State, a law but recently passed, mandatory in its terms, requiring the governor to resume the possession of the penitentiary at Huntsville (General Laws Fifteenth Legislature, chapter 113, pp. 193-6).

Of the *causes* which made, from every standpoint in which the subject can be viewed, the passage of this law an imperative necessity, it is needless now to speak. The able and elaborate report of the commissioner appointed by my predecessor in 1875, as well as the able and fearless report made by the special committee appointed by the house of the Fifteenth Legislature, of which Hon. W. S. Coleman, now a representative of your honorable body, was chairman, are accessible to you. [The latter will be found on page 395 of the house journal, Fifteenth Legislature.]

I was well aware of the immense responsibility and care—greater by far than all else connected with my administration—to ensue from an attempt to carry out this law, but the Legislative will was too positively expressed, to admit of doubt, as to my duty in the premises, and I determined at whatever cost of personal labor, anxiety and even vexation to resume. Before, however, taking formal action in this direction I required the lessees to pay the \$15,000 of lease money, which they had been owing since July 5, 1876. This was paid into the treasury in —, 1877.

Amongst the many difficulties that presented themselves was the disposition to be made of the penitentiary and its convicts between resumption and the making of a new lease. An inventory would have to be made of all the property returned by the old lessees to the State in order to know what the State had to lease, and an advertisement published of the terms and conditions thereof, and timely and fair notice given to all persons proposing to bid. This would necessarily take several months and in the meantime the penitentiary must either be supported and operated by the State, consuming in a little while the \$30,000 which had been appropriated for the purpose or temporarily hired to some one who would pay all the expenses and perhaps something additional in the way of lease money. As it was left to the governor to resume "in such manner as he might deem necessary or expedient," I concluded if it could be effected to make a temporary hiring until the new lessees should be ready to take charge. Judge James E. Shepard, of Travis, who was afterward appointed by me one of the three commissioners authorized by the resumption act, went at my instance to Galveston to examine into and report upon a proposition for such temporary hiring that had been made by Messrs. Burnett & Kilpatrick of that city. He returned with a bond or guaranty signed by said Burnett & Kilpatrick, and many of the most responsible men of Galveston, by which the State was to be paid at the rate of \$20,000 per annum lease money, and saved harmless from all such expenses as the State would have had to pay if the penitentiary had been operated by her. His action in this behalf met my approval, I then and still believing that it was the best thing that could be done under the circumstances.

Having thus bridged over the difficulty by securing the State against what I was satisfied would be a heavy expenditure and considerable loss if she undertook to operate the penitentiary in the *interim*, I was at once met by another which promised at the outset to be very embarrassing. The old lessees, being informed of my purpose to resume, retained several prominent lawyers who took the position that the act authorizing resumption was unconstitutional, because impairing the obligation of the contract of lease, under which the old lessees were in possession of the penitentiary and entitled to the labor of its convicts; and gave me notice that they would resist, by all legal measures in their power, any effort on my part to deprive them, without their consent, of their control over the same. Without conceding this position, notwithstanding some decisions were found, notably one by the supreme court of California, where a similar controversy had arisen, which seemed to support it. I deemed it best, after consultation with the attorney general, Hon. H. H. Boone, and Hon. A. J. Peeler, who was afterward retained by me as counsel for the State, to extend the date of resumption to April 1, 1877, the lessees agreeing, as they did in that event, to quietly and peacefully surrender possession without any obstruction or hindrance from them whatever. I was not only influenced to this course by a desire to avoid litigation, but inasmuch as the law left the time and manner of resumption to my discretion, I thought it but just to give the lessees an opportunity to protect themselves by timely arrangement from the disaster, which they represented would fall upon themselves and others by sudden resumption.

Accordingly, on 1st April, 1877, Messrs. Burnett & Kilpatrick took charge of the penitentiary and its convicts, under their temporary contract of hiring. In the accomplishment of resumption I found it neces-

sary to avail myself of the aids and agencies which had been wisely provided by law, and without which, it would have been well-nigh impracticable. I retained as counsel for the State, Hon. A. J. Peeler, former assistant attorney general of the state, and one of the commission appointed in 1875, and author of its report—whose intimate acquaintance with the subject, and energy as a lawyer, made his services invaluable—and Messrs. Randolph & McKinney, of Huntsville, whose presence upon the ground, and high standing in their profession rendered their assistance not less desirable than it has proved to be important.

The extent of the labor performed by each of these gentlemen, and the promptness and ability with which they have at all times met and disposed of the various difficult and, in many respects, novel questions presented to them, can scarcely be appreciated by those not familiar therewith.

I appointed as commissioners, Judge James E. Shepard, of Travis, Major H. K. White, of Ellis, and Captain I. T. Gaines, of Lamar, and as superintendent, Hon. Thomas J. Goree, of Huntsville, all of whom are still holding their positions, and in all respects have faithfully discharged their responsible duties. It may be regarded as an epoch in the history of penitentiary management in this State, that as against these gentlemen who have been in office now nearly two years, and who are the real guardians of the interests of the State in the management of an institution of such proportions as must be a penitentiary with its 1,700 convicts, a considerable number of whom are at camps outside the walls, standing between the State and the lessees, and having to do with so many persons, holding or occupying toward the penitentiary, its property and convicts, some sort of business or other relation, not a complaint has reached the ear of the executive.

I appointed as appraiser in behalf of the State, General W. P. Hardeman, of Galveston, and the firmness, excellent judgment and conscientious care with which he discharged his duty, has convinced me and all others acquainted therewith, that his selection was indeed most fortunate, that the thorough manner in which the appraisement was made has been worth many thousands of dollars to the State. I appointed Mr. A. E. Davis, a skillful accountant, of Huntsville, to aid in making the inventory, and through his labors the work was greatly expedited.

The appraisement and inventory were completed and filed in the office of the secretary of state, July 16, 1877, a copy of which I caused to be furnished to the lessees and notified them that I was ready to do anything in my power looking to a fair and speedy settlement of all matters between the State and themselves growing out of the lease, without litigation, as provided by the law authorizing resumption. Receiving no response, and after waiting for more than a year for them to bring suit against the State, as they were expressly privileged to do by said law, I thought it my duty—the attorney general, Hon. H. H. Boone, with whom I advised, concurring with me—to institute suit against them and their sureties, claiming a balance due the State of \$72,817 10. I accordingly retained Hon. A. J. Peeler, who, as before stated, was familiar with the whole matter, together with his partner, T. S. Maxey, Esq., to represent the State in the prosecution of the suit, and the same was promptly brought and is now pending in the district court of Travis county, thus leaving to judicial determination, and to the courts, where it would seem properly to belong, the settlement of a matter that, if left

open, must have occasioned much trouble and occupied much of the time of the Legislature.

When the appraisement and inventory was completed it was midsummer, and as some ninety days would be required to give sufficient notice to enable parties outside as well as in the State proposing to bid to inspect the penitentiary and fully acquaint themselves with the terms and conditions upon which the lease was proposed, and to secure bondsmen and make arrangements to take charge of so large and expensive an enterprise in the event the bid was awarded them, and as it would have been disastrous to a considerable number of planters who had contracted for the year and were entirely dependent upon convict labor to save and put their crops in marketable condition--to have suddenly deprived them of its labor before its close--I thought it best to fix on the time when the new lease would begin--January 1, 1878. I accordingly, by proclamation published in a large number of the leading newspapers in and outside of the State, gave notice of the letting of said penitentiary for the term of five years from January 1, 1878. Suffice it to say, without going into details, I endeavored, whilst inviting the freest competition of bidders, to take every precaution to place them all upon an equally fair footing. The bids were required to be addressed to the secretary of state in sealed envelopes, and were opened in his office by him in my presence and that of the attorney general, and in the presence of all such bidders or their representatives as desired to attend. Col. Ed. H. Cunningham, of Guadalupe county, being the highest and best bidder, among a large number of bidders, the lease was awarded to him and the possession of the penitentiary and its property and convicts delivered to him January 1, 1878. In this connection it may be well to state that afterwards, being satisfied that the State could in no manner be prejudiced, but rather benefited thereby, I consented that Col. Cunningham might associate with him Mr. L. A. Ellis, of Jefferson, who remains all the while at Huntsville. As under the law this lease is subject to the approval or revocation of your honorable body, and to this end it is necessary for you to know its terms and conditions, as well as those of the bond given to secure the performance thereof, I have appended to my message for your information a copy of said bond, in which said lease is recited in full. I would like--and but for the great length of this message--would be glad to direct your especial attention to the object of some of the provisions of the lease and to the advantages to the State sought to be attained thereby. I am persuaded you will find it, so far as its protection of the interests of the State are concerned, in all respects sufficiently exacting, and that many questions left open in the lease to the former lessees, giving rise to embarrassing controversies as to their relations and duties to the State and to the convicts, are covered and settled in this by definite stipulation. Under this lease not only are the lessees bound to feed, clothe, lodge and provide for the convicts, but the State receives three and one-one hundredth dollars per month for each convict, without regard to physical capacity, and with the understanding that no deduction is to be made for convicts that may escape or be sick or otherwise incapacitated from labor, provided that in the case of escaped convicts the lessees are not to pay for any longer period than the 31st day of December next after the date of escape. In addition to the monthly hires, the lessees also pay each month \$729 16 $\frac{2}{3}$, to cover the salaries of the commissioners, superintendent, physician and

chaplain, and a reward of \$25 and the actual expenses not exceeding \$10, incurred for the apprehension and return of each escaped convict that may be returned during the lease. They further furnish each discharged convict with a suit of clothes and \$20, and supply each convict with postage and stationery for one letter per month.

By the report of the superintendent, Hon. Thomas J. Goree, which is worthy of commendation for the unusual fullness and value of the information it contains, the State will receive for the hire of convicts, for the year 1878, not less than \$62,340 95, to which add the amount paid for salaries, \$8,750, and for recaptures, \$2,853 84, and we have, to say nothing of the \$20 to each discharged convict, and other items that might be mentioned, the sum of \$73,944 79. More actual cash goes into the treasury under this lease in one year than has been paid into it from the establishment of the penitentiary to the making of this lease, and for the first time in the history of this institution does it yield a clear profit.

With respect to the statistics of the penitentiary, its industries and the management and treatment of the convicts, you are respectfully referred to the reports of the commissioners, superintendent, physician and chaplain, all of which will be laid before you. Notwithstanding the most stringent rules and checks that the officers of the penitentiary have within the limits of legal authority been able to devise, the expense of transportation of convicts seems to increase. The vouchers issued to sheriffs, as shown by the superintendent, for the months of September, October and November, 1878, amounting to \$18,627 50. If continued at this rate they will reach in one year the enormous sum of \$74,510 00. Your attention is respectfully invited to what the superintendent has to say upon this subject, and I submit, as worthy your serious consideration, whether, among other reforms in the interest of economy to be inaugurated by you, some less expensive and equally safe mode of getting convicts to the penitentiary, should not be devised. Your attention is also directed to the useful suggestions to be found in the report of the commissioners. Some of the repairs and improvements recommended by them should no doubt be made, and would have been authorized by me before this, but I thought it best, as you were soon to meet, to leave the matter open until, through committees of your honorable bodies, who would visit the penitentiary and see for themselves, you could obtain all needful information as to their necessity and propriety. The excellent manner in which the penitentiary has in all respects been managed, and the humanity with which the convicts have been treated by Messrs. Cunningham & Ellis, induces me unhesitatingly to recommend a ratification of their contract, if in your judgment the lease system should be continued. They have proved themselves to be the right men in the right place, and I cannot but regard the State as fortunate in securing for lessees gentlemen of such high integrity, business capacity and energy, and so well fitted to deal with interests of such magnitude and in which the whole people are so vitally interested. I also recommend, in concluding what I have to say on this branch of my message, equally as unhesitatingly, that the East Texas Penitentiary, at Rusk, just completed at a cost to the State of \$160,000, and with the capacity for 1000 convicts, be filled. I do this not alone because this valuable property should be utilized and not be allowed as an empty structure to go to decay, but because the general and well founded public sentiment expressed so often and in such various forms in this State in favor of keeping convicts within prison walls indicates a policy that should be enforced.

EAST TEXAS PENITENTIARY.

On assuming the executive office I found devolved upon me the duty of carrying out the provisions of the law authorizing and requiring a penitentiary building to be erected at or near the town of Rusk, in Cherokee county.

The contract for the building of said penitentiary, with certain plans and specifications thereto attached, had been let to Messrs. Kanmacher & Denig, of Ohio, they being the lowest bidders for said contract. A sufficient bond was required to be executed by them before a final ratification of said contract. Not until some months after my term commenced did the contractors present a bond for my approval. Though a solvent bond in *Ohio*, in which state the principals, as well as the sureties, resided, I decided that none but a Texas bond, with our own citizens as sureties, could be accepted. In due time such bond was presented and approved.

Upon examination of the plans and specifications of the proposed building, it was the opinion of the executive (in which opinion he was sustained by the board of commissioners designated by law) that many of said specifications were indefinite, and such as, if not specifically defined and in writing, might thereafter draw the State into legal controversies, and thereby entail great loss.

These plans and specifications were therefore, by the aid of competent architects, so accurately defined and explained as to leave no uncertainty as to the result.

On this basis the contract was ratified and the work begun.

As the statute contemplated and required, I appointed a board of inspectors (Messrs. S. N. Pickens, of Anderson county, and J. W. Grant, of Dallas county,) to superintend said work as it progressed, and to make monthly reports of same to the executive, together with monthly estimates for the work done, for the contractors, (reserving five per cent. on all estimates) before any warrants could be drawn against the appropriation made by the Legislature to erect this building.

I herewith call your especial attention to the accompanying report of the inspectors with maps and drawings illustrating their report, showing the progress, character and completion of the work.

The buildings are completed and are believed to be better in material and construction than any similar building in the southern states. It has *capacity* for one thousand convicts, and has all the modern improvements, as to ventilation, drainage and safety.

In the progress of a work of such magnitude the inspectors found it necessary to have certain *extra* work done by the contractors, which they report as being an *absolute necessity*. I recommend that the accounts for such work, *as in your judgment could not have been dispensed with*, be provided for by your honorable bodies.

I also earnestly recommend that a joint committee of the Senate and House, of such members as you may confide in on such a practical mission, be appointed to visit this penitentiary building and make report thereof to the Legislature.

I have carried out the contract, already made before my official term commenced, and have great pleasure in expressing the opinion to the Legislature that said contract, made during the administration of my predecessor in office, has now been faithfully fulfilled in letter and spirit, and greatly to the interest and advantage of the State.

With the mineral (iron) and other lands purchased by the State it has cost the State \$160,000, for which the State has received full value in return.

Before being utilized, however, strong walls must be built around the prison and other expenditures necessarily made, for which it is the province of your honorable bodies to provide at the earliest day compatible with the public interests.

To prevent the destruction of this valuable public property, which might have resulted if left untenanted and unguarded, after its completion, I authorized the employment of two citizens to guard and protect said public buildings, both by day and night, so as to keep a constant watch at all times. Their compensation should be provided for, there being no present fund out of which the executive could pay for such services. Such a trust, requiring men of fidelity, and demanding vigilance at all hours, I contracted with them at the rate of two dollars and a half each per day, subject to the ratification of your honorable body.

ATTORNEY GENERAL'S DEPARTMENT.

The able and interesting report of Attorney General Boone is herewith transmitted and commended to your earnest consideration.

I concur in all the recommendations proposed by him, and indulge the hope that they will be adopted by your honorable bodies.

—To a few, only, of the leading subjects of his report, can I make special mention in the limits of this paper, as being of grave importance in your deliberations. One of these relates to the certificates issued to contractors for work done, under the act authorizing the cleaning out and rendering navigable the *Bernard river and Caney and Oyster creeks*.

The attorney general reports in relation thereto that "on the sixteenth day of July, 1877, the commissioner of the general land office issued four hundred and forty-six land certificates of six hundred and forty acres each to the contractor for work claimed to have been done in cleaning out the Bernard river; and on the same day one hundred and twelve land certificates for six hundred and forty acres each, for work claimed to have been done in cleaning out Caney creek. These certificates were issued against the official advice of the attorney general, and over the protests of both Governor Coke and yourself. It is believed their issuance was wrong, and that the contractor was entitled to but a small portion, if to any, of the certificates issued upon either stream. I respectfully suggest that the matter should be investigated, and if it be found that these certificates were improperly and wrongfully issued, without consideration or benefit to the State, because of the fraud of the contractor in failing to comply with his contracts and the provisions of the law under which these contracts were awarded, that by proper legislation, these certificates or so many of them as it shall be determined were wrongfully issued, should be annulled. If they have been located the locations should be vacated. County and district surveyors should be prohibited from receiving them for future locations, and the commissioner of the general land office should be prohibited from issuing patents upon surveys made by virtue of them."

I adopt the foregoing report and earnestly recommend that legislative action be had in accordance therewith.

In addition to what is stated by the attorney general, I have to inform your honorable body that Hon. George McCormick, assistant attorney

general (and now attorney general elect), made a personal inspection of the work done by the contractors on said streams, and his full and exhaustive report on the facts involved fully sustained the opinion of Attorney General Boone and my own, that the claim to certificates, under the contract, was illegal and unfounded. I therefore declined to sign any patents on said certificates, and issued due notice thereof, both to the commissioner of the general land office, and—by proclamation—to the public at large.

I also respectfully call your special attention to his report concerning the recent

FORGERIES OF LAND TITLES.

Under the acts authorizing the employment of a detective, and defining the crime of forgery in certain cases, I have the gratification to report that the State has prosecuted most successfully many criminals who were detected in these frauds, and the prosecutions still continue in the courts.

In this connection I respectfully call your attention to the fact, that under the contract made by my predecessor with Amos P. Foster, Esq., the latter was to receive a compensation for all convictions for forgery of Texas land titles, as contemplated under the act, obtained through his agency in the following terms, to-wit:

“Judge A. P. Foster, Washington, Missouri:

“SIR—By the authority of ‘An act to authorize the governor to employ a detective to ferret out frauds in regard to land claims against the State, and to make an appropriation to defray the expenses of the same,’ approved February 15, 1875, I have this day appointed you the detective contemplated by the above recited act.

“Your compensation shall be as follows:

“1. Upon receipt of your acceptance of this appointment, upon the conditions herein named, the State will pay you one thousand dollars (\$1000.)

“2. For each conviction obtained by you, or by evidence furnished by you, the State will pay you seven hundred and fifty dollars (\$750.)

“3. The State will pay the expenses of bringing arrested parties to such points as may be designated, for trial.

“4. Whatever expenses you may incur in hunting up the proof of the guilt of the persons believed to be engaged in committing the forgeries, and in employing agents to assist you, must be borne by yourself.

“5. Should it become necessary for you to visit Texas in obedience to the suggestion or request of the governor, the State will pay the necessary actual traveling expenses of coming to and returning from this State to your home.

“This letter is to be considered your commission and authority in the premises.

“Very respectfully,
“[Signed] “RICHARD COKE,
“Governor of Texas.

“EXECUTIVE OFFICE, AUSTIN, Nov. 9, 1876.

“Attest:

“GEO. T. DASHIELL,
“Private Secretary.”

Shortly after my accession to this office a request of the president of

United States and of the postmaster general being made therefor, I succeeded in having Judge Foster ordered to report to me for duty, and to be subject to my order in connection with the detection of these frauds.

The whole time of this agent being now devoted to this difficult work with the invaluable assistance of the chief clerk of the general land office, his labors were soon crowned with success.

The State, by consent of the agent, modified the above contract, who agreed to receive five hundred dollars hereafter for each conviction obtained through his instrumentality.

The small appropriation made by the Fourteenth Legislature has been exhausted by the preceding and present administrations, under the advice of the law department of the State, and in strict pursuance of the contract aforesaid, and the act authorizing the ferreting out, arresting and punishing of the criminals engaged in these forgeries.

The expenditure has been amply repaid by the successful destruction of the grandest land fraud of modern times, and the conviction of many of the chief criminals and the arrest of others awaiting trials.

For a full history of these frauds I refer to the report of the attorney general. The State is under obligations to this officer for his vigorous and able prosecution of these cases, as well as to Hon. Rhoads Fisher, chief clerk of the land office, and especially to Col. Foster, whose services in detecting and arresting the chief actors in these forgeries, are invaluable.

Under his contract with my predecessor, as subsequently modified by me, the State is now justly due to Col. Foster the amounts stipulated to be paid for each conviction obtained by his agency. The amounts already received by him for services rendered are, of course, placed to the credit of the State against this just and valid claim. I heartily join with the attorney general in his just estimate of the able services rendered by Hon. T. E. Sneed, in assisting in these prosecutions in the district court, and recommending that his services may be duly recognized and liberally provided for in the future.

I cannot, in conclusion, suffer this occasion to pass without rendering a just and deserved tribute to the fidelity, zeal and great ability with which the attorney general (Hon. H. H. Boone) has signalized his administration of the law department. Voluntarily retiring, as he does, from his high station, he carries with him into honorable private life the confidence of his associates here in the public service, and the consciousness of duty ably and fearlessly performed for the State.

CONSTITUTIONAL AMENDMENTS.

A final report from the retiring executive at this time would be incomplete in the absence of any allusion to our organic law and a statement of its practical operations during the short period which has elapsed since it went into effect.

Adopted, as it was, by a very decided majority of our voting people, there were serious misgivings on the part of many who gave their sanction at the polls that perhaps some of its novel and untried provisions would prove impracticable, and that the many restrictions thrown around the practical machinery of the State would, in the end, seriously embarrass the government and produce confusion in its administration.

But, looking back now at our recent past history, and reviewing the difficulties which have presented themselves and those which we have

surmounted, it is ascertained beyond question that the fears of a respectable minority of our people were not well founded, and that our organic law, although still imperfect in some of its details, has demonstrated its excellence by practical experience and operation, and should not be idly displaced or tampered with. Under its salutary effect the accumulation of public indebtedness has been wholly curtailed, the outstanding debts of many counties have been extinguished, the annoyance and expense of special legislation have been almost altogether abolished, the public revenues of the State have been better collected, crime has been more thoroughly detected and punished, and the dockets of many of our inferior courts have been cleared of their accumulations and speedy justice administered between litigants in accordance with the behests of our Bill of Rights.

Some of these blessings might have been possible of accomplishment under former systems, but for a majority of them we are indebted to our present Constitution. It could not be expected that it would prove wholly good, coming, as it did, from human hands, but in approaching the delicate task of its amendment we should be mindful of the good developed in it and take care to hold fast to that, while reaching out for the attainment of additional excellence, and the correction of manifest defects. On principle an organic law should be seldom interfered with by legislation, but should remain fixed and stable, to be studied and understood by the people, with the aid of constantly recurring expositions from our highest courts and wisest judges. Frequent changes tend to beget a spirit of unrest and to induce a want of respect for that which has become the key-stone of American republicanism. A fixed written Constitution for each state and the nation, constitutes the distinguishing characteristic of our system of republican government, and the corner-stone of our future hopes as a people. Let us not so act as to educate our people to look for constant change at each recurring session of the Legislature, but at the same time let us not flinch from the responsibility of proposing such corrections as the necessities of this State imperatively demand at our hands.

From careful observation, it occurs to me that the chief defect in our present Constitution arises from the inadequate machinery provided by it for the dispatch of litigation when appealed to our higher courts. The overcrowded state of our appellate dockets was appreciated by the convention which framed the Constitution, and steps were taken by that body to provide adequate relief therefor, by the creation of a court of appeals, and vesting it with jurisdiction over appeals in all criminal cases, and of appeals from the county courts in civil cases. This action, it was thought, would afford sufficient relief to the dockets of our supreme court to enable that tribunal to dispatch all civil business then standing upon its dockets, and also all new business that might come before it. A limited experience of scarce three years has disappointed our just expectations and demonstrated the urgent necessity for further relief. Notwithstanding the division of labor so inaugurated, our supreme court is further behind in its business than at the date of the adoption of the Constitution; and the court of appeals which, during the first year of its existence, kept even pace with the accumulations upon its dockets, since the expiration of that time, has found itself unable to dispatch appeals as fast as they accumulate, and as a consequence, its dockets at Austin and Galveston, and especially at the former place, show a large accumu-

lation of cases undisposed of and awaiting action. No candid citizen who has had an opportunity for observing the amount of labor performed by the judges composing the two courts, will hesitate to attribute this lamentable condition of affairs to the inadequacy of the system, and not to the dereliction of the individuals composing the two courts. Of all the public servants of the State, none are compelled to perform such ceaseless labor as they; and it is due to them, in a lesser measure, as well as to the public interest in a greater, that machinery fully adequate to the speedy dispatch of business be provided without delay, by preliminary suggestion from your honorable bodies, and final ratification and adoption by the people. In the multiplicity of theories for relief, and the almost universal conflict of opinion thereon, I cannot hope that any suggestions I may make upon the subject will escape hostile criticism, or commend itself to the judgment of even a majority of your honorable bodies; but my purpose will be fully effected by drawing your early attention to this most serious grievance, leaving you in your combined wisdom to adopt some measure that will afford immediate and effective relief to the people of the State, for they are the sufferers from this condition of things. Nor can I be expected to do more than convey a general outline of my impressions in a communication like this, without attempting any discussion or going into detail.

The court of appeals has demonstrated its capacity to dispatch all appeals of a criminal nature, and I can see no reason why their jurisdiction should not be limited exclusively to that character of business. It is most important to the State and to every citizen, financially as well as morally, that our judicial machinery for the suppression and punishment of crime should be fully adequate to our necessities, and in case of conviction as little delay as possible should occur in the decision of appeals taken therein. The certainty and celerity of punishment is the most important factor in the suppression of crime, and as by experience we have ascertained that the disposal of appeals in criminal cases, will occupy the full time of this court, sound policy would seem to dictate that it should be relieved of its civil jurisdiction in the former class of cases, rather than we should embark upon further experiments, by its abolition or consolidation with other tribunals. With the consolidation of all civil business in the supreme court, the danger of conflict in decisions is greatly decreased, if not altogether dissipated, and the main argument against separate appellate tribunals, is met and answered.

A more serious question presents itself with reference to the appropriate remedy for the clogged condition of our supreme court dockets. Evidently any reform, to be efficient, must be of a radical character, either as to the constituent number of the court, or the mode of perfecting, hearing and deciding appeals. As was recently well said by the present learned chief justice, "it is utterly beyond the ability of this court, under the present system and rules of practice, to keep pace with the accruing business, much less bring up the arrearages of former terms. The delay in the decision of cases pending in the court, for the past three or four years, is even now almost tantamount to a denial of justice; and, unless some remedy can be found and the business dispatched more rapidly, it will soon be a debatable question whether it would not be better for the court to be entirely abolished." (48 Tex. R., p. 616.)

Whatever reform may secure the approval of your honorable bodies, I must be pardoned for reminding you that the vast extent and varied in-

terests of our State, and the immense population, present and prospective, within its borders, demand a judicial system of no ordinary character, and that a system suitable to small states, or to ours in its infancy, will not suffice for us now. Two millions of people cannot have their rights speedily adjudicated by a judicial machinery provided for and adapted only to the wants of three hundred thousand; and on applying a remedy to these defects, let us not sacrifice *efficiency* for the sake of false *economy*, but let us rather pursue the methods of a true and real economy by providing courts in which "every person for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law."

The delays in our appellate courts sacrifice vast interests of our people each year, and dwindle into insignificance the paltry sum requisite for the compensation of a few additional judges. I cannot say that a temporary tribunal in the nature of a supreme judicial commission, vested with authority to decide the present causes upon the supreme court docket commends itself to my judgment. Apart from its being a mere temporary expedient, which would only relieve *present ills* and necessary to be repeated every few years, the difficulty of obtaining competent persons, learned in the law, to occupy a temporary position of that character to the exclusion and abandonment of their regular professional engagements, might present a serious obstacle to the success of the plan. In addition to this, the decisions of a tribunal so constituted would not, in the nature of things, command that respect readily accorded to a regular court, and citizens forced by an arbitrary regulation to submit their causes to such a tribunal, might well complain at the discrimination in favor of their more fortunate neighbors, whose litigation happened to occur at a later period of time.

I recommend to your honorable bodies the adoption of no temporary expedient, but in its stead, a plain, adequate and permanent remedy. If three supreme judges are unable to dispatch the business of the court, as is certainly the case, we cannot hope that the coming years will witness a decrease of business. Let us then add a number sufficient for the purpose, constituting the court of five, or seven, or even nine judges, with power to so organize at each term as to be able to dispatch business pending at that term. The details of this, or any other method of relief, is within the discretion of your honorable bodies, as is indeed, the method itself; but my desire is to impress upon you, I again repeat, the necessity of early relief. The interests of the people ought not to be permitted longer to suffer sacrifice in this matter, and the State will be indeed derelict in its duty, and will not fulfill the purpose of government, if it permits this state of affairs longer to continue. I invoke your earnest and patriotic attention to it.

So far as my information extends, the district courts, with some exceptions, have demonstrated their ability to dispatch all the business coming before them, and in many of the counties, especially in the east, the dockets are cleared at each term.

Complaints of the system of county courts inaugurated by the present Constitution are more frequent, such complaints in most instances being confined to the incapacity of the judges rather than to the system itself. While some counties have displayed wisdom in the selection of these officers, it cannot be denied that in many other instances, persons wholly incompetent have been selected to the detriment of the public interests and the rights of litigants, and constitute officially a reproach to our

system of jurisprudence. In view of the scant compensation and the arts incident to popular elections, it will hardly be anticipated that the positions would be, at all times, worthily filled, or that perfect satisfaction would result from the experiment. If in any system your wisdom should propose it should be decided to retain the present feature of county courts, I would respectfully suggest a diminution of the terms of that court, both civil and criminal, in order that the citizens generally may be freed from the harassments and annoyances incident to too frequent courts. Four terms a year for civil and criminal business combined, it occurs to me, would be sufficiently often to meet all necessities, and would tend to reduce, in an essential degree, the *expense* of the system. Its merits have hardly been sufficiently tested to enable us to form a mature judgment as to the propriety of its retention or abolition; but the members of your honorable bodies, fresh from the people, and eye-witnesses to the operations of the system, can better determine what action is wise with reference to that question.

It was the pleasure of your predecessors, the Fifteenth Legislature, under authority of the Constitution, to create the office of district attorney, in certain of the judicial districts of the State, and it is not unlikely that further legislation of that character will come before you for action. The office of public prosecutor, I hesitate not to say, is perhaps the most important to the peace, safety and welfare of society. Upon the integrity and efficiency of that officer the state must depend for the proper execution of its laws. It has become too common to speak of a judge executing the laws and punishing crime, when a moment's reflection must teach any intelligent person that the functions of that officer are of a different character. The judge administers the law justly and impartially, but punishes no one. The State does not invest him with authority for purposes of condemnation solely, but to sit in judgment upon her citizens, and to protect them even against the State itself. He is neither prosecutor nor executioner, but sits between the State and the citizen dispensing justice, under the law, to each without fear or favor. It is the prosecuting attorney who is charged by the State with the assertion of its rights and the protection of its interests. With him rests the duty of ferreting out crime and bringing the offenders to punishment; and he is chiefly responsible for disorders and lawlessness in his jurisdiction. Efficiency, on his part, brings peace and quiet to the community, and inefficiency the reverse.

If it shall please your honorable bodies to take action in this matter, it will be found in many counties that the State is without a proper prosecuting representative. I am glad to say that honorable exceptions to the contrary are not infrequent; but, looking to the true interest of the State, I feel no hesitation in recommending a return to the old system of district attorneys. I would not advise the abolition of county attorneys, if the present system of county and justices' courts is adhered to, as, in that event, the necessity for the State to have its representative in the several inferior courts of every county is apparent.

No constitutional change is necessary to enable your honorable bodies to provide, in addition, an attorney for each district, and if the office is vested with proper emoluments, the best legal talent of the State can be secured in her behalf and without increased expense to the treasury.

Another feature of the Constitution to which your attention is respectfully invited, is the discrimination made in favor of cities having a popu-

lation of *more* than ten thousand inhabitants. This class of municipal corporations is privileged to have their charters granted or amended by special law, and they are authorized to levy, assess and collect annual taxes to the amount of two and one-half per cent., while such corporations with ten thousand inhabitants or less in number, are denied the benefits of special legislation, and are restricted in their rate of taxation for the purpose of defraying their current expenses to one-fourth of one per cent. each year. I have never been able to perceive any valid reason for so marked a distinction, and am of opinion that the limit of taxation for the class of larger cities is as much excessive as the other is inadequate. Indeed, the two provisions, standing together in our Constitution, are tantamount to an authoritative declaration that the increase of population in a city brings with it *pari passu*, an increase in the rate of taxation, regardless of the wealth and material prosperity which always follow population, in our country at least. If this be so it can only be a question of time when our rapidly growing cities shall reach the point of absolute *insolvency*.

It occurs to me that the current expenses of any municipal organization ought to be met and discharged with an annual levy of one per cent. of its taxable values, and that it is the part of wisdom to define and fix that limit for cities having over ten thousand inhabitants. And I am equally certain that our smaller cities of two or three thousand inhabitants and over cannot sustain themselves with any degree of efficiency upon a smaller levy than one-half of one per cent. Impressed with these views I respectfully call your attention to the subject, and suggest the changes indicated.

In this connection I may add that in the opinion of our most thoughtful people, the day cannot be far distant when the people of the several states will be called on to decide whether a continuance of a system of municipal governments will be justified by the benefits they confer, and whether or not true statesmanship demands their total substitution with some other less expensive to the citizen, and fruitful of other results than a public indebtedness, increasing in magnitude each year, and nothing visible left to represent the heavy sums exacted of the tax-payer.

If in your wisdom some better system of local government can be devised, the change would commend itself to the grateful recollection of a long-suffering people.

REVISION OF THE LAWS.

In accordance with the requirements of the Constitution, your honorable predecessors, the Fifteenth Legislature, on the 28th day of July, 1876, passed an act authorizing the governor to appoint a commission of five persons, learned in the law, to revise and digest the laws of the State, both civil and criminal, and providing for their preliminary publication.

Under the terms of this act, it was the pleasure of my predecessor in office to appoint Hons. C. S. West, George Clark, J. W. Ferris, B. H. Bassett and Samuel A. Willson, as members of said commission.

The result of their arduous labors I now have the honor to lay before your honorable bodies, together with their accompanying printed report, showing in detail the changes they suggest, and the reasons therefor. I have also to announce that the five hundred copies of each bill, prescribed by the act aforesaid, are deposited with the department of state, subject to such disposition as your honorable bodies may see fit to make of them. It is a source of some regret that the important work confided to this commission could not have been generally distributed throughout the State in advance of the assembling of your honorable bodies, in order that full examination and discussion in each locality might enable individual members to obtain some general expression of opinion upon the propriety of its acceptance; but, under the terms of the law, the executive was left without discretion as to making even a partial distribution, and on receipt of the work every copy was deposited to await your pleasure.

The pressure of other official duties has left me but little time for a

thorough examination of these revisions, but, it being a matter of vital public importance, I have felt it my duty to examine them with as much care as I could; and after such examination, I unhesitatingly commend them to your favorable consideration.

The evident purpose of the commission was to preserve, as far as practicable, the laws as they now stand upon our statute books; and that they have succeeded in this will be apparent to the most casual reader. Amid a new, but most harmonious and convenient arrangement, the substance, and, in most instances, the familiar language of the old statutes is detected; and the changes interpolated and suggested supply wants long felt by those charged with the expounding and the administration of the laws.

The alphabetical arrangement, by titles of the Revised Statutes, is in itself a manifest convenience to those who must consult the laws, and the head notes to each chapter, and the marginal notes to each article, which indicate not only the substance of the article, but also the original enactment from which it is derived, will furnish ready information to those who may desire to explore the sources of the law.

Among the changes suggested in our civil statutes, may be noted a thorough revision of the laws relating to attachment and garnishment; complete regulation of all matters pertaining to county finances; an admirable military code for the organization and discipline of the militia; a detailed system, regulating the removal of officers; an apprentice law; regulating the mode of effecting partitions; important additions to our laws relating to injunction, sequestration, and the trial of the rights of property; a complete revision and re-arrangement of the laws relating to the general land office, and those relating to the estates of decedents, the sales of the university, asylum and school lands, and the system of taxation inaugurated in 1876.

The Penal Code and Code of Criminal Procedure are preserved substantially as at present, with the scattered legislation of past years skillfully interwoven therein. Some few new offences are suggested, and remedies supplied, such as amendments to the law relating to riots and unlawful assemblies, malicious prosecutions, slander, changes in the law relating to dueling, and others of equal importance, which the limited space at my disposal prevents me from enumerating.

When we reflect upon the present chaos which reigns supreme in our statute law; the present uncertainty in many cases as to what the law is; the expense already incurred by the State in making this revision, and the intrinsic excellence of the work, I submit to your honorable bodies that it will be the part of wisdom to adopt both bills as entireties, without incurring the risk of numerous amendments, and the delay consequent thereon, which may prove fatal to the work. The learned gentlemen composing the commission present their works as harmonious entireties, and if hasty and immature amendments be made, it may be developed, when too late for correction, that the harmony and perspicuity of the work have been seriously impaired. Embodying, as it does, the matured labors of five of the most learned lawyers of Texas, whose well-earned legal distinction is recognized alike by the bench and the bar of the entire State, I am of opinion that it can be safely adopted *as a whole*, and *thereafter* amended, in necessary particulars, much more conveniently and expeditiously than by attempting its amendment at the outset.

I commend this subject to your immediate consideration as being one of the most important which shall engage your councils.

PUBLIC CHARITIES—LUNATIC ASYLUM.

The reports of the board of managers and of the superintendent of the lunatic asylum show that there were present at the close of the last fiscal year, Aug. 31, 1878, two hundred and seventy-five inmates, as against two hundred and thirty at the commencement of said year. There was

a total *resident population* during said fiscal year of three hundred and seventy, as shown by the subjoined statistics:

Patients discharged restored.....	58
" " improved.....	21
" " unimproved.....	4
Patients died.....	12
Remaining September, 1878.....	275
Total.....	370

From these data, as is illustrated in the very learned and able report of the superintendent, it will be observed that *forty per cent.* of those admitted have been restored to reason, which is a larger per cent. of restoration than in any of the asylums for the insane in the United States. It will be also observed that the per cent. of those restored to whole population is 23.5, which is also a larger per cent. than in any similar institution in this country, while the per centage of deaths is less than in any American institution for the insane.

These are, accordingly, gratifying facts which their reports attest, and show that the success of this institution in the one great desideratum of its organization, to-wit: *The restoration of reason to that unfortunate class of our people*, has justified all the bounties of the State and the humanity and wisdom of the early legislators of Texas.

I call your attention to the recommendations of the board of managers and of the superintendent. From their reports you will observe that the capacity of this institution is not sufficient to accommodate more than one-third of the number who should be receiving this great public charity. If duty and humanity require at our hands that these dependant wards of the State should be cared for, then the only just excuse for not giving asylum to *all who ask and deserve* it, is the poverty of the public treasury.

We are told by the board of managers and by the superintendent, who has made the study of mental diseases his special mission, that "when insanity results from immediate causes, that is from such as are not ante-natal or inherited, it is found that eighty-five to ninety cases in a hundred are curable if scientific treatment is had in one or two months, and about seventy-five per cent. of all cases are curable if such aid is furnished in that time."

We are told that even if six months are allowed to pass the chances of recovery have diminished many fold, and if more than two years have elapsed the probability of a cure is almost extinct. Hence, the necessity of the State having ample accommodations always to receive every unfortunate applicant, at the *earliest stages* of their malady, and that none may be turned away from its hospitable doors, to be hopelessly wrecked in reason forever. The cry comes up from every county in this State—justly so—for quarters for their indigent insane. In some instances they have been and now are confined in common jails, among felons and murderers, because their families are perhaps too poor to superintend them, or too powerless to protect society from the fury of madmen, by other means than iron grates and dungeons. This should not be, in a day distinguished for its philanthropy and civilization. I therefore most earnestly direct your attention to the appeal made by those to whom the State has entrusted these unfortunate people, for more adequate appropriations to extend and enlarge the asylum buildings, in accordance with the urgent demands daily made on the institution for places for the insane.

It affords me great pleasure to attest, from personal observation, the care, faithful devotion to duty and economy which have marked the labors of those to whom this institution has been committed.

The cost per capita, in the Texas Asylum for the Insane is.....	\$208 47
In the Western States is.....	253 57
In the Middle States is.....	232 85

These gratifying figures commend this institution to the generous liberality of the Legislature. They give convincing proof that not only the scientific medical treatment of the insane has been attended by most gratifying results, but that its economical and financial management has been all that the State could desire.

DEAF AND DUMB ASYLUM.

The report of the superintendent of the asylum for the deaf and dumb (Gen. H. E. McCulloch) presents a most satisfactory exhibit of the present condition of that institution during the recent fiscal year.

There are fifty-seven pupils (under the tutelage of able and faithful teachers) who have made rapid progress in education, in reading and writing, and the more *useful* and *practical* branches of learning. Their discipline is good, their morals irreproachable, and the care and attention of their officers have insured the inmates good food, pleasant quarters and contentment during the whole period of my official connection with that institution.

The finances of the asylum have been managed with great intelligence and economy. *There are no deficiencies.* Valuable improvements during the last two fiscal years have been made in new buildings and otherwise, the total cost of which has been \$11,617 09.

It has cost the State to support fifty-seven pupils, per annum, \$14,395 73, which is *three thousand dollars* less than the appropriations. The report shows that the cost of supporting a pupil in this institution is not more than the *average cost* in similar institutions in this country. It is less than in many of the states of the Union.

The experiment of the printing department as a *school of practical printing* for deaf mutes, has been a most gratifying one, and has saved also considerable sums in the item of state printing, as the report of the printing board attests. That board recommends the experiment to be made on a still larger scale, in the interest, as they allege, of both *convenience and economy* to the State.

The superintendent earnestly appeals for a more certain supply of water, both for drinking and for use in case of fire, to which the buildings for this reason are much exposed.

The report is exhaustive, and shows that the officers and teachers in charge have performed their important duties with a single purpose to promote the happiness and progress of the inmates of the institution, as well as to insure an intelligent and economical administration of its financial affairs.

INSTITUTION OF LEARNING FOR THE BLIND.

The institution of learning for the blind is in a most prosperous condition. It has lived within its appropriations, and has no deficiencies.

There are sixty-eight blind persons now in attendance—twenty-eight males and forty females.

The superintendent, Dr. Frank Rainey, reports, from accurate sources of information gathered by him, that there are fifty other blind persons *proper subjects* for this institution residing in Texas, who are not receiving the benefits of this institution. He estimates the whole number now in this State who are of suitable ages for admission into this school will approximate *two hundred persons*.

The superintendent says of those blind children on the *outside*: "*We must turn them away unless we promptly enlarge the buildings.*" The same complaint and appeal comes up to the Legislature from this institution as from the lunatic asylum—more room is required. I respectfully call your attention to the recommendations of the superintendent as to this pressing necessity and his reasons therefor.

The advancement of the pupils in education, and especially in *music*, (an accomplishment full of so much happiness to the blind) is honorable alike to their instructors and themselves.

By a statutory provision of 1874, an oculist is now attached to the school. This has proved to be a most wise and humane provision. Since 1874 *thirteen* blind pupils have been discharged with *sight restored*, and the superintendent in his official report says: "Nearly one-half of the remainder can see well enough to run about the buildings and grounds." This able and skillful oculist, Dr. T. D. Manning, has passed to his final reward. He obtained leave of absence to tender his professional services to our suffering brethren in the lately stricken yellow fever districts. He labored amid pestilence and death with wonderful success, and at last offered up his own life—a noble and willing sacrifice on the altar of humanity. He lives in the grateful hearts of the blind, who, with the State—both of whom he served so faithfully—will cherish his memory and mourn his loss, while yet in the morning of a useful and honorable life. The vacancy occasioned by his death has been filled by the appointment of Dr. W. A. Dohman, a gentleman who occupies a high position among his profession for skill and ability.

PUBLIC FREE SCHOOLS.

For a full understanding of the operations of this system as adopted by the State under existing laws, you are most respectfully referred to the accompanying able report of the secretary of the board of education.

The actual practical results of this system can be more fully appreciated by a careful consideration of the subjoined summary of statistics:

Summary of Statistics:

For the years ending Aug. 31.	1877.	1878.
Number of counties reported.	135	137
Scholastic population (estimated)		164,294
Scholastic popu'n enrolled in school communities. .	133,568	146,946
" " that did not attend school.	20,962	23,963
Number of schools organized.	3,901	4,633
Number of months schools were maintained.	3	4
Number of teachers employed.	3,580	4,330
Average salaries paid teachers.	\$35 00	\$38 00
Average cost of tuition as per actual attendance. .	1 66	1 76
Av. cost of tuition as per community registration. .	1 26	1 13
Number of school houses built.	159	243
Value of school houses built.	\$34,913 00	\$54,219 00
Expenditures for payment of teachers.	382,729 86	656,972 90
Expenditures for building school houses.	12,332 58	29,648 01
Expenditures for rent of school houses.	3,598 31	5,735 98
Total expenditures.	403,975 18	702,288 16
Received from State appropriations.	427,554 58	654,762 42
" " deficiency taxes under former laws	88,113 84	20,117 33
" " rent of county school lands.	500 00	653 95
" " sale of county school lands.	8,066 08	43,558 53
" " local option fines.		659 00
" " dog tax.		10,628 54
" " sources not enumerated.	7,446 68	14,439 89
Total received.	\$631,830 49	\$859,484 49
Total expenditures.	501,691 64	747,534 16
Balance on hand.	\$130,599 78	\$113,008 67

The report shows, also, that the average number of months taught throughout the State in 1877 was three, and in 1878 four months.

The estimates made by the board of education of the amount of funds which will be appropriated to common schools for the present fiscal year

was nine hundred thousand dollars, including, of course, all the sources of revenue for common schools. Under the head of suggestions in the interest of economy I have heretofore respectfully recommended that the scholastic ages be reduced to ten and fourteen years.

Upon the whole, the operation of the common school system has been successful for the past fiscal year. /

The removal of the present restrictions on the sale of school lands is again recommended, for the considerations already submitted. For such amendments to the present school laws as, in the judgment of the board of education, are needed, you are respectfully referred to the accompanying report of the secretary of the board of education.

The following exhibit presents the rich resources of our common schools:

STATE SCHOOL LANDS.

Patented sections.....	15,838
Unpatented sections (estimated).....	18,364
Total patented, acres.....	10,136,320
Total unpatented, acres.....	11,752,960
Grand total, patented and unpatented, acres.....	21,889,280
Number of acres sold, to Sept. 1, 1878.....	240,000
Principal received on sales.....	\$112,815
Interest received on sales.....	\$28,618

A part of the same great fund is the

COUNTY SCHOOL LANDS.

Each county is entitled to, leagues.....	4
Number of counties that have located four leagues each.....	149
“ “ “ “ “ obtained patents on four leagues.....	74
“ “ “ “ “ “ “ on only a part.....	51
“ “ “ “ “ not obtained patents.....	29
“ “ “ “ “ “ received certificates.....	4
“ “ “ “ “ “ returned field notes.....	11
“ “ “ “ “ whose field notes need to be corrected.....	14
“ “ “ “ “ that have sold their four leagues.....	4
“ “ “ “ “ “ only a part of their land.....	30

Your honorable bodies are familiar with the early and the later policies of the Legislatures of the State upon the subject of free public schools. It was incorporated into the Constitution and laws of the Republic, and has remained a part of our organic and statutory laws to this day. The design of the fathers, who, early in our history, dedicated such a magnificent portion of our public lands to common schools and universities, as well as of those who came after them in the halls of legislation, was evidently thereby to create an *endowment*, which in the future, when realized in money, would yield a *principal*, the *interest* on which would inaugurate and maintain a permanent system of public education. The time-honored policy, so far as its support from the general revenue derived from direct tax is concerned, may be modified, but the system itself can and should never be forsaken. The silent but expressive figures of the census takers indicate that a large portion of the children of Texas to day stand woefully in need of this civilizing influence. Of the white population of Texas, from eight to fourteen years of age, there is twenty per cent. who cannot read. Of the colored population, between the ages of eight and fourteen, there is sixty-eight per cent. who cannot read.

In other words, out of the one hundred and ninety-four thousand three hundred and fifty-three *white and colored* children within the scholastic ages of eight and fourteen, there are sixty-one thousand one hundred and twenty-three who cannot read.

These official statistics require no comment, but for a *remedy* solemnly appeal to the liberality, patriotism and wisdom of the Legislature to see to it that the blessings of elementary education at least be offered freely to the thousands of the children of this State who are now growing up in ignorance in our midst.

The charity is bestowed as much on the *State* as upon the *child*. Ignorance, when wide spread, is a viper which strikes the poison of its fangs into the vitals of free government, giving food to the mob, destroying, under the leadership of ambitious charlatans, the purity of the ballot, and, at last, the life of the State.

AGRICULTURAL AND MECHANICAL COLLEGE.

I herewith transmit the report of the president of the Agricultural and Mechanical College, and of the college for colored youths, and also the printed proceedings of the board of directors since its organization.

From these official sources your honorable bodies will obtain in detail all necessary information relating to the organization, progress, and history of the institution up to this date. I can only say, in general terms, that from a small beginning the college now ranks, in numbers and influence and usefulness, among the best of its character in our country. There are now over two hundred young men receiving instruction in this school, with a corps of professors whose success has justified the expectations of the country, and with a discipline in its government and an economy in its expenditures worthy of all commendation by the people and their representatives.

Your attention is respectfully directed to the fact that only the interest annually accruing on the endowment fund, consisting of \$212,116 66 invested in seven per cent. Texas state bonds, can be used, and that use specially confined to the payment of *instructors* in the college. The forty thousand dollars authorized by the constitutional convention, and appropriated by the Fifteenth Legislature, could only be used in erecting and completing the buildings necessary to the institution.

For these objects alone have the board of directors appropriated the interest on the endowment and the principal of the sum appropriated by your predecessors.

The rates of tuition have been placed at the low rate of twenty dollars per annum, and the rate of board at the price of twelve dollars per month, including comfortable quarters furnished by the State. In *economy* the board of directors have succeeded in reducing the cost of the student to a lower standard than three-fourths of similar institutions in the United States, as shown by their official catalogues.

The law of Congress authorizing the donations of the proceeds of her public lands, *pro rata* to the states for this purpose, *requires* that military tactics shall be taught, and that instruction in scientific agriculture and mechanics, etc., shall constitute an important department of the college.

A reference to the report of the learned president of the college shows that only for want of funds the agricultural feature of the institution has not received that attention which the board of directors have desired and the law requires. A beginning has been made in this direction, however, while the science of agriculture and engineering and mechanics have been taught since the organization of the college.

The interests especially of the agricultural and industrial classes of our fellow citizens call for a practical compliance with both the letter and spirit of the law relating to instruction in agriculture and the industrial arts, and I most earnestly concur in the recommendations of the president of the college in this regard, looking to the early establishment of this system.

The *colored college* has been organized, the necessary buildings paid for, and the school is now in successful operation. The law requiring its establishment has been faithfully complied with, and for a more com-

plete understanding of its status and progress you are respectfully referred to the report of the college and to the documents relative thereto on file in the executive department.

DEPARTMENT OF STATE.

For a very full and satisfactory account of the operations of this department, you are respectfully referred to the accompanying report of the honorable secretary of state

His recommendations looking towards making that department *self-sustaining* are especially recommended.

It appears from said report that many counties of the State (especially those recently organized,) are without the earlier reports of our supreme court. These counties cannot be furnished with them, because the supply is exhausted. The remedy will suggest itself to your honorable bodies.

A heavy drain is now made upon the State, so the secretary reports, which demands the attention of the Legislature, in this, that in a very large number of counties the retiring county officers fail to turn over to their successors such statute laws and other books with which they had been supplied by the State. The right to such property is not *personal* but *official*, and some such legislation should be held as will fix the liability in such cases on the proper parties.

The secretary calls attention to the necessity of providing by law some mode of determining the question of population in counties claiming the right to elect certain clerks of counties as provided in section 20, article 5, of the Constitution.

I have not space to refer to other suggestions in said report, but all of them are commended as judicious and worthy of adoption.

Being directly connected with the state department, and intimately associated with it in the service of the State, I take great pleasure in bearing willing testimony to the efficiency and ability which have characterized the labors of the honorable secretary, and those associated with him in this department.

PUBLIC PRINTING.

The report of the honorable printing board is a complete exhibit of the operations of the printing department of the state under the present law during this administration.

The discussion of this subject by the board is able and exhaustive; and, being the first report of the kind issued in Texas, contains much useful information not to be obtained elsewhere.

The board earnestly recommends certain changes in the printing law, and that the facilities for doing the public printing in the state institution for the deaf and dumb should be largely increased. These recommendations are based upon their experience of the practical working of the law as it now stands, and I respectfully request a careful consideration of these recommendations by your honorable bodies.

The board in their report use the following language, to wit: "We venture to say that the public printing of the State, comparatively, cost less for the two years past, ending August 31, 1878, than for any other two consecutive years since the existence of the government."

This result is gratifying to the executive, and of deep interest to the State, and shows on the part of the board the exercise of diligence and sound judgment in the discharge of their important duties.

The board consists of Hon. H. H. Boone, attorney general; Hon. A. J. Dorn, treasurer, and Hon. I. G. Searcy, secretary of state, whose report is herewith respectfully transmitted.

INTERNAL IMPROVEMENTS.

It is a gratifying fact to observe that in Texas, almost alone of all the states in the Union, the construction of railroads and the projection of yet other lines, are in active progress.

Under wise restrictions, these highways of commerce have added untold wealth to the State, and their connections with foreign lines have induced hundreds of thousands of industrious, intelligent people to seek homes within our borders.

The attorney general advises the Legislature, in his report, of the present legal status of the charters of all railroad companies, and of the steps which have been taken by him to test the validity of their grants and chartered privileges.

For their taxable values, as assessed, and the amount of revenues collected from them, you are respectfully referred to the interesting report of the comptroller.

QUARANTINE LAWS.

I respectfully urge upon the Legislature the necessity for a thorough revision of all laws relating to quarantine.

Under existing statutes the governor may declare quarantine on the gulf coast only. Each incorporated town or city or county of the interior may disregard the action of every other town, city or county of the entire State, or of the executive, upon the subject of quarantine and the time and manner of its enforcement.

The State needs a *system* by which uniformity may be secured under laws providing against the introduction of infectious or contagious diseases within our borders. The executive may declare quarantine on the coast, but over railroads and stage lines or other highways of travel, the infection may be introduced at all points of our extended boundaries, where these thoroughfares enter, other than the boundary of the coast, and the State authorities are powerless. Thus, while the seaside is guarded by expensive outfits and salaried health officers paid by the State, land side is exposed for hundreds of miles; while the disease is held at bay in the front it may spread pestilence and death in the rear.

I respectfully suggest, therefore, a state board of health, with such restrictions and powers as will secure a systematic administration of the laws on that subject, and will *enforce* their obedience by proper penalties. The present laws are inharmonious and need revision.

I respectfully invoke your consideration of these suggestions, fraught as they are with deep interest to a State exposed by reason of her latitude to infectious and epidemic diseases.

MISCELLANEOUS LEGISLATION.

I have heretofore submitted, with great respect, my general views relating to amendments to the Constitution. In addition thereto I recommend to your honorable bodies such an amendment to the Constitution, unambiguous and free from all doubt or cavil, as will authorize the Legislature to exempt from taxation, farm products, while in the hands of producers, and provisions on hand for home consumption.

I furthermore recommend to the Legislature the passage of an act regulating the rates of freights and tariffs on all railroads in this State, in obedience to the provisions of the State Constitution.

I also recommend that immediate provisions be made for the payment of all sums due to school teachers who have rendered the service, and to pay for which there has been made no adequate provision.

The complaint comes up from many counties, that the bonds required by the present law of tax collectors are too large. I think the complaint well founded, and that some change should be made. I respectfully suggest that if the bonds required were fixed at an amount equal to the taxes to be collected, the State and county would both be secure. Under the present system requiring quarterly settlements with the comptroller, this standard of amount to be fixed for the bond, would appear to be a safe guarantee to all parties. The State should require ample security always, but oppressive obligations are not dictated by sound policy or wise legislation.

I further recommend that early provision be made for the prompt and certain payment of all pensions due to those who occupy that dependent relation to the State. Their numbers will rapidly diminish, as they are now in the winter of age. Poor, and too often friendless, the State cannot, in this day of her power, forget to pay the debt she owes to their patriotism and valor---a debt not only sanctioned by the laws, but held sacred in the hearts of a grateful people.

STATE CAPITOL BUILDINGS.

I respectfully call your attention to the 57th section of the 16th article of the Constitution, which reads as follows:

“Three million acres of the public domain are hereby appropriated and set apart for the purpose of erecting a new state capitol and other necessary public buildings at the seat of government, said lands to be sold under the direction of the Legislature; and the Legislature shall pass suitable laws to carry this section into effect.”

The last clause of said section leaves no discretion to the Legislature. The commissioner of the general land office reports that there are left to the public domain only a fraction over thirty-one million acres. In 1876 the State had 43,940,320 acres, thus showing an absorption, by railroads, rivers, canals and other donations of nearly thirteen millions of acres in two years. At this per centum of decrease the end of the next decade will find the State with nothing left of her once splendid domain; not even her “Staked Plains.” If, therefore, this provision of the Constitution is to be carried into effect at any time, I respectfully suggest that steps should be taken to utilize the grant in such manner as will secure in good faith the plainly expressed will of the framers of the Constitution.

STATE UNIVERSITY LANDS.

There have been appropriated, set apart and surveyed already, two hundred and nineteen thousand, nine hundred and six (219,906) acres of land for the establishment and maintenance of “The University of Texas.”

The Constitution (art. vii., sec. 11) provides that the proceeds of the sales of said lands shall be invested in the bonds of the State of Texas, if to be obtained, and if not, then in United States bonds, and shall constitute a permanent university fund, the interest of which only can be used by the Legislature “to accomplish the purpose declared in the foregoing section;” one-tenth, however, of the alternate sections of the lands granted to railroads, reserved by the State by the act of February 11, 1858, entitled “an act to establish the University of Texas,” is not included in, and does not constitute a part of the permanent university fund.

These lands are valuable, estimated to be worth on an average three dollars and a half per acre. Under the present restrictions, however, imposed by law, as to *quantity*, and requiring actual settlement thereon, many years will elapse before the sales thereof will materially increase. If removed, in a short while, I respectfully suggest, the available funds thus realized would be amply sufficient to meet the great objects contemplated by the Congress of the Republic and the early Legislatures of Texas. To your wisdom I commend these suggestions.

I refer you especially to the report of the attorney general in relation to certain sales of these university lands in the county of McLennan, in which the title of the State has been called in question by a recent decision of the United States court at Austin. In any and all instances where the State has sold lands to her citizens and received consideration therefor, in whole or in part, and the title, when adjudicated by a tribunal of competent jurisdiction, has been adjudged null and void, then the first duty of the State is to reimburse both the principal and interest thereon to the citizen who may be thus injured by his innocent purchase from the State. But the State cannot be concluded by a judg-

ment in any court to which she was not a party, and cannot be made such under the Constitution, *without her consent.*

DEPARTMENT OF INSURANCE, STATISTICS AND HISTORY.

I take great pleasure in directing your attention to the interesting report of the commissioner of this department.

You will observe that the office is self-sustaining, with an excess of many thousands of dollars turned over to the state treasury.

I concur in the suggestions made by the honorable commissioner, and commend them to your careful consideration.

PUBLIC GROUNDS AND BUILDINGS.

I respectfully refer you to the report of the superintendent of public grounds and buildings.

This officer has discharged the duties of his position with industry and ability.

Under an act of the Fifteenth Legislature appropriating thirty-six hundred dollars to introduce water into the public buildings and grounds, the board created by said act, composed of the governor, the comptroller and the treasurer, has complied with the provisions of said law. Water, at all suitable places in the public grounds and buildings, has been introduced in such quantities as to insure complete supplies of water in case of fire or for the purpose of cultivating the trees, flowers, grasses and shrubbery which now relieve the once barren hill-sides surrounding the capitol.

The contract with the city water company of Austin is on file in the state department, to which you are respectfully referred.

The superintendent suggests that the salary and office of superintendent of public buildings and grounds may now be dispensed with. So unusual is it that such recommendations are made by the officer who will lose the emolument, that it is worthy of being acted on and accepted at once, and is entitled to especial commendation.

MEXICAN BORDER TROUBLES.

The treaty of extradition at present existing between the United States and the Republic of Mexico, confers the special power on the governor of this State, through the chief civil authorities of the districts bordering on the Rio Grande (who are the district judges), to make demands directly upon the chief civil authorities of the states or districts of Mexico, also bordering on said river, for citizens of Texas charged with felonies and who have taken refuge in their territory. The reciprocal right is exercised by the Mexican authorities.

A number of demands have been made for fugitives from justice by both Texas and the republic of Mexico under the treaty.

I have not time nor space, nor would it be profitable, to recount the complaints of loss of property, and sometimes of life, which have been made by our own citizens against lawless bands of Mexicans and Indians from the western side of the Rio Grande. It would be a mere repetition of the old story of depredation on person and property which has become familiar to the public ear for many years.

In all these controversies it cannot be held, of course, that citizens of Texas have *never* been at fault or that Mexican citizens have committed all the thefts, outrages and murders of that border; but for the purpose of this brief reference to our relations with a sister republic, I have to state as my predecessors for twenty years in this office have announced before me, that nine-tenths of *all* these past troubles and depredations have been committed by persons from the border states of Mexico on our citizens and their property. Retaliation in individual cases, and sometimes in organized forms (as when McNally of the Texas rangers, or McKenzie of the United States forces, followed these robbers into Mexican territory,) has been invoked, but the instances are rare.

I do not, and would not charge the central government of that republic, and especially their present rulers, with instigating these raids on our soil. It has been the misfortune *heretofore* of that government, however, not to be able to control the Mexican people of these states, bordering on the Rio Grande--states, whose inhabitants cherish a traditional hatred towards the United States in general, and Texas in particular. I cannot deny that in some sense this feeling on the border is *mutual*. That we have heretofore had, in the recent past, just cause to complain on the part of Texas against Mexico cannot be questioned by your honorable bodies, as it has been conceded by the present national administration, and also by the American congress. In the recent message of the president of the United States, and the accompanying correspondence of the American secretary of state, these facts are corroborated and to them I refer you.

In the notable instance where the county jail of Starr county at Rio Grande City was broken open by a party of bandits from Camargo and three prisoners (one murderer and two thieves) released, attended by the wounding of the county attorney, a deputy sheriff and his wife, a formal demand was made by me through Hon. John C. Russell, extradition commissioner, on the governor of Tamaulipas, for these *released prisoners*, as well as for the outlaws who set them at Liberty. At the same time a *similar demand* was made for certain murderers from the counties of Duval and Hidalgo, who were fugitives in Tamaulipas. Two of the Rio Grande prisoners were returned, but the murderers were not only *not delivered*, but were *refused* in face of the treaty.

The whole correspondence between this State and the Mexican authorities has been published (by order of the United States Congress), showing that, when pressed to the wall, one after another, from the civil and military governors down to the judge of the first instance, *resigned* their offices rather than deliver said fugitives, and at last this correspondence shows that when demand was finally made on the next in civil rank, after the chief civil officer had resigned, our commissioners were met with a *peremptory refusal* on the part of the Mexican officer.

In the troubles at San Elizario, in El Paso county, an organization of large numbers of Mexican citizens surrounded citizens of Texas at that place were being protected by a detachment of state troops, three of our citizens were mercilessly shot to death by this mob. Since then indictments for murder have been found against over one hundred of these desperadoes (many of whom were also residents of Texas), and demands made by Hon. A. Blacker, judge 20th judicial district and agent under the treaty, for their extradition, on the proper authorities of Mexico. This judge reports that these fugitives are *known* to be now near El Paso.

The result has been, and still is, that no attention has been paid to the legal demand. A nation *with whom we are at peace* and hold treaty relations has answered our demands under the treaty by silence. I refer your honorable bodies to the official communications on file in the executive department from the extradition commissioner and to the able report of Major John B. Jones, who constituted a part of the joint commission to inquire into these troubles, for full details of all this eventful history. Texas has no desire for other than the most friendly relations with Mexico. Her *interests* all point in that direction. Our state forces, though few in number, have *always* acted under strictest orders not to violate the laws of neutrality or to provoke bloodshed with our neighbors across the Rio Grande. In this view the United States department commander and the governor of Texas have acted together in harmony. Recent events we are glad to welcome as a foreshadowing of a better era of good neighborhood between the State of Texas and the sister republic. The visit of Gen. Trevino, commanding on the Rio Grande, and his knightly greeting by our people all through Texas, it is to be hoped, will convince his government that while Texas resents injury and insult, she

cannot be excelled in generous hospitality or in ready willingness to join hands in token of a real and honorable peace.

LAWLESSNESS AND CRIME.

While the execution of our criminal laws by the tribunals charged with that duty has resulted in more convictions and more executions for murder and imprisonments for high felonies in this State, as shown by the accompanying report of the attorney general, than in any preceding two years of our history, it nevertheless cannot be denied that lawlessness, in many sections of the State, seems to be increasing. As the usual attendant, the spirit of the mob often usurps the functions of the courts, and retaliation provokes yet other crimes and bloodshed in its reckless path, in the name of *order*. The loss of confidence thus produced in the speedy trial and punishment of offenders, is as great a calamity in the end to society as the existence of *crime* itself. It begets chaos in government, destroys reverence for the majesty of the constitution and laws, compels each individual citizen, smarting under real or fancied wrongs and thirsting for revenge, to become himself a guilty violator of the very laws intended for his protection.

To your honorable bodies the law-abiding constituent looks with eager hope for some quick remedy to check, if not wholly destroy, the growing tendency to crime in society, whether that remedy may be found in providing for more speedy trials of offenders than are now obtained under our present system of continuances in the courts, or by vesting more power in the executive or judges over sheriffs and state attorneys for failures to discharge their duties, is a grave problem whose solution rests with the legislative department of the government. The "law's delays," because of the facility with which criminals may postpone the trials of their cases from term to term, till years have witnessed the death or absence of witnesses, and the consequent acquittal of the felon, should not be allowed if the same can be prevented consistently with even-handed justice to the accused as well as to the State. The Constitution guarantees a speedy trial to all persons charged with crime. The people, who are the prosecutors, should be entitled to a similar Bill of Rights.

The great volume of immigration constantly pouring into our borders, bearing on its bosom many desperate and lawless characters from other states, may plead for Texas somewhat, it is true, in extenuation of her present condition. But the protection of life, liberty and property, the great object of government, demands that a remedy, bold and decisive, be at once applied, in such manner as will insure the punishment of crime to follow close upon the heels of its commission.

To your honorable bodies the country looks with confidence and hope for a solution of these questions, involving the peace and prosperity of the State.

EXECUTIVE PARDONS.

Under the present Constitution, the governor is required to file in the state department his reasons, in writing, for granting all pardons and remissions. This constitutional provision has been strictly complied with, and you are respectfully invited to a rigid examination of those reasons.

You will find that, with but few exceptions, no pardon has been granted, save when the district judge and state's attorney officially recommended the same, supported by an official statement of the facts and by the approval of county officers and responsible citizens.

The per centum of pardons has not been greater than in former years. It is a high prerogative, however, vested in the governor, which he should exercise without fear or favor in all cases, be they few or many, wherein justice and mercy unite to plead for clemency. That the exercise of such a power in human hands should always be faultless, is not

to be expected. That it should be cautiously and conscientiously used, is demanded by the people and by the spirit of the Constitution.

CONCLUSION.

In retiring from the executive office, I shall not follow in the line of many honored precedents, and devote my message to a discussion of any act or acts of an administration which may have provoked either the criticism or approval of my fellow citizens. The fruits of my humble labors in the public service, whatever they may be, must speak for themselves in vindication of any claim which I may have earned to the respect and confidence of the people of Texas. My only regret in leaving her arduous service is, that I have not been able to place a nobler and more enduring offering upon her altars.

R. B. HUBBARD.

BOND OF LESSEE OF TEXAS STATE PENITENTIARY, UNDER LEASE MADE
JANUARY 1, 1878.

Know all men by these presents, that we, Ed. H. Cunningham, John Ireland, W. E. Goodrich, Jno. R. Jefferson, Jr., H. C. Brahan, I. P. Simpson, J. B. Lacoste, G. Horner, Thos. J. Devine, M. F. Upton, are held and firmly bound unto R. B. Hubbard, governor of the State of Texas, and his successors in office, in the sum of one hundred thousand dollars lawful money of the United States to be paid to the said R. B. Hubbard, governor as aforesaid, or his successors in office, at the treasury of said State in the city of Austin, to which payment well and truly to be made and done we do bind ourselves, and each of us for and in the whole sum, our heirs, executors and administrators, jointly, severally and firmly by these presents, signed and sealed, using scrolls for seals, this the seventeenth day of December, A. D. 1877.

Whereas the said R. B. Hubbard, governor as aforesaid, has this day executed and delivered to the said Ed. H. Cunningham an instrument and lease in words and figures as follows, to wit;

Know all men by these presents that I, R. B. Hubbard, governor of the State of Texas, by virtue of the authority and subject to the provisions of an act of the Legislature of said State, entitled "An act to provide for the resumption by the State of the possession and control of the state penitentiary at Huntsville, and of all the property and convicts belonging thereto, and to provide for settlement of all matters between the lessees and State growing out of the termination of the lease of said penitentiary, and to provide for the management and control of said penitentiary and convicts, after the termination of said lease, and to make the necessary appropriations therefor," approved August 19, 1876, have demised, leased and hired, and hereby demise, lease and hire unto Ed. H. Cunningham the state penitentiary at Huntsville, together with all the property of said State, real, personal and mixed, pertaining or incident thereto, whether within or without the prison walls, and the labor of all the convicts now belonging or hereafter to be sent thereto, whether within or without the prison walls, for the period of five years, unless sooner determined as hereinafter provided, beginning on the first day of January, A. D. 1878, and ending on the first day of January, A. D. 1883. This lease is made and accepted upon the following terms, conditions, restrictions, limitations, considerations and understandings, to wit:

1. Said lessee shall not sub-let or assign this lease or any interests therein without the consent in writing of the governor of said state.

2. The bond this day made and delivered by the said Ed. H. Cunningham and John Ireland, W. E. Goodrich, Jno. R. Jefferson, Jr., H. C. Brahan, I. P. Simpson, J. B. Lacoste, G. Horner, C. Upton, Thos. J. Devine, W. F. Upton, and any other bond which may be hereafter made by said lessee, is to be taken and considered as entering into and forming a part of said lease, and for any refusal, neglect or omission on

the part of said lessee, his agents, servants or employes, well, truly and in good faith to perform, fulfill, keep and abide by any of the terms, conditions and restrictions required of or imposed upon him by this lease, or by any of the obligations and conditions of said bond, or by any other bond or bonds which he may be required to give, or by the provisions of the law authorizing this lease, or by any other law, rule or regulation, now or hereafter to be enacted and made, pertaining to said penitentiary its property or convicts, whether within or without the prison walls, the governor of said state shall have the power and right in the exercise of his own discretion, and without resort to any legal proceedings whatever to determine and put an end to this lease, and thereupon the authority and powers of said lessee shall instantly cease and determine and said lessee shall, on demand, immediately and peaceably turn over, surrender and deliver to such person or persons as may be designated by the governor of said state to receive them, said penitentiary and all the property and convicts pertaining and belonging thereto, wherever the same may be, leaving all matters of controversy and account, if any there be, to be thereafter settled.

3. Said lessee shall take possession of said penitentiary, its property and convicts on the first day of January, 1878, and on and after that date shall be held responsible therefor, as soon as one inventory and appraisement of such property, and a list of the convicts can be made, said lessee shall deliver to the governor of said state a receipt therefor. The list of convicts shall be made by the superintendent of the penitentiary. Said inventory and appraisement shall be made as follows: The governor of said state shall appoint one appraiser; said lessee shall appoint one appraiser. The two appraisers so appointed shall select a third, who shall assist them in the discharge of their duties, and in case of a difference of opinion between the appraiser appointed by the governor of said state and the appraiser appointed by said lessee, as to the value of any of said property, shall fix the value. Before proceeding with said appraisement each of said appraisers shall take an oath, well, truly and impartially to discharge his duty as such appraiser, and shall further swear that he is not of kin or related to said lessee, and that he is not in any way directly or indirectly interested in this lease. The expense of said appraisement shall be borne equally by said state and said lessee. Said inventory and appraisement when completed shall be delivered to the governor of said state, to be by him filed in the office of the secretary of state.

4. Upon the termination of this lease, by the expiration of its term or otherwise, said lessee shall surrender, deliver and turn over to such person or persons as may be designated by the governor of said state said penitentiary and all the property thereto pertaining, and all the convicts thereto belonging. A like list of convicts and a like inventory and appraisement shall then be made by appraisers, to be chosen, sworn and paid as provided for in the preceding clause. For all property returned in good order and repair, said lessee shall be credited with the value thereof as fixed by appraisement when he received it. For all property returned not in good order and repair, said lessee shall be charged with such amount, to be estimated by the appraisers, as will be necessary to put the same in good order and repair. For all property not returned, said lessee shall pay the value thereof as fixed by appraisement when he received it, except that said lessee shall not pay for property destroyed by fire occasioned without any fault, negligence or omission of duty on the part of said lessee, his agents, servants or employes.

5. The State shall not be bound to receive or pay for or be chargeable with any new buildings or other improvements, except as hereinafter provided in the case for the cell building, or with any new or additional machinery, or any other thing, outlay or expenditure whatever, furnished or made by said lessee, unless the assent in writing of the gov-

error of said state be previously obtained, and it be understood at the time that the State will, on the termination of said lease, receive the same at whatever may then be its cash value.

6. Said lessee shall, as soon as practicable, supply material and complete and finish ready for occupancy the unfinished cell building now in the penitentiary enclosure, to the end that a larger number of convicts may be kept within the walls; said work shall be done under the supervision of the superintendent of the penitentiary and according to plans and specifications, and for a price to be agreed upon between the governor of said state and said lessee. Said lessee shall be paid after its acceptance by the governor of said state for completing and furnishing said building by withholding and deducting the contract price from the monthly payments to be made for the hire of convicts.

7. Said lessee shall keep all the buildings and other property belonging or pertaining to said penitentiary in good repair, and shall be responsible for any damage or injury thereto, except in case of loss by fire not occasioned by any fault, neglect or omission of duty on the part of said lessee, his agents, servants or employes, and said lessee shall use and care for all the property pertaining to said penitentiary, and lodge, feed, supply, clothe, work and treat the convicts belonging to said penitentiary, whether within or without the prison walls, in accordance with and in strict obedience to the laws, rules and regulations now or hereafter to be enacted or made in relation thereto, and shall employ and promptly pay a sufficient number of good and reliable guards to enforce proper discipline and prevent escapes, and upon demand in writing by the superintendent or either of the commissioners of said penitentiary, shall promptly dismiss from his service any guard, agent, servant or employe.

8. Said lessee shall pay hire for said convicts as follows, that is to say: Upon the basis of so much per month without regard to physical capacity, and with the understanding that no deduction will be made for convicts that may escape or be sick or otherwise incapacitated for labor, provided that in the case of escaped convicts said lessee shall not pay for any longer period than the thirty-first day of December next ensuing after the date of escape. The amount to be paid for each convict shall be three and 1-100 dollars per month, payable on the last day of the current month, according to a monthly statement of the hire of convicts to be made out and certified to be correct by the superintendent of the penitentiary, said monthly hire shall be paid in to the treasury of said state at the city of Austin. Said lessee shall in addition to said hire also pay into the treasury of said state at the city of Austin, on the last day of each month, the sum of seven hundred and twenty-nine and 16 $\frac{1}{100}$ dollars to cover the salaries and compensation of commissioners, superintendent, physician and chaplain. Said lessee shall also pay a reward of twenty-five dollars and the actual expense incurred for the apprehension and return of each escaped convict who may be returned during the continuance of his lease, provided that if the actual expense shall exceed the sum of ten dollars, all over and above the amount shall be paid by said State, by deducting such excess from the monthly payments to be paid by said lessee to said State. Said lessee shall give to each convict discharged a plain and substantial suit of citizen's clothes, shoes and hat and twenty dollars in cash. Said lessee shall supply such convict with stationery and postage for one letter per week. Said lessee shall furnish suitable and substantial blank books in which to keep all necessary records, minutes or accounts pertaining to the penitentiary and its management, and shall also furnish the paper, pens, ink, postage, fuel and lights required for the use of the superintendent and commissioner's offices, for all such books and stationery and postage, other than that furnished for the convicts, said lessee shall be repaid by deducting the cost thereof from the monthly payments to be made to said State. Said

lessee shall also furnish such room or rooms in the prison buildings as may be selected by the superintendent and commissioners for offices, and said superintendent and commissioners shall be allowed for the use of their offices such furniture in the penitentiary belonging to the State as they may select. Said superintendent shall have the right to select for clerical help not exceeding three convicts, who shall be fed and clothed by said lessee, but for whom said lessee shall pay no hire.

9. Said lessee shall at any time when demanded by the governor of said State when in his opinion the interests of the State so require, give a new bond or additional sureties.

In witness whereof, I, the said R. B. Hubbard, governor as aforesaid, have hereunto set my hand and caused the seal of said State to be affixed this the seventeenth day of December, eighteen hundred and seventy-seven.

*
STATE
SEAL.
*

(Signed)

R. B. HUBBARD,
Governor.

By the governor:

(Signed) I. G. SEARCY,
Secretary of State.

Now, the condition of this obligation is such that if the said Ed. H. Cunningham shall well, truly and in good faith, pay, do, perform, observe and obey everything which is or may be required of him by the said lease, or by the law authorizing said lease, or by any other law, rule or regulation now or hereafter to be enacted and made pertaining to said penitentiary, its property or convicts, whether within or without the prison wall, then this obligation to be void. But on the other hand, if the said Ed. H. Cunningham shall refuse, neglect, fail or omit to pay, perform, do and obey as is or may be required of him by the terms, conditions, limitations, restrictions and stipulations in said lease contained, or as is or may be required of him by the law authorizing said lease, or by any other law, rule or regulation now or hereafter to be enacted and made pertaining to said penitentiary, its property or convicts, then and in that event this obligation shall be and remain in full force and effect.

(Signed)	ED. H. CUNNINGHAM,	[Seal.]
"	JNO. IRELAND,	[Seal.]
"	W. E. GOODRICH,	[Seal.]
"	JNO. R. JEFFERSON, JR.,	[Seal.]
"	H. C. BRAHAN,	[Seal.]
"	I. P. SIMPSON.	[Seal.]
"	J. B. LACOSTE,	[Seal.]
"	G. HORNER,	[Seal.]
"	C. UPSON,	[Seal.]
"	THOS. J. DEVINE,	[Seal.]
"	W. T. UPTON,	[Seal.]
"	F. A. RICE,	[Seal.]

EXECUTIVE OFFICE, AUSTIN, TEXAS, Dec. 31, 1877.

The foregoing bond is hereby approved and will be filed by the secretary of state in his office.

(Signed)

R. B. HUBBARD,
Governor of State of Texas.

A message was received from the House announcing the adoption of a resolution to appoint a committee of three, to act with a like committee on the part of the Senate, to perfect arrangements for counting the votes for governor and lieutenant governor, and to provide for counting the same, and the appointment on said committee of Representatives Douglass, Baker and Estes.

Senator Tilson offered the following resolution:

Resolved, That, under the direction of the president of the senate, suitable seats be prepared within the bar, to be assigned to the reporters of the press who may desire to avail themselves of the privilege.

Adopted.

Senator Motley introduced the following resolution:

Resolved, That the sergeant-at-arms be required to purchase brooms, buckets and other necessary articles for the use of the Senate chamber.

Adopted.

Senator Stewart introduced a joint resolution, amending section 11 of article 1 of the constitution of the State of Texas.

Read by caption and referred to committee on constitutional amendments.

Senator Ford offered the following resolution:

Resolved, That the committee on public printing be instructed to contract for the translating of the governor's message in the German and Spanish languages, and that said committee provide for the publishing of two thousand copies of said message in German and two thousand copies in Spanish.

On motion of Senator Swain the resolution was referred to the committee on public printing.

Senator Homan introduced a bill entitled "An act to amend an act, approved June 20, 1876, entitled 'an act to amend article 382, title 2, chapter 3, of the Penal Code.'"

Read by caption and referred to judiciary committee No. 2.

Senator Duncan introduced a bill entitled "An act to authorize the levy and collection of a special tax in Gregg and Wood counties, and such other counties where it may become necessary, to construct and to complete payment for court houses and jails.

Read by caption and referred to judiciary committee No. 2.

Senator Moore offered the following resolution:

Resolved, That a committee of three senators be appointed to see what rooms are under the control of the Senate, who has charge of them, and to appropriate the same to the different committees of the Senate.

Adopted, and the chair appointed Senators Moore, Tilson and Burnett on said committee.

On motion of Senator Duncan the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

The Senate met pursuant to adjournment. Roll called; quorum present.

Senator Hobby introduced a bill entitled "An act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas.

Read by caption and referred to committee on revision of the code.

Senator Terrell introduced a bill entitled "An act to provide for designating and surveying three million and fifty thousand acres of the unap-

propriated public domain for the erection of a new capitol and other necessary public buildings at the seat of government."

Read by caption and referred to the committee on state affairs.

A message was received from the House announcing the passage by that body of Senate bill No. 1.

Senator Stewart introduced a joint resolution inviting the committee appointed by the Congress of the United States to the capital.

Adopted.

Senator Shannon introduced a bill entitled "An act to amend section 3 of 'an act to regulate taxation and fix the rate of the same.'"

Read by caption and referred to committee on finance.

Senator Motley presented the following report from the sergeant-at-arms:

AUSTIN, TEXAS, January 16, 1879.

To the President of the Senate, Hon. Wells Thompson:

Agreeable to resolution passed, I have examined the stoves of the Fifteenth Legislature, now in the Senate chamber, and find the same in very bad condition. One stove is good, with the exception of piping and damper, and the other has no legs and is very rusty. Awaiting instructions, I am very respectfully yours,

JAMES M. BARTON, *Sergeant-at-arms.*

Senator Stewart offered the following resolution:

Resolved, That there shall be added to the list of standing committees of the Senate a committee on the department of insurance, statistics and history, to which all matters relating to that department, or the subjects included therein, shall be referred.

Adopted.

The following senators were appointed on said committee: Edwards, Terrell, Stewart, Grace and Motley.

The following message was received from the governor, which was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 16, 1879. }

To the Honorable the Senate and House of Representatives, in Legislature assembled:

GENTLEMEN—It becomes my painful duty to announce officially to your honorable bodies—at the first opportunity since your organization—the death, at the city of Washington, on the tenth day of the present month, of the Honorable Gustave Schleicher, a representative from the sixth district of this State in the Congress of the United States.

This sad intelligence was conveyed to me officially by his honored associates of the Texas delegation who survive him, in fitting terms of sorrow for the distinguished dead, and by the honorable speaker of the House of Representatives, who announced, through me, to the people of Texas, that he died "universally lamented." It is well that the Legislature of Texas should pause for awhile in the midst of their labors, to unite with the executive in paying tribute to the memory and the virtues of so devoted a patriot and so eminent a statesman. His great loss is felt not alone in the district whose interests he had so long and so faithfully represented, but the whole people as well join in the common grief at the departure of one from the ranks of the living whose devo-

tion to the State of his adoption knew no sectional boundaries and suffered no variableness to the hour of his death. While we pay this tribute to his honored name we will be permitted to cherish his virtues and example as a priceless contribution to the civic history of Texas.

I earnestly join in the expressed wish of your honorable bodies, that the State may be permitted to inter his remains, with becoming honors, at the capital of the State.

R. B. HUBBARD, *Governor.*

Senator Hobby introduced a bill entitled "An act to change the civil and criminal jurisdiction of the county courts of Chambers, Liberty, Jefferson, Orange, Newton, Jasper, Hardin, Tyler, Polk and San Jacinto, save and except the probate business, from said counties to the district courts of said counties."

Read by caption and referred to judiciary committee No. 2.

Senator Terrell presented a memorial of sundry citizens of the counties of Taylor, Jones and Nolan, asking for the continued protection of the rangers or state troops against the incursions of the Indians and desperadoes and lawless whites which abound in their section of the State, and setting forth their condition in a pathetic manner.

Read and referred to the committee on frontier protection.

A message was received from the House announcing the concurrence of that body in the Senate resolution inviting the congressional committee now in Texas to visit the capital.

On motion of Senator Gooch the Senate adjourned until to-morrow morning 9 o'clock.

FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 17, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

Senator Buchanan, chairman special committee, made the following report, which was read and adopted :

To the President of the Senate, Hon. Wells Thompson :

Your committee appointed to act with a like committee on the part of House, for perfecting the arrangements for counting the vote for governor and lieutenant governor, and to provide for the inauguration of said officers, beg leave to report that they have selected 10 o'clock A. M., Friday, January 17, 1879, to count said vote; and 11 o'clock A. M., Tuesday, January 21, 1879, to inaugurate said officers, said count and inauguration to take place in the hall of the House of Representatives.

JOHN C. BUCHANAN, *Chairman Senate Committee.*

A. M. DOUGLASS, *Chairman House Committee.*

Senator Moore, chairman special committee on Senate committee rooms, etc., made the following report :

Hon. Wells Thompson, President of the Senate :

The committee appointed to ascertain the number of committee rooms belonging to the Senate, and to apportion the same to the several com-

mittees of the Senate, beg leave to report that they have found three rooms on the same floor with the Senate chamber; also four rooms in the basement of the capitol, making in all but seven available rooms for the use of thirty-two standing committees, which will necessitate the meetings of several committees in the Senate chamber.

The committee have therefore assigned the committees to the different rooms as follows:

To room No. 1, up stairs, committees on engrossed and enrolled bills.

To room No. 2, up stairs, committees on finance, private land claims and internal improvements.

To room No. 8, down stairs, committees on judiciary No. 1, state affairs and privileges and elections.

To room No. 12, down stairs, better known as adjutant general's office, committees on judiciary No. 2, military affairs, federal relations, Indian affairs and frontier protection.

To room No. 9, down stairs, committees on contingent expenses, constitutional amendments, land office and public debt.

To room No. 7, down stairs, committees on penitentiary, public lands, commerce and manufactures and claims and accounts.

To Senate chamber, committees on statistics of industry, public health and history of Texas, public roads, bridges and ferries, county and county boundaries, public printing, state asylum, stock and stock raising, agricultural affairs, retrenchment and reform, treasurer and comptroller's reports, public buildings and grounds and revision of Senate rules of order.

In the event that the other rooms can be obtained the committee recommend that these committees, whose meeting are assigned to the Senate chamber, be allowed other and more convenient meeting places.

Respectfully submitted,

J. W. MOORE,
W. H. TILSON,
J. R. BURNETT,
Committee.

Report read and adopted.

The following resolution, which was introduced yesterday by Senator Stewart and adopted by the Senate, was omitted from the journals, and therefore appears to-day:

Joint resolution, inviting the committee appointed by the Congress of the United States to the capital.

WHEREAS, The Congress of the United States has been pleased to appoint a committee to escort the remains of the late Gustave Schleicher to his place of interment in this State, and they are now in Texas in the discharge of that duty;

Resolved by the Legislature of the State of Texas, That, as representatives of the people of Texas, we highly appreciate and are grateful to Congress for this manifestation of regard for the distinguished dead, and respectfully invite the members of said congressional committee to visit the capital of Texas.

Senator Tilson offered the following resolution:

WHEREAS, It appears from the message of his excellency, the governor of Texas, that the Revised Civil Code is ready for distribution, therefore

Resolved, That the members of the Senate be furnished with a copy each of the Revised Civil Code, as proposed by the committee to whom was referred the revision of the civil and criminal laws of the State of Texas, as early as possible.

Adopted.

Senator McCormick introduced a bill entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees or trustees, for the benefit of creditors."

Read by caption and referred to judiciary committee No. 1.

Senator McCulloch introduced a bill entitled "An act to establish a state board of health, to prescribe its powers and duties, to provide for the appointment of a superintendent of vital statistics, and to assign certain duties to local boards of health."

Read by caption and referred to committee on statistics and health.

Senator Ledbetter introduced a bill to provide for the removal of county judges, county attorneys, clerks of district and county courts, justices of the peace, constables, county treasurers, collectors of taxes, assessors of taxes and sheriffs.

Read by caption and referred to judiciary committee No. 2.

Senator Duncan introduced a bill entitled "An act to make bail bonds and recognizances in criminal cases a lien on the real estate of the obligors on same, to provide for registration of same and to prevent discharge of defendant until such lien is recorded."

Read by caption and referred to judiciary committee No. 1.

Senator Gooch introduced a bill entitled "An act prescribing the times of holding the district courts in the third judicial district."

Read by caption and referred to judiciary committee No. 2.

Senator Duncan offered the following resolution:

Resolved, That the committee on printing be instructed to contract for the printing and furnishing, immediately, to this Senate one hundred copies of "Rules of the Senate and joint rules of the House and Senate."

Adopted.

Senator Terrell introduced a joint resolution "Proposing an amendment to the constitution of Texas."

Read and referred to committee on constitutional amendments.

Senator Tilson offered the following resolution:

WHEREAS, It is contrary to the principles and genius of a free republican government to impose unequal taxes upon the subjects thereof; and

WHEREAS, It is provided by our constitution that taxation shall be equal and uniform upon all persons and corporations; and

WHEREAS, The collection of an occupation tax as now provided by law, imposes extra and unequal burdens upon certain citizens of the State; therefore

Resolved, That the committee on finance be requested to take into consideration the justice and expediency of abolishing said occupation taxes, either wholly or partially, and adopting in lieu thereof a license tax, if the same is found necessary to raise sufficient revenue to meet the lawful demands of the treasury of the State.

Adopted.

Senator Ford, by request, presented the resolutions adopted by the late convention of the Protestant Episcopal Church in Houston, Texas,

requesting the Legislature to repeal that portion of the tax law imposing a tax upon the exhibition of "bull fights."

Read and referred to the committee on stockraising.

Senator Ford, from the committee on enrolled bills, made the following report:

Hon. Wells Thompson, president pro tempore of the Senate:

The committee on enrolled bills report that they have examined Senate bill No. 1, to amend section 3 of "An act to provide for the holding of district courts when the judge thereof is absent or is from any cause disabled or disqualified from presiding," approved August 16, 1876, and find it correctly enrolled and properly signed, and have this day, at 10:30 o'clock, presented the same to the governor for his signature.

FORD, for Committee.

The president of the senate, after reading in open Senate the caption of Senate bill No. 1, signed it.

The time having arrived to meet the Senate for counting the vote for governor and lieutenant governor, on motion of Senator Motley the Senate repaired to the House of Representatives.

The chief clerk called the roll of members and the speaker announced a quorum of the House present.

The secretary of the Senate called the roll, and the president announced a quorum of senators present.

The speaker then explained the object of the joint session to be for the purpose of counting the returns of the late general election for governor and lieutenant governor.

The president then appointed Senators Buchanan, Shannon and McCormick as tellers on the part of the Senate.

The speaker appointed as tellers on part of the House, Representatives Venters, Goodson and Leonard.

The tellers then proceeded to count the vote.

In counting up the vote for governor and lieutenant governor, there appeared two sets of returns from Harrison county.

Representative Coleman moved that the vote signed by Hon. George Lane, county judge, and having the seal attached, be counted as the returns from said county.

Adopted.

Pending the count, on motion of Senator Moore, the joint session took a recess until 3 o'clock P. M.

Recess expired and both houses re-convened in joint session.

Roll called; quorum present.

Upon casting up the vote it appeared that for governor O. M. Roberts received 158,933 votes; A. B. Norton, 23,402; W. H. Hamman, 55,002; scattering, 99; and for lieutenant governor J. D. Sayers received 158,850 votes; Richard Allen, 23,001; James Raines, 50,388; scattering, 408.

Counties.	Roberts.	Sayers.	Counties.	Roberts.	Sayers.
Anderson	1,406	1,336	Dawson		
Andrews			Deaf Smith		
Angelina	638	637	Delta	635	651
Aransas	182	189	Denton	2,386	2,377
Archer			De Witt	1,238	1,249
Armstrong			Dickens		
Atascosa	571	649	Dimmit		
Austin	1,301	1,432	Donley		
Bandera	323	294	Duval	360	370
Bastrop	1,239	1,371	Eastland	452	458
Bailey			Edwards		
Baylor			Ellis	3,031	3,011
Bee	369	376	El Paso	1,350	524
Bell	2,699	2,736	Encinal		
Bexar	3,349	3,356	Erath	1,555	1,552
Blanco	440	438	Falls	1,112	1,136
Borden			Fannin	2,196	2,218
Bosque	1,481	1,484	Fayette	2,470	2,476
Bowie	959	952	Fisher		
Brazoria	669	673	Floyd		
Brazos	943	959	Fort Bend	242	250
Briscoe			Franklin	538	519
Brown	956	959	Freestone	1,369	1,378
Burleson	549	548	Frio	279	280
Burnet	581	557	Galveston	3,500	3,575
Caldwell	1,353	1,350	Gaines		
Calhoun	233	236	Garza		
Callahan	263	261	Gillespie	617	625
Cameron	2,375	2,374	Goliad	744	757
Camp	223	317	Gonzales	2,008	2,073
Carson			Gray		
Cass	861	876	Grayson	4,181	4,204
Castro			Gregg	587	561
Chambers	243	241	Grimes	1,020	1,028
Cherokee	1,585	1,906	Guadalupe	1,215	1,226
Childress			Hale		
Clay	528	529	Hall		
Cochran			Hamilton	926	929
Coleman	352	353	Hansford		
Collin	3,195	3,208	Hardeman		
Collingsworth			Hardin	118	97
Colorado	1,169	1,201	Harris	2,661	2,702
Comal	481	493	Harrison	1,328	1,110
Comanche	887	881	Hartley		
Concho			Haskell		
Cooke	2,739	2,744	Hays	890	901
Coryell	1,769	1,778	Hemphill		
Cottle			Henderson	960	949
Crockett			Hidalgo	242	242
Crosby			Hill	2,044	2,053
Dallas	3,601	3,647	Hockley		
Dallam			Hood	1,076	1,074

Counties.	Roberts.	Sayers.	Counties.	Roberts.	Sayers.
Hopkins	2,166	2,156	Nacogdoches	1,395	1,390
Howard			Navarro	2,303	2,602
Houston	1,132	1,145	Newton	543	540
Hunt	2,214	2,201	Nolan		
Hutchinson			Nueces	915	912
Jack	560	553	Ochiltree		
Jackson	214	220	Oldham		
Jasper	732	274	Orange	268	270
Jefferson	313	297	Palo Pinto	768	776
Johnson	2,630	2,609	Panola	1,578	1,572
Jones			Parmer		
Karnes	514	559	Parker	1,813	1,835
Kaufman	1,847	1,860	Pecos	303	303
Kendall	186	224	Polk	589	484
Kent			Potter		
Kerr	217	243	Presidio	351	351
Kimble	116	126	Rains	351	348
King			Randall		
Kinney	455	458	Red River	1,541	1,554
Knox			Refugio	273	278
Lamar	1,935		Roberts		
Lamb			Robertson	1,604	1,698
Lampasas	477	464	Rockwall	433	428
La Salle			Runnels		
Lavaca	1,048	1,074	Rusk	1,596	1,603
Lee	625	647	Sabine	540	537
Leon	1,090	1,102	San Augustine	486	462
Liberty	486	491	San Jacinto	454	356
Limestone	1,546	1,590	San Patricio	192	195
Lipscomb			San Saba	596	600
Live Oak	347	353	Scurry		
Llano	325	308	Shackelford	397	401
Lubbock			Shelby	836	861
Lynn			Sherman		
Madison	553	561	Smith	1,220	1,223
Marion	380	397	Somerville	349	331
Martin			Starr	361	360
Mason	319	376	Stephens	645	645
Matagorda	259	261	Stoneman		
Maverick	436	436	Swisher		
McCulloch	230	232	Tarrant	3,471	3,450
McLennan	2,514	2,567	Taylor	131	128
McMullen	105	105	Terry		
Medina	610	642	Throckmorton		
Menard	146	146	Titus	623	616
Milam	1,817	1,913	Tom Green	368	366
Mitchell			Travis	2,176	2,392
Montague	1,324	1,319	Trinity	517	515
Montgomery			Tyler	653	668
Moore			Upshur	983	973
Morris	437	436	Uvalde	353	356
Motley			Van Zandt	1,608	1,628

Counties.	Roberts.	Sayers.	Counties.	Roberts.	Sayers.
Victoria	807	826	Williamson	1,492	1,525
Walker	805	815	Wilson	1,121	1,133
Waller	527	550	Wise	1,115	1,099
Washington	1,733	1,743	Wood	1,296	1,332
Webb	1,314	1,315	Yoakum		
Wharton	108	110	Young	666	670
Wheeler			Zapata	246	246
Wichita			Zavala		
Wilbarger					

County.	Hamman.	Bains.	County.	Hamman.	Bains.
Anderson	118	31	Collin	887	871
Andrews			Collingsworth		
Angelina	2		Colorado	1,394	1,353
Aransas	2	2	Comal	11	6
Archer			Comanche	360	363
Armstrong			Concho		
Atascosa	3		Cooke	67	55
Austin	177	161	Coryell	208	195
Bandera	59	69	Cottle		
Bastrop	1,465	1,386	Crockett		
Bailey			Crosby		
Baylor			Dallas	1,365	1,376
Bee	9	4	Dallam		
Bell	510	554	Dawson		
Bexar	291	251	Deaf Smith		
Blanco	109	112	Delta	103	80
Borden			Denton	189	197
Bosque	63	52	De Witt	165	119
Bowie	171	163	Dickens		
Brazoria	5	3	Dimmitt		
Brazos	1,460	1,460	Donley		
Briscoe			Duval		
Brown	238	229	Eastland	40	
Burleson	903	902	Edwards		
Burnet	364	395	Ellis	368	364
Caldwell	544	534	El Paso		
Calhoun	187	185	Encinal		
Callahan	1	1	Erath	112	101
Cameron			Falls	1,013	988
Camp	530	529	Fannin	1,119	1,065
Carson			Fayette	396	371
Cass	1,033	1,011	Fisher		
Castro			Floyd		
Chambers	29	27	Fort Bend	41	34
Cherokee	676	191	Franklin	289	302
Childress			Freestone	984	982
Clay			Frio		
Cochran			Galveston	1,294	1,216
Coleman	74	72	Gaines		

County.	Hamman.	Rains.	County.	Hamman.	Rains.
Garza			Leon	648	613
Gillespie	2		Liberty	249	208
Goliad	130	109	Limestone	460	402
Gonzales	410	349	Lipscomb		
Gray			Live Oak	14	9
Grayson	1,555	1,519	Llano	104	105
Gregg	471	462	Lubbock		
Grimes	1,323	529	Lynn		
Guadalupe	602	589	Madison	399	392
Hale			Marion	500	466
Hall			Martin		
Hamilton	84	89	Mason	15	
Hansford			Matagorda	166	160
Hardeman			Maverick	1	1
Hardin	25		McCulloch	16	15
Harris	2,306	2,221	McLennan	1,746	1,674
Harrison	94	95	McMullen		
Hartley			Medina	23	22
Haskell			Menard	1	1
Hays	19	10	Milam	882	715
Hemphill			Mitchell		
Henderson	404	405	Montague	117	117
Hidalgo			Montgomery		
Hill	583	564	Moore		
Hockley			Morris	341	340
Hood	21	18	Motley		
Hopkins	273	271	Nacogdoches	36	14
Howard			Navarro	899	619
Houston	669	630	Newton	18	18
Hunt	299	263	Nolan		
Hutchinson			Nueces	2	2
Jack	158	158	Ochiltree		
Jackson	3	1	Oldham		
Jasper			Orange	89	88
Jefferson	99	92	Palo Pinto	22	18
Johnson	512	510	Panola	12	10
Jones			Parmer		
Karnes	42		Parker	410	398
Kaufman	695	673	Pecos		
Kendall	14	31	Polk	48	34
Kent			Potter		
Kerr	33	17	Presidio		
Kimble	56	42	Rains	91	93
King			Randall		
Kenney	36	35	Red River	176	163
Knox			Refugio	1	
Lamar	987		Roberts		
Lamb			Robertson	2,024	1,926
Lampasas	357	300	Rockwall	47	47
La Salle			Runnels		
Lavaca	283	258	Rusk	527	521
Lee	789	763	Sabine	145	145

County.	Hamman.	Rains.	County.	Hamman.	Rains.
San Augustine.....	431	429	Tyler.....	53	2
San Jacinto.....	140	131	Upshur.....	318	316
San Patricio.....	2	.....	Uvalde.....	13	10
San Saba.....	293	231	Van Zandt.....	56	48
Scurry.....	.....	.....	Victoria.....	421	.....
Shackelford.....	4	5	Walker.....	1,089	1,084
Shelby.....	508	495	Waller.....	84	66
Sherman.....	.....	.....	Washington.....	1,625	1,780
Smith.....	1,006	997	Webb.....	.....	.....
Somervell.....	39	39	Wharton.....	236	233
Starr.....	.....	.....	Wheeler.....	.....	.....
Stephens.....	2	1	Wichita.....	.....	.....
Stoneman.....	.....	.....	Wilbarger.....	.....	.....
Swisher.....	.....	.....	Williamson.....	806	74
Tarrant.....	756	755	Wilson.....	28	11
Taylor.....	.....	.....	Wise.....	863	872
Terry.....	.....	.....	Wood.....	235	187
Throckmorton.....	.....	.....	Yoakum.....	.....	.....
Titus.....	336	239	Young.....	10	9
Tom Green.....	.....	.....	Zapata.....	.....	.....
Travis.....	2,480	2,265	Zavala.....	.....	.....
Trinity.....	179	96			

County.	Norton.	Allen.	County.	Norton.	Allen.
Anderson.....	946	1,009	Burnet.....	6	2
Andrews.....	.....	.....	Caldwell.....	2	5
Angelina.....	96	96	Calhoun.....	122	116
Aransas.....	8	3	Callahan.....	.....	.....
Archer.....	.....	.....	Cameron.....	87	87
Armstrong.....	.....	.....	Camp.....	69	67
Atascosa.....	.....	.....	Carson.....	.....	.....
Austin.....	644	624	Cass.....	72	72
Bandera.....	6	11	Castro.....	.....	.....
Bastrop.....	4	.....	Chambers.....	.....	.....
Bailey.....	.....	.....	Cherokee.....	368	463
Baylor.....	.....	.....	Childress.....	.....	.....
Bee.....	.....	.....	Clay.....	.....	.....
Bell.....	41	40	Cochran.....	.....	.....
Bexar.....	941	958	Coleman.....	.....	.....
Blanco.....	28	14	Collin.....	106	103
Borden.....	.....	.....	Collingsworth.....	.....	.....
Bosque.....	5	3	Colorado.....	28	35
Bowie.....	515	514	Comal.....	326	284
Brazoria.....	1,071	1,069	Comanche.....	1	.....
Brazos.....	.....	.....	Concho.....	.....	.....
Briscoe.....	.....	.....	Cooke.....	14	2
Brown.....	4	.....	Coryelle.....	3	3
Burleson.....	.....	.....	Cottle.....	.....	.....

County.	Norton.	Allen.	County.	Norton.	Allen.
Crockett.			Hidalgo.	16	16
Crosby.			Hill.	1	1
Dallas.	655	562	Hockley.		
Dallam.			Hood.	1	1
Dawson.			Hopkins.	44	43
Deaf Smith.			Howard.		
Delta.	7	7	Houston.	162	166
Denton.	90	88	Hunt.	51	51
De Witt.	207	239	Hutchinson.		
Dickens.			Jack.	50	42
Dimmit.			Jackson.	223	231
Donley.			Jasper.		
Duval.	15	3	Jefferson.	56	67
Eastland.	1	1	Johnson.	35	35
Edwards.			Jones.		
Ellis.	42	60	Karnes.		
El Paso.	176		Kaufman.	79	65
Encinal.			Kendall.	280	144
Erath.	6		Kent.		
Falls.	3		Kerr.	86	86
Fannin.	37	37	Kimble.		
Fayette.	1,177	1,304	King.		
Fisher.			Kinney.	53	52
Floyd.			Knox.		
Fort Bend.	1,185	1,185	Lamar.	95	
Franklin.			Lamb.		
Freestone.			Lampasas.	1	
Frio.			LaSalle.		
Galveston.		25	Lavaca.	26	25
Gaines.			Lee.	101	102
Garza.			Leon.	494	491
Gillespie.	145	136	Liberty.		
Goliad.	22	21	Limestone.	233	234
Gonzales.	15	15	Lipscomb.		
Gray.			Live Oak.	3	2
Grayson.	147	129	Llano.	3	2
Gregg.	322	324	Lubbock.		
Grimes.	1,191	1,982	Lynn.		
Guadalupe.	183	164	Madison.		1
Hale.			Marion.	853	869
Hall.			Martin.		
Hamilton.			Mason.	46	35
Hansford.			Matagorda.	250	255
Hardeman.			Maverick.	16	16
Hardin.	6	2	McCulloch.		1
Harris.	40	107	McLennan.	12	19
Harrison.	1,400	1,416	McMullen.		
Hartley.			Medina.	93	60
Haskell.			Menard.	2	2
Hays.	235	231	Milam.	135	148
Hemphill.			Mitchell.		
Henderson.	6	6	Montague.	1	

County.	Norton.	Allen.	County.	Norton.	Allen.
Montgomery			Sherman		
Moore			Smith	25	25
Morris			Somervell		
Motley			Starr	45	32
Nacogdoches	438	455	Stephens	1	1
Navarro	26	26	Stoneman		
Newton			Swisher		
Nolan			Tarrant	138	135
Nueces	48	46	Taylor		
Ochiletree			Terry		
Oldham			Throckmorton		
Orange	2	2	Titus	37	
Palo Pinto			Tom Green	19	18
Panola	92	92	Travis	107	71
Parmer			Trinity	4	4
Parker	16	9	Tyler	1	
Pecos			Upshur	346	344
Polk	99	62	Uvalde		
Potter			Van Zandt	159	50
Presidio			Victoria	1	
Rains			Walker		
Randall			Waller	880	978
Red River	983	974	Washington	1,148	957
Refugio	5		Webb	35	35
Roberts			Wharton	373	373
Robertson	466	465	Wheeler		
Rockwall	15	15	Wichita		
Runnels			Wilbarger		
Rusk	663	661	Williamson	32	22
Sabine			Wilson	74	78
San Augustine			Wise	74	72
San Jacinto	231	91	Wood	28	22
San Patricio			Yoakum		
San Saba			Young	2	
Scurry			Zapata		
Shackelford			Zavala		
Shelby	1				
				22,981	22,965

The speaker declared O. M. Roberts and J. D. Sayers duly and constitutionally elected governor and lieutenant governor, respectively, for two years.

On motion of Senator Gooch the Senate returned to the Senate chamber.

(In Senate.)

Roll called; quorum present.

On motion of Senator Homan the Senate adjourned to 9 o'clock A. M. to-morrow.

FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 18, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

The following letter was received from his excellency the governor, which was ordered read:

AUSTIN, January 17, 1879.

Hon. Wells Thompson, President of the Senate:

SIR—The following extract from a personal letter to me from Hon. R. S. Guy, this day, you will please read to the Senate, as requested by the absent senator.

Respectfully, R. B. HUBBARD.

“LANCASTER, TEXAS, January 15.

* * * * *

“Please say to the honorable Senate I hope to be in my seat by the last of next week—say about the 23d or 24th instant.

“R. S. GUY.”

The following telegram was received from the committee appointed by the Legislature to meet the congressional committee having in charge the remains of the late Hon. Gustave Schleicher, etc., through Senator Houston, which was ordered read:

DALLAS, TEXAS, January 17, 1879.

Hon. Wells Thompson, Lieutenant Governor, and Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee received congressional committee with remains of Hon. Gustave Schleicher at 3 P. M. to-day. The family of deceased request that he be interred in San Antonio, and we accordingly proceed to that point.

A. W. HOUSTON, for Committee.

Senator Brown presented the memorial of George A. King, a citizen of Falls county, asking for relief as one of the sureties on the bond of B. F. Scogin, sheriff of Falls county in the year 1871. Said sheriff was a defaulter, and judgment was rendered against him and each of his sureties at the city of Austin, for the full amount of his bond, \$7400. The said King avers he has paid \$1000, the full amount of property he owns above his homestead, and that the other securities have paid nothing, and that the principal is insolvent, etc. Accompanying this is a petition of several of the citizens and county officers of Falls county asking that the request of Mr. King be granted.

Memorial and petition read and referred to judiciary committee No. 2.

Senator Davenport, chairman of committee on public printing, made the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on public printing, to whom was referred resolution and substitute in regard to newspapers or daily journals publishing the proceedings of the Legislature, have had the same under consideration, and instruct me to report back the following substitute for both resolutions and recommend its adoption:

Resolved, That the sergeant-at-arms of the senate be and he is hereby instructed to subscribe for five hundred (500) copies of the daily *Statesman*, and in addition thereto fifteen (15) copies for each senator of such daily papers publishing said proceedings as the senators may select, at a cost not to exceed four (4) cents per copy; *provided*, that if said other journals cannot be had at the price designated, he may subscribe for the *Statesman* for the full amount of one thousand (1000) copies, said papers to be equally distributed among the members of the Senate.

J. H. DAVENPORT, *Chairman*.

Resolution adopted.

Senator Stewart, chairman judiciary committee No. 2, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 11, "An act to amend 'an act fixing the time of holding the district courts in the seventh judicial district of the State of Texas,' approved August 16, 1876," have instructed me to report the same back and recommend its passage with the following amendments, viz:

WHEREAS, The district court of Gregg county will be holden on the third Monday after the second Monday in January, 1879, thereby creating an imperative public necessity for the immediate enactment of a law changing the time of holding the district courts of the seventh judicial district of the State of Texas; therefore

STEWART, *Chairman*.

Senator Hobby introduced a bill entitled "An act requiring persons taking causes to the supreme court and court of appeals to make a deposit to cover the costs in said courts."

Read by caption and referred to judiciary committee No. 2.

Senator Gooch introduced a bill entitled "An act to create and provide for execution liens on land."

Read by caption and referred to judiciary committee No. 2.

Senator McCulloch offered the following resolution:

WHEREAS, The election law has been found to be very defective in many important particulars, excluding citizens from voting the State ticket who chance to be absent from home, thereby doing great injustice to the citizen; and no compensation made for judges of the election while exacting their continuous service night and day; and no provision made for reporting to the clerk of the county court duplicate tally lists as it should, so that official results may be known immediately after the election; therefore be it

Resolved, That restrictions be imposed against repeating at the polls; and that a law or an amendment to the constitution be made requiring the pre-payment of a \$2 poll tax, to be paid ten days previous to the day of election, to enable the suffragan to vote.

Read and referred to committee on constitutional amendments.

Senator McCormick introduced a bill entitled "An act supplemental to and amendatory of an act entitled 'an act concerning factors and commission merchants,' approved February 11, 1860, and which took effect April 10, 1860."

Read by caption and referred to the committee on commerce and manufactures.

Senator Ledbetter introduced a bill entitled "An act to provide for

making it the duty of incorporated towns and cities to keep in repair their streets and bridges and to relieve the inhabitants thereof from road duty."

Read by caption and referred to judiciary committee No. 2.

Senator Duncan introduced a bill entitled "An act to amend section 6 of an act entitled 'an act to regulate taxation and to fix the rate of the same, passed at the session of the Fifteenth Legislature in 1876.'"

Read by caption and referred to the committee on finance.

On motion of Senator Stewart the rules were suspended and Senate bill No. 11, entitled "An act to amend an act entitled 'an act fixing the times of holding the district courts of the seventh judicial district of the State of Texas,' approved August 16, 1876," together with the report and accompanying amendments of the committee, were taken up.

On motion of Senator Stewart the report of the committee was adopted. Bill read second time and ordered engrossed by the following vote:

YEAS.

Blassingame,	Gooch,	Motley,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—24.

NAYS—none.

On motion of Senator Stewart the rules were further suspended and the bill placed on its third reading by the following vote:

YEAS.

Blassingame,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Brown,	Lair,	Stewart,
Burnett,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—23.
Gooch,	Motley,	

NAYS—none.

Bill was then read third time and passed by the following vote:

YEAS.

Blassingame,	Gooch,	Motley,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—23.

NAYS—none.

On motion of Senator Terrell the rules were suspended to offer joint resolution granting leave of absence to Walter Acker, district attorney of the seventeenth judicial district.

Read and referred to judiciary committee No. 2.

(Senator Brown in the chair.)

Senator Gooch introduced a bill entitled "An act providing for the transportation of convicts under contract from counties in which they are convicted to the penitentiary."

Read by caption and referred to judiciary committee No. 2.

On motion of Senator Duncan the Senate adjourned to 9 o'clock A. M., Monday morning.

SIXTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, JANUARY 20, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of Saturday read and adopted.

Senator Davenport presented a memorial from citizens of the unorganized county of Jones, stating that said county is attached to Shackelford county for judicial purposes and to Palo Pinto county for surveying purposes, and praying to be detached from said counties and attached to Taylor county for both purposes. Referred to judiciary committee No. 1.

Senator Stewart, chairman of judiciary committee No. 2, offered the following reports:

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 4, entitled "An act prescribing the times of holding the district courts in the third judicial district," have duly considered the same, and I am instructed by said committee to report said bill back to the Senate with their recommendation of its immediate passage.

STEWART, *Chairman.*

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 8, entitled "An act to repeal an act to levy a tax on the privilege of keeping and harboring dogs, and to provide for the assessment and collection of the same," approved August 19, 1876, beg leave to report that they have duly considered the same, and I am instructed by a majority of the committee to report the bill back to the Senate with their recommendation that it do not pass.

STEWART, *Chairman.*

Senators Homan, Gooch and Ledbetter, from said committee, submitted the following minority report:

Hon. Wells Thompson, President of the Senate:

The undersigned members of judiciary committee No. 2, cannot agree with the decision of the majority of said committee in reporting adversely upon Senate bill No. 8, to repeal "An act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same." The act in question operates oppressively upon a worthy class of citizens, in that it subjects them to vexatious and expensive criminal prosecutions. As a police measure it is believed to be a failure, and the revenue derived from the tax therein levied is only about \$10,000 for the past year, which amount is collected almost entirely from the poorer classes. This tax is also believed to be wrong in principle,

because not an assessment at a uniform rate upon the value of property. We therefore recommend the passage of the bill under consideration.

W. K. HOMAN.

We concur in this report on the ground that the act subjects those who do not pay the tax, by the first of January, "to criminal prosecution."

JOHN YOUNG GOOCH,
W. H. LEDBETTER.

Senator Davenport, chairman committee on public printing, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on public printing, to whom was referred resolution providing for printing the governor's message in the German and Spanish languages; have had the same under consideration and instruct me to report it back and recommend its adoption.

DAVENPORT, *Chairman.*

Senator Ledbetter, for judiciary committee No. 2, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 13, "An act to provide for the time and place of holding the supreme court of the State of Texas," have had the same under consideration and a majority of said committee instruct me to report the same back to the Senate and recommend that the same do pass.

W. H. LEDBETTER, *for the majority.*

Senators Hobby, Patton and Stewart submitted the following minority report from said judiciary committee:

Hon. Wells Thompson, President of the Senate:

The undersigned minority of your judiciary committee No. 2, to whom was referred Senate bill No. 13, entitled "An act to be entitled 'an act to provide for the time and place of holding the supreme court of the State of Texas,'" dissent from the report of the majority of said committee recommending the passage of said bill, and we respectfully recommend that the same do not pass.

HOBBY,
S. C. PATTON,
CHAS. STEWART.

Senator Terrell, chairman judiciary committee No. 1, submitted the following reports:

Hon. Wells Thompson, President of the Senate:

Your committee on judiciary No. 1, to whom was referred a bill to be entitled "An act to make persons charged with crimes and offenses competent witnesses in the several courts of this State, in cases in which they are so charged," have had the same under consideration and instruct me to report that the act is substantially a copy of the act of the Federal Congress of 1877-8, which permits the accused to testify in the Federal courts. I am instructed by the committee to recommend the passage of the bill.

TERRELL, *Chairman.*

Hon. Wells Thompson, President of the Senate:

Your committee on judiciary No. 1, to whom was referred Senate bill

No. 3, to be entitled "An act concerning judgments," have had the same under consideration and instruct me to report—

1. That our supreme court in 1868 decided that under a statute of Texas, which declared that judgments of a court of record should operate as a lien upon real estate situate in the county in which the judgment might be rendered, a judgment of circuit court of the United States would operate as a lien on all land situate in any counties of the Federal district.

2. That under such a construction no purchaser of land in the State could determine the sufficiency of his title until after procuring an examination of the records of the Federal court at Austin, Tyler, Galveston or Brownsville, with its attendant expenses and delay.

3. That the supreme court of the United States has more than once decided that the laws of the State furnished the rule of decision in respect to the lien of judgments and decrees rendered in the Federal court upon the land of the debtor.

4. That the legislative department of this State has the right to declare that no judgment hereafter rendered by any court of record in this State shall constitute a lien upon real estate situate in any county in this State until after the same has been filed for record in the county clerk's office of the county in which it is desired the lien shall operate. This the bill now reported does, and, for the reasons above given, I am instructed by the committee to recommend its passage.

TERRELL, *Chairman.*

Senator Ledbetter, for judiciary committee No. 2, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas," have had the same under consideration, and a majority of said committee instruct me to report it back to the Senate and recommend that the bill do pass.

W. H. LEDBETTER, *for the Majority Committee.*

Senators Hobby, Patton and Stewart submitted the following minority report from said committee:

Hon. Wells Thompson, President of the Senate:

The undersigned, a minority of your judiciary committee No. 2, to whom was referred Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas," respectfully dissent from the report of the majority of said committee, recommending the passage of said bill, and recommend that the same do not pass.

HOBBY,
PATTON,
STEWART.

Senator Burton introduced a bill entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

Senator Gooch introduced a bill entitled "An act to provide for the care and protection of the East Texas Penitentiary."

Read by caption and referred to the committee on penitentiary.

Senator McCormick introduced a bill entitled "An act to change the jurisdiction of county courts, and to conform the jurisdiction of district courts to such change."

Read by caption and referred to judiciary committee No. 1.

Senator Shannon introduced a bill entitled "An act to amend section 3 of an act entitled 'an act regulating interest,' approved August 21, 1870."

Read by caption and referred to judiciary committee No. 1.

Also a bill entitled "An act to define and punish usury."

Read by caption and referred to judiciary committee No. 1.

Senator McCulloch introduced a joint resolution commendatory of Governor Hubbard, in his retirement from the gubernatorial chair, etc.

Read and on motion of Senator Ledbetter referred to the committee on state affairs.

Senator Burton introduced a bill entitled "An act to fix and regulate the fees of all officers of the State of Texas and the several counties thereof."

Read by caption and referred to judiciary committee No. 1.

Senator Tilson introduced a bill entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes and to regulate their compensation,' approved August 21, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Stewart introduced a joint resolution amending section 50 of article 16, of the constitution of the State of Texas.

Read and referred to the committee on constitutional amendments.

Senator Burton introduced the following resolution:

Resolved, That the pages and porters of the Senate be allowed \$2.50, each, per day.

Adopted.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills, to whom was referred Senate bill No. 11, entitled "An act to amend an act entitled 'an act fixing the times of holding the district courts of the seventh judicial district of the State of Texas,' approved August 16, 1876," have compared said bill with the original and find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Homan, the resolution reported back from the committee on public printing, requiring the printing of 2000 copies of the governor's message in German and Spanish, each, was called up and the report of the committee adopted.

Senator Ledbetter moved to amend by adding 1000 copies in Bohemian.

Adopted.

The resolution as amended was then adopted.

On motion of Senator Stewart, the rules were suspended and Senate bill No. 4, entitled "An act prescribing the times of holding the district courts in the third judicial district," was taken up.

(Senator McCormick in the chair.)

Bill read second time and ordered engrossed.

On motion of Senator Stewart the rules were further suspended and the bill placed on its third reading by the following vote:

YEAS.		
Blassingame,	Hobby,	Patton,
Brown,	Homan,	Ripetoe,
Buchanan,	Lair,	Stewart,
Burnett,	Ledbetter,	Shannon,
Burton,	McCormick,	Swain,
Davenport,	McCulloch,	Terrell,
Duncan,	Moore,	Tilson—23.
Gooch,	Motley,	
NAYS—none.		

Bill was then read third time and passed by the following vote:

YEAS.		
Blassingame,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Brown,	Lair,	Stewart,
Burnett,	Ledbetter,	Shannon,
Burton,	McCormick,	Swain,
Davenport,	McCulloch,	Terrell,
Duncan,	Moore,	Tilson—23.
Gooch,	Motley,	
NAYS—none.		

On motion of Senator Terrell the rules were suspended and Senate bill No. 3, entitled "An act concerning judgments," was taken up.
(Senator Brown in the chair.)

On motion of Senator Ledbetter, fifty copies of the bill were ordered printed.

Senator Shannon moved that the report of the committee be also printed.

Adopted.

On motion of Senator McCormick the rules were suspended and Senate bill No. 16, entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged," was taken up.

The bill was then read a second time and ordered engrossed by the following vote:

YEAS.		
Brown,	Gooch,	Motley,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Lair,	Shannon,
Burton,	Ledbetter,	Swain,
Davenport,	McCormick,	Terrell,
Duncan,	McCulloch,	Tilson—21.
Ford,	Moore,	
NAYS.		
Homan,	Patton,	Stewart—3.

On motion of Senator Ledbetter the senate adjourned until 2:30 P. M.

AFTERNOON SESSION—3 O'CLOCK.

The Senate met pursuant to adjournment. Roll called; quorum present.

Senator Swain introduced joint resolution "Instructing our Senators

and requesting our representatives in Congress to ask for protection to the Texas frontier, and compensation for past expenses by the State in that behalf."

Read and referred to committee on federal relations.

Senator Moore offered the following resolution:

Resolved, That the committee on constitutional amendments be, and are hereby requested to inquire into the expediency of reporting a constitutional amendment exempting farm products in the hands of the producer from taxation, and to report their action upon the same to this Senate at as early a day as possible.

Adopted.

Senator Tilson introduced a bill entitled "An act to provide for the election of a district attorney in certain judicial districts of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

On motion of Senator McCormick, Senator Tilson was added to judiciary committee No. 1.

On motion of Senator Hobby, Senator Burnett was added to the committee on revision of the Code.

Senator Brown, chairman committee on engrossed bills, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills, to whom was referred Senate bill No. 4, entitled "An act prescribing the times of holding the district courts in the third judicial district," having examined the same, find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Shannon the Senate adjourned until 9 o'clock A. M. to-morrow.

SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, JANUARY 21, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

A message was received from the House announcing the passage by that body of House bill No. 17, entitled "An act making an appropriation for mileage and per diem pay of the members and the per diem pay of the officers and employes of the Sixteenth Legislature."

The following message was received from the comptroller, which was read and referred to the committee on finance.

Hon. Wells Thompson, President of the Senate:

In response to Senate resolution, passed August 21, 1876, "requiring the comptroller and treasurer to report if there is on file in their respective offices any claims which were omitted and neglected to be examined and reported upon by the auditor and comptroller, under the provisions of certain acts approved February 7, 1853," be it

"*Resolved*, That the comptroller of public accounts and state treasurer are hereby required to report, for the information of the Legislature, at its next session, what claims, if any, which were properly and lawfully

filed in the proper department of the government, which were neglected or omitted to be acted on and reported upon by the auditor and comptroller, under the provisions of 'an act to provide for ascertaining the debt of the late Republic of Texas,' approved March 20, 1848, and 'an act to extend the provisions of said act,' approved February 7, 1853; if there be any such claims, stating their character and the amount legally and justly due thereon as shown by the accounts and vouchers on file and the records of their respective offices."

We have the honor to report that we know of no unaudited claims as having been filed under the provisions of the acts above referred to, nor has our attention been called to any except the claims of the heirs of Thomas Toby for military and naval supplies furnished by Thomas Toby, agent, during the revolutionary war between Texas and Mexico, upon which we reported under resolution to the Fourteenth Legislature, January 14, 1875. For amount of claim reference is made to the above mentioned report, a copy of which is herewith appended and made a part of this report, to wit:

"COMPTROLLER'S OFFICE,
"AUSTIN, TEXAS, JANUARY 19, 1875. }

"Hon. Guy M. Bryan, Speaker of the House of Representatives:

"In obedience to a resolution passed by your honorable body on the 27th of April, 1874, which reads as follows, viz: 'That the comptroller of public accounts and treasurer of the state be and they are hereby instructed to furnish to this House, at its next session, all information in relation to the claims of Thomas Toby that is on file in their respective offices, we have the honor to submit for your consideration the accompanying statements, which embrace all the information to be had on the subject from an examination of the records of our respective offices. The claims presented by Thomas Toby for his credit we have subdivided into three classes, viz: first, second and third, the character of each of which is explained in statements submitted. The amount aggregating for his credit \$154,328 38; the amounts of his debt to the State from various sources, including the sale of land scrip, \$94,879 94, showing balance in favor of Thomas Toby, \$59,448 44. In the above credits is included interest at the rate of ten per cent. up to the time the final account was rendered, March 31, 1838. There is also included in the credits above five per cent. commission on shipments, also five per cent. commission upon the whole amounts of the first issue of land scrip, which he claims by reason of his having the scrip printed at his own personal expense.

"We append a list of claims for which the vouchers are missing, a part of which appears to have been acted upon by the secretary of the treasury in 1837, and passed to the credit of Thomas Toby. The remainder do not appear to have been examined. Neither of these classes has been included in the credits, but are referred to the Legislature to determine whether they should be included in the account or not. After a careful examination, we find no evidence that any of the above claims have ever been audited or any money paid on account of the same. We have compared them with the accounts of McKinney and Williams, and find that they include no item of the claims presented by Thomas Toby."

We have the honor to be, very respectfully, your obedient servants.

STEPHEN H. DARDEN, *Comptroller*,
ANDREW J. DORN, *Treasurer*.

The following communication was received from his excellency the governor and ordered read:

Hon. Wells Thompson, Lieutenant Governor and President of the Senate:

SIR—It is due to your honorable body to know that on yesterday (nineteenth) the report of the commissioners to codify the laws in printed form, was expressed to the secretary of state. It should reach the Capitol to-day. I am also advised that the Revised Civil Statutes will reach the state department on Wednesday, the twenty-second instant. This short delay was not anticipated, and could not have been prevented by the executive, as a reference to the honorable commissioners themselves and the public printer, will attest. The Criminal Codes have been delivered.

I have the honor to be your obedient servant,

R. B. HUBBARD, *Governor.*

The following messages were received from his excellency the governor, with accompanying documents, which were ordered read and placed upon the journals of the Senate:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 20, 1879. }

To the Honorable the Senate and House of Representatives, in Legislature assembled:

GENTLEMEN—I respectfully call the attention of the Legislature to the present condition of the controversy, yet unsettled, as to the boundary between the United States and Texas, in which the county of "Greer" is involved, and to the accompanying communication from the commissioner of the general land office.

The United States commissioners, as doubtless known to your honorable bodies, and the Texas commissioners appointed under the act of the Legislature approved February 11, 1854, and an act of the Congress of the United States, of June 5, 1858, to adjust this boundary, differed as to the main channel of Red river at the mouth of Prairie Dog river, the Texas commissioners claiming the north fork, while the United States commissioners claimed Prairie Dog river (or the south fork) as the main channel. Owing to the late civil war the controversy has never been finally and definitely settled. The difference between the two forks (the area therein) constitutes the present county of "Greer."

Neither the State of Texas nor the United States at present issue patents to these lands. It is a territory noted for fertility, healthfulness and in all respects most valuable and attractive to the settler. The present commissioner of the general land office of Texas has lately made application to the secretary of state of the State of Pennsylvania for a map known as "Melish's" map of the United States, published at Philadelphia (improved to the first of January, 1818). It is on reliable information said that the north fork is there laid down as the main channel of Red river. No response has yet been received to these inquiries. The above map is thus referred to in a document now on file in the general land office of Texas, endorsed boundary between Spain and the United States, taken from Revised Statutes of Arkansas, October 4, 1843, in which the following words occur: The whole being laid

down in "Melish's" map of the United States, published at Philadelphia January 1, 1818, etc., as heretofore recited.

I respectfully suggest to the Legislature that steps be taken at once through our delegation in Congress, to settle finally this old controversy. There is no doubt in my mind from all the sources of information within my reach that the north fork of Red river is the main Red river, and that, therefore, the county of Greer is a rightful part of the territory of Texas and under her jurisdiction.

R. B. HUBBARD, *Governor*.

GENERAL LAND OFFICE, }
AUSTIN, TEXAS, January 18, 1879. }

Hon. R. B. Hubbard, Governor:

SIR—The correspondence between yourself and this office, relative to Greer county, does not appear to have been copied, as no copy can be found.

I have examined the matter as thoroughly as possible with the laws and archives on file here, and find that the whole question is embraced in "which is Red river, the north or south fork?" It appears that the south fork is longest and has a wide and water-worn bed, but the whole stream dries up at times. The north fork is shorter, but affords abundant running water at all seasons.

I find a document on file here indorsed "Boundaries between Spain and the United States," taken from the Revised Statutes of Arkansas, October 4, 1843, in which the following words occur:

"The whole being laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818."

I have applied to the secretary of state of Pennsylvania to learn if a copy of such map is in the hands of any government department of that state and to get a sketch of the portion in question. The topographical map to which I referred in our conversation, I learn, is private property, but will try to get it for you this evening.

Respectfully,

W. C. WALSH, *Commissioner*.

Referred to the committee on public lands.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 17, 1879. }

To the Honorable the Senate and House of Representatives in Legislature assembled:

GENTLEMEN—I herewith have the honor to transmit to your honorable body the accompanying certified copy of a communication received from the late attorney general, Hon. H. H. Boone, relating to his itemized account, duly verified, showing the fees received by that officer during his term as attorney general. Said accounts are on file in the executive office, subject to the examination or order of the Legislature. By reference to these accounts, and the accompanying communication of attorney general, it will be observed that the fees amounted not only to more than the appropriation to cover them, but to more than the constitutional limitation. In accordance with the spirit of the constitution, and because of the services rendered by this most capable officer which entitle him to the maximum compensation allowed him, I respectfully and earnestly recommend a deficiency appropriation sufficient to make the pay of the late attorney general amount to four thousand dollars per annum.

R. B. HUBBARD, *Governor*.

ATTORNEY GENERAL'S OFFICE, }
AUSTIN, Jan. 14, 1879. }

Hon. R. B. Hubbard, Governor:

DEAR SIR—I hand you herewith itemized accounts, sworn to by me, showing the fees I received during my term as attorney general. You will see that the amounts received were short of the amounts allowed by the constitution. I hand you with these itemized accounts copies of accounts of fees in felony cases. The original accounts, properly approved, are in the custody of the comptroller, except the one for the Austin term, 1878, which was not filed with the comptroller, as the appropriation for that year had been already exhausted by the fees received from Tyler and Galveston terms of that fiscal year. From these approved accounts it will be seen that the fees in felony cases were as follows:

For the part of the fiscal year of 1876, \$360; for the fiscal year ending August 31, 1877, \$2355; for the fiscal year ending August 31, 1878, \$2625; for the part of the fiscal year from September 1, 1878, to January, 1879, \$610.

These fees amounted, as will be seen, not only to more than the appropriations to cover them, but to more than the constitutional limitation.

If my services while attorney general have been worth so much to the State, I would be glad to have a deficiency appropriation sufficient to make the pay of the office amount to \$4000 per annum.

I have the honor to subscribe myself most respectfully and truly your friend,

H. H. BOONE.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 17, 1879. }

I hereby certify that the above is a true and correct copy of the original now on file in the executive office.

SUMNER B. CALLAWAY, *Private Secretary.*

Referred to committee on finance.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 20, 1879. }

To the Honorable the Senate and House of Representatives, in Legislature assembled:

GENTLEMEN—I herewith transmit a communication from the artist John G. Chapman making certain propositions for the sale to the State of his lifesize painting of Col. David Crockett. I also herewith transmit the certificate of Hon. Bailie Peyton, late of Tennessee, as to the fidelity of the artist in giving a lifelike portrait of this historic character who died for the liberties of Texas at the Alamo.

This painting has lately been retouched by the artist, and is in the possession of the superintendent of public buildings and grounds for inspection of the Legislature.

R. B. HUBBARD, *Governor.*

NEW YORK, December 4, 1878.

To his Excellency Richard B. Hubbard, Governor of the State of Texas:

I beg very respectfully to advise your excellency that expedition of the portrait of Col. Crockett has been unavoidably delayed until now—

chiefly that it was considered prudent by practical business friends here to await a time of less risk in transportation—and further, that I desired to verify the stability of its restorations before returning it to Austin. It has been expedited to address of your excellency, in charge of the Adams Express Company, per railroad, by my friend, Mr. W. W. Wortherspoon (426 West Thirteenth street, N. Y.), who has kindly assumed responsibility for expenses incurred, and further, to attend to all matters of business in my behalf relating thereto, having full authority to that effect.

The picture will, I hope, arrive in as good condition as it has been sent forward in, having truly spared neither pains nor expense in permanent restoration of its original and unique integrity, in every respect. As it is returned without being rolled, it will only be required to replace it carefully in its frame.

To just and liberal consideration of your excellency and the Legislature of the State of Texas I leave naming amount of compensation for the picture, which has been held by me for more than forty years in anticipation of the gratification of its possession by the State of Texas—an unique, veritable and historic record of a hero prominently associated with her national existence.

On the death of Col. Crockett the value of the picture was estimated at \$5000. True, it had then received no injuries from accidents or careless exposure, which are now permanently repaired or arrested from risk of further increase by my own hand (at outlay of time, labor, transportation, etc., of nearly \$1000), and it is in truth, upon many other considerations, of more intrinsic value now than ever. For obvious reasons, however—chiefly advanced years, making it scarcely likely that I shall ever again revisit my native country and earnest desire to secure for my work the creditable position that its subject so well deserves—I frankly express to your excellency a readiness to accept for it whatever amount (not under \$3000) the State may please to give me, in just consideration of its worth and circumstances, under which I confidently place it at disposal of your excellency and the Legislature.

I scarcely need request that your excellency will not allow a copy to be made from the picture previous to decision of the Legislature with regard to its purchase.

I remain, most respectfully, your excellency's very obedient servant,
JOHN G. CHAPMAN.

AUSTIN, TEXAS, February 24, 1877.

Having been requested by Governor R. B. Hubbard to examine the portrait of Col. David Crockett, now in the hall of the House of Representatives in this city, representing him as a hunter with his dogs, and to express my opinion as to its merits, I take pleasure in stating that, although the buckskin suit in which he is taken somewhat mars the symmetry of his fine person, and full justice is not done to the kind and benevolent expression of his face; yet, I consider it an excellent likeness—far the best I have ever seen of him.

I was well and intimately acquainted with Col. Crockett—having served with him in the Congress of the United States.

Witnesses:

C. R. JOHNS,

T. P. MARTIN.

BAILIE PEYTON.

Referred to the committee on public buildings.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 20, 1879. }

To the Honorable Senate and House of Representatives :

GENTLEMEN—I have the honor herewith to submit to your honorable bodies the certified official statement of the comptroller showing—

1. The amount expended by Texas for frontier defense from the 28th day of February, 1855, to August 31, 1878, amounting in the aggregate to \$1,787,640 42. This large amount, with lawful interest thereon, for which, by the articles of annexation between the republic of Texas and the United States, the latter government should be held responsible in law and all good conscience, has, though repeatedly demanded, never been recognized or paid by the government.

2. By section 6 of an act of Congress, approved January 21, 1860, an appropriation of \$123,544 51 was made to cover expenditures by the State, for the period embraced between the 28th of January, 1855, and January 28, 1861. This appropriation has never been drawn, though likewise demanded.

3. In the comptroller's report of August 31, 1874, attention was called to the unexpended balance of the \$7,750,810 left with the United States government by this State to pay the debt of the late republic of Texas. This balance amounts to \$101,113 27, which is still in the treasury of the United States and should be withdrawn and paid to this State—the just and rightful owner thereof. This also has been demanded. I have, as did my immediate predecessor, called the attention of the delegation in Congress from this State to these claims, and urged their prompt recognition and payment by the United States government. So far no success has attended these efforts. Aside from expenditures for frontier defense, nearly a quarter of a million of dollars, because of said statutory appropriation, as said actual deposit of money, is unquestionably due to Texas now, and has been for many years. I respectfully and earnestly urge upon your consideration the propriety and necessity of again, by joint resolution or by any other means which to your wisdom may be deemed most advisable, calling upon our delegation in Congress to press these claims to the immediate attention of the general government.

R. B. HUBBARD, *Governor.*

Statement, showing the amount paid by the State of Texas for frontier defense from February 28, 1855, to January 28, 1861:

For pay of companies under Captains Callahan, Benton and Henry, act December 17, 1855.....	\$ 15,571 01
For subsistence for above three companies, act December 17, 1855.....	5,750 60
For paymaster for above companies, act December 17, 1855.....	100 00
For pay of six companies called out by General Smith, act January 14, 1856.....	46,106 88
For battalion expense on account of contract for above companies, act January 14, 1856.....	4,026 43
For pay of Captain Wm. Tom's company, act August 30, 1856.....	1,494 72
For pay of Wm. G. Tobin's company, act August 30, 1856.....	917 46
For pay of L. English's company, act August 30, 1856....	1,764 86
For supplies for Captain Tom's company, act August 30, 1856.....	408 97

For paymaster for Captains Tom and English's companies, act August 30, 1856.....	100 00
For pay of four companies, Captains Cormack, Conner, Hodges and Frost, act November 17, 1857.....	18,867 62
For pay of three companies minute men, Captains Sanson, Davenport and Black, act January 13, 1857.....	4,000 00
For pay of Captain John S. Ford's company, act January 27, 1857.....	68,997 31
For pay of subsistence of Captains Ford's, Bourland's and Brown's companies and pay of peace commissions, act February 8, 1860.....	60,545 02
For pay of necessary expenses incurred by Captain Tobin's company, act January 12, 1860.....	9,748 28
For pay of necessary expenses and subsistence of troops on the Rio Grande, act February 15, 1860.....	36,966 40
For protection of the frontier, act February 15, 1860.....	111,564 47
For pay of Captain Williams's company in 1858-9, act April 1, 1861.....	10,070 82
For supplies for Williams's company in 1858-9, act February 1, 1861.....	7,497 15
Total.....	\$ 404,498 00

Amounts paid by the State of Texas for frontier defense from October 20, 1865, to August 31, 1877:

For pay of Parker and Wise county minute companies, called into service by Gov. A. J. Hamilton.....	\$3,671 00
To provide for protection of the frontier, act June 13, 1870	524,562 95
For ranging companies and minute men, act May 4, 1874	127,527 19
For protection of the frontier, act May 4, 1874.....	300,981 45
For protection of the frontier, act March 15, 1875.....	149,469 42
For protection of the frontier, act August 15, 1876.....	117,249 68
For paymasters of frontier forces, act May 19, 1871.....	1,656 00
Total.....	\$1,225,117 69

Amounts paid for frontier defense from September 1, 1877, to August 31, 1878:

For protection of the frontier, act March 15, 1875.....	\$53 33
For protection of the frontier, act August 15, 1876.....	31,827 35
For protection of the frontier, act August 15, 1876.....	126,108 05
Total.....	\$157,988 73

Referred to committee on Federal relations.

Senator Terrell presented the petition of the heirs of Catlet Burnet for bounty land.

Read and referred to the committee on private land claims.

Senator Lair introduced a bill entitled "An act to amend an act to provide for the speedy assessment and collection of taxes upon land and real estate in cases when such property has been subject by law to taxation, but the assessment thereof has been omitted."

Read by caption and referred to the committee on finance.

Senator Homan introduced a bill entitled "An act to provide for fund-

ing the bonded and floating debt of the State of Texas, and to authorize and require the issue of four per cent. interest bearing bonds of the State for that purpose."

Read by caption and referred to the committee on public debt.

Senator Tilson introduced a bill entitled "An act to give effect to section 2 of article 9 of the constitution, regulating the manner of removing and locating county sites."

Read by caption and referred to committee on counties and county boundaries.

Senator Motley introduced a bill entitled "An act to amend section 1 of an act entitled 'an act to provide for the transferring of all criminal cases in which indictments have been found to the proper court having jurisdiction thereof,' approved August 12, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Brown, chairman committee on engrossed bills, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 16, entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged," and find the same correctly engrossed.

BROWN, *Chairman.*

ORDERS OF THE DAY.

Senate bill No. 16 entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged," was taken up, read third time and passed.

Senate bill No. 13 entitled "An act to provide for the time and place of holding the supreme court of the State of Texas," was taken up, with majority and minority reports of committee, when, upon motion of Senator Hobby, it was postponed and made the special order for to-day week.

Senate bill No 14 entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas," was also taken up with majority and minority reports, when, upon motion of Senator Hobby, it was also postponed and made the special order for to-day week.

Senate bill No. 8 entitled "An act to repeal 'an act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same,'" with majority and minority reports, was taken up and read second time, when, upon motion of Senator Homan, the further consideration of the bill was postponed until January 30th, and that it be made a special order for that day.

On motion of Senator Stewart, Senator Burnett was added to judiciary committee No. 2.

On motion of Senator Duncan the Senate took recess until 10:45 A. M. Recess expired. Senate met. Roll called; quorum present.

(Senator Terrell in the chair.)

Senator Storey, chairman committee on finance, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on finance have had under consideration House bill No. 17, to be entitled "An act making an appropriation for mileage and

per diem pay of the members and the per diem pay of officers and employes of the Sixteenth Legislature," and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do pass.

STOREY, *Chairman.*

On motion of Senator Moore the report of the committee was adopted.

On motion of Senator Moore the rules were suspended and the bill placed on its second reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Ford,
Gooch,
Grace,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Storey,
Terrell,
Tilson--27.

NAYS--none.

Bill read second time.

The rules were still further suspended and the bill placed on its third reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--29

NAYS--none.

Bill was then read third time and passed by the following vote:

YEAS.

Blassingame,
Buchanan,
Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--29.

NAYS--none.

A message was received from the House inviting the Senate to meet it in the hall of the House of Representatives to witness the inauguration ceremonies of the governor and lieutenant governor elect.

On motion of senator Hobby, the Senate repaired to the House to aid in the inauguration ceremonies referred to in House message.

(In joint session.)

Roll called; quorum present.

The doorkeeper announced the joint committee on inauguration with the retiring governor, R. B. Hubbard, and the governor and lieutenant

governor elect, O. M. Roberts and J. D. Sayers, who were invited to seats on the speaker's stand.

His excellency, R. B. Hubbard, delivered the following address:

VALEDICTORY ADDRESS OF GOVERNOR HUBBARD.

You have assembled in the capitol to-day to witness the peaceful transition from one to another administration of the government of your State. You behold the transfer of the state government held for more than two years to other trusted servants. Such change in the kingly and imperial governments of other countries would be signalized by revolution and bloodshed. Here, under the ægis of a written constitution, our citizens of yesterday become rulers, and our rulers private citizens to-morrow. I congratulate you that you have lived to witness this day, and I welcome this morning's sunny sky upon a prosperous and happy State of nearly two millions of people. May God, who brought help to the task of our fathers when they laid deep and firm the foundation of the republic in wisdom, strengthen and continue to vouchsafe the heritage which has been transmitted from sire to son. May sectional discord and strife never more rend our country, state and national, or ambition pollute our leaders. Long before your heads have grown gray, or the old and venerable statesmen of this day have passed away, Texas will stand side by side with the very oldest states, no longer begging but demanding her rights. During the years I have held the reins of power I have to say of my able associates, some of whom remain and some go with me, they have ably supported and aided me, as have the people who have witnessed my labors and devotion to the public interests. As I received the trust, so it passed to my honored successor—untarnished. I now lay down the toils of an arduous service, invoking for my successor a wise and happy administration of the state government of a State for whom we should live and for whom we should die.

Judge John P. White, of the court of appeals, now administered the oath of office to the governor elect, Hon. O. M. Roberts, who then delivered the following inaugural address:

INAUGURAL ADDRESS OF GOVERNOR ROBERTS.

Fellow-Citizens, Senators and Representatives of the Legislature:

Called by the voice of the people to preside over the destinies of our large State at this important period of its history, I accept the position with a full appreciation of the responsibility resting upon me. Had I much more experience in public affairs than that given me by a long career in its service in different positions, mainly judicial, I should feel diffident of my ability to meet successfully the demands of the hour. The State, emerging from the ruin of the civil war and from the consequent difficulties of its changed condition, has already advanced in the work of reforming its institutions and in resuscitating and husbanding its resources. Still, much remains to be done in that direction to establish permanently good and efficient government, economically administered. This is the impending necessity of the day; and whatever energy, influence and power I may have will be directed to that as the leading object. In the effort to accomplish it I confidently rely upon your lead in the matter as the legislative department, and upon the intelligence, patience and patriotism of the people of Texas. The democratic party stands pledged to that policy, as announced in the late can-

vass, and their large majority at the late election for state officers fully indorses it. Nor did any opposing party dissent from it. It may, therefore, be taken to be in accordance with the common sentiment of the country. The democratic party, being now in full charge of all of the departments of the state government, is responsible for its being carried out as far as it is practicable under existing circumstances.

However certain this may be, the policy of the incoming administration of the state government demanded, by a common sentiment, an examination into its details will show it to be environed with intrinsic difficulties to be surmounted, and extraneous matter relating to the past, present and future to be considered in both of the branches into which the propositions must be divided—which are, first, that the laws, organic and ordinary, should be so reformed and rigorously executed as to more certainly and speedily protect the rights of persons and of property; and, second, that the expenses of the government should be so reduced that they can be paid by the taxes which the people are reasonably able to pay, and which may be collected without increasing the public debt of the State annually.

Under the first branch it may be found necessary to amend the constitution so as to remodel or at least improve the judicial department, which is generally conceded to be inadequate to the wants of the country; also, the revised and digested codes, submitted to the Legislature, embracing the whole body of the statutory laws, civil and criminal, may, when examined and adopted, be expected to remedy many defects, which have long been accumulating upon our statute book. This is the department of the government that acts directly upon the people in the suppression of evil and in the maintenance of the right constituting their actual government, and it should be organized for efficiency, and maintained in full vigor at all hazards, and at all necessary expense that can be borne by the country. This is the first and highest duty of this or any other State. There has been a tendency, from several causes, to weaken this arm of the government, which should always be strong. It is not infrequently seen in our courts that the greatest strength of legal ability stands in the bar, instead of sitting on the bench. And, worse still, the State's counsel is seldom equal to cope with the body of the bar that he has to meet. In the determination of rights in a free country, learning and intellect should match each other, at least on equal terms, and if there is a difference, that which rules should be superior to that which is ruled. A false idea of economy, and a supposed acquiescence in popular will, have brought this about.

Another cause of weakness, delay and inefficiency is found in positive laws, limiting or cutting off judicial discretion from the apprehension of the abuse of power. This likewise limits or relieves from responsibility, making no one to blame if things go wrong. To make the practical operations of government efficient, responsibility must be imposed and assumed. They can not be made to move by inflexibly fixed rules like an automaton. The tendency of legislation has long been too much directed towards that end, the evils of which are now continually perceived in the practical administration of the laws.

There are powerful influences operating upon the country which should induce an increase of this direct force of the government, rather than permit a diminution of it. The large emigration from other countries, the former spirit of speculation and subsequent monetary depression and

want of profitable employment, the extension of our frontier and the changed condition of a large colored population, have all contributed to generate and exhibit an amount and character of crime and civil wrong entirely unprecedented in this country. The very inadequacy of the power of correction has provoked, and many continue to provoke, outrageous wrongs as a substituted remedy, without and against law. This inadequacy is also increased by the present habits of the people, in which their pursuits and avocations are more closely and constantly followed and their time considered more valuable than formerly, by which they have more indifference and even reluctance in giving their aid in any way in the execution of the laws, except on full compensation in money. All this has brought forth and exhibited a new feature of government here that few might commend, but all acquiesce in upon emergencies, which is a frequent call for the military to aid the civil authority in the execution of the laws, and the giving rewards to officers to make arrests. This is a radical departure from the principles of local self-government, planted in this country and derived from the common law of England and decided leaning to the practices of civil law countries, in which the people look to a police force, rather than to their own participation, for their protection. This growing sentiment of looking to an extraneous power and means to regulate local self-government throughout the whole State should be nipped in the bud before it is too late. The remedy is to infuse into our judicial department a power of action that shall inspire the people with confidence in its capacity to govern, and then the people will crowd to its aid, instead of holding back as they now do. "God helps those who help themselves," and so do the people the world over. Although we may not be able to do all that may be necessary, it behooves us to do whatever we can to accomplish this most desirable object.

There are exceptional cases wherein extraneous aid at the command of the government is necessary, as in occasional uprising combinations or party feuds, which may happen in communities ordinarily capable of self-control; and in cities where a police force is necessary, being in effect a quasi military power to aid the civil authority; and in a sparsely-settled stock-raising country, such as we have upon our western frontier; for the civilization capable of republican local self-government begins and ends with the plow. So it has been and is. An agricultural population, sufficiently contiguous for co-operation, must predominate or hold the balance of power to establish and permanently maintain local self-government as known in the history of the past in this country.

For this reason there should be a greater check than now exists by law upon the organization of new counties on our stock-raising frontier. The assumption that underlies the proposition to organize one of our unorganized counties on the frontier is that there are in that territory a sufficient number of settlers with fixed, permanent habitations in reasonable proximity, possessing intelligence, integrity and property sufficient to keep the peace and execute the laws, and also to defray the expense of a local government within it. And if any county already organized should, from any cause, permanently fall below that standard of capacity for local self-government, so as to require a standing military police through a number of years, it should be abolished and attached to a county that can govern itself locally. So long, therefore, as we have a vast area of country not settled by a population at least partly agricultural, the State may need a small movable police force to aid occasionally

in the execution of the laws, the sooner it can be dispensed with entirely as an auxiliary the better. For a reliance upon it and the use of it all over the State would, in time, fundamentally change our free institutions by the creation of a central power that might be used despotically to the destruction of local self-government, which has so long been the protector of our rights and our liberties and the object of our political pride.

In connection with this subject, the penitentiary system as a mode of punishment must be considered. It was adopted on two grounds—one for the reform of the convict, and the other to secure a more certain conviction of the guilty than could be procured by the old plan of whipping and hanging. It may be doubted whether our plan of leasing and working the convicts outside of the penitentiary is favorable to reform any more than whipping and hanging. Still the other ground holds good even under our defective plan, and it would be contrary to the spirit of the age not to continue in the effort to perfect it as far as may be found practicable, so as to accomplish both of its leading objects. This should be done as far as practicable in such way as would incur as little expense to the State as possible. In this connection, also, are laws for properly imposing and collecting taxes. Our system of taxation is founded on the correct principle—that as the leading objects of government are the protection of persons and of property, so an *ad valorem* tax should be levied upon property and a poll tax upon persons. An occupation tax should hardly be supposed to be levied as a drawback imposed upon one occupation in preference to another equally lawful, but rather as a means of taxing property of a transient nature passing through the hands of those taxed in such manner as can not generally be reached and identified in the ordinary way of levying an *ad valorem* tax. There is an unusually large amount of such transient property that is a fruitful source of litigation and consequent expense to the government that is not adequately reached either by the occupation tax or by the *ad valorem* tax assessed upon property owned on the first day of January every year. The tax designed to be levied upon the annual production may not, and actually does not, reach the bulk of it, because a large portion of that which is produced, such as cotton, wool, wheat, beef canned, cattle and other marketable stock is transported out of the State before the first day of January. From the habits of trade, since we have railroads, the stock on hand of a grocer merchant on the first day of January, is not an accurate, or even an approximate criterion of the amount of property that passes through his hands and is consumed during the year. This may be verified by reference to the assessment of goods, wares, etc., in any county. In Galveston county, for instance, it is only \$1,751,782, which amount may be sold annually by one or two houses in the city of Galveston. It might not be proper to reach this transitory property in both wholesale and retail houses, nor by taxing both, that which is produced and that which is consumed during the year, because that would to a considerable extent result in a double tax upon the same values. This deficiency in the tax laws operates to the prejudice of the agriculturist whose capital is invested in land, improvements and farming stock permanently kept on hand, and is reached by his property being assessed on the first day of January in each year; whereas the retail merchant and grocer, from the present habit of ordering and paying for additions to his stock monthly or quarterly during the year after the first day of

January in each year, escapes taxation upon the bulk of the property which he sells and is consumed during the year, which very property is generally more expensive to the government in its protection than the more stable and permanent capital of the agriculturist. The transitory property is not adequately reached, therefore, by either our occupation tax or *ad valorem* tax. Virginia, it is reported, is successfully reaching it by a tax upon the retail of liquors according to the quantity sold, and this may lead the way to reaching it by a tax upon the property annually consumed, rather than upon that produced, which our tax laws now ineffectually attempt to do. That would also distribute the burden more generally than it is now done, because there are a great many more consumers of such property that is retailed than producers of that which is now taxed.

There is also a great deficiency in the payment of the poll tax, a correction of which demands the most rigid remedy that it is practicable to apply. The amount of land bid in by the State and held up indefinitely also demands a remedy. Any man who is able to pay his taxes, and wilfully fails to do so, is receiving protection and, if a citizen, participates in the rights and privileges of citizenship without rendering a consideration to the government therefor, and imposes an undue burden upon other persons, which is a gross injustice that should not be tolerated in this or any other state. There is another class of persons, the special protection of whom incurs expense, which has not as yet been adequately compensated for by any mode of taxation that has been adopted here. They are those who travel for business or otherwise, on railroads and steamboats, who might be reached by an occupation tax on common carriers of passengers, assessed by their number, or by the length of travel within this State. This protection to the traveler is a thing of real value which the government holds itself bound to furnish by the remedies afforded for injuries and losses for traveling on railroads and steamboats, which have largely increased the expenses of the government and which is not compensated for by the ordinary tax on railroads and steamboats, it being no special benefit to them. These common carriers pay taxes on their property as other persons for their own protection, and not for the protection of the rights of the persons whom they carry. This subject has not until lately been of sufficient importance to deserve attention. In our present emergency it is proper for the government to require compensation for its protection, general and special, wherever substantial rights are protected that necessarily increase its expense. Though it may be difficult to make the protection and the compensation for it exactly equal, it is certain that if we stand still and rely only upon our old modes of adjustment amid the new industries and accrual of rights and developments of wealth, we will fall short of a full appreciation of the progress of the age, and close every year with crippled resources, entailing upon us an accumulating debt, which has already reached over five millions of dollars since the late civil war, with a large deficiency bill every session of the Legislature to foot up.

The enactment of proper laws and the proper execution of them in the courts of the country, and in the collection and disbursement of taxes, together with the operations of the executive departments, constitute the government proper. If our attention could be devoted to them solely or even mainly, as was the case in our former period of cheap government and low taxes, we would have no difficulty with a proper adjust-

ment of occupation and poll taxes in sustaining a vigorous government with an *ad valorem* tax of twelve or fifteen cents on the one hundred dollars worth of property instead of the fifty cents now imposed.

Gradually, and much more in the last ten years, the State has been assuming other and extraneous burdens beyond the capacity of the productive wealth of the country to sustain, as is plainly evinced by the country to sustain, as is plainly evinced by the constantly accumulating public debt. Some of these burdens are due to our frontier position in the Union and our extensive territory, and others of them are taken on to an extent not common in young and intrinsically feeble states. Reference is here made to the protection of our frontier and our police force; to the penitentiary and its enlargement; to our free common school system; to our schools for the blind and the deaf and dumb; to the establishment of an agricultural and mechanical college, so styled; to our lunatic asylum; to our quarantine establishment; to our pensions to Texas veterans and to our immigration bureau, formerly.

These are things which caused our public debt to be contracted, and which now cause a large amount of taxes to be assessed and collected annually. We are numerically a very poor people as compared with older states that have assumed these or similar burdens; much poorer, indeed, than the \$300,000,000 worth of property appearing on the assessment rolls would, by its mere amount, indicate in reference to our capacity to support a government. Because an immense amount of that sum is made up by unimproved lands all over the State, which is dormant property, but is only estimated to be valuable because of its prospective value in the future. Its taxes have to be paid from the proceeds of productive property. The State in that regard is like a man who owns and pays taxes on a league of land and cultivates only one hundred acres of it. Because also our population is sparsely scattered over a large territory, which itself largely increases the expenses of government beyond that required in a state with the same population occupying one-third or one-fourth of the same space, as most of the states do. Because we have not yet piled up any considerable amount of permanent wealth as the fruit of the labor of many previous generations still producing values for the benefit of the present generation, which is the case in most of the older states, particularly in those of the north. Because also at the time of the annexation to the United States we did not, as Virginia, North Carolina and Georgia did, cede to the United States our vacant unoccupied territory, inhabited or roamed over by Indians, but chose to retain it and manage and protect it, at a large expense, to be annually paid by the tax upon the comparatively small amount of productive property. The chief benefit yet derived from it has been the hastening the building of railroads in a portion of the State by the donation of portions of the public lands thus reserved. Another great benefit generally expected to be derived is from the donation of lands set apart to the permanent common school fund. This, however, will prove delusive if it is expected to raise a fund in a distant future under the present management that will relieve the people from the taxes which they now pay to support the free common schools. For under the present mode of disposing of these lands the scholastic population will increase faster than the fund. And the same thing applies to the lands set apart for the schools for the deaf and dumb, and blind, and for the lunatic asylum. And the same policy will postpone indefinitely the building of a university, which should be

erected at the capital of the state for the education of Texas youths, instead of sending them out of the State to be educated, and to return home strangers to Texas. Another benefit counted on is giving pre-emption to settlers, by which the frontier is extended. While this is a great benefit to those now no longer occupying the frontier, the fact that it is extended increases the expense of the government in proportion to the population thereby increased, and such is our experience for the last twenty years, and will be for the next thirty or forty years, until the whole territory shall have been filled up with a self-sustaining and a locally self-governing population. For until that time arrives the frontier must be protected, and the sparse population on its border must occasionally be aided in the execution of the civil law, under any line of policy that may be maintained. This necessarily follows from reserving territory to be governed by us. We have yet over thirty millions of public lands not appropriated that we are holding on to for the purpose of giving them away as we have done, while the people are struggling to pay nearly \$400,000 annually in taxes on our bonded public debt, with a prospect of an indefinite increase of it, if there should be no change in the general management of the public affairs of the State. This debt is an obligation upon the State, the same as a mortgage upon all of the property and polls within it.

Now the question is, would it not be better as a business transaction to pay it with the property of the State not yet appropriated, by a sale of its land as soon as practicable, at a reasonable value, rather than from year to year to sell the lands of our citizens that they have worked for, and otherwise wrench from them taxes to pay the interest and ultimately the principal of the debt. There are other obligations imposed upon the government of the state by the constitution, of equally as high a nature, which are to devote one-half of all the public lands to the public school fund, and one million of acres to the university fund, and three millions of acres to the building of a capitol of the state. Under the present policy of procrastination these obligations will not be met, and the people will have to be taxed to perform them. I have reason to believe, from information that I have received, that the lands can be sold rapidly to persons both in and out of the State, for colonies of settlers and other purposes, if large tracts could be bought.

Another disadvantage imposed upon the people, in the payment of taxes to support the government, is that in the present scarcity of money, shrinkage of the value of property, and embarrassment in business, they pay too much generally to officers for the services rendered by them when compared to the attainable value of the same ability, skill and labor in other business pursuits of the present day. This is evidenced by the numerous applications for office, and by the anxiety and powerful efforts to obtain office in all parts of the State.

The true policy of the State, in my opinion, under the present juncture of affairs, is to retrench expenses from top to bottom, wherever it can be done consistently with the efficiency of the public service, and inaugurate the policy now of disposing of the public lands at a fair value as soon as practicable to any purchaser that will buy them in any quantity, so as to meet the various obligations of the government, increase the school funds and asylum fund, and thereby if possible relieve the present generation from the onerous burden of taxation imposed upon them for the dim prospect of a future good which will never be realized.

It was said in substance by one of the greatest of American statesmen, that it was the highest duty of government to subserve the interests of the present generation without imposing unnecessary burdens upon future generations. Justly take care of the present, and the future will take care of itself. Our present policy is violating both ends of this rule by imposing burdens of taxation on the present generation that might be relieved against by the means at command, and by imposing on future generations obligations that can only be discharged by heavy taxes.

The Legislature is the controlling power of the State, and the responsibility rests with them to determine whether or not we shall continue to drag along, mending up an old policy, unadapted to the times and to our present condition, or to at once inaugurate a practical policy that directs us to a definite end, promising a relief to the present generation, and a fair chance for prosperity to the future.

It may be objected that this policy will stop immigration. Not so, for the railroad companies owning millions of acres are the best immigration agents we ever had, and those that buy the lands who are not settlers will help them.

It may be objected that a land monopoly will be created that will prevent poor men from buying lands. Not so, for poor men, white and black, are now buying cheap lands all over the State, except in a few localities, from private owners, at more advantage to themselves than if they were to take them up by pre-emption, or were they to buy school lands, where they can be obtained either at this time or in the future.

It may be objected that this policy will stop the progress of railroads by exhausting the donation lands, and leave large portions of the State unprovided with them. Not so: for this result will soon follow under the present policy. But if the obligations resting on the State are satisfied in a reasonable time, and the people are relieved from these extraordinary burdens of taxation, then we can well afford to devote a part of the taxes derived from the railroads then already constructed to the building of other roads, in the shape of a loan, the interest on which could be turned over to the available school fund, and thereby give all sections of the State indirectly the benefit of the land donations, that will have already been made for the building of railroads long after all of the lands may have been exhausted. In some such way as this alone can the effects of land grants to railroads be continued and perpetuated so as to give all sections of the State the benefit of them.

It should not be supposed that I here now enter this plea for economy and the prompt discharge of the State's obligations because I am an old man desiring or expecting a return of the good old safe and slow times or twenty-five years ago. Far from it. He who looks back while the world moves on is turned into a pillar of salt. The steam power has entered our borders and spread its iron arms far and wide over our country. As soon might we stop the norther that sweeps down over our plains as to stop its progress until it spreads itself to our utmost borders, filling the whole country with wealth and intelligence, and implanting upon our soil a mightier and, if we properly appreciate and adapt ourselves to it, a higher civilization. I would that Texas, disenthralled from her burdens and prosperous, should enter safely into this new and more speedy progress of human affairs, in full plight to foster and cherish this power, as a friendly and befriended benefactor, and at the same time to

direct and control it with justice and liberality in protecting the interest of society. For sooner or later will come to be solved the great problem not yet solved by the wisdom of the wisest American and English statesmen, as to how the transportation tax upon production and consumption shall be adjusted and regulated, so as to do full justice to all parties and still get the full benefit of the motive power of a higher and better civilization, that is driving us whether we will or not into a new era of human affairs. It is proper that we should fully recognize our relation to the country in the discharge of the duties assumed by us respectively. It may be truly said that it requires the highest talent, ability, experience and virtues in any country to make and carry on the best government of which it is capable. The allurements of federal office and the superior emoluments of private employments very often, if not usually at this day, prevent a state from obtaining the benefit of these in all of the different departments of its government. Notwithstanding this, it is with great gratification that I now see in both houses of the Legislature many gentlemen of ability and experience in the public councils of the State, and others of good ability who, like myself, may not have had any great experience in the positions they now occupy, but who, like those who have had experience, have now entered the service of the State with the resolve to give their time and best efforts to advance the public good. Upon those thus occupying the different departments the burdens and responsibilities of the government are thrown. I feel an abiding confidence that they have capacity, experience and patriotism enough to do a good work for the people of Texas now, if we will take hold of the matter before us with a strong grasp and courageously wield the power we have for their present and future benefit, according to our best convictions of the right, irrespective of all extraneous influences that may be arrayed to swerve us from the strict line of duty.

Having expressed my views freely in a general way, it will be my pleasure as well as my duty to execute to the best of my ability whatever policy in the administration of the state government that you may adopt. In you, as the legislative department, is vested the controlling power of the State. I, as the chief executive, but follow your lead and direction. But I hope and trust, whatever may be your policy, that the administration of the government will be shaped with a full recognition of the present hard times pecuniarily, and that there are aged men, crippled men, women and children who are working in the fields and otherwise all over this State, with scant living, to make the taxes which you will vote to maintain it.

Leaving behind us the difficulties through which we have passed and looking forward to the future, there is much in our condition to encourage us and to make us thankful. We have a large territory teeming with wealth in all of its parts, awaiting the touch of labor to bring it forth; a salubrious climate that is itself a source of wealth as well as of enjoyment; abundant crops that fill our marts and make ours a land of plenty. We have no conflict of labor and capital to excite the angry contest of classes, but all men here can find work and live, if they are not too choice in the kind of it. We have escaped this year a direful scourge that has sorely afflicted some of our sister states, for which we are indebted to Galveston, our beautiful city on the gulf, in the first instance, and then to other cities, in establishing a prompt and rigid quarantine. We have lately passed through an exciting political contest and election,

in which an unobstructed free suffrage has been exercised and a peaceful acquiescence in the will of majorities has been exhibited all over our State. We are receiving annually a large emigration to aid us in driving back our extensive frontier and increasing our population. Industry and enterprise are starting up all over our State to develop our vast resources. We have a history of which we should be proud. It should be our pleasure, individually and collectively, to contribute our best efforts to direct its affairs so as to secure its material prosperity and the happiness of its people.

Standing in this place on the 4th day of March, 1861, as the president of the seceding convention, and acting by their authority, I proclaimed Texas a free and independent State. I did it in good conscience, believing it to be right. I now with the same good conscience, as governor of the state, declare Texas to have been in good faith reconstructed into the Union by the voice of its own people, marching steadily on with her sister states in the new progress of national development and standing ready to vie with any other state in advancing the prosperity and defending the honor of our common country. Having made it the study of the flower of my life to know how the rights and liberties of her people could be best preserved and her material interests advanced, I now believe that the chief reliance should be placed upon building up a great State with all of its varied interests fostered, and the rights of all protected by a good state government, vigorously and economically administered, so as to secure permanently the confidence and love of her own people. Nothing less than a bold and determined strike for that end will accomplish it. The power, the responsibility and the honor of the attempt are yours, and if my services shall substantially aid you in fixing it upon the country as its permanent policy, the end of my political ambition will have been attained.

O. M. ROBERTS.

The oath of office was then administered to the lieutenant governor elect, Hon. J. D. Sayers, by judge White, when the lieutenant governor delivered the following inaugural address:

INAUGURAL ADDRESS OF LIEUTENANT GOVERNOR SAYERS.

Fellow-Citizens, Senators and Representatives :

I enter upon the discharge of the important duties to which the partiality of the people has called me with hesitancy and in doubt as to the wisdom of their choice.

The circumstances that surround us are embarrassing, and the policy most beneficial to this great commonwealth somewhat doubtful.

The people have the right to expect and to demand that their representatives in office shall not only be faithful, capable and honest, but also that they shall be successful in the administration of the affairs with which they may be intrusted.

This rule, so generally observed and acted upon in the practical and personal pursuits of the citizen, should operate with equal force and vigor in matters of public concern.

True it is, that success is a severe test, and not unfrequently works great and unmerited hardship upon those who may be charged with weighty and delicate responsibilities; yet the safety, prosperity and happiness of the body politic require its constant and impartial application, and no one who seeks the honors and assumes the cares, burdens and

perplexities of political preferment, should be heard to deny the justness of the rule, or the propriety of its rigid enforcement.

The interests of the State are many, diversified and often times in harsh conflict, requiring for protection and development the exercise as well of sound discretion and accurate foresight as of liberal concession. In no other way can the harmony of the sections be maintained, their welfare advanced and their connection preserved.

The spirit of self-denial and kindly feeling should always exist, with active and increasing force, to calm the turbulence of excited discussion, to moderate the exertions of selfish interest, and to keep in perpetual glow the consuming and purifying fires of an exalted patriotism. With such impulses to animate the hearts, to control the minds and to direct the energies, it is certain that this people, despite the troubles of the past, the embarrassments of the present and the doubtful issues of the immediate future, will, in a few short years, attain that power and influence, that prosperity and happiness, which they of right should enjoy, and from which they cannot be withheld, except as the consequence of their own folly.

A kind and generous Creator has done many and great things for Texas, and on all sides, wherever the eye may rest, we behold the most abundant and pleasing evidences of the extraordinary munificence of his bounty. He has girded us around with the great deep, upon whose waters may float the navies of the world, bringing to our shores the needful productions of every clime, and receiving in return the surplus yield of field, mine and woodland.

He has made to rise, in lofty and solemn grandeur, the hills and mountains, within whose capacious wombs are stored every ore that may be adapted to the use and enjoyment of man.

He has hollowed out innumerable valleys of surpassing richness, capable of supplying food and raiment to millions and millions of the human race.

He has spread out, as a map, extensive prairies, on whose bosom may arise myriads of homes to comfort and to gladden the many whose hands are browned with honest toil.

He has caused to grow, in exceeding plenty, forests of every kind, more than enough to satisfy the wants of all.

He has furrowed the land with streams, along whose banks will, in time, be heard the busy and constant hum of the spindle and the loom.

Added to all these inestimable benefactions we have a salubrious climate, in which the epidemic can neither originate nor have a continual abiding place, and whose kindly influences on the system will impart to it that strength and vitality so essential to the enjoyment of life and to the growth of a perfect manhood.

With all these advantages—so brilliant and substantial, and such as are seldom elsewhere enjoyed—shall the destiny of this people be marred and blighted by strife, jealousy and hatred, culminating in the division of a State that is an empire in itself? No, my countrymen, I entertain no such fears.

Angry passions may be excited and the political skies become temporarily darkened with threatening clouds, but when the people shall be called to speak they will pronounce, as with one voice and with the sound of a mighty, rushing wind, that Texas shall ever remain one and undivided.

The west will clasp hands with the east, and the north will send fraternal greeting to the south, and from the auspicious union will spring a power and an enjoyment that will make us a very giant among the nations of the earth.

Paramount to all other considerations is the necessity of insuring to the citizen the most ample and complete protection to life, liberty and property. This I conceive to be the first and most important duty, and neither expense nor trouble should discourage the employment of such forces and appliances as might properly be demanded for the accomplishment of so desirable a result.

Life, liberty and property should be sacred.

Adequate means ought to be furnished for the speedy and certain enforcement of the law, and any government that halts in the provision, is unworthy the confidence and support of the people.

It is the prime and chiefest object of government, and the neglect to put forth the utmost exertion to that end should not and will not be excused.

The husbandman, as he tills the field, should breathe securely, apprehending neither danger to himself nor that his property, so laboriously acquired, will be forcibly or stealthily wrested from his enjoyment.

The merchant and the banker should not live in the almost constant dread that his shelves may be emptied and his vaults entered without his consent.

The traveler should not be ever on the alert, lest the robber or the assassin be lurking in his pathway, seeking his purse or his life.

The horses and cattle that roam at large should be as sure to their owners as if under watch and ward, and every species of crime should be promptly visited with its full and appropriate penalty, in order to be known everywhere—abroad and at home—that a strict obedience to the law and a careful respect for the rights of others will constitute the only safeguard to any one within the borders of Texas.

It is not for me to suggest the means to be adopted.

Your wisdom and experience will undoubtedly point the way to the repression of crime, so that all over this broad land—as well in the sparsely settled as in the more densely populated counties—as well on the frontier as in the crowded cities—the rich blessings of perfect security may speedily be crowned with that prosperity so supremely necessary to civilization and refinement, and without which the arts cannot be promoted, nor civil and political liberty expand, nor wealth and independence be acquired, nor morality flourish, nor the hearthstone be radiant with the attractive glow of domestic and social felicity.

With the engrafting into our political system of universal suffrage there has arisen another duty of vital importance to the public welfare, that of popular education. It is a responsibility that cannot be avoided without shame to ourselves and incalculable injury to posterity.

Long years ago, ere the smoke of battle had entirely cleared away, the ill effects of a revolutionary war still existing—the scheme was inaugurated by our fathers, and the wisdom that prompted the idea is plainly manifest in the light that each recurring year unhappily supplies.

The successful development of the common school system will, more than any other effort, tend to countervail the evils that must inevitably accompany the free and almost indiscriminate use of the ballot.

Governments are maintained by force or by reason. One of these

principles must be the agency employed, by which to accomplish the ends for which civil and political institutions are designed.

Neither experience nor research can indicate another mode. When this vast country shall have become as thickly peopled as the states of the old world, and each citizen of the innumerable crowds that will annually congregate at the polls shall be an influential factor in controlling and directing the destinies of the republic, upon which shall devolve the power and the duty of preserving the peace, maintaining the law, and establishing order, and which shall decide the grave political and social problems that will constantly demand solution—an enlightened judgment or a despotic sword.

The question, however difficult and alarming, cannot be ignored. It must be fairly and fearlessly met. Equivocation or hesitancy will be criminal. Delay will be dangerous in the extreme. It will be too late to begin when our means, save by taxation, are exhausted, when the time for action has passed and the enemy is at our very doors. Opportunities wasted rarely return. Yesterday is forever gone; to-morrow may never come; to-day is with us, and is ours to use and to enjoy. Upon this generation devolves the necessity of maturing and carrying into practical operation the plan so wisely devised by the founders of the republic for supplying the intellectual wants of the people.

Moral and mental improvement should move apace with material prosperity, if we would attain that high degree of civilization and refinement, in the absence of which free institutions are always in great and immediate peril.

It is difficult to conceive a single enterprise known to human industry, or a single undertaking that has or may be attempted by human hands, that cannot be better and more easily accomplished when the head has been trained to think, to inquire, and to reflect. The advantages of popular education cannot be over-estimated, and if we would rise to the height of the occasion, and prove ourselves worthy the heritage we enjoy, we must make ample preparation for the great and serious events whose dark shadows are already lengthening themselves before us.

If we would diminish the evils that cluster so thickly around universal suffrage; if we would empty our jails and deplete our penitentiaries; if we would have the rich and abundant productions of nature utilized and developed to their utmost capacity, we should not hesitate for a moment to do all that in us lies, for the diffusion of knowledge amongst those who are to take our places when we shall have been gathered to our Fathers.

Increased taxation will not be necessary. An immense domain is yet undisposed of, and an industrious and enterprising population is hurrying hitherward in great numbers; and if the public school lands be properly handled, they will soon be taken up at their full value, and then will flow into the treasury funds amply sufficient to educate, to a moderate extent, every son and daughter of Texas.

There is another policy conceived and put into execution by the earlier statesmen of Texas, whose memories are revered by a grateful posterity—the furnishing of safe, speedy, economical and easy facilities for travel and transportation. It is a policy made essential by the requirements of this day and generation.

Commercial advantages are indeed of incalculable value, and no people can be prosperous without them.

With the development of agricultural pursuits, and with the perfection of other industries, the aids and appliances of commerce must undergo a corresponding, if not greater advancement, or energy, thrift and economy will be but scantily rewarded; and in the midst of plenty we will be struggling beneath the weight of poverty.

That this policy is liable to great abuse there cannot be a doubt, and Texas, as other states, has suffered and is now suffering the unfortunate results of efforts, repeated and successfully made, under the guise of great public benefit, yet nevertheless to promote individual gain at the expense of the general welfare. But such instances of misapplication of power and means should not produce a change of policy in this respect. Rather should it animate those charged with executive and legislative functions to be more watchful of the public interests; and all future legislation upon this subject should be so directed as to be fruitful of the greatest good to the largest numbers.

I would not be understood as at all favoring the donation of money or the loan of credit by the State to such enterprises. To such a policy I am unalterably opposed.

But Texas cannot afford to have her immense resources undeveloped, or her many and diversified productions unconsumed, or exchanged at ruinous rates for the want of these agencies that trade and commerce employ and require. Millions and millions of the race on this and the other hemisphere are stretching out their eager and starving hand for sustenance and employment. Be it our mission to supply their wants, and at the same time to enhance vastly our own moral, intellectual and material capabilities. We must keep ourselves fully abreast with the age.

The world is a busy, a struggling, and an anxious throng, and this people should lead the van in all the great movements of modern times.

This right and this duty, this honor and this benefit, are ours, as well by virtue of a great and glorious ancestry, as by the immeasurable superiority of our climate, our soil and our position among the states of this Union.

Allusion to another subject particularly interesting to the people at the present time, will, perhaps, be not regarded as improper, or unsuitable to this occasion—the curtailment of every unnecessary expense and the strict confinement of the administration of affairs within the fiscal limits provided by law. In other words, each succeeding Legislature should not be called upon to make a deficiency appropriation.

It will not be exaggeration to say that such policy would, to some extent, be a new departure in Texas politics.

The history of legislation, from the admission of Texas into the Union, down to this day, discloses the fact that the taxation imposed has but seldom been sufficient to meet the expenditures during the time for which they were estimated.

Sound policy requires a change in this respect—especially since every interest is laboring beneath a weight of indebtedness—national, state, municipal and individual—that is indeed appalling, and threatens the utter ruin of almost every industry of the country.

It is confidently believed that your honorable bodies entertain a full and just appreciation of the gravity of this question, and that the incoming administration will use every endeavor to limit the expenses to the supplies, voted as sufficient to maintain an efficient government.

When these things are accomplished—when life, liberty and property shall have become so secure that the most timid need not be afraid, when educational facilities are enjoyed by all alike, when each section shall have become directly connected with the outer world through the instrumentalities of a prosperous commerce, when the necessity for a burdensome taxation shall no longer exist, and it shall be a rule, so fixed as to be without an exception, that the expenditures of government shall not exceed the revenues as estimated by law—then, and not till then, will this people be fully prepared to assume that lofty and honorable position in this grand confederation of states, which is incumbent on them to strive for and to attain.

It requires not a prophet's ken to foresee the day—if we are but faithful to the sacred trusts committed to our care, and appreciative of the manifold and priceless gifts with which we have been so bountifully endowed by a beneficent providence—when the cities along our coast shall, in magnificence, wealth, power and influence excel the Venice and the Genoa of other days, and the waters of the Mexican gulf become more thickly crested with the white sails of a peaceful commerce than ever were or will be the blue waves of the Mediterranean.

Then, too, will the cities of the interior—already so promising of future greatness—acquire that size, that wealth, and that strength, to which their situation, their energy and their enterprise so justly entitle them. Then, too, will the east, from the vast abundance of their timber and ore, supply the west, north and northwest, with the beautiful and comfortable homes, and with those implements of agriculture that are essential to the development of the marvelous possibilities of their deep and fertile soils. Then, too, from the vast granaries and store-houses of the north and northwest will flow, in grand and constant streams, the food that is to sustain the multitudes whose mournful destiny has cast them beneath bleaker skies and upon more barren fields. And, upon the boundless prairies of the west will roam, without number, the flocks and herds that are to contribute to the support of the less fortunate peoples of earth, and along her rapidly running streams will rise, in close proximity, factories to give employment to thousands, and to enhance more than a hundred fold the rich productions of nature.

But more than all this will come to pass. We will have become one people—in fact as in name—and upon millions of household altars will be laid, at morning and at night, the acceptable sacrifices of a people, grateful to the Father of Mercies for the many blessings they enjoy.

The inestimable advantages of peace and plenty will prevail throughout the length and breadth of the land, and the lone star, advancing with rapid and steady pace, will take its rightful position at the very zenith of the American firmament, eclipsing all others in the beauty and brilliancy of its lustre.

To advance Texas to this exalted but well entitled station—to make her great in moral, intellectual and material wealth—and to so order her affairs as will, in coming years, enable her to meet with promptness and success every emergency that may chance to arise in the progress of events, should be an object supremely worthy the loftiest ambition and the most profound statesmanship.

The future looms up grandly and gloriously before us, and we should act in the living present as becomes men who would not only enjoy the confidence and esteem of those whom they represent, but who would also

achieve that immortality which is born of the grateful appreciation of generations yet to come.

On motion of Senator Hobby the Senate then returned to the Senate chamber.

(In Senate.)

Roll called; quorum present.

On motion of Senator Edwards Senator Burton was excused for the day on account of sickness.

The president then introduced Lieutenant Governor Sayers, the new presiding officer of the Senate, and returned his thanks to the Senate in a few appropriate remarks on retiring from the chair.

Lieutenant Governor Sayers, on taking the chair, addressed the Senate as follows:

SENATORS—Called to preside over this honorable body by the suffrages of the people, I shall discharge the duties pertaining to the chair with impartiality. Business of the most important and varied character will be under consideration, and there will necessarily be conflicting but honest differences. I confidently expect to receive the prompt and cordial assistance of every senator to enable me to properly decide such questions as may arise. You may feel assured that you will have my hearty co-operation in all matters, and that I will use every endeavor to facilitate the prompt and easy dispatch of business, and to render the session not only useful to your constituencies but pleasant to yourselves.

Senator Hobby offered the following resolution:

Resolved, That the thanks of the Senate are hereby tendered to the Hon. Wells Thompson, president *pro tempore*, for his uniform courtesy and urbanity, and for the ability, justice and sound judgment which have characterized his conduct as presiding officer of this body.

On motion of Senator Motley adopted by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson. — 29.

NAYS—none.

On motion of Senator Terrell the Senate adjourned until 9 A. M. to-morrow.

EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 22, 1879. }

Senate met pursuant to adjournment; president Sayers in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

A message was received from the House announcing the passage by

that body of a concurrent resolution "to appoint a committee of seven to act with a like committee on the part of the Senate, to whom shall be referred the revision and digest of the civil laws."

Adopted.

The following communication was received from his excellency the governor:

AUSTIN, January 22, 1879.

To the Honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments:

John D. Templeton, of Tarrant county, to be secretary of state.

John B. Jones, of Navarro county, to be adjutant general.

Thomas Ball, of Jack county, to be assistant attorney general.

V. O. King, of Bexar county, to be commissioner of insurance, statistics and history.

Respectfully,

O. M. ROBERTS, *Governor.*

On motion of Senator Ledbetter, the Senate, by the following vote, went into executive session:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport.
Duncan,
Edwards,
Gooch,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—22.

NAYS.

Blassingame,
Ford,

Grace,
Houston,

Ripetoe,
Swain—6.

(In Senate.)

On motion of Senator Edwards, Senator Burton was excused on account of sickness.

Senator Terrell moved a reconsideration of the vote adopting concurrent resolution reported from the House this morning.

Adopted and resolution referred to committee on revision of the code.

Senator Houston introduced a bill entitled "An act for the encouragement of agriculture, and to provide for the collection and preservation of agricultural statistics."

Read by caption and referred to the committee on agriculture.

Also a bill entitled "An act to protect the rights of pre-emption settlers, who have heretofore or may hereafter enlist in the frontier battalion or other military forces of the State."

Read by caption and referred to the committee on public lands.

Senator Davenport introduced a bill entitled "An act for the relief of the heirs of Capt. Silas Dinsmore, deceased."

Read by caption and referred to the committee on private land claims.

Senator Ledbetter introduced a bill entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas."

Read by caption and referred to committee on revision.

Senator Terrell introduced a bill entitled "An act to regulate the fees of collectors of state and county revenue."

Read by caption and referred to judiciary committee No. 1.

Also a bill entitled "An act to provide for the issuing of patents on lands and collecting the fees."

Read by caption and referred to committee on general land office.

Senator Davenport introduced a bill entitled "An act to create the twenty-eighth judicial district of the State of Texas and to prescribe the times of holding the district courts therein."

Read by caption and referred to judiciary committee No. 1.

Also a bill entitled "An act defining the boundaries and prescribing the times of holding the district courts in the twelfth judicial district of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

Senator Terrell introduced a bill entitled "An act to reorganize the seventeenth judicial district of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

Also a bill entitled "An act to amend an act entitled 'an act to fix the times of holding the terms of the district courts for the seventeenth judicial district, including the county of McCulloch.'"

Read by caption and referred to judiciary committee No. 1.

Senator Terrell presented a memorial of Louis Tejada, "asking compensation for services rendered to the State in making a translation of certain Spanish documents in the state department, etc."

Read and referred to committee on claims and accounts.

Senate bill No. 3, entitled "An act concerning judgments," was taken up.

Senator Gooch offered a substitute for the bill.

On motion of Senator Shannon the bill and substitute were referred to judiciary committee No. 1.

Senator Ledbetter moved to print 50 copies of the substitute.

The motion was withdrawn.

Senator Grace offered the following resolution.

Concurrent resolution:

Resolved, That a committee consisting of three members from the Senate and a like number from the House of Representatives be appointed, the duty of which said joint committee shall be to fully inquire into the management of the lunatic, deaf and dumb and blind asylums of the State of Texas; and that said committee shall have power to send for persons and papers, and that the chairman of the said joint committee be empowered to administer oaths to such persons as may be brought before said committee; and that said committee be required to report at the earliest day practicable.

Senator Gooch moved to refer the resolution to the committee on asylums.

Senator Storey offered the following as a substitute for the resolution offered by Senator Grace.

Resolved, That the committees on asylums be and they are authorized to appoint a joint sub-committee with power to investigate fully any matter connected with the several asylums; and that said joint committee, if deemed necessary, be authorized to send for persons and papers, and administer oaths.

The resolution was accepted by Senator Grace as a substitute for his resolution.

Senator Gooch then withdrew his motion to refer the resolution.

The resolution as substituted by Senator Storey was then adopted by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Swain,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson.—27.
	NAYS—Ripetoe.	

On motion of Senator Edwards, Senator Storey was added to judiciary committee No. 1.

Senator Duncan, by leave, introduced a bill entitled "An act for suppression of tramping and punishment of tramps."

Read by caption and referred to judiciary committee No. 1.

On motion of Senator Swain, Senator Tilson was added to the committee on penitentiary.

Senator Houston offered the following joint resolution:

Be it Resolved by the Senate and House of Representatives of the State of Texas, That the Hon. Allen Blacker, judge of the twentieth judicial district of the State of Texas, has permission to leave the limits of the State and to remain absent from the State until the 15th day of February, A. D. 1879.

Referred to committee on state affairs.

On motion of Senator Brown, the Senate adjourned until 9 A. M. tomorrow.

NINTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, January 23, 1879. }

The Senate met pursuant to adjournment; President Sayers in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. Joseph D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate joint resolution No. 61, "granting to Hon. Allen Blacker, judge of the twentieth judicial district, permission to leave the limits of the State," and I am instructed to report the same back to the Senate with the recommendation that it do pass.

Respectfully submitted,

HOUSTON, *Chairman.*

Senator Grace introduced a bill entitled "An act concerning sales of property under execution."

Read by caption and referred to judiciary committee No. 2.

Senator McCulloch offered a joint resolution "Suggesting changes in the judiciary system."

Read and referred to committee on constitutional amendments.

Senator McCormick introduced a bill, entitled "An act for the relief of C. Jordan."

Read by caption and referred to committee on claims and accounts.

Senator Homan introduced a bill entitled "An act to repeal an act to encourage the construction of railroads in Texas by donation of lands."

Read by caption and referred to committee on internal improvements.

Also a bill entitled "An act to amend sections 1, 2, 4 and 5 of an act entitled 'an act to carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,' approved August 15, 1876."

Read by caption and referred to committee on stock and stockraising.

Senator Burton offered the following resolution:

Resolved, That the Senate do now appoint a day for the election of a president *pro tempore* of the senate, as recognized by section 9, article 3, of the state constitution.

Senator Ledbetter moved to amend the resolution by naming to-morrow at 10 o'clock A. M.

The amendment of Senator Ledbetter was accepted by Senator Burton, and the resolution as amended was adopted.

A message was received from the House announcing the passage by that body of Senate bill No. 11, "An act fixing the times of holding the district courts of the seventh judicial district of the State of Texas, approved August 16, 1876;" of concurrent resolution of the House "appointing a committee of five members of the House to act with a like committee appointed by the Senate, the Senate concurring, whose duty shall be to visit the state penitentiaries at Huntsville and Rusk, and carefully examine into the condition, character, capacity, etc., of them, and make a final report of examination, and make such suggestions and recommendations touching both penitentiaries as they may deem expedient," and also that the speaker announced the following committee to confer with the Senate as to the division of committee rooms: Messrs. Baker, Stewart, of Delta, and Johnson, of Shelby.

Senator Houston, by leave, introduced a bill entitled "An act providing the time of holding the district courts in the twenty-fourth judicial district."

Read by caption and referred to judiciary committee No. 1.

Senator Shannon, chairman of committee on internal improvements, by leave, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and subcontractors to pay their wages when due," have duly considered the same, and I am instructed by the committee to report the bill back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Brown moved that the question whether there is any claim to the use of the room in the capital known as "committee room No. 1," which may conflict with its use by the committees on engrossed and enrolled bills, be referred to the special committee on committee rooms, appointed under resolution adopted January 16.

Adopted.

Senator Swain, chairman of committee on penitentiary, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee on penitentiary having had the penal affairs of the State under consideration, and having conferred with a like committee on the part of the House in joint session, instruct me to report that it is important and necessary to send a committee to visit the penitentiaries to inspect the condition and management of the same; also the adoption of the following resolution, which your committee ask the Senate to adopt.

SWAIN, *Chairman.*

Resolved, That a sub-committee of two be appointed by the committee on penitentiaries, to act in conjunction with a like sub-committee of three from the House, whose duty it shall be to visit the penitentiaries at Rusk and Huntsville and examine into the character, capacity, condition and management of the same, and make a report of their action to the committees of both houses, and make such suggestions and recommendations touching both of said penitentiaries as they deem proper; and said joint sub-committees shall have power to send for persons and papers and administer oaths; and shall have power to employ such aid as they deem expedient, and that the expenses of said sub-committee shall be paid out of the contingent fund.

Adopted.

Senator Grace offered the following resolution:

Resolved, That the Senate be authorized to appoint three general clerks whose duty it shall be to serve committees, and to assist the engrossing and enrolling clerks when necessary.

Senator Ledbetter moved to amend by having them elected by the Senate.

Amendment accepted by Senator Grace.

Senator Lair moved to lay the resolution on the table.

Motion, on request, withdrawn.

Senator Lair moved to strike out the word "three" and insert "two" in the resolution.

Senator Storey offered the following substitute for the resolution and pending amendments:

Resolved, That the committee clerks be required, when necessary and not otherwise engaged, to assist the enrolling and engrossing clerks in the discharge of their duties.

On motion of Senator Burnett the resolution, substitute and amendment were referred to the committee on contingent expenses by the following vote:

YEAS.

Blassingame,
Brown,
Burnett,
Ford,
Hobby,
Homan,
Houston,

Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—20.

NAYS.

Buchanan,
Burton,
Davenport,

Duncan,
Edwards,
Grace,

Lane,
Lair—8.

On motion of Senator Edwards, the Senate went into executive session.
(In Senate.)

The president of the senate, after publicly reading its caption, signed Senate bill No. 11, "An act fixing the times of holding the district courts of the seventh judicial district of the State of Texas," approved August 16, 1876.

On motion of Senator Dunean, the Senate adjourned until 9 A. M. to-morrow.

TENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 24, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

On motion of Senator Buchanan, Senator Storey was temporarily excused.

On motion of Senator Ford, Senator Houston was excused on account of sickness.

A message was received from the House announcing the passage by that body of Senate bill No. 27, "An act prescribing the times of holding the district courts in the third judicial district of the State."

The president of the senate, after publicly reading its caption in open Senate, signed House bill No. 17, "An act making an appropriation for the mileage and per diem pay of the members and the per diem pay of the officers and employes of the Sixteenth Legislature."

On motion of Senator Edwards, Senator Guy was excused until Monday next.

Senator Blassingame offered the following resolution:

Resolved, That the number of daily papers subscribed for by the Senate be reduced to 500 copies.

Senator Swain moved to amend by striking out "500" and inserting "300."

Senator Davenport moved to strike out "300" and insert "100."

Senator McCulloch offered the following as a substitute for the pending resolution:

Resolved, That the number of papers taken by the Senate be reduced to 500, and equally divided between the *Gazette*, *Statesman* and *Galveston News*.

Senator Martin moved to lay the pending resolution, with amendments and substitute, on the table.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Ford,
Gooch,

Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Motley,
Ripetoe,
Stewart,
Swain,
Terrell,
Tilson--19.

NAYS.

Blassingame,
Burnett,
Edwards,

Grace,
Hobby,
Lair,

Moore,
Patton,
Shannon--9.

Senator McCormick moved to reconsider the vote just taken, and to lay this motion on the table.

Carried by the following vote :

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Ford,
Homan.

Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Swain,
Terrell—17.

NAYS.

Blassingame,
Burnett,
Burton,
Edwards,

Gooch,
Grace,
Hobby,
Lair,

Patton,
Shannon,
Tilson—11.

Senator Motley offered the following resolution:

Resolved, That the secretary, the first and second assistant secretaries, the enrolling, engrossing and calendar clerks, the chaplain, the sergeant-at-arms, the assistant sergeant-at-arms, the doorkeeper, and any committee clerks that may hereafter be appointed, shall each receive \$5 (five dollars) per day.

Senator Gooch moved to refer the resolution to the committee on contingent expenses.

Withdrawn by the senator, when he moved to strike out the words, "and any committee clerks that may hereafter be appointed." The amendment was accepted by the mover, Senator Motley.

The resolution as amended was then adopted.

Senator Lane introduced a bill entitled "An act requiring the owners of land to pay the taxes due thereon before recording their titles thereto."

Read by caption and referred to judiciary committee No. 1.

Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and subcontractors to pay their wages when due," was taken up and read first time.

On motion of Senator Ford, fifty copies of the bill and accompanying report were ordered printed.

On motion of Senator Stewart, the bill was made the special order for Tuesday next at 10 o'clock A. M., and from day to day until disposed of.

Senator Storey, by leave, introduced a bill, entitled "An act to amend section 683 of the Code of Criminal Procedure of this State."

Read by caption and referred to judiciary committee No. 1.

Joint resolution, "granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district," was taken up and read first time.

Senator Swain introduced joint resolution "proposing an amendment to the constitution of the State of Texas."

Read by caption and referred to the committee on constitutional amendments.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. Joseph D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined Senate bill No. 11, "An act to amend an act entitled 'an act fixing the time of hold-

ing the district courts of the seventh judicial district of the State of Texas,' approved August 13, 1876," and find the same correctly enrolled, properly signed, and presented said bill to the governor for his signature at 9:30 A. M. this day.

GRACE, *Chairman.*

Senator Tilson, chairman of the committee on counties and county boundaries, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on counties and county boundaries, to whom was referred Senate bill No. 49, to be entitled "An act to give effect to section 2 of article 9 of the constitution, regulating the manner of removing and locating county seats," have had the same under consideration, and I am instructed to report the same back with the recommendation that it do pass.

TILSON, *Chairman.*

The hour having arrived to go into the election of a president *pro tempore* of the senate the president announced the same, and that nominations were in order.

Senator Edwards nominated Senator Hobby.

Senator Tilson nominated Senator Storey.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called. Absent—Senators Duncan, Shannon and Terrell.

The sergeant-at-arms was dispatched for absent senators.

The absent senators appearing, the call was suspended and pending business resumed.

Senators Grace, Tilson and Shannon were appointed by the president as tellers.

The first ballot resulted as follows:

Senator Hobby received 17 votes and Senator Storey 12 votes.

The president of the senate then announced that as Senator Hobby had received a majority of the votes cast he declared him duly and constitutionally elected president *pro tempore* of the Senate.

Senators Lair, Gooch and McCormick were appointed by the president as a committee to escort the president *pro tempore* elect of the Senate to the chair, which duty they immediately performed, when Senator Hobby, in a few appropriate remarks, thanked the senators for the honor just conferred upon him.

(President *pro tempore* in the chair.)

Senate bill No. 49 entitled "An act to give effect to section 2, article 9, of the constitution, regulating the manner of removing and locating county seats," was taken up and read first time.

On motion of Senator Tilson, fifty copies were ordered printed.

On motion of Senator Ledbetter, the Senate went into executive session.

(In Senate.)

(The president in the chair.)

A message was received from the House announcing the passage by that body of joint resolution No. 4, "on yellow fever," and the following concurrent resolution:

Resolved by the House of Representatives, the Senate concurring, That a committee of nine members of the House be appointed by the speaker on the revision and digest of the civil laws of the state as reported to the

Legislature, to whom, with a like committee on the part of the Senate, such revision and digest shall be referred.

On motion of Senator McCormick the rules were suspended and joint resolution No. 4, "on yellow fever," just reported from the House, was taken up and read first time.

Senator Shannon offered the following resolution:

Resolved, That there be added to the standing committees of the Senate a committee on judicial districts.

Read, and on motion of Senator Davenport referred to committee on rules.

On motion of Senator Ledbetter the Senate adjourned until 9 A. M. to-morrow.

ELEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 25, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

Senator Moore introduced a bill entitled "An act to provide for the payment of witnesses and officers in certain criminal cases."

Read by caption and referred to judiciary committee No. 1.

Senator Swain, chairman of the committee on penitentiary, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiary, to whom was referred Senate bill No. 42, entitled "An act to provide for the care and protection of the East Texas penitentiary," have had the same under consideration and a majority of said committee instruct me to report the same back to the Senate with an amendment and recommend its passage, as amended.

SWAIN, *Chairman.*

Amendment of committee: Strike out "one hundred" where it appears in the bill and insert "seventy-five."

Senator McCormick, chairman of committee on revision of the rules, submitted the following report:

Hon. Joseph D. Sayers, President of the Senate:

Your committee on revision of rules, to whom was referred the resolution to create a new standing committee on judicial districts, have had the same under consideration and have instructed me to report the resolution back with the recommendation that the same be adopted.

McCORMICK, *Chairman.*

The report of the committee was adopted.

Senator Stewart introduced a bill entitled "An act amendatory of an act entitled 'an act to provide for and regulate mechanics', contractors', builders' and other liens in the State of Texas,' approved August 7, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Storey offered the following resolution:

Resolved, That the injunction of secrecy of the executive session of

Thursday, so far as the same relates to the nomination of Mr. Ball as assistant attorney general, be and the same is hereby removed.

Resolution adopted.

Senator Grace offered the following resolution:

Resolved, That the president of the senate appoint a special committee of three senators, who shall have power to bring persons and papers before it, for the purpose of inquiring into the matter of an article in the *Galveston News*, dated January 24, 1879, headed, "Sixteenth Legislature," column second, first page, in which there is claimed an expose of the secret session of this Senate.

Resolution adopted, and the president appointed on said committee Senators Grace, Stewart and Houston.

The president, after reading its caption in open Senate, signed Senate bill No. 37, entitled "An act prescribing the times of holding the courts in the third judicial district of the State."

Senator Gooch introduced a bill entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property."

Read by caption and referred to judiciary committee No. 2.

Senator Brown, chairman of the committee on contingent expenses, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on contingent expenses, to whom was referred resolution and substitute concerning the election of committee clerks, have had the same under consideration, and instruct me to report the following resolution and recommend its passage, viz:

Resolved, That the Senate do now proceed to the election of three general clerks, whose duty it shall be to serve committees and to assist the engrossing and enrolling clerks when necessary.

BROWN, *Chairman.*

Senator Edwards offered the following substitute:

Resolved, That whenever the chairman of any committee shall need a clerk he shall report the same to the Senate, and with the consent of the Senate may appoint a clerk, who shall serve such time only as he is actually employed, and for such time shall be paid five dollars per day.

Senator Duncan moved to strike out the word "employed" and insert the word "retained."

Motion accepted by Senator Edwards.

Substitute adopted, and the resolution of committee as substituted was then adopted.

Senator Storey, for the committee on penitentiary, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiary have the honor to report to your honorable body that, under resolution asking the appointment of sub-committee of two from the Senate committee, to act with a like sub-committee on the part of the House, to visit the penitentiary, they have appointed W. J. Swain and Wm. Blessingame as such sub-committee on the part of the Senate.

STOREY, *for Committee.*

A message was received from the House announcing the passage by that body of House bill No. 18, entitled "An act prescribing the times

of holding the district courts in the fourteenth judicial district," and that Representatives Baker, Coleman and Stewart, of Delta, were appointed a sub-committee on the part of the House to visit the penitentiaries at Huntsville and Rusk.

On motion of Senator Ledbetter, Senator Burnett was granted leave of absence till Saturday next.

House concurrent resolution to appoint a committee of nine, on the part of the House, and a like committee on the part of the Senate, "on the revision and digest of the civil laws of the State," was taken up and referred to the committee on "revision of the code."

Senate joint resolution No. 61, granting leave of absence to Judde A. Blacker, of the twentieth judicial district, was taken up, read second time and ordered engrossed.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. Joseph D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined senate bill No. 27, entitled "An act prescribing the times of holding the district courts in the third judicial district," and find the same correctly enrolled and properly signed, and was at 9:30 o'clock A. M. this day presented to the governor for his signature to the same. GRACE, *Chairman.*

House joint resolution No. 4, "on yellow fever," was taken up and read second time.

Senator Gooch offered the following amendment to the resolution: "An imperative public necessity requires that the constitutional rule that this resolution be read three several days in each house should be suspended."

Adopted.

On motion of Senator McCormick, the rules were suspended and the resolution placed on its third reading by the following vote:

YEAS.

Blassingame,	Hobby,	Moore,
Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson--27.

NAYS—none.

Resolution read third time and passed by the following vote:

YEAS.

Blassingame,	Hobby,	Moore,
Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson- 27.

NAYS—none.

On motion of Senator Duncan, the Senate went into executive session.

(In Senate.)

On motion of Senator Motley, Senator Ford was excused indefinitely, on account of sickness.

The president appointed the following committee on judicial districts: Senators Shannon, Davenport, Stewart, Houston, Lane, Swain, Buchanan, Gooch, Homan, Moore and Ford.

On motion of Senator Stewart, Senator Hobby was added to the committee on judicial districts.

Senator Storey offered the following resolution:

Resolved, That Senate rule 22 be so amended as to hereafter read as follows, viz: "Rule 22—When a question is under debate no motion shall be received except, first—to adjourn; second—a call of the house; third—to reconsider; fourth—for the previous question; fifth—to amend; sixth—to commit; seventh—to lay on the table; eighth—to postpone for a time certain; ninth—to postpone indefinitely; which several motions shall have precedence in the order in which they stand arranged."

Read and referred to the committee on rules.

Senator Edwards offered the following resolution:

Resolved, That the Senate be relieved from the injunction of secrecy as to the matters relating to the confirmation of Major John B. Jones, as adjutant general; and that the committee, appointed to investigate the source of the article published in the *Galveston News*, of January 24, be instructed to inquire into and ascertain whether rules 84 and 85 have been violated and by whom; and that said committee have full power to send for persons and papers and examine witnesses.

Senator Duncan moved that the portion of the resolution relating to the removal of secrecy of the executive session be stricken out.

Accepted by Senator Edwards and resolution as amended adopted.

The president added Senator Edwards to the committee appointed to-day on the resolution of Senator Grace.

Senator Homan offered the following resolution:

Resolved, That the injunction upon the proceedings had in executive session upon the nominations made by his excellency the governor, be removed.

Lost by the following vote, it requiring a unanimous vote to adopt:

YEAS.

Blassingame,
Brown,
Burnett,
Burton,
Duncan,
Edwards,
Grace,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

Moore,
Motley,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell—21.

NAYS.

Buchanan,
Davenport,
Gooch,

McCormick,
McCulloch,
Patton,

Storey,
Tilson—8.

On motion of Senator Storey, the secretary was ordered to inform his excellency the governor that the Senate does advise and consent to his nomination of J. D. Templeton as secretary of state, Thomas Ball as assistant attorney general, V. O. King as commissioner of insurance, statistics and history, and J. B. Jones as adjutant general of the State of Texas.

On motion of Senator Brown, the rules were suspended and House bill

No. 18, entitled "An act prescribing the times of holding the district courts of the fourteenth judicial district," was taken up and read first time.

Senator Brown moved to suspend the rules and place the bill on its second reading.

Senator Gooch raised the point of order that the clause declaring an imperative public necessity requiring the immediate passage of the bill does not appear in the bill, and that the rules cannot, therefore, be properly suspended.

The point of order was sustained by the president.

Senator Edwards offered the following resolution:

Resolved, That the rules be amended, as follows: Any bill or resolution may be amended on its first reading to the extent of adding an emergency and public necessity clause, as provided for in the constitution, sections 32 and 39.

Read and referred to committee on rules.

On motion of Senator Brown, the Senate adjourned until 10 o'clock Monday morning.

TWELFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, JANUARY 27, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of Saturday read and adopted.

A message was received from the House announcing the passage by that body of House bill No. 3, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Leon county, and to conform the jurisdiction of the district court of Leon county to such change."

Senator Grace presented the memorial of many citizens of Fannin county asking for the repeal of the present law imposing occupation taxes.

Read and referred to judiciary committee No. 2.

Senator Lair presented the petition of the grand jury of Collin county asking the passage of a law against rolling on ten pin alley or betting at the same and giving many forcible reasons therefor.

Read and referred to the committee on state affairs.

Senator Terrell introduced a joint resolution "proposing an amendment to the constitution of the State of Texas regulating suffrage."

Read and referred to committee on constitutional amendments.

Senator Stewart, chairman of judiciary committee No. 2, offered the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred joint resolution "granting leave of absence from the State to Walter Acker, district attorney of the seventeenth judicial district of the State," have duly considered the same, and I am instructed to report the same back to the Senate with the recommendation that such joint resolution do pass.

STEWART, *Chairman.*

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have examined Senate bill No. 61, being a joint resolution granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district, and find it correctly engrossed.

BROWN, *Chairman.*

Senator Terrell, chairman judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your committee on judiciary No. 1, to whom was referred a bill to be entitled "An act to change the jurisdiction of the county courts and to conform the jurisdiction of the district court to such change," have considered the same, and instruct me to report the bill back with the recommendation that it do pass.

TERRELL, *Chairman.*

The bill was then read first time.

Senator Davenport moved that fifty copies of the bill be printed, and that it be made the special order for Friday next at 11 A. M., and from day to day until disposed of.

Senator McCormick moved to change the fifty copies to three hundred copies to be printed. This motion was accepted, and the motion, as amended, was adopted.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred a bill to be entitled "An act to secure to creditors a just division of the estates of debtors who convey to assignees or trustees for the benefit of creditors," have considered the same, and instruct me to report it back to the Senate and recommend that it do pass.

TERRELL, *Chairman.*

Bill read first time and on motion of Senator McCormick fifty copies of the bill and report ordered printed, and made the special order for Monday next at 11 o'clock A. M., and from day to day until disposed of.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2, to whom was referred a bill entitled "An act regulating the election of clerks of the district and county courts in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore holding both of said offices," have duly considered the same, and I am instructed by a majority of said committee to report the same back to the Senate with the recommendation that such bill do pass.

STEWART, *Chairman.*

Bill read first time.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred a bill to be entitled "An act for the suppression of tramping and punishment of tramps," have carefully considered the same. We are unanimous in the opinion that the social problem, which the rapid increase of the tramp element presents, can only be solved in Texas by timely legislation and adequate penalties. The essential features of the bill are borrowed from the statutes of New Hampshire, where the law is in force, and has in that state

suppressed the evil. I am unanimously instructed by the committee to return the bill with the recommendation that it do pass.

TERRELL, *Chairman.*

Bill read first time and, on motion of Senator Shannon, fifty copies ordered printed.

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 1, to whom was referred Senate bill No. 55, entitled "An act to regulate the fees of collectors of the state and county revenue," instruct me to report the same back and request that it be referred to the committee on finance. TERRELL, *Chairman.*

Report of committee adopted and the bill so referred.

Senator McCormick, chairman of committee on revision of the rules, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The committee on rules, to which was referred the resolution that the rules be amended as follows: "Any bill or resolution originating in the House of Representatives may be amended on its first reading to the extent of adding an emergency and public necessity clause, provided for in the constitution, section 32 and section 39," have had the same under consideration, and have instructed me to report that, in the opinion of the committee, the power of the houses to suspend the constitutional rule requiring every bill to be read three several days, does not depend upon the form, the clauses or the verbiage of the particular bill, but upon the existence of such particular fact or state of facts as shall, in the opinion of the requisite number of the members of the house, in which the bill is pending, authorize such suspension of the rule; that the direction in the sections of the constitution referred to, that the particular public necessity and the particular emergency should be expressed in the preamble or in the body of the bill, is fully satisfied by incorporating a statement thereof, either on the second or third reading of the bill; that the question on the suspension of the rules is not one of clauses in the bill, but one of facts or statement of fact to be judged of by members of the house acting thereon; and that the question of order founded on the absence of any statement in the bill of the cause of the suspension of the rule referred to does not arise until the bill has reached the point of putting the main question on its final passage, when, if it had not been read on three several days, the vote on the final passage should not be taken until the cause of the suspension of the rule was made to appear in the bill. The committee are, therefore, of opinion that the change in the rules proposed by said resolution is unnecessary to facilitate the passage of bills in imperative public necessity and emergency cases, and instruct me to return the resolution with the recommendation that the Senate do not adopt it.

McCORMICK, *Chairman.*

On motion of Senator Story, fifty copies of the report and resolution were ordered printed and the resolution made the order for Tuesday (tomorrow) just after the morning call.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 1, to whom was referred a bill to be entitled "An act to create the twenty-eighth judicial district," have ex-

amined the same, and instruct me to return the bill with a request that it be referred to the committee on judicial districts.

TERRELL, *Chairman.*

Report of committee adopted and bill so referred.

Hon. J. D. Sayers, President of the Senate :

Your committee on judiciary No. 1, to whom was referred Senate bill No. 58, entitled "An act defining the boundaries of and prescribing the times of holding the district courts in the twelfth judicial district of Texas," have considered the same, and instruct me to report it back with the recommendation that it do pass.

TERRELL, *Chairman.*

Bill and report read.

Hon. J. D. Sayers, President of the Senate :

Your committee on judiciary No. 1, to whom was referred a bill to be entitled "An act for the election of a district attorney in certain judicial districts in the State of Texas," have considered the same, and I am instructed to return the bill to the Senate with the recommendation that the bill do pass.

TERRELL, *Chairman.*

Bill and report read.

A message was received from the House announcing the passage by that body of House bill No. 12, entitled "An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature."

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on judiciary No. 1, to whom was referred a bill to be entitled "An act to provide for the election of a district attorney in the fourth judicial district, have considered the same, and instruct me to report that the object proposed by the bill named can be accomplished by the passage of Senate bill No. 46, which was this day returned to the Senate by your committee and recommended for favorable action. Your committee, therefore, ask to be discharged from further consideration of the act first referred to.

TERRELL, *Chairman.*

Report and bill read.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2, to whom was referred a bill entitled "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or to complete payment for court-houses and jails," have duly considered the same, and I am instructed by said committee to report it back to the Senate with the recommendation that it do pass.

STEWART, *Chairman.*

Bill read first time.

Senator Motley, chairman of the committee on state asylums, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee on state asylums, in pursuance of a resolution adopted on the 22d instant, met with the House committee on Saturday for the purpose of appointing a sub-committee to investigate the condition, etc.,

of the state asylums, and have instructed me to report to your honorable body that they have selected the following senators as said sub-committee on the part of the Senate, to wit: Senators Blassingame, Lair, Grace, McCulloch and Motley.
MOTLEY, *Chairman.*

Senator Lane, chairman special committee to meet congressional committee having charge of Hon. Gustave Schleicher's remains, etc., submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee appointed agreeably to concurrent resolution passed by the House of Representatives and Senate of the Sixteenth Legislature on the 15th day of January, 1879, delegating a number of senators and representatives, to meet the congressional delegation having in charge the remains of the late Hon. Gustave Schleicher, would respectively report that your committee proceeded to Denison where they joined the congressional committee and received the remains from their hands and placed them in a car provided specially for that purpose; and would further report that the request of this honorable body was made known to Mrs. Schleicher, surviving widow of the deceased, that the body of her late distinguished husband be deposited in the state cemetery, at the city of Austin, which was respectfully declined, for the reason that the city of San Antonio was the burial place of two of their children. From thence your committee, joined by the congressional committee, proceeded to the city of San Antonio, where our distinguished charge was received by a committee of the municipal authorities for interment. The body was then laid in state and visited by thousands of our fellow-citizens. And after appropriate funeral services the remains were borne to the cemetery, accompanied by the congressional, legislative and municipal committees, military and a large concourse of citizens, and there deposited in the tomb.

The committee take this occasion to express their grateful acknowledgements to the International and Central railroad companies for courtesies extended, and especially their obligation and thanks to Messrs. Jordan and Cave, of the Central, for their consideration of the comfort of the committee and their uniform kindness and attention.

All of which is respectfully submitted.

LANE, *Chairman.*

Senator Swain introduced a bill to be entitled "An act to provide for the speedy and authoritative publication of the opinions of the supreme court and court of appeals of the State of Texas in the *Texas Law Journal.*"

Read by caption and referred to judiciary committee No 2.

Senator Storey introduced a bill entitled "An act to set aside the available school fund remaining on hand for the fiscal year ending August 31, A. D. 1879."

Read by caption and referred to the committee on finance.

Senator Shannon introduced the following bill entitled "An act to regulate and control the assessment of taxes on real estate."

Read by caption and referred to the committee on state affairs.

Also a bill entitled "An act to amend sections 9 and 36 of an act entitled 'an act to provide for the election of justices of the peace and to define their power and jurisdiction,' approved August 17, 1879."

Read by caption and referred to judiciary committee No. 1.

Senator Gooch introduced the following bills entitled "An act to pro-

vide for designating and working public roads, and streets and sidewalks in incorporated towns and villages."

Read by caption and referred to judiciary committee No. 1.

And "An act to validate certain acts of notaries public, who have used seals with the word 'Texas' engraved between the points of the star thereon, instead of around the margin thereof."

Read by caption and referred to the committee on state affairs.

Senator Davenport introduced a bill entitled "An act to amend section 15 of an act entitled 'an act to organize the district courts, and to define their powers and jurisdiction,' approved May 11, 1846."

Read by caption and referred to judiciary committee No. 1.

Senator Ledbetter introduced a bill entitled "An act to authorize the owners of land in unorganized counties, who themselves are non-residents of said counties, to render their lands and pay their taxes on the same at the comptroller's office."

Read by caption and referred to committee on state affairs.

Senator Moore offered the following resolution:

Resolved, That the senator from Navarro county be added to the committee on judicial districts.

Adopted.

Senator Ripetoe offered the following resolution:

Resolved, That the committee on constitutional amendments be requested to report by bill or otherwise the required amendments to the constitution by the thirtieth instant, so that the Senate may be better prepared to act on bills or resolutions that may come before it.

Senator McCulloch offered the following resolution as a substitute for the one offered by Senator Ripetoe:

Resolved, That the committee on constitutional amendments be instructed to take into consideration the general subject of what amendments are necessary to the state constitution, and that they report by bill or otherwise.

On motion of Senator McCulloch, both resolutions were referred to the committee on constitutional amendments.

Senator Tilson offered the following resolution:

WHEREAS, It is believed that the office of postmaster as a separate office in the Senate is unnecessary, and that the duties pertaining to said office can be performed by the sergeant-at-arms without materially interfering with his office; therefore,

Resolved, That the office of postmaster as it now exists be discontinued, and that the sergeant-at-arms be required hereafter to perform and discharge all the duties heretofore incumbent on or pertaining to said office of postmaster of the Senate without any additional compensation.

Senator Blassingame offered the following as a substitute for the resolution of Senator Tilson.

Resolved, That the number of pages appointed in the Senate be reduced to two, and the number of porters to two, and that the postmaster be discharged and his duties performed by the assistant sergeant-at-arms, as formerly.

On motion of Senator Ledbetter both resolutions referred to the committee on contingent expenses.

Senator McCormick, by leave, introduced a bill entitled "An act declaring the amount of the capital stock of railway companies heretofore chartered by special acts of the Legislature of this State."

Read by caption and referred to the committee on internal improvements.

Senator Houston introduced the following bill entitled "An act to authorize county judges to solemnize the rites of matrimony and to validate marriages heretofore solemnized by them."

Read by caption and referred to judiciary committee No. 2.

Senator Grace, by leave, introduced a bill entitled "An act concerning incorporated cities and towns."

Read by caption and referred to judiciary committee No. 2.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

As chairman of judiciary committee No. 1 I am instructed by resolution of the committee to appoint a clerk for that committee, the Senate consenting. I respectfully ask the consent of the Senate, for the services of a clerk are now needed.

TERRELL, *Chairman.*

On motion of Senator Hobby, the chairman of judiciary committee No. 1 was authorized to appoint a clerk for his committee.

Senator Burton offered the following resolution:

Resolved, That the sergeant-at-arms be instructed to procure a table on which to envelop papers for mailing.

Adopted.

Senator Shannon offered the following resolution:

Resolved, That the committee on state affairs be instructed to inquire into the propriety of suppressing, if possible, the indiscriminate slaughter of buffalo within the limits of the State, and report by bill or otherwise.

Referred to the committee on state affairs.

Senator Edwards offered the following resolution:

Resolved, That the sergeant-at-arms of the senate be required to have printed one hundred lists of the standing committees of the Senate for the use of the members and officers of the same.

Adopted.

Senator Homan offered the following resolution:

Resolved, That the committee on revision of rules of the Senate be instructed to consider and report upon the propriety of abolishing rules 84, 85 and 86, requiring executive session of the Senate to be in secret.

Read and referred to the committee on rules.

Senator Edwards, by leave, introduced a bill entitled "An act to regulate the county finances of the several counties in this State."

Read by caption and referred to judiciary committee No. 1.

Also the following resolution:

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That article 7, section 3, of the constitution does not require the Legislature to set apart any part of the revenue derived from *ad valorem* taxation for the benefit of the public free schools, unless the annual revenue is more than sufficient to meet the necessary expenses of the State government, exclusive of the public free schools.

Read and referred to the committee on finance.

A message was received from the House announcing the passage by that body of House joint resolution No. 4, "on yellow fever," and that the sub-committee, on the part of the House, to investigate the state asylums, are Representatives Larkins, Gibson, Garrison, Daugherty and Crow.

House bill No. 18, entitled "An act prescribing the times of holding the district courts of the fourteenth judicial district," was taken up and read second time.

Senator Brown offered the following amendment:

Amend by inserting the following section as section 4, making section 4, as it now stands in the bill, section 5:

SECTION 4. And whereas, by reason of the accumulation of civil business in the district court of Falls county, an imperative public necessity exists which justifies the suspension of the rules requiring bills to be read on three several days, the rule requiring said reading is hereby suspended.

Adopted.

Senator Moore offered the following amendment:

Amend section 1 as follows: Strike out all after the word "Falls" and insert in place thereof the following: "On the third Monday in February and August, and may continue in session six weeks. In the county of Bell on the first Mondays in April and October, and may continue in session four weeks. In the county of McLennan on the first Mondays in May and November, and may continue in session ten weeks."

Adopted.

On motion of Senator Brown, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

NAYS—none.

The bill was read third time and passed by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Motley,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—28.

NAYS—none.

Senate bill No. 42, entitled "An act to provide for the care and protection of the East Texas penitentiary," was taken up and read first time.

Senator Gooch moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCormick,
McCulloch,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

The bill was then read the second time and the amendment of committee adopted.

Senator Swain moved to strike out "seventy-five" and insert "fifty" in the bill as amended by the adoption of report of committee.

The motion of Senator Swain was then adopted and the bill ordered engrossed.

The rules were then suspended and the bill placed on its third and final reading by the following vote:

YEAS.

Blassingame.
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

NAYS—none.

The bill was then read third time and passed by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

NAYS—none.

A message was received from his excellency the governor.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 1, to whom was referred Senate bill No. 3, entitled "An act concerning judgments," and substitute therefor, after considering the same, have instructed me to report the substitute for the bill and recommend its passage. TERRELL, *Chairman.*

On motion of Senator Terrell, 100 copies were ordered printed.

On motion of Senator Edwards the Senate adjourned until 10 o'clock A. M. to-morrow.

FOURTEENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 28, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

The president announced that the time had arrived for special order, Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors to pay their wages when due."

On motion of Senator Stewart, the special order was postponed until after the special order is disposed of that comes up just after the morning call.

The message received on yesterday from his excellency the governor was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 27, 1879. }

To the honorable the Senate and House of Representatives, in session assembled:

To increase the force and efficiency of the judiciary, the following recommendations are respectfully made: At the last session of the Legislature there was a strong sentiment on the part of many persons that the judicial system adopted in the constitution of 1876 was very defective. Subsequent experience has verified the accuracy of their judgment. At the solicitation of some distinguished gentlemen, I then drew up a "judicial department," which was introduced in the Legislature as an amendment to the constitution. It was not adopted. It is again laid before you for consideration, having been republished for the purpose and placed upon your tables, not so much to recommend its adoption now as an entirety as to throw light upon that which is recommended for the purpose of perfecting gradually that which is found defective in that department. And, first, as to the supreme and appellate courts:

The business of the supreme court having accumulated until it was found impracticable for that court to keep up with it, the court of appeals was created to give the necessary relief in the dispatch of the business. It has not done so, for at the end of the last judicial term of said court, 30th of June last, there were over nine hundred cases left undecided in the supreme court and over two hundred in the court of appeals. This showed an increase rather than a diminution of cases left undecided, notwithstanding the diligent efforts of both courts, working day and night for nine months in the year. The leading objects of a court of last resort should be, first, to decide rightfully; second, unity of action and uniformity of decisions; and, third, a prompt dispatch of business before it.

To accomplish these objects, I respectfully recommend that the constitution be amended so as to have one supreme court, composed of nine justices, one of them being as now chief justice, with a power by themselves exercised at each term of forming three sections, composed of three justices in each, one of which shall hear and determine criminal appeals as long as there are any during each term, and the other two shall decide civil causes by such division of them as may be by them agreed on from

time to time during the term. In each section a concurrence of all three justices shall be sufficient to render a judgment, with the right given to any one of the justices in any of the sections to submit a case to the whole court, composed of all of the justices present, when a majority of those acting shall determine a judgment. By a provision in said amendment the present justices of both courts could be retained, and three more elected by the first Monday in October next, so as then to take their seats on the bench. With the continual increase in the population, wealth and consequent litigation, it is not probable that fewer justices could ever promptly do the business, and if it should so happen, an amendment of the constitution could readily be adopted reducing the number. This unity of action with a power of division would be less expensive than two courts, except the increased amount of the salaries, and greatly less than two courts and a commission, and it is believed would be more satisfactory to the public generally. And as it is now evident that something must be done, and that quickly, this is what I believe would be best.

Another amendment of the constitution that I respectfully recommend is that district attorneys be appointed by the governor in each judicial district, to hold their office for four years, removable at the pleasure of the governor, and to be given the same salary as the district judge, without any fees of office. My reasons for this are:

1. That the district attorney is peculiarly an executive officer representing the State; and, as the governor is required by the constitution to see that the laws are executed, he should be given full control of the attorney for the State to enable him to do it, and then he may be justly held responsible for it. As it is now every district attorney and county attorney in the State is an independent executive officer, with full discretion as to how he shall conduct suits and prosecutions for the State, and as to whether, in any given case, he will do it at all or not.

2. That the district attorney ought to be as good a lawyer as the district judge, which will rarely happen in the elective plan, because there is a prevailing and deep seated opinion among the people, upon which, from long habit, they constantly act in voting, that the district attorney's office belongs to some rising or clever young lawyer, and that it should be given to him to give him a start upward in his profession. The result is that if he succeeds he soon leaves it; and if not, the State continues to have a deficient officer not competent to defend its interests against more able lawyers employed against it.

And, thirdly, to give him such a salary would be a saving of expense to the State. The district and county attorneys now receive from the state treasury, for the year ending August 31, 1878, for fees, \$38,470; for salaries of six district attorneys, \$3000; making in all, \$41,000. If all of the twenty-seven districts had had district attorneys, the amount would have been \$51,970. In addition to these fees and salaries, the attorneys are allowed ten per cent. on collections for the State. A salary of \$2500 for twenty-seven districts, without fees and commissions, would amount to \$67,500; if they were given a standing salary of \$2000 the amount would be \$54,000. This amendment would abolish the office of county attorney as it now exists, it having been found to be so clearly a failure, with an occasional exception, as not to require any comment to elucidate its impracticability. I respectfully recommend the amendment of the constitution taking away from the county court all civil and crim-

inal business, except that which relates to its jurisdiction as a probate court. The wording of section 22, of article v, of the constitution, that gives the Legislature the power to increase, diminish or change the jurisdiction of that court, when considered in connection with section 15 of the same article establishing said court, may be regarded as not justifying clearly the authority of the Legislature in doing this by the passage of a law. This plan of establishing county courts has often been tried, and has just as often failed to meet expectations, and has been abandoned after trial. Competent judges will not be generally elected. It is expensive in several ways, but especially in the allowance of salaries to the judges by the county courts, whether rightfully done or not.

If the members of the Legislature will ascertain and collate the aggregate amount of such allowance, they will find, it is believed, the amount greater than that paid by the State to all of the district judges. Therefore, if the transfer of its business to the district court should double the districts the people would lose nothing in the expenses of the courts by the change, while they would gain much in the manner in which their cases would be decided. If the Legislature should desire to adopt an amendment of the entire judicial department in accordance with the general plan presented in that which was submitted to the last Legislature, it might be modified by substituting the above provisions or such others as they might deem proper. The difficulty in that, however, is that it would require much legislation to put it properly in force, and for that reason it should only take effect at the next meeting of the Legislature.

Should the Legislature not desire to adopt and submit an amendment of the constitution in relation to district attorneys, then it is respectfully recommended that a law be passed providing for the election of district attorneys in all of the districts, and regulating the division of fees between them and the county attorneys, accordingly as they may be required to act separately or conjointly.

It is submitted, also, whether the civil and criminal business be taken away from the county courts, that the number of judicial districts should be increased so as to secure a certain dispatch of the whole of the business at each term. It has not been thought proper to refer to many other subjects upon which the legislation might be improved, because the revised and digested codes are now before the Legislature and have been published at so late a day that it has been impracticable to ascertain what improvements have been therein inserted for the consideration of the Legislature. It is for the wisdom of the Legislature to determine whether these codes shall be taken up and acted on at once or deferred until the matters relating to the financial affairs of the State and other matters of pressing necessity shall have been acted on. As the executive must act continually upon official business, but little opportunity will be afforded to examine the codes during the session of the Legislature, and therefore he must greatly rely upon the cautious investigations of the Legislature, should they be submitted to him for his approval. It is especially recommended that the learned gentlemen who have digested and revised the statutory laws be continued in their positions and directed to prepare and submit a full set of forms of indictments, bonds, recognizances, writs, petitions in ordinary suits and other instruments, so far as may be practicable, to be adopted as parts of the codes.

It is respectfully recommended that there should be in each house of

the Legislature a standing committee upon court expenses, whose special business it should be to see that the necessary expenses are properly provided for in all of the courts, from the highest to the lowest. This is a subject that does not directly attract the attention of either the finance or judiciary committees, and, as I have had occasion to know, does not always get the special attention of either. There are no reports made to the comptroller or any other department of such expenses, and therefore the comptroller is not prepared to make estimates for them, otherwise than it has usually been done previously, and not in reference to any certain information of what is actually required. The judicial department, it is believed, could be improved, and its expense in all of the courts could be reduced by a critical examination of committees raised every session for that specific purpose.

There may be other provisions for increasing the force and efficiency of the judiciary, some of which appears in the report of the attorney general, and others will occur to the members of the Legislature.

I have presented to your consideration only such matters as I desire to call your special attention.

Inasmuch as the session had advanced a week before I came into office, and the reports of the different departments have only very recently been accessible to me, and I was not, until a few days before my inauguration, informed of what measures would be recommended by the governor in his message, I trust I shall be indulged in presenting for your consideration the facts pertaining to the existing condition of our state government and my recommendations thereon, as I may be able, from time to time, and as early as I may be able to collect and exhibit them, without waiting the time necessary to combine them in one message.

O. M. ROBERTS.

On motion of Senator Swain, 1000 copies of the foregoing message was ordered printed.

A message was received from the House announcing its concurrence in senate amendments to House bill No. 18, entitled "An act prescribing the times of holding the district courts of the fourteenth judicial district."

Senator Shannon, chairman of committee on internal improvements, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

I am instructed by your committee on internal improvements to report the following resolution and recommend its adoption:

Resolved, That there be printed for the use of the Senate 100 copies of Senate bill No. 12, entitled "An act to regulate the management of railroad companies."

SHANNON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 65, entitled "An act to repeal 'an act to encourage the construction of railroads in Texas by donations in lands,' approved August 16, 1876," have had the same under consideration, and a majority of said committee instruct me to report it back to the Senate with their recommendation that it do not pass.

SHANNON, *Chairman.*

Senator Homan, from the committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The undersigned, of the committee on internal improvements, respectfully dissents from the action of a majority of said committee in reporting adversely upon Senate bill No. 65, to repeal "An act to encourage the construction of railroads by donations of lands." The donation of public lands of Texas to railroad corporations is believed to be contrary to sound public policy. It has in the past operated disadvantageously to the best interests of the people of the State, who demand that the heritage for which the fathers of our independence struggled, shall be reserved for the benefit of actual settlers and the support of public free schools. To stop the further absorption of our rich domain by railroad companies, in order that it may be preserved to the uses above indicated, the passage of Senate bill No. 65 is necessary, and the undersigned so recommends.

W. K. HOMAN.

Bill read first time.

Senator Storey, chairman of the committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

With the advice and consent of the committee on finance, and with the committee on treasurer's and comptroller's departments, I have appointed Randolph Lawrence clerk for said committees, and request that he be placed on the pay roll from and after January 29, 1879.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 34, entitled "An act to amend section 6 of an act entitled 'an act to regulate taxation and to fix the rate of the same,' passed at the session of the Fifteenth Legislature, in A. D. 1876," have duly considered the same, and I am instructed by the committee to report the same back to the Senate with the recommendation that it do not pass.

STOREY, *Chairman.*

Bill read first time.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred the memorial of George A. King, asking to be relieved of a judgment recovered by the State of Texas against him as surety on the official bond of B. T. Scoggin, sheriff of Falls county, which bond was executed on the 29th day of January, 1871, for the sum of \$7,400, beg leave to report that they have carefully considered the same, and find that the petitioner presents a case worthy of the relief prayed for and which your committee would gladly recommend but for section 55, of article 3, of the constitution of this State, which, in express terms, prohibits the Legislature from doing so, wherefore I am instructed by the committee to return the memorial back to the Senate with the recommendation that the prayer of the memorialist be denied.

STEWART, *Chairman.*

Senator Hobby, chairman of committee on revision of the codes, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the codes, in view of the necessity therefor, have instructed me to apply to the Senate for authority to employ a clerk, to be retained until his services are no longer required.

HOBBY, *Chairman.*

Report read and adopted.

Senator Houston introduced a bill entitled "An act regulating juries in capital cases."

Read by caption and referred to judiciary committee No. 2.

Senator Grace offered the following resolution:

Resolved, That the committees on military and state affairs jointly take into consideration the advisability of abolishing and discontinuing the frontier battalion, and report a bill, if necessary, substituting the same by creating a smaller force, whose duty shall be fully defined; said committees to examine fully into the management, expenditures, etc., of said frontier battalion for the last two years, and said committees shall report their action at as early a day as practicable.

Senator Houston moved to refer the resolution to the committee on frontier protection.

On motion of Senator Grace, the committees on Indian affairs and frontier protection were substituted for those named in the resolution.

On motion of Senator Houston, the committee on military affairs was added.

Senator Houston introduced a bill entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a Code of Criminal Procedure for the State of Texas.'"

Read by caption and referred to judiciary committee No. 2.

Senator Buchanan introduced a bill entitled "An act to amend section 23 of an act entitled 'an act to regulate grand juries and juries in civil and criminal cases in the courts of the State.'"

Read by caption and referred to judiciary committee No. 1.

Senator Lane introduced a bill to suppress lawlessness and crime, and organize a force for that purpose.

Read by caption and referred to the committees on Indian affairs and frontier protection.

Senator Terrell introduced a bill entitled "An act to regulate the payment of public money by the state treasurer."

Read by caption and referred to the committee on finance.

Senator Burton introduced a joint resolution "To amend section 24, of article 3, of the constitution of the State of Texas."

Read and referred to the committee on constitutional amendments.

Senator Duncan introduced a bill entitled "An act to provide for transcribing county records in certain cases."

Read by caption and referred to judiciary committee No. 1.

The president, after reading its caption, signed, in open Senate, House joint resolution No. 4, "on yellow fever."

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 42,

“An act to provide for the care and protection of the East Texas penitentiary,” and find it correctly engrossed. BROWN, *Chairman.*

The following House bills were taken up for reference to appropriate committees:

House bill No. 3 entitled “An act to diminish the civil and criminal jurisdiction of the county court of Leon county, and to conform the jurisdiction of the district court of Leon county to such change,” was referred to judiciary committee No. 2.

House bill No. 12, entitled “An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature,” was referred to the committee on contingent expenses.

The following message was received from his excellency the governor:

AUSTIN, January 27, 1879.

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the appointment of Thomas J. Goree to the office of superintendent of the penitentiary at Huntsville, Texas.

Respectfully,
O. M. ROBERTS, *Governor.*

The special order for this hour being the resolution of Senator Edwards, requiring a change in the rules of the Senate with regard to amendments in cases of emergency and public necessity, as required by sections 32 and 39, of article 3, of the state constitution, with adverse report of committee on rules on the same, was taken up and read.

On motion of Senator Ledbetter, the report of the committee was adopted and the resolution lost.

Senator Shannon's resolution, offered this morning, as chairman of the committee on internal improvements, requiring that 100 copies of Senate bill No. 12, entitled “An act to regulate the management of railroad companies,” was taken up and adopted.

Senate bill No. 15, entitled “An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors to pay their wages when due,” being a special order, was taken up and read second time.

Senator Stewart offered the following amendment to the bill:

Amend the caption of bill by adding after the word “due” the words “and to provide a lien for such wages.”

Adopted.

Senator Gooch offered an amendment that the first word in fourth line of section 5, third page, be stricken out and the word “enacted” be substituted therefor.

Adopted.

Senator Ford offered the following:

In section 2, line 11, between the words “sub-contractor” and “and,” insert “or agent of any company.”

Adopted.

(Senator Edwards in the chair.)

Senator Shannon offered the following:

Insert in third line of caption, after the word “sub-contractor,” the words “or agents.”

Adopted.

Senator Tilson offered the following:

Amend by adding section 5, to read as follows: "That all laws and parts of laws in conflict with the provisions of this act be, and the same are hereby, repealed."

Adopted.

Senator Duncan offered the following:

Insert after seventh line in section 1, "which lien may be perpetuated, as is now provided by law in the case of laborers' and mechanics' liens."

Senator Patton offered the following:

Insert the following section: "Sec. 4. The lien created by this act shall cease and be inoperative in twelve months after creation of the lien, if no steps be sooner taken to enforce it." And number sections 4 and 5 in the present bill as sections 5 and 6.

Accepted by Senator Duncan as a substitute for his amendment, and adopted.

Senator Motley offered the following:

Substitute "due or owing" for "owing," in section 1, line 6.

Adopted.

Senator Terrell offered the following:

Section 5, after the word "once," insert "because the parties to be benefited by this act have no adequate protection under existing law."

Adopted.

The bill was then ordered engrossed.

On motion of Senator Stewart, the rules were suspended and the bill put upon its third reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—30.

NAYS—none.

Bill was then read third time and passed by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—30.

NAYS—none.

(President in the chair.)

The special order being Senate bill No. 13, entitled "An act to provide for the time and place of holding the supreme court of the State of Texas," and Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas," Senator Guy moved that their consideration be postponed until Tuesday next.

Senator Ledbetter moved to amend by striking out "Tuesday" and inserting "Monday next."

Accepted by Senator Guy.

Senator Grace moved to amend by having 50 copies of Senate bills Nos. 13 and 14 printed for the use of the Senate.

His amendment accepted, and the motion to postpone and print was adopted by the following vote :

YEAS.		
Blassingame,	Hobby,	Moore,
Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson—25.
Guy,		
NAYS.		
Burton,	Lane,	Stewart—5.
Edwards,	Ripetoe,	

Senator Terrell, by request of attorneys for memorialists, presented the memorial of Merriek & Durant asking for relief.

Referred to the committee on state affairs.

Senator Hobby, by leave, offered the following resolution:

Resolved, That the committee on rules be instructed to report to the Senate what, in the opinion of the committee, is the proper construction of the term "read" as used in Senate rule No. 27, and especially to report whether said rule requires a bill to be read *in extenso* in case four-fifths of the Senate suspends the same.

Adopted.

On motion of Senator Stewart, Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or to complete payment for court houses and jails," and heretofore reported from judiciary committee No. 2, was re-referred to said committee.

On motion of Senator Storey, Senator Stewart was added to the committee on finance.

Senator Edwards moved to adjourn until to-morrow at 9 o'clock A. M. Lost by the following vote :

YEAS.		
Blassingame,	Ford,	Moore,
Edwards,	Lane.	Swain—6.
NAYS.		
Brown,	Homan,	Motley,
Burton,	Houston,	Patton,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Gooch,	Martin,	Storey,
Grace,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—22.
Hobby,		

Senator Grace offered the following resolution:

Be it resolved by the Senate of the State of Texas, the House concurring, That the treasurer of the State of Texas be and is hereby required

when any moneys, bonds, warrants, etc., belonging to this State are to be deposited, paid out, sold, received, etc., in any bank or banking institution, public or private, within or out of the State, to transact such business for the State with such bank or banking institutions, public or private, which is known to be solvent and reliable, that will handle such moneys, bonds, warrants, etc., without charge, or which will do the business for the least amount of percentage, said treasurer to act regardless of his predilections in such transactions.

Resolution read and referred to the committee on finance.

Senator Ledbetter moved that to-morrow at 11 A. M. be set apart by the Senate to go into executive session on the consideration of the appointment of the superintendent of the penitentiary sent in by his excellency on this morning.

Senator McCormick moved that Tuesday next, at 10 o'clock, be set apart for the above named purpose.

Senator Lebetter then withdrew his motion, and the motion of Senator McCormick was adopted.

On motion of Senator McCulloch the Senate adjourned until 10 o'clock to-morrow.

FOURTEENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 29, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

Senator Shannon presented the petition of many citizens of Throckmorton county, asking that they be detached from Shackelford county and attached to Young county for judicial purposes, giving many reasons therefor.

Read and referred to judiciary committee No. 1.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred House bill No. 3, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Leon county, and to conform the jurisdiction of the district court of Leon county to such change," have duly considered the same, and I am instructed by a majority of the committee to report the same back to the Senate with their recommendation that it do pass.

STEWART, *Chairman.*

Bill read first time.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 85, entitled "An act to authorize county judges to solemnize the rites of matrimony and to validate marriages heretofore solemnized by them," have duly considered the same, and I am instructed by the committee to report said bill back to the Senate with their recommendation that it do pass.

STEWART, *Chairman.*

Bill read first time.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 33, entitled "An act to provide for making it the duty of incorporated towns and cities to keep in repair their streets and bridges, and to relieve the inhabitants thereof from road duty," have duly considered the same, and it is the opinion of a majority of your committee that said bill, if passed, would create much litigation and subject incorporated towns and cities to great damage; wherefore they instruct me to report the same back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

Bill read first time.

A message was received from the House announcing the passage by that body of House bill No. 135, entitled "An act to make an appropriation to pay postage and expressage of the comptroller's office for six months, commencing January 1, 1879, and ending June 30, 1879."

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 2, to whom was recommitted Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or complete, or to complete payment for court houses and jails," have carefully re-examined said bill, and finding that there is no constitutional objection thereto the committee have instructed me to report said bill back to the Senate with their recommendation that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 2, to whom was referred Senate bill No. 44, entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes, and to regulate their compensation,' approved August 21, 1876," instruct me to report said bill back to the Senate, and ask that it be referred to the finance committee.

STEWART, *Chairman.*

Report of committee adopted and the bill referred to committee on finance.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill, entitled "An act providing for the transportation of convicts under contract from the counties in which they are convicted to the penitentiary," have considered the same, and instruct me, at the instance of the senator offering the bill, to report the same back to the Senate and ask that it be referred to the committee on penitentiary.

STEWART, *Chairman.*

The report of the committee was adopted and the bill so referred.

Senator Moore, chairman of the committee on commerce and manufactures, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The committee on commerce and manufactures, to whom was referred Senate bill No. 32, to be entitled "An act supplemental to and amendatory of an act entitled 'an act concerning factors and commission merchants,' approved February 11, 1860," and which took effect 10th April,

1860, have had the same under consideration, and instruct me to report the bill back to the Senate and recommend its passage, with the accompanying additional section.

MOORE, *Chairman.*

Section 8. The liens provided for in the preceding sections of this bill shall not attach to any property stolen or otherwise fraudulently taken from possession of the true owner.

(President *pro tem.* in the chair.)

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate bill No. 21, entitled "An act to provide for designating and surveying three million and fifty thousand acres of the unappropriated public domain, for the erection of a new state capitol and other necessary public buildings at the seat of government, and to provide a fund to pay for surveying said lands," and unanimously instruct me to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *Chairman.*

Bill read first time and, on motion of Senator Grace, 50 copies of the bill were ordered printed and made the special order for Saturday next at 10:30 o'clock A. M., and from day till day until disposed of.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 38, entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas," would report that they have duly considered the same, and instruct me to report the same back with the recommendation that it do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 80, entitled "An act to amend sections 9 and 36 of an act entitled 'an act to provide for the election of justices of the peace and to define their powers and jurisdiction,' approved August 17, 1876," beg leave to report that they have carefully considered the same, and do recommend the following amendments: Strike out "sections 2, 3 and 4 of the bill," and they do further recommend that the bill, as amended, do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 39, entitled "An act to amend section 3 of 'an act regulating interest,' approved August 21, 1866," have considered the same, and instruct me to report it back with the recommendation that it do not pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 68, entitled "An act to amend section 683 of the Code of Criminal Procedure of this State," have considered the same, and instruct me to report it back with the recommendation that it do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 91, entitled "An act to fix and regulate the fees of all the officers of the State of Texas, and the several counties thereof," have considered the same and instruct me to report the same back to the Senate and ask that it be referred to the committee on revision of the code.

TERRELL, *Chairman.*

Report of the committee adopted and bill so referred.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 3, entitled "Petition of citizens of Jones county asking to be attached to the county of Taylor for judicial purposes," have had the same under consideration, and instruct me to report it back to the Senate and ask that it be referred to the committee on judicial districts.

TERRELL, *Chairman.*

The report of the committee was adopted and the bill so referred.

Hon. J. D. Sayers, President of the Senate :

Your committee on judiciary No. 1, to whom was referred Senate bill No. 67, entitled "An act prescribing the times of holding courts in the twenty-fourth judicial district," have considered the same and instruct me to report it back to the Senate and ask that it be referred to the committee on judicial districts.

TERRELL, *Chairman.*

Report of committee adopted and bill so referred.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 69, entitled "An act requiring the owners of land to pay the taxes due thereon before recording their title thereto," have considered the same, and instruct me to report it back to the Senate with the recommendation that it do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 78, entitled "An act to provide for designating and working public roads, streets and sidewalks in unincorporated towns and villages," have carefully considered the same and instruct me to report it back with the accompanying amendments, and recommend that as amended the bill do pass.

TERRELL, *Chairman.*

SECTION 7. The order of the county commissioners' court, made in pursuance of the provisions of this act, may be made at any regular or special term of said court; *provided*, that the assignment of hands shall extend only to the first regular term of said court in the month of February of each year.

SEC. 8. Whereas, The fact that there is no law now in force providing for the opening and working of the streets, highways and sidewalks in unincorporated towns, creates an emergency and imperative public necessity for the immediate passage and taking effect of this act; therefore,

Be it further enacted, That this law take effect from and after its passage.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred the Senate bill

No. 28, entitled "An act to make bail bonds and recognizances in criminal cases a lien on the real estate of the obligors on same; to provide for registration of same; and to prevent discharge of defendant until said lien is recorded," have had the same under consideration and instruct me to report it back with the accompanying substitute therefor, and recommend that the substitute do pass. TERRELL, *Chairman.*

The bill, with substitute and report of committee, were read.

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 91, to be entitled "An act to regulate the payment of the public money by the state treasurer," beg leave to report that they have duly considered the same, and I am instructed to report the same back to the Senate with the recommendation that the same do pass.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors or agents, to pay their wages when due, and to provide a lien for such wages," and find it correctly engrossed. BROWN, *Chairman.*

Senator Storey introduced a bill entitled "An act to create a lien in favor of proprietors of livery or other public stables, and to provide for the manner in which the same may be enforced."

Read by caption and referred to judiciary committee No. 1

Senator Shannon introduced a bill entitled "An act to attach the county of Throckmorton to the county of Young for judicial purposes."

Read by caption and referred to judiciary committee No. 1.

Senator Stewart introduced a bill entitled "An act for the disposal of the public free school lands, and to secure the proceeds thereof for the benefit of said schools."

Read by caption and referred to the committee on finance.

Also a bill entitled "An act to fix the fees of department of state in certain cases."

Read by caption and referred to the committee on state affairs.

Senator Gooch introduced a bill entitled "An act to provide for the payment and redemption of the bonds of the State of Texas that will become redeemable on the first day of July, 1879, and for the payment of approved pension certificates by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same.

Read by caption and referred to committee on public debt.

Senator Grace offered the following resolution:

Resolved, That the committee on finance be required to inquire into the matter of the indebtedness of the State to school teachers prior to September 1, 1873, and, if necessary, to report a bill making provision for the payment of such claims by amendment or original bill.

Read and referred to the committee on finance.

Senator McCormick introduced a joint resolution "giving the con-

sent of the Senate for certain late lessees of the penitentiary to sue the State."

Read by caption and referred to judiciary committee No. 2.

Senator McCulloch introduced a joint resolution proposing an amendment to the constitution, changing sections 2, 5 and 24 of article 3.

Read and referred to committee on constitutional amendments.

Senator Edwards introduced a bill entitled "An act regulating the finance of the several counties in the State and the mode and manner of keeping the accounts pertaining thereto."

Read by caption and referred to judiciary committee No. 1.

Senator Edwards introduced a joint resolution, "proposing an amendment to the constitution of the State of Texas" (article 5, judicial department.)

Referred to committee on constitutional amendments.

Senator Grace (by request) presented a memorial of Moran Brothers to the Texas Legislature.

Referred to committee on claims and accounts.

On motion of Senator Lane 50 copies of Senate bill No. 69 entitled "An act requiring the owners of land to pay the taxes due thereon before recording their titles thereto," were ordered printed, and the bill made the special order for Thursday week (February 6), and from day to day until disposed of.

On motion of Senator Houston, Senator Edwards was added to the committee on state affairs.

(The president in the chair.)

Senator Hobby (by leave) introduced a bill entitled "An act to provide for the organization of the state penitentiaries, and to regulate the management of the convicts therein."

Read by caption and referred to the committee on revision of the code.

On motion of Senator McCormick, the rules were suspended and Senate bill No. 52, entitled "An act supplemental to and amendatory of an act entitled 'an act concerning factors and commission merchants,' approved February 11, 1860, and which took effect April 10, 1860," was taken up, 50 copies ordered printed and made the special order for Wednesday next at 10:30 A. M.

Senate bill No. 6, entitled "An act regulating the election of county and district court clerks in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore holding both offices," was read second time.

Senator Duncan offered the following amendment:

Amend caption of the bill by inserting after the word "heretofore," in the sixth line of caption, the words "and now."

On motion of Senator Tilson, it was adopted.

Senator Grace offered the following:

Strike out all of section 1 after the word "officer," in line 10 of the bill.

Lost.

The bill was then ordered engrossed.

Senate bill No. 34, entitled "An act to amend section 6 of an act entitled 'an act to regulate taxation and to fix the rate of the same,' passed at the session of the Fifteenth Legislature, in 1876," was read second time, with adverse report of the committee.

On motion of Senator Edwards, the report of the committee was adopted and bill lost.

Joint resolution "granting leave of absence to Hon. Walter Acker, district attorney for the seventeenth judicial district, from the State," was read second time and ordered engrossed.

Senate bill No. 46, entitled "An Act to provide for the election of a district attorney in certain judicial districts of the State of Texas," was read second time.

Senator Tilson moved to make the bill the special order for Thursday next at 11 o'clock, A. M.

Senator Stewart moved to strike out "the twenty-first district."

Senator Motley moved to strike out "the second district."

Senator Storey made the point of order that Senator Tilson had moved to make the bill a special order.

Point of order overruled.

Senator Stewart withdrew his amendment.

Senator Motley withdrew his amendment.

Senator Tilson's motion to postpone and make a special order for Thursday next, at 11 o'clock A. M., was adopted.

On motion of Senator Edwards, 50 copies of the bill were ordered printed.

Senate bill No. 49, entitled "An act to give effect to section 2, article 9, of the constitution, regulating the manner of removing and locating county seats," was read second time.

On motion of Senator Storey, the further consideration of the bill was postponed until Saturday week, and made the special order for that day after the morning call.

Senate bill No. 58, entitled "An act defining the boundaries of and prescribing the times of holding the district courts in twelfth judicial district of Texas," was read second time.

On motion of Senator Shannon, the bill was referred to the committee on judicial districts.

Senate joint resolution No. 61, "granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district," was read third time and passed.

A message was received from the House announcing the passage by that body of House bill No. 2, entitled "An act to repeal an act entitled 'an act to levy a tax on the privilege of keeping and harboring dogs, and to provide for the assessment and collection of the same.'"

Senate bill No. 65, entitled "An act to repeal 'an act to encourage the construction of railroads in Texas by donations of lands,' approved August 16, 1876," was taken up and read the second time with the majority and minority reports.

Senator Edwards moved to adopt the majority report.

Senator Homan moved to substitute the minority for the majority report.

Senator Terrell moved to postpone the further consideration of the bill till next Wednesday, and have 50 copies of the bill and reports printed, and made the special order for that day, at 10:30 A. M.

The motions of Senators Edwards and Homan were withdrawn, and that of Senator Terrell was adopted.

Senate bill No. 17, entitled "An act to provide for the election of a

district attorney in the fourth judicial district of the State of Texas," was read the first time with adverse report of the committee.

Report of committee adopted and bill lost.

The adverse report of the committee on the memorial of George A. King, one of the sureties on the bond of B. T. Scoggin, defaulting sheriff of Falls county, was taken up and read.

On motion of Senator Houston, the report was adopted and the prayer of the memorialist not granted.

The following message was received from his excellency the governor:

To the honorable, the Senate and House of Representatives in Legislature assembled:

Deeming it very important that the present financial condition of the State should be presented for your consideration in providing the means for carrying on the government, I respectfully submit to you the following facts and recommendations in relation thereto: Our taxable property is estimated at about \$300,000,000, which, with the poll tax and occupation tax, as heretofore levied, will yield, as it is estimated by the comptroller, \$1,600,000 net revenue.

Our bonded debt is something over \$5,000,000, upon which the annual interest is about \$360,000. On the thirty-first of August last there were outstanding debts contracted by authority of law, over and above the appropriation for the fiscal year ending on that day, an amount estimated at \$300,000. And it is believed to be equally as large, if not larger, at this date.

There is now in the treasury on hand, of current revenue, available for the payment of debts and for carrying on the government, only about \$10,000. There is no probability of money coming into the treasury from the collection of taxes or from any other source sufficient to pay promptly the interest on our bonded debt and also to defray the ordinary current expenses, including the expenses of the present Legislature, for the first moneys that are collected by tax collectors has been and is being paid to the counties for their share of the common school fund, for which orders have been given under the common free school law of 1876.

The constitution, article 3, section 50, provides that the debt created by the State to supply deficiencies in the revenue shall never exceed, in the aggregate, at any one time, \$200,000, so that if that amount of the deficiency should be funded by issuing bonds or interest warrants, still there would be \$100,000 of the deficiency to be paid out of the current revenue of this fiscal year, which commenced the 1st of September, 1878.

There has appeared in the appropriation bills passed at former sessions an item of \$100,000, as a sinking fund to be appropriated to or invested for the ultimate payment of the bonded debt. Not a dollar has been so reserved or appropriated, from the facts, as it is presumed, that all of the money that came into the treasury was used to pay interest and appropriations made for other purposes, and none was left for that. The law of 1876 is imperative in requiring this amount to be reserved out of the revenue, and disposed of as above stated. During the last fiscal year over \$80,000 was appropriated for the support of the lunatic asylum and for the deaf and dumb and blind institutions of learning, and it is reported that a considerable outlay, in addition to their ordinary support, should now be provided for improvements.

The penitentiary at Rusk, in Cherokee county, during the last two

fiscal years has cost in the erection \$160,000, and it will require that amount, or more, to be appropriated to complete it so as to work convicts in it. A considerable amount is said to be needed for improvements at the Huntsville penitentiary.

The frontier battalion and the company of police force under Captain Hall, has cost the State during the last two years, nearly \$200,000 each year, and it is represented that an adequate force will cost at least \$150,000 this year.

The conveying convicts to the penitentiary is now costing at the rate of \$50,000 to \$70,000 per annum, an amount as great if not greater than that paid by the lessees for their hire annually, it being a little over thirty-six dollars per year for each one.

By the law of 1870 pensions were allowed to Texas veterans, which, in 1874, resulted in giving out over \$1,000,000 in ten per cent. bonds, which may be called in during next July if the Legislature will authorize the issuance of other bonds at a lower rate of interest as recommended by the comptroller. During the session of 1874 another pension act was passed giving one hundred and fifty dollars per annum to indigent pensioners of the same class. Claims have been proved up and recognized under this law already, which, at that rate, will require \$85,000 annually to be appropriated.

The time has arrived for the assessment of taxes to commence and property will be assessed for this year, and the taxes assessed now, under the present tax laws, will be collected during the fall and winter of this year and winter and spring of next year, so that any improvement that you may make during the present session in the tax laws for the increase of the revenue will come into operation in the assessment of next year and will not be felt in the way of giving material relief until it is collected in the fall and winter of next year. If, then, you desire and intend to close the present fiscal year, ending on the 30th of August next (unless the time is changed), it is respectfully suggested that you must reduce expenses for the balance of this year so as to pay \$100,000 deficiency out of revenue and issue bonds or interest warrants for the other \$200,000 deficiency. If such bonds be not issued warrants will necessarily go down to a low figure, and our own citizens will lose by a discount upon them far greater than the interest on bonds that may be issued. And it is better and more just that all of us should share the burden consequent upon the inability of the government promptly to pay than to impose it upon those who have and will have earned the money to which they may be entitled according to law. It must be recollected that the money which you can use during this fiscal year up to August 30 is that which will be derived from the assessment of last year, and not from the assessment of this year now already commenced, or about to commence, under the present tax law, except that you might now alter the occupation tax for the balance of the year and have it collected quarterly or otherwise, as you might deem proper. The *ad valorem* tax is fixed by the assessment of property on hand on the first day of January, 1878. Now, in order to help out the tax assessed last year to pay the expenses of this year, so as, if possible, to have no deficiency at the end of August next (if that remains the end of the fiscal year), I respectfully recommend that a law be passed at once, and to take effect at once, upon the emergency arising upon the facts that I have here arrayed, imposing an occupation tax upon the retailers of spirits,

vinous and malt liquors, to be collected monthly, and to be determined as to its amount by the number of drinks or other quantities sold, and a like occupation be imposed upon all common carriers of passengers for travel upon railroads, the public highways and waters within the State, the amount of which to be determined by the number of persons carried, irrespective of their residence or citizenship. A very small tax thus imposed and promptly collected will produce a large amount of revenue during the present fiscal year. There may be, also, other changes in the occupation taxes tending, in a less degree, to the same end. There may also be an increase of fees in the office of the secretary of state and in that of the commissioner of insurance, statistics and history, and in the general land office, and in the reduction of some of the salaries of officers, that will tend to the same result. These measures will not only give a prospect of relief in the present fiscal year, but also may be expected, if persisted in, to swell the revenue of the next year so that at the end of that fiscal year we will certainly have accomplished the desirable object of having the annual revenue actually received fully adequate to meet the actual expenses incurred without any longer being cramped by a continually recurring deficiency. Any other relief for the present fiscal year must be attained by a reduction of appropriations, and consequent authorization of expenditure compared to that of the last fiscal year, which is easily ascertained by reference to the act of appropriation of 1876.

We will do very well for this fiscal year if we sustain the charitable institutions, such as asylums and schools, upon the same standard as last year, except such addition in the way of improvements as may be found indispensable. The frontier and police force may well be reduced to \$150,000 instead of \$200,000, proportionately for the balance of the fiscal year.

We should make the best possible contract with the lessees of the penitentiary, or somebody else, to complete the penitentiary at Rusk, Cherokee county, and convey the convicts to the penitentiary, so that, as nearly as possible, to make the whole penitentiary self-supporting for the present fiscal year, it being impossible to put the convicts in the penitentiary during the present fiscal year without increasing an expense that cannot now be borne by the revenue at our command. We may reduce the pensions from \$150 to \$100 per annum, and save at the rate of \$28,000 per annum. One hundred dollars now will buy more than one hundred and fifty would in 1874, when the indigent pension law was enacted. The treasurer may be relieved from reserving any sinking fund if this Legislature will inaugurate the policy of selling the public lands to pay the bonded debt; that, together with a prompt payment of the interest, will sustain the credit of the State. There is a large amount of unpaid taxes due from non-resident owners of lands situated in unorganized counties. The constitution, article 8, section 12, requires that such lands "shall be assessed and the taxes thereon collected at the office of the comptroller of the state." There being no law to enforce this provision, the payment is voluntary; and most of such owners have declined to pay according to the valuation placed upon the lands by the comptroller. If a law was passed to enforce this provision the valuation of the lands might be provided for, so as to be authoritative and binding upon the owners. Many of these lands are of small value at this time, and if an equitable and fair valuation be placed upon them the owners

may at once come forward and pay the taxes upon them without being forced to do so by a sale of the lands. If they should do so it is estimated that it will bring into the treasury \$150,000.

The expenses of the lunatic asylum and of the deaf and dumb and blind institutes of learning may be reduced, by requiring those in charge of them to support themselves and their families as other officers of the State do.

The incidental expenses of all of the departments may be closely examined into, and may be reduced without material injury to the service. And if it should be found absolutely necessary, all salaries and fees of officers paid out of the treasury that, under the constitution, can be reduced, should be diminished in their amounts, wherever found practicable.

The reason why such stress is laid upon the necessity of getting rid of any deficiency during the present fiscal year is: that so long as it exists the warrants will not be promptly paid, and will necessarily be at a discount of from three to fifteen per cent., and possibly greater, by which those entitled to them will lose from ten to fifty thousand dollars annually, to the continual discredit of the State and its government.

Those who have been drawing compensation from the treasury for services rendered during a portion of the last five years will readily appreciate the fact that this statement is no exaggeration.

Your research may reach other items of present expense that may be curtailed. It is only by increasing temporarily the revenue in the way that I have pointed out, or in some other that your wisdom may dictate and by a reduction of expenses (compared to the last fiscal year), that it is possible to make the revenue that will come into the treasury defray the current expenses and pay up the deficiency of \$100,000 by the end of the present fiscal year.

There being now no appropriation act in force, except that for the pay of the members of the Legislature; passed at this session, I respectfully recommend that the appropriation bill of 1877 and 1878 be copied and passed into a law, to take effect and have force from the first day of the present month until some day late in the present session, and until another appropriation act shall have been passed.

By this means the present defect of a want of appropriation can be obviated, and when, during the session, another appropriation bill may be passed, according to the wish of the Legislature, to take effect from its date and to continue in operation for two years from that date, and thereby obviate the inconvenience of there being necessary, as now, a period when there is no act of appropriation in force. And, in this connection, I would respectfully recommend that the end of the fiscal year be fixed for the future at the end of November in each year, instead of August, so as to bring it as nearly as practicable to the time of the meeting of the Legislature at each session, and thus the fiscal year would end in time for the accounts of the different departments to be closed and reported to the Legislature, and still the appropriation would be continued in force, as made at each previous session, until the Legislature could enact another bill during its session.

So far I have been considering how laws may be passed at this session to give relief to the present fiscal year, ending the 31st of August next, or, as I recommend, the 30th day of November next, and which by their continued operation will also swell the revenue of the next year.

Now, what can this Legislature do to diminish the expense and increase the revenue that is now being assessed (or should be) upon property *ad valorem*, which, when collected during this fiscal year, will be used during the next fiscal year?

First, a law passed now can better regulate the compensation of assessors and tax collectors, so as to save to the State a large sum of money. The plan I propose is, that assessors should be paid one-third less than collectors, to be estimated by the same rule upon the assessments. The rule should be that a collector should be paid a per cent., diminished in proportion to the amount assessed and collected. For instance, on an assessment and collection of \$10,000 five per cent., making \$500, and on \$20,000 four per cent., and so on for larger amounts. This would result in the assessor getting as much for the assessment of the last dollar's worth of property as of the first. And likewise with the collector and for the collection of taxes of previous years, an allowance might be made for his payment according to the rate allowed for the collection of taxes during the year that the back taxes are collected. The interest on our bonded debt is estimated at \$360,000, which must be paid annually out of the revenue collected. We may not be able to diminish this amount to be paid this year to any considerable extent by any law passed at this session.

But as to the expenses, by way of payment of interest on said debt during the next year, we may save the difference between five and ten per cent. on \$1,115,000 by taking up the outstanding pension ten per cent. bonds in July next, and issuing therefor bonds with five per cent., which, it is believed, can be sold at par.

Of public lands the commissioner of the general land office reports the "number of acres against which there is no kind of outstanding claim," to be 31,025,298.

Enough of this land should be sold as soon as practicable, at a fair valuation, considering its locality and quality, as would pay the whole of our bonded debt, and if it is commenced now enough may be sold during the present year to give considerable relief, by diminishing the expenses by way of interest during the next year.

There are 21,000,000 acres common school lands undisposed of. These lands under the present law are sold in quantities of 160 acres to actual settlers, on ten years' time, with ten per cent. interest and annual installments, at one dollar and a half per acre. It is selling very slowly, and not increasing the permanent school fund as fast as the scholastic population is increasing annually. The expense of valuing it for sale is estimated to cost the fund thirty-six dollars for each section. In places, especially where the principal value of the land consists in its timber, the privilege granted by this law is being abused by taking possession and making the first payment and then using the timber and abandoning the land. Such is the information which I have received from respectable authority. If the Legislature will now pass a law authorizing the sale of these lands in any quantities desired by purchasers, not less than 640 acres, at a fair value, it will sell much more rapidly and with less expense to the fund than is done at present. The fact that the title emanates directly from the State will recommend it to capitalists as well as to settlers. And the fact that it is mixed up with railroad lands will facilitate the sale of large quantities in connection and co-operation with those who own them and desire to sell them in large quantities. It may

reasonably be anticipated that enough could be sold during the present fiscal year to largely increase the permanent school fund by its investment. Upon the faith of that I would respectfully recommend that a law be now passed providing that in the assessment for next year the amount of *ad valorem* tax set apart for the available school fund shall be one-fifth instead of one-fourth, and thereby inaugurate the policy of diminishing the school tax, as the lands are sold to increase the permanent school fund, and if the whole of the lands should be sold in the next four years after this, the fund will be sufficient to relieve the people from this tax entirely, or at least reduce it to ten cents on the one hundred dollars, as prescribed by the constitution of 1845. This appropriation of one-fourth of the revenue derived from an *ad valorem* tax on all of the property of the State, and one-half of the poll tax, is a most extraordinary tax, imposed for common school purposes, and the precedence given to it by its being first paid under the present law is equally extraordinary. This very tax, so preferred, constitutes the reason why we are dragging along from year to year under the load of a heavy deficiency.

And while we should, as we have done, recognize the duty imposed by the constitution to support a system of free common schools, it is equally our duty to use the means in our power to raise a fund which will suspend the necessity of imposing so extraordinary a burden of taxation upon the people of the State for that purpose. Whatever citizen of Texas may complain of the heavy burden of taxation of the present day, he should know and fully understand that it is not imposed on him to defray the ordinary expenses of carrying on the government. That alone would make his burden so light as to be hardly felt. He is weighed down with the extraordinary burdens imposed on him for the support of a free common school system and other schools, the frontier defense, the asylums and penitentiaries, and the payment of the interest on a bonded debt, mainly contracted for these objects.

We have the means, in the shape of lands, of getting rid of most of these burdens, and they cannot possibly be devoted to a better use, now or hereafter.

The lunatic asylum and the deaf and dumb and blind institutions of learning also have large amounts of lands and the reason for their sale, for the purpose of raising permanent funds for their support, is equally cogent and equally practicable.

The subject of schools and of the asylums is referred to now only in reference to the question of finance relating to them. They will be presented in other respects in another message addressed to you.

As to the proper mode of disposing of these lands, I must depend much upon the discretion of the Legislature, many of whose members may know more about it than myself. But I would respectfully suggest that a land agent should be appointed, with power to employ a surveyor when needed, for the purpose of selling and setting apart the lands sold, and that all sales and other acts of such agent should be subject to the approval of a board of executive officers. The salaries and expenses might be paid out of each fund, according to the amount of each that might be sold.

It might be well in reference to the different classes of lands, that have already been surveyed, to authorize the sale of sections, in the nature of scrip.

There is another subject relating to my official position to which I beg leave to refer, as in a minor degree pertaining to the finance of the government. That is in relation to rewards for the arrest of criminals, to the remission of fines and penalties and to the pardon of convicted criminals.

On that subject it will suffice to say that it must not be expected during my administration of the state government to make the office of governor a high court of appeals. These are extraordinary powers to be used in extraordinary cases.

Allow me again to call attention to the fact that all the departments of the government, as well as the charitable institutions supported by the government, are being carried on without any appropriation of the necessary means to do it, and to request your favorable consideration of the necessity of immediate action thereon. O. M. ROBERTS.

Senator Duncan moved to print 100 copies of the message of the governor for the use of the Senate.

Senator Ford moved to amend by striking out "100" and inserting "1000" copies.

Accepted by Senator Duncan.

Senator Grace moved to strike out "1000" and insert "300" copies.

Senator Brown moved the previous question on Senator Grace's amendment.

Carried and the main question ordered.

The amendment of Senator Grace was lost by the following vote.

YEAS.		
Grace,	Martin,	Motley--4.
Hobby,		
NAYS.		
Brown,	Guy,	Moore,
Buchanan,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson - 27.

Senator Duncan's motion, as amended by the motion of Senator Ford, was then adopted and 1000 copies of the governor's message ordered printed.

On motion of Senator Hobby, Senator Grace was added to the committee on revision of the code.

On motion of Senator Patton, Senator Shannon was added to the committee on claims and accounts.

The president, after reading its caption, signed House bill No. 18, entitled "An act prescribing the times of holding the courts of the fourteenth judicial district."

On motion of Senator Duncan, Senate bill No. 78, entitled "An act for designating and working public roads, streets and sidewalks in unincorporated towns and cities," was taken up, 50 copies ordered printed and made the special order for Saturday, February 1, at 10 o'clock A. M., and from day to day until disposed of.

On motion of Senator Shannon the Senate adjourned until 10 A. M. to-morrow.

FIFTEENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 30, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

A message was received from the House announcing the passage by that body of House joint resolution No. 9, "granting leave of absence to the Hon. Allen Blacker, judge of the twentieth judicial district of the State of Texas," and House bill No. 67, entitled "An act defining what money and property is subject to taxation, and the mode of listing the same, approved August 21, 1876."

Senator Stewart presented the memorial from many citizens of Harris county in favor of the present county court system, and in case the system is abolished by this Legislature, that Harris county be excepted from the same.

Read and referred to judiciary committee No. 1.

Senator Houston presented the memorial and resolutions of the citizens of Gillespie county, in public meeting assembled, asking "for the continuance of frontier protection, giving many and forcible reasons therefor."

Read and referred to committee on Indian affairs and frontier protection.

Senator Brown, chairman of the committee on contingent expenses, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee on contingent expenses, to whom was referred House bill No. 12, entitled "An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature," have had the same under consideration and instruct me to return it to the Senate and recommend its passage.

BROWN, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on contingent expenses, to whom was referred resolution and substitute relative to the discharge of postmaster and reduction of the number of pages and porters, herewith return the same to the Senate and recommend that neither of the resolutions be adopted.

BROWN, *Chairman.*

Senator McCormick, chairman of committee on revision of the rules, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

The committee on rules, to whom was referred resolution instructing said committee to consider and report upon the propriety of abolishing rules 84, 85 and 86, requiring executive sessions to be in secret, have had the matter under consideration, and are of opinion that adequate freedom of action on matters to be considered in executive session can best be secured and the public welfare promoted by adhering to said rules 84, 85 and 86, and have instructed me to return the resolution with the report that, in their opinion, said rules should not be abolished.

McCORMICK, *Chairman.*

The report of the committee was read and adopted.

Hon. J. D. Sayers, President of the Senate :

The committee on rules, having been instructed by the Senate to report to the Senate what, in the opinion of the committee, is the proper construction of the term "read," as used in Senate rule No. 27, and especially to report whether said rule requires a bill to be read *in extenso* in case four-fifths of the Senate suspend the same, and having fully considered that subject, instruct me to report—

That, in the opinion of the committee, the proper construction of the term "read," as used in said rule, is that the bill shall be taken into consideration by the Senate, and final action be had thereon, on the main question arising on the bill at the stage in which it may be when so taken into consideration, pending which reading in the Senate the bill may be read by the clerk, for the information of the members, either at length or by caption, at the pleasure of the Senate.

That in all cases not embraced in the exception to the general rule, the president of the senate having announced the bill, stating in which house it originated and whether it be on its first, second or third reading, the clerk should be required to read the caption of the bill, and should proceed to read the bill at length, unless, on motion, the reading of the bill at length be dispensed with by unanimous consent. In cases embraced in the exception and where the rule has, by the required vote, been suspended, the Senate proceeds to act on the bill in such manner as the president, subject to control by the vote of a majority of the members of the Senate, may direct. The committee are, however, of opinion that in all such cases where the full contents of the bill have not been read by the clerk since the consideration of any other business by the Senate, the reading at length should proceed, as in ordinary cases, unless, on motion, a majority of the Senate order otherwise.

The committee are of the opinion that upon any such suspension of the rules provided for in the exception, the bill is before the Senate on the reading next in order to the one last had thereon, and when the main question on that reading of the bill has been voted, no further reading thereof can be had on that day without a further like suspension of the rules; and that the bill is not "passed" until it has received its three several readings.

Respectfully submitted,

McCORMICK, *Chairman.*

Report of committee read and adopted, and 50 copies ordered printed for the use of the Senate.

Senator Ford introduced a bill entitled "An act for the preservation of fish and to build fish ways and ladders."

Read by caption and referred to judiciary committee No. 1.

Senator Houston introduced a bill entitled "An act to provide for the payment of the outstanding indebtedness and the future debts of the several counties of this State."

Read by caption and referred to judiciary committee No. 1.

(Senator Storey in the chair.)

Senator Moore introduced a joint resolution in relation to the Agricultural and Mechanical College of Texas.

Read and referred to the committee on education.

Senator Houston introduced a bill entitled "An act to regulate the pay of grand and petit jurors in the several counties of this State."

Read by caption and referred to judiciary committee No. 1.

Senator Guy introduced a bill entitled "An act to amend section 1 of

an act entitled 'an act further regulating proceedings in the several courts of the State of Texas,' approved May 19, 1871."

Read by caption and referred to judiciary committee No. 2.

Senator Ford introduced a bill entitled "An act to be entitled an act to provide for painting the portraits of of the presidents of the Republic of Texas, and of the former governors of Texas."

Read by caption and referred to committee on state affairs.

Senator Buchanan introduced a bill entitled "An act to ascertain the amount due teachers for services rendered in the public schools from September 1, 1873, to August 31, 1876, and to provide for the payment of the same."

Read by caption and referred to committee on finance.

Senator Lane introduced a bill entitled "An act to amend an act entitled 'an act to regulate the respective duties of district and county attorneys.'"

Read by caption and referred to committee on judiciary No. 1.

Senator Houston introduced a bill entitled "An act to amend section 7 of an act entitled 'an act to fix and regulate the fees of all officers of the State of Texas and the several counties thereof.'"

Read by caption and referred to judiciary committee No. 2.

Senator Ledbetter introduced a bill entitled "An act to repeal the act to provide annual pensions for the surviving soldiers of the Texan revolution and the surviving signers of the declaration of Texas independence and the surviving widows of such soldiers and signers,' approved July 28, 1876, and to appropriate money to pay pensioners under said act."

Read by caption and referred to committee on retrenchment and reform.

Senator Burton offered the following resolution:

Resolved, That the sergeant at-arms be authorized to purchase ice for the use of the Senate, when necessary, not to exceed twenty pounds per day nor two cents per pound.

Senator Lair offered the following as a substitute for the resolution of Senator Burton:

Resolved, That each Senator purchase all the ice that he wants with his own money.

Substitute lost.

Senator Burton's resolution was then lost by the following vote:

YEAS.

Brown,
Burton,
Davenport,
Ford,

Guy,
Lane,
Patton,
Ripetoe,

Stewart,
Shannon,
Terrell—11.

NAYS.

Buchanan,
Burnett,
Duncan,
Edwards,
Gooch,
Grace,

Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,

McCormick,
McCulloch,
Moore,
Motley,
Storey,
Tilson--18.

The following House bills were taken up and referred to appropriate committees:

House bill No. 2 entitled "An act to repeal an act entitled 'an act to levy a tax on the privilege of keeping and harboring dogs, and to provide for the assessment and collection of the same.'"

On motion of Senator Homan was referred to judiciary committee No. 2.

And House bill No. 135, entitled "An act to make an appropriation to pay the postage and expressage of the comptroller's office for six months commencing January 1, 1879, and ending June 30, 1879."

Referred to the committee on finance.

(The president in the chair.)

Senator Terrell (by leave) introduced a bill entitled "An act for relief of F. A. Deffenderffer & Co."

Read by caption and referred to the committee on frontier protection.

On motion of Senator Gooch the reference of House bill No. 135 entitled "An act to make an appropriation to pay the postage and expressage of the comptroller's office for six months commencing January 1, 1879, and ending June 30, 1879," was reconsidered, the rules were suspended and the bill was taken up and read first time.

On motion of Senator Gooch the rules were then suspended and bill placed upon its second reading by the following vote:

YEAS.

Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards.	Martin,	Storey,
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson--28.
Grace,		

NAYS--none.

Bill read second time.

On motion of Senator Gooch the rules were further suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards.	Martin,	Storey,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson--28.
Guy,		

NAYS--none.

The bill was read third time and passed by the following vote:

YEAS.

Brown,	Hobby,	Motley,
Buchanan,	Homan,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Lair,	Stewart,
Davenport,	Ledbetter,	Shannon,
Duncan,	Martin,	Storey,
Edwards,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell,
Grace,	Moore,	Tilson--28.
Guy,		

NAYS--none.

On motion of Senator Lane, the rules were suspended and House bill No. 12, entitled "An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature," was taken up and read first time.

On motion of Senator Gooch, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Gooch,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—27.

NAYS—none.

Bill read second time.

Senator Brown offered the following amendment:

Section —. That the want of an appropriation to pay the contingent expenses of the Sixteenth Legislature creates an imperative public necessity, that the rule requiring this bill to be read three several days in each house should be suspended, and it is so suspended.

Adopted.

On motion of Senator Gooch, the rules were further suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Gooch,	McCormick,	Tilson—26.
Guy,	McCulloch,	

NAYS.—none.

The bill was then read third time and passed by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Gooch,	McCormick,	Tilson—26.
Guy,	McCulloch,	

NAYS.—none.

Senator Story moved to reconsider the vote on Senator Burton's resolution which was voted on this morning.

On motion of Senator Davenport, House bill No. 67, entitled "An act to amend 'an act defining what money and property is subject to taxation and the mode of listing the same,' approved August 21, 1876," was taken up and referred to the committee on finance.

On motion of Senator Burton, the rules were suspended and Senate bill No. 38, entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas," was taken up and read first time.

Senator Burton moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Hobby,	Motley,
Buchanan,	Homan,	Patton.
Burnett,	Lane,	Ripetoe;
Burton,	Lair,	Stewart
Davenport,	Ledbetter,	Shannon,
Duncan,	Martin,	Storey,
Edwards,	McCormick,	Terrell,
Gooch,	Moore,	Tilson--25.
Guy,		

NAYS.—none.

The bill was then read second time.

Senator Burton offered the following amendment:

Section 3. In order that confusion may not result from the change herein made in the times of holding court, it is necessary that this bill be passed immediately, and that it go into effect at once; therefore, be it enacted, that the rules be suspended and this bill be passed immediately, and take effect from and after its passage.

Amendment adopted and bill ordered engrossed.

On motion of Senator Edwards, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Burnett,	Homan,	Motley,
Burton,	Houston,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson--28.
Guy,		

NAYS—none.

The bill was then read third time and passed by the following vote:

YEAS.		
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson--28.
Grace,		

NAYS--none.

Senator Grace presented a memorial from the bar of Fannin county against diminishing the jurisdiction of the county courts of the State;

but, should such be done, that the county of Fannin be excepted from the same.

Referred to the committee on judiciary No. 1.

Senator Edwards offered the following resolution:

Resolved, That the pay of the postmaster of the Senate be, and the same is hereby fixed at \$4 per day.

Senator Grace moved to amend by inserting \$3 per day instead of \$4 per day.

Lost, and the resolution of Senator Edwards adopted.

Senator Edwards moved to reconsider the vote just taken.

Senator Martin moved to lay this motion on the table.

Carried.

On motion of Senator Homan, the special order, Senate bill No. 8, entitled "An act to repeal 'an act to levy a tax on the privilege of keeping or harboring dogs and provide for the assessment and collection of the same,'" was postponed and made special order for Friday week next, at 11 o'clock, A. M.

Senator Hobby, chairman of committee on revision of the code, by leave, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the code, to whom was referred Senate bill No. 20, "An act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas," beg leave to report that they have laboriously considered the same, and have instructed me to report the bill back to the Senate with the following amendments, and, as thus amended, to recommend its passage. HOBBY, *Chairman.*

AMENDMENTS PROPOSED BY THE COMMITTEE TO THE PENAL CODE.

Article 114—Strike out.

Article 327—Add "all persons not included in the definition of 'negro,' shall be deemed a white person within the meaning of this act."

Article 326—Strike out the words "or out of," in second line.

Article 390—Strike out "or shall do any other act or thing that would be deemed or held to be a nuisance at common law."

Amend by adding the following article to Penal Code, chapter 2, title 5:

Article —. Any person who shall get drunk, or be found in a state of intoxication in any public place, shall be deemed guilty of a misdemeanor, and, on conviction before a court of competent jurisdiction, shall be fined in a sum not more than one hundred dollars for each and every such offense.

Article 412—Strike out the words "the provisions of article —, Revised Civil Statutes," and insert the word "law" in lieu thereof.

Article 429—Strike out "or any other harmless birds."

Title 14, chapter 2—Forgery of land titles, strike out and insert the following, which is a re-enactment of the act of the Fifteenth Legislature (see General Laws, pp. 252-9), the committee deeming this article much more effective, in protecting the State and individuals, than the articles embraced in the new Penal Code.

We submit the following as substitute for chapter 2, title 14, of the Penal Code:

Article 451. Every person who falsely makes, alters, forges or counterfeits, or causes or procures to be falsely made, altered, forged or coun-

terfeited, or in any way aids, assists, advises or encourages the false making, altering, forging or counterfeiting, any certificate, field notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance or title paper or acknowledgment, or proof for record or certificate of record belonging or pertaining to any instrument or paper, or any seal, official or private, stamp, scrawl, mark, date, signature, or any paper, or any evidence of any right, title or claim of any character, or any instrument in writing, document, paper or memorandum, or file of any character whatever, in relation to or affecting lands, or any interest in lands in this State, with the intent to make money or other valuable thing thereby, or with the intent to set up a claim or title, or aid or assist any one else in setting up a claim or title to lands or any interest in lands, or to prosecute or defend a suit or aid or assist any one else in prosecuting or defending a suit with respect to lands, or to cast a cloud upon the title or in any way injure, obtain the advantage of, or prejudice the rights or interests of the true owners of lands, or with any fraudulent intent whatever, shall be deemed guilty of forgery, and be punished by imprisonment in the state penitentiary, at hard labor, not less than five nor more than twenty years.

Article 452. If any person authorized by law to take the proof or acknowledgment of any instrument, document or paper whatever, affecting or relating to the title to lands in this State, wilfully and falsely certify that such proof or acknowledgment was duly made, or if any person fraudulently affixes a fictitious or pretended signature purporting to be that of an officer or any other person, though such person never was an officer, or never existed, he shall be deemed guilty of forgery, and punished as provided in article 451 of this chapter.

Article 453. Every person who knowingly utters, publishes, passes or uses, or who in any way aids, assists in, or advises the uttering, publishing, passing, or using, as true and genuine, any false, forged, altered or counterfeited certificate, field notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance, title papers, acknowledgment or proof for record, or certificate of record, belonging or pertaining to any instrument or paper, or any evidence of any right, title or claim of any character whatever, or any instrument in writing, document, paper, memorandum, or file, or any official or private seal or any scrawl, mark, date or signature, in any way relating to, or having any connection with land, or any interest in land in this State, with the intent mentioned in article 451 of this chapter, or with any other fraudulent intent whatever, shall be deemed guilty and be punished in like manner as provided in article 451 of this chapter. And the filing or causing or directing to be filed or causing or directing to be recorded in the general land office of the State or in any office of record or in any court in this State, or the sending through the mails or by express or in any other way for the purpose of filing or record of any such false, altered, forged or counterfeited matter, documents, conveyances, papers or things, knowing the same to be false, altered, forged or counterfeited, shall be an uttering, publishing and using within the meaning of this article.

Article 454. Persons out of the State may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this chapter, which do not in their commission necessarily require a

personal presence in this State, the object of this chapter being to reach and punish all persons offending against its provisions, whether within or without the State, and indictments under this chapter may be presented by the grand jury of Travis county in this State or in the county where the offense was committed, or in the county where the land lies, about which the offenses named in this charter were committed.

Article 455. Upon indictment under this chapter, to warrant a conviction, it shall only be necessary to prove that the person charged took any one step, or did any one act or thing in the commission of the offense, if from such step, act or thing any of the intentions hereinbefore mentioned, or any other fraudulent intention, may be reasonably inferred; nor shall it be any defense to a prosecution, under this chapter, that the matter, act, deed, instrument or thing was in law, either as to substance or form, void, or that the same was not in fact used for the purpose for which it was made or designed; and it shall only be necessary in any indictment, under this chapter, to state, with reasonable certainty, the act constituting the offense and charge in connection therewith, in general terms, the intention to defraud without naming the person or persons it was intended to defraud; and, on trial of such indictment, it shall be sufficient and shall not be deemed a variance if there appear to be an intent to defraud the United States or any state, territory, county, city, town, or village, or any body corporate, or any public officer, in his official capacity, or any copartnership or member thereof, or any particular person.

Article 456. Indictments, under this chapter, may be presented and the offense prosecuted in any of the counties prescribed in this chapter or the Code of Criminal Procedure.

Article 457. The rules prescribed in chapter 1 of this title relative to the offense of forgery, so far as the same are applicable, apply to the various offenses enumerated in this chapter.

Article 495. Amend by striking out "to exceed one hundred," and insert in lieu thereof the words "not less than five nor more than twenty-five."

Article 498. Strike out "one hundred" and insert "twenty-five."

Article 688. Amend by adding the words "*provided*, this shall not apply to any person passing along any highway or neighborhood roads leading through such enclosure."

Article 748. Strike out "or dog" in first line and insert "or" before the word "goat."

Chapter 12, title 17, articles 752 to 758. Amend by adding "the provisions of this chapter shall not apply to the counties of Brazoria, Grimes, Madison, Walker, Trinity, Dallas, Ellis, Hopkins, Franklin, Titus, Red River, Grayson, Cooke, Rockwall, Hunt, Raines, Wood, Van Zandt, Kauffman, Limestone, Freestone, Navarro, McLennan, Anderson, Henderson, Cherokee, Fannin, Lamar, Delta, Rusk, Panola, Shelby, Brazos, Leon, Robertson, San Jacinto, Polk, Tyler, Jasper, Newton, Hardin, Nacogdoches, Houston, Angelina, Sabine, San Augustine, Smith, Upshur, Gregg, Camp, Denton, Collin, Bowie, Cass, Marion, Morris, Hill, Johnson, Fayette, Austin, Washington, Burleson, Bastrop and Harrison.

COMMITTEE'S AMENDMENTS TO CODE OF CRIMINAL PROCEDURE.

Article 196—Strike out "or murder," the object being to place no limit on the presentation of an indictment for murder.

Article 199—Amend by adding the words “except murder for which an indictment may be presented at any time.”

As substitute for article 206, Code of Criminal Procedure, we submit the following:

Article 206. The offense of forgery may be prosecuted in any county where the written instrument was forged, or where the same was used or passed, or attempted to be used or passed; all forgeries and uttering, using or passing of forged instruments in writing which concern or affect the title to land in this State, may also be prosecuted in the county in which the seat of government is located, or in the county in which the land or a part thereof concerning or affecting the title to which the forgery has been committed is situated.

Article 410—Strike out.

Article 564—Amend by inserting the words “affecting diligence” between the words “stated” and “in,” in the first line.

Article 583—Substitute for this the following: The credibility of the persons making affidavit for change of venue or their means of knowledge may be attacked by the affidavit of a credible person, and the issue thus formed shall be tried and determined by the judge and the application granted or refused, as the law and facts shall warrant.

Article 729—Amend by adding the following: “Nor shall he at any stage of the proceedings, previous to the return of a verdict, make any remark calculated to convey to the jury his opinion of the Code.”

Article 825—Amend by adding “the term shall commence from the time of sentence, or, in case of appeal, from the time of the affirmance of the sentence by the court of appeals.”

Article 485—Amend by adding “but the appeal shall be set aside if it shall be made to appear that the accused had voluntarily returned to the officer from whom he escaped within ten days.”

Article 934—Amend by striking out “supported by affidavit in writing.”

Article 1052—Amend by adding the following as a fourth sub-division: “4. In no case shall the district, county nor justice court allow a plea of guilty to a less grade of offense than the highest grade charged in the complaint, information or indictment.”

Article 1054—Amend fifth sub-division by striking out “a” in first line and inserting “one,” and after “fifteen cents” insert “for each additional prisoner, five cents,” and after “railroad,” in second and third lines, insert “or by water.”

Article 1065—Amend by striking out “forty” and inserting “thirty.”

Article 1075 and article 1076—Strike out.

Article 1081—Amend by striking out “two dollars” and inserting “one dollar and fifty cents,” except in mayors’, justices’ and recorders’ courts, in which he shall receive a fee of fifty cents for each day or fraction of a day.

Article 1083—Strike out “two dollars” and insert “one dollar and fifty cents.”

Article 1084—Add “provided the pay shall not exceed two dollars and fifty cents per day for riding bailiffs, during the time they ride, and not exceed one dollar and fifty cents per day for other bailiffs, and provided further that the deputy sheriff shall not receive pay as a bailiff.”

Article 1085—Amend by striking out all between the words “rendered,” in third line, and “which” in fifth line.

Article 1097—Amend by adding “unless otherwise provided by the ordinance of any incorporated city or town.”

Article 1099—Amend by adding “unless he has taken some action therein, for the State; but in case he has taken no action, a fee of five dollars shall be taxed, for the benefit of the county instead thereof; and in no case shall the county or district attorney, in consideration of a plea of guilty, remit any part of his lawful fee.”

Article 1102—Amend by adding “unless otherwise provided by the ordinance of any incorporated city or town.”

Article 1103—Strike out.

Article 1104—Strike out the words “by jury,” in third line.

Add after the caption—The fact that the session of this Legislature is restricted to a short period by the constitution, and the fact that there is a large amount of necessary legislation demanding attention, constitutes an imperative public necessity which justifies the suspension of the constitutional rule requiring this bill to be read on three several days, therefore the said rule is hereby suspended.

On motion of Senator Hobby, 50 copies of the report and amendments were ordered printed and the bill made the special order for to-morrow, just after the roll call, and from day to day until disposed of.

Senator Edwards (by leave) introduced a bill entitled “An act to amend section 12 of an act entitled ‘an act to establish and provide for the support and maintenance of an efficient system of public free schools,’ approved August 19, 1876.”

Read by caption and referred to committee on finance.

Senator Shannon introduced a bill entitled “An act supplemental and amendatory of ‘an act to provide for the sale of the alternate sections of land as surveyed by railroad companies and set apart for the benefit of the common school fund,’ approved April 24, 1874.”

Read by caption and referred to committee on public lands.

On motion of Senator Homan, the postponement of the special order, Senate bill No. 8, entitled “An act to repeal ‘an act to levy a tax on the privilege of keeping or harboring dogs and to provide for the assessment and collection of the same,’” was reconsidered, the bill taken up and re-referred to judiciary committee No. 2.

Senator Lane (by leave) introduced a bill entitled “An act to provide for the sale of the public domain and to apply the proceeds from the sale thereof to the permanent school fund and to the payment of the public debt.”

Read by caption and referred to the committee on finance.

House bill No. 3, entitled “An act to diminish the civil and criminal jurisdiction of the county court of Leon county, and to conform the jurisdiction of the district court of Leon county to such change,” was taken up and read second time.

On motion of Senator Terrell, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Ripetoe,
Stewart,
Storey,
Terrell,
Tilson—24.

NAYS.--none.

The bill was read the third time and passed by the following vote:

YEAS.

Buchanan,	Guy,	McCulloch,
Burnett,	Hobby,	Moore,
Burton,	Homan,	Motley,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—24.

NAYS.—none.

Substitute for Senate bill No. 3, entitled "An act to provide for and regulate judgment liens on land," was taken up and read second time.

Senator Gooch offered the following amendment:

Eighth line, on first page, insert "time" before the word "that," and before the words "the force."

Adopted.

Senator Duncan offered the following:

Amend by inserting after the words "statutory bond," in eighth line, section 1, the words "or obligation."

Adopted.

Senator Stewart offered the following:

Amend by striking out section 5.

Lost.

Senator Duncan offered the following amendment:

Insert in the twenty-first line, after the word "unless," these words: "again registered under the provisions of this act within that time, which registration shall secure the lien for four years further, and so if registered again within four years of each prior registration."

Adopted.

Senator Gooch offered the following:

Strike out seventeenth and eighteenth lines, second page.

Adopted.

Senator Terrell offered the following:

Amend sixth line in section 2 by striking out the word "judgment."

Adopted.

Senator Duncan offered the following:

Insert in line twenty-six, page three, after the words "no judgment," the word "rendered," and after the word "land," in same line, insert "or obligation hereafter entered into," and strike out the words "hereafter rendered or executed," after the word "land," in line twenty-six.

Adopted.

Senator Edwards offered the following:

In section 2 change words "eleventh," "twelfth," "thirteenth" and "fourteenth" to "tenth," "eleventh," "twelfth" and "thirteenth," respectively, in lines nineteen, twenty, twenty-one and twenty-two.

Adopted.

Senator Gooch offered the following:

In line eleven, page three, strike out the word "judgment."

Adopted.

Senator Ledbetter offered the following:

Section 5, line twenty-one, amend by striking out "four," and insert in lieu thereof "ten," which was pending on adjournment.

Senator Brown, chairman of the committee on engrossed bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills, to whom was referred Senate bill No. 6, entitled "An act regulating the election of clerks of the district and county courts in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore and now holding both said offices," have examined the same and find it correctly engrossed.
BROWN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No 35, entitled "joint resolution granting leave of absence from the State to Walter Acker," and find it correctly engrossed. BROWN, *Chairman.*

On motion of Senator Grace, the Senate adjourned until 10 o'clock A. M. to-morrow.

SIXTEENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 31, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

Journal of yesterday read and adopted.

On motion of Senator Edwards, Senator Hobby was excused for three days.

Senator Houston moved to dispense with the reading of the journal each morning and that each senator have the right to correct errors and call attention of the secretary thereto.

Ruled out of order.

Senator Grace moved to dispense with reading the journal this morning:

Carried.

Senator Stewart, chairman *pro tempore* of the committee on revision of the code, substituted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the code have had under consideration a bill entitled "An act for the organization of the state penitentiaries and to regulate the management of the criminals therein," and have instructed me to report the same back to the Senate with accompanying amendments, and as thus amended recommend its passage.

STEWART, *Chairman pro tempore.*

Amend by adding the following as in section of the bill:

Section 7. The commissioners shall report once in each month to the governor of this state, especially in regard to the food and clothing furnished the convicts, and whether the food is proper and healthy and sufficient in quantity; also, whether the clothing is of the proper kind for comfort and health and suited to the season. They shall also report in regard to attention by physicians.

Substitute the following for section 16:

Section 16. The superintendent shall reside within the penitentiary and shall not absent himself therefrom unless upon business connected

with the duties of his office or with the permission of the commissioners.

Substitute the following for section 17:

Section 17. He shall visit daily the cells of the convicts and other places within the walls of the penitentiary where they may be engaged at labor; shall see that they are humanely and properly treated, and shall give attention to all complaints made by a convict against any officer, employe or lessee of the penitentiary. He shall at all suitable times converse in a kindly manner with the convicts, and use his best endeavors to produce in them a spirit of reformation.

Substitute the following for section 2 of the bill:

Section 21. During the absence of the superintendent or his inability to act, the commissioners may designate some proper person to act in his stead.

Amend section 29 by inserting after the word "some," in line six thereof, the words "healthy locality where he shall be made as comfortable as practicable."

Substitute the following for sections 42 to 44 inclusive:

OF UNDER-OFFICERS, OVERSEERS AND GUARDS.

Section 42. The commissioners shall appoint, upon the nomination of the superintendent, such number of under-officers, overseers and guards for each penitentiary as may be necessary to preserve discipline and prevent escapes. The superintendent may nominate several persons for the same, from whom the commissioners may select; but in case the commissioners do not approve of nominations made by the superintendent they may appoint independently of such nomination.

Section 43. When penitentiaries are being operated directly by the State the commissioners may also employ such number of skilled workmen or other employes as they may deem essential to the successful operation of the institution and to the pecuniary interest of the State.

Section 44. All under-officers, overseers, guards and employes shall receive such compensation for their services as the commissioners may prescribe, to be paid by the State on certificate of superintendent, and they shall be subject to removal by the commissioners or in their absence by the superintendent, who shall report his action to the commissioners; this manner of compensation not applicable when any other mode is provided for at any time by the terms of any lease.

Section 45. All under-officers, overseers, guards and employes shall be subject to the orders of the superintendent, and shall in all things comply with his directions. Any complaint of ill treatment toward them on his part may be made to the commissioners, who shall inquire into the same and take such action as the facts may seem to demand.

Substitute the following for section 47:

Section 47. Every convict when received into the penitentiary shall be carefully searched and deprived of every article by which an escape might be effected. If money be found upon the person of a convict it shall be delivered or safely forwarded by the superintendent to the wife or children of the convict, save and except an amount of one dollar per month, which may be retained by the superintendent and spent by him for the benefit of the convict on his written order. If he have no wife or children it shall be safely kept and delivered to the convict upon his final discharge, save and except the allowance of one dollar per month to be spent as herein provided.

Add the following as section No. 48:

Section 48. If the convict be a female with an infant child, the latter shall be received into the penitentiary with its mother and there kept until it arrives at the age of four years, when the superintendent shall deliver it, or cause it to be delivered, to its relatives, if there be any; if not, to the county judge of the county from which the convict was sent, to be dealt with according to law; and if any child shall be born in the penitentiary the same course shall be pursued in reference to it as is herein indicated for children brought there.

Amend section 56 by adding after the word "privileges," in fourth line, the following:

"Provided, he shall not be deprived of his food at regular hours."

Amend section 59 by striking out the words "seven hundred and fifty," and inserting in lieu thereof the words "six hundred."

Also, in section 60, strike out "five hundred" and insert "two hundred and fifty."

Amend section 63 by adding the following words: "and also the physicians."

Add the following sections to the bill:

Section 79. No superintendent shall be appointed for the East Texas penitentiary, at Rusk, until convicts are confined therein.

Section 80. The fact that the adoption of the Penal Code and Code of Criminal Procedure as revised by the commissioners appointed for the purpose of revising the civil and criminal statute law of the State, will repeal the law in reference to the management of the penitentiaries and the convicts therein, constitutes an emergency and an imperative public necessity which justifies the suspension of the constitutional rule requiring this bill to be read on three several days, therefore the said rule is hereby suspended, and this act shall take effect and be in force from and after its passage.

On motion of Senator Edwards, the reading of the report was suspended.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred House bill No. 2, entitled "An act to repeal 'an act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same,'" have had the same under consideration, and a majority of said committee instruct me to report said bill back with the accompanying amendments and recommend its passage as amended.

Amend by adding the following section:

Section 2. The fact that a large number of prosecutions are now pending against citizens of this State under the above recited act, and that assessors of taxes are proceeding to assess said tax for the year 1879, creates an imperative public necessity and emergency that this act pass immediately and that it go into effect at once. This, therefore, enacted that the rules requiring this act to be read on three several days, be, and are hereby suspended, and that this act take effect and be in force from and after its passage.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 50, entitled "An act to amend section 1 of an act entitled 'an act to provide for the transferring of all criminal cases to which indict-

ments have been found, to the proper court having jurisdiction thereof,' approved August 12, 1876," and a majority of said committee instruct me to report thereon and recommend that it do not pass.

STEWART, *Chairman*.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred House bill No. 30, entitled "An act requiring persons taking causes to the supreme court and court of appeals to make a deposit to cover the costs in said courts," have duly considered the same, and I am instructed by said committee to report said bill back to the Senate and to recommend that it do not pass.

STEWART, *Chairman*.

The following minority report was submitted by the subscribing Senators from judiciary committee No. 2, on Senate bill No. 50:

Hon. J. D. Sayers, President of the Senate:

Judiciary committee No. 2 have had under consideration Senate bill No. 50, entitled "An act to amend section 1 of an act entitled 'an act to provide for the transferring of all criminal cases in which indictments have been found, to the proper court having jurisdiction thereof,' approved August 12, 1876," and the majority have instructed the chairman to report that they recommend that said bill do not pass.

The undersigned members of the committee were unable to concur in the report and beg leave to submit this minority report.

The object and intention of the bill is to empower judges of the district court, at the end of the terms of their courts, to transfer indictments found by the grand jury for misdemeanors which a justice of the peace has jurisdiction to try, to a justice convenient to the locality where the offense appears to have been committed. The law as it now exists requires all indictments for such misdemeanors to be transferred to the justice at the county seat (unless it appears to have been committed in an incorporated town, and then it is transferred to a justice in such town). We think the idea presented in the bill should be enacted into law, because:

1. The more business a justice has the more valuable his office becomes. The probability of increased efficiency in such officers depends largely upon the increase of remuneration.

2. The country justices now try misdemeanors, within their jurisdiction, upon complaint made before them, and it does not appear that they cannot as well try similar cases presented by indictment.

3. The existing law protects persons residing in incorporated towns (though they may not be the county seats) from the expense and inconvenience of being taken from home, as defendants or witnesses, to attend such trials at the county seats, and we fail to discover a reason for this unjust discrimination against unincorporated towns and villages, or neighborhoods.

4. The present law operates to place unreasonable burdens and unnecessary vexation on witnesses. In many parts of the State county seats are forty or fifty miles from the county lines, and in nearly all they are twenty miles or more from some boundary. In small towns and villages, at public gatherings, and at churches remote from county seats, little difficulties often occur, and misdemeanors are frequently committed. Such offenses as assaults, wearing pistols, disturbing the peace or religious worship, and drunkenness, are not uncommon. That the unof-

fending, who see these acts, should be forced to leave and neglect their homes, their families, farms, business or avocations, to attend the justice court at a distant county seat, from day to day and term to term, at great expense, is almost universally regarded as a hardship against which the law should provide, if it can, without defeating the ends of justice. We feel confident that it can. The objection is raised that precinct lines can not always be known, and the judge might not be able to know where to transfer the indictment, if it is required that the accused be tried in the precinct where the offense was committed.

To meet that objection we propose an amendment which provides that the judge shall transfer the indictment to some justice convenient to the locality (and not necessarily in the precinct), where it appears the offense was committed, and the transfer to any justice shall give him jurisdiction.

We have expressed our views at this unusual length because we regard the subject as one of unusual importance.

We recommend the accompanying amendment, and that the bill thus amended do pass.

JNO. YOUNG GOOCH,
R. S. GUY,
J. R. BURNETT,
WM. BROWN.

Amendment: Strike out all after the words "they are transferred," on the first page, five lines from the bottom, and insert in lieu thereof the following:

"Provided, That cases over which justices of the peace may have jurisdiction shall be transferred to justices of the peace of the county convenient to the locality where the offense appears to the judge to have been committed; but any justice to whom such indictment may be transferred shall have jurisdiction to try and determine the case."

GOOCH.

Senator Houston, chairman of the committee on state affairs, submitted the following reports :

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs have had under consideration Senate bill No. 79, entitled "An act to validate certain acts of notaries public who have used seals with the word 'Texas' engraved between the points of the star thereon instead of around the margin thereof," and instruct me to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs have had under consideration Senate bill No. 98, entitled "An act to fix the fees in the department of state in certain cases," and instruct me to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs have had under consideration Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate," and instruct me to report the same back to the Senate with the statement that the pencil marks in the forms provided for are no part of the bill, and to recommend that they be erased, and that the bill do pass.

HOUSTON, *Chairman.*

On motion of Senator Houston, 100 copies of the bill and report were ordered printed.

Senator Martin presented the petition of Thomas Humphries and Lucy Andrews, heirs of James Humphries, asking that the State grant them one league and labor of land, to which their father, as a settler of Texas in 1834, was entitled, but did not obtain, etc.

Referred to committee on private land claims.

Senator Burnett introduced a bill entitled "An act requiring holders of recorded mortgages and other recorded liens to enter satisfaction thereof on receiving payment."

Read by caption and referred to judiciary committee No. 2.

Also the following bill entitled "An act extending the lien for rents to owners of residences, storehouses and other buildings."

Read by caption and referred to judiciary committee No. 2.

Senator Stewart introduced a bill entitled "An act giving to each of the unorganized counties of the State four leagues of land and providing for the location and survey thereof."

Read by caption and referred to the committee on education.

Also a bill to be entitled "An act supplemental and amendatory of 'an act to enable part owners of land to attain partition thereof and for other purposes,' passed March 5, 1840."

Read by caption and referred to judiciary committee No. 1.

Senator Davenport introduced a bill entitled "An act to create a county board of equalization in each of the organized counties in this State and to prescribe the duties and powers of the same."

Read by caption and referred to judiciary committee No. 1.

House joint resolution No. 9, granting leave of absence to the Hon. Allen Blacker, judge of the twentieth judicial district of the State of Texas, was taken up, and on motion of Senator Houston was passed to the orders of the day.

The unfinished business being Senate bill No. 3, entitled "An act to provide for and regulate judgment liens on land," was, on motion of Senator Gooch, postponed until immediately after the consideration of the Penal and Criminal Code.

Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure," was taken up and read first time.

Senator Edwards moved to suspend the rules and place the bill upon its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—26.

NAYS.

Brown,

Ripetoe—2.

Senator Homan moved to act upon the amendments as a whole.

Withdrawn.

A message was received from the House announcing the passage by

that body of House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," and that the House had concurred in Senate's amendments to House bill No. 12, entitled "An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature."

Senator Edwards moved to adopt the amendments of the committee on the revision of the code as a whole.

Senator Grace offered as a substitute that the Senate resolve itself into a committee of the whole on said amendments.

Lost.

Senator Martin moved to postpone the further consideration of the committee's amendments till to-morrow at 11 o'clock A. M.

Senator Edwards made the point of order that a motion to postpone is not in order pending the motion to adopt the amendments.

Point of order sustained.

Senator Edwards then withdrew his motion to adopt the amendments as a whole, and moved to consider the amendments of the committee *seriatim*.

Adopted.

Senator Motley moved a call of the house.

Call sustained.

Roll called.

Absent—Senator Ford.

Senator Duncan moved to suspend the call.

Lost.

Senator Ford appearing, the call was suspended.

Senator Shannon moved to adopt the first amendment of the committee, which was to strike out article 114.

Adopted.

Senator Stewart moved to adopt the amendment of the committee to article 327 as follows:

Article 327—Add "all persons not included in the definition of 'negro' shall be deemed a white person within the meaning of this act."

Adopted.

Senator Homan moved to adopt committee's amendment to article 326, as follows:

Strike out the words "or out of," in second line.

Adopted.

Senator Duncan moved to adopt committee's amendment to article 390, to-wit:

Strike out "or shall do any other thing that would be deemed or held to be a nuisance at common law."

Adopted.

The following amendment of committee to chapter 2, title 5, was read:

Amend by adding the following article to Penal Code, chapter 2, title 5:

Article —. Any person who shall get drunk, or be found in a state of intoxication in any public place, shall be deemed guilty of a misdemeanor, and on conviction before a court of competent jurisdiction, shall be fined in a sum not more than \$100 for each and every such offense.

On motion of Senator Edwards, the blank after the word "article," in the amendment just read, was filled by inserting "144a."

Adopted.

Senator Grace offered the following amendment;

“A public place as herein mentioned means such as mentioned in chapter 3, article 315, of Penal Code.”

Lost.

The amendment of the committee was then adopted:

The following amendment of committee to article 412 was then adopted: Strike out the words “the provisions of article —, Revised Civil Statutes,” and insert the word “law” in lieu thereof.

The following amendment of committee to article 429 was adopted:

Strike out “or any other harmless birds.”

The following is committee’s amendment to title 14, chapter 2:

Title 14, chapter 2—Forgery of land titles, strike out and insert the following, which is a re-enactment of the act of the Fifteenth Legislature (see General Laws, pp. 252-9), the committee deeming this article much more effective in protecting the State and individuals than the articles embraced in the new Penal Code.

We submit the following as substitute for chapter 2, title 14, of the Penal Code:

Article 451. Every person who falsely makes, alters, forges or counterfeits, or causes or procures to be falsely made, altered, forged or counterfeited, or in any way aids, assists, advises or encourages the false making, altering, forging or counterfeiting, any certificate, field notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance or title paper or acknowledgment, or proof for record or certificate of record belonging or pertaining to any instrument or paper, or any seal, official or private, stamp, scrawl, mark, date, signature, or any paper, or any evidence of any right, title or claim of any character, or any instrument in writing, document, paper or memorandum, or file of any character whatever, in relation to or affecting lands, or any interest in lands in this State, with the intent to make money or other valuable thing thereby, or with the intent to set up a claim or title, or aid or assist any one else in setting up a claim or title to lands or any interest in lands, or to prosecute or defend a suit or aid or assist any one else in prosecuting or defending a suit with respect to lands, or to cast a cloud upon the title or in any way injure, obtain the advantage of, or prejudice the rights or interests of the true owners of lands, or with any fraudulent intent whatever, shall be deemed guilty of forgery, and be punished by imprisonment in the state penitentiary, at hard labor, not less than five nor more than twenty years.

Article 452. If any person authorized by law to take the proof or acknowledgment of any instrument, document or paper whatever, affecting or relating to the title to lands in this State, willfully and falsely certify that such proof or acknowledgment was duly made, or if any person fraudulently affixes a fictitious or pretended signature purporting to be that of an officer or any other person, though such person never was an officer, or never existed, he shall be deemed guilty of forgery, and punished as provided in article 451 of this chapter.

Article 453. Every person who knowingly utters, publishes, passes or uses, or who in any way aids, assists in, or advises the uttering, publishing, passing or using, as true and genuine, any false, forged, altered or counterfeited certificate, field notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance, title papers, acknowledgment or proof for record, or certificate of record, belonging or pertaining to any instrument

or paper, or any evidence of any right, title or claim of any character whatever, or any instrument in writing, document paper, memorandum, or file, or any official or private seal, or any scrawl, mark, date or signature, in any way relating to, or having any connection with land, or any interest in land in this State, with the intent mentioned in article 451 of this chapter, or with any other fraudulent intent whatever, shall be deemed guilty and be punished in like manner as provided in article 451 of this chapter. And the filing or causing or directing to be filed or causing or directing to be recorded in the general land office of the state, or in any office of record or in any court in this State, or the sending through the mails or by express or in any other way for the purpose of filing or record of any such false, altered, forged or counterfeited matter, documents, conveyances, papers or things, knowing the same to be false, altered, forged or counterfeited, shall be an uttering, publishing and using within the meaning of this article.

Article 454. Persons out of the State may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this chapter, which do not in their commission necessarily require a personal presence in this State, the object of this chapter being to reach and punish all persons offending against its provisions, whether within or without the State, and indictments under this chapter may be presented by the grand jury of Travis county, in this State, or in the county where the offense was committed, or in the county where the land lies, about which the offenses named in this chapter were committed.

Article 455. Upon indictment under this chapter, to warrant a conviction, it shall only be necessary to prove that the person charged took any one step, or did any one act or thing in the commission of the offense, if from such step, act or thing any of the intentions hereinbefore mentioned, or any other fraudulent intention, may be reasonably inferred; nor shall it be any defense to a prosecution, under this chapter, that the matter, act, deed, instrument or thing was in law, either as to substance or form, void, or that the same was not in fact used for the purpose for which it was made or designed; and it shall only be necessary in any indictment under this chapter to state, with reasonable certainty, the act constituting the offense and charge in connection therewith, in general terms, the intention to defraud without naming the person or persons it was intended to defraud, and, on trial of such indictment, it shall be sufficient and shall not be deemed a variance if there appear to be an intent to defraud the United States or any state, territory, county, city, town or village, or any body corporate, or any public officer, in his official capacity, or any co-partnership or member thereof, or any particular person.

Article 456. Indictments under this chapter may be presented and the offense prosecuted in any of the counties prescribed in this chapter or the Code of Criminal Procedure.

Article 457. The rules prescribed in chapter 1 of this title, relative to the offense of forgery, so far as the same are applicable, apply to the various offenses enumerated in this chapter.

The following is committee's amendment to article 495:

Amend by striking out "to exceed one hundred," and insert in lieu thereof the words "not less than five nor more than twenty-five."

Adopted.

Committee's amendment to article 498:

Strike out "one hundred" and insert "twenty-five."

Adopted.

Committee's amendment to article 688:

Amend by adding the words "provided this shall not apply to any person passing along any highway or neighborhood roads leading through such enclosure."

Adopted.

Committee's amendment to article 748:

Strike out "or dog," in first line, and insert "or" before the word "goat."

Adopted.

Committee's amendment to chapter 12, title 17, articles 725 to 758, was read as follows:

Amend by adding "the provisions of this chapter shall not apply to the counties of Brazoria, Grimes, Madison, Walker, Trinity, Dallas, Ellis, Hopkins, Franklin, Titus, Red River, Grayson, Cooke, Rockwall, Hunt, Raines, Wood, Van Zandt, Kaufman, Limestone, Freestone, Navarro, McLennan, Anderson, Henderson, Cherokee, Fannin, Lamar, Delta, Rusk, Panola, Shelby, Brazos, Leon, Robertson, San Jacinto, Polk, Tyler, Jasper, Newton, Hardin, Nacogdoches, Houston, Angelina, Sabine, San Augustine, Smith, Upshur, Gregg, Camp, Denton, Collin, Bowie, Cass, Marion, Morris, Hill, Johnson, Fayette, Austin, Washington, Burleson, Bastrop and Harrison."

Senator Edwards offered the following amendment:

Amend amendment by styling the amendment article 758a.

Adopted.

Senator Burton offered the following amendment:

Amend by exempting Wharton, Fort Bend and Waller counties.

Adopted.

Senator Brown offered the following amendment:

Amend by including in the exemption the counties of Falls, Bell and Milam.

Adopted.

Senator Storey offered the following amendment:

Amend by inserting after the word "chapter," in line three of the amendment of and by committee, "from article 753 to 758," inclusive.

Lost.

Senator Ledbetter offered the following amendment:

Amend by exempting the county of Lee.

Adopted.

Senator Shannon offered the following amendment:

Amend by striking out "article 752 of the Penal Code."

Senator Edwards made the point of order that the amendment of Senator Shannon was out of order, because the amendments of the committee was the question before the Senate, and the amendment offered by the senator from Parker was an amendment to the bill and not germane to the amendment pending before the Senate.

Question pending on adjournment.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 38,

entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas," and find it correctly engrossed.

BROWN, *Chairman*.

Senator Grace moved to adjourn until 3 p. m.

Lost by the following vote:

YEAS.		
Grace,	McCulloch,	Storey,
Homan,	Moore,	Terrell,
Lair,	Stewart,	Tilson—10.
McCormick,		
NAYS.		
Brown,	Ford,	Martin,
Buchanan,	Gooch,	Motley,
Burton,	Guy,	Patton,
Davenport,	Houston,	Ripetoe,
Duncan,	Lane,	Shannon—17.
Edwards,	Ledbetter,	

On motion of Senator Ledbetter, the Senate adjourned until to-morrow morning at 10 o'clock.

SEVENTEENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 1, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley the reading of the journal was dispensed with.

Journal of yesterday adopted.

Senator Buchanan presented the memorial of many citizens of Kaufman county "asking the repeal of the law requiring an occupation tax," styling it class legislation, a reproach to the State, a blot upon the statute books and a disgrace to civilization.

Read and referred to the committee on finance.

Senator Brown presented a memorial from several citizens of Bell county "asking the repeal of the law imposing occupation taxes."

Read and referred to the committee on finance.

Senator McCormick, chairman of the committee on rules, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on rules under a resolution of the Senate, which was referred to them on the 22d instant, recommending an amendment to Senate rule No. 22, have had the same under consideration, and in connection therewith have considered a revision of all the rules of the Senate, and have instructed me to return said resolution and report and the accompanying amendments of the Senate rules, with the recommendation that the amendments be adopted. Also that the rules as amended be published with the officers, members and standing committees of the Senate, interleaved and bound with the constitution of the State.

McCORMICK, *Chairman*.

Rule 4, after "again," in third line, insert the following: "When excuses may be heard, and upon a vote of two-thirds of the Senate the absentee may be excused."

Rule 13, amend fourth sub-division by adding: "Which shall conclude the morning call, and which the president shall announce to the Senate." Also, insert as fifth sub-division: "Special orders." Also, substitute the following as sixth sub-division for fifth sub-division of rule 13: "House bills for reference when necessary."

Rule 22, amend by adding: "The seconding of the previous question shall not cut off a 'call of House.'"

Rules 30 and 31, substitute the following for rules 30 and 31: "The first reading of a bill shall be for information, upon which a motion to reject will be in order. If no motion to reject be made the bill will pass to its second reading without a question. The main question on a second reading of a bill, if it should be a Senate bill, should be, shall this bill be engrossed? and if it be a House bill, shall this bill pass to a third reading?"

Rule 34, amend by inserting in second "reference to a committee" in lieu of "commitment;" also, in same line in lieu of words "commitment take place," insert "motion prevail."

Rule 43, substitute the following: "On motion to fix a sum or state a time, the largest sum or longest time shall have precedence."

Rule 66, add following as thirteenth sub-division: "When the Senate is under call of House it shall require a two-thirds vote of the senators present to excuse a member." Also, following as fourteenth sub-division: "Confirmation of an executive appointment can only be made by a two-thirds vote."

Rule 75, strike out words "at the commencement of session." Also, add as thirty-fifth sub-division, the words "judicial district."

On motion of Senator McCormick, the report of committee with amendments was taken up, read and ordered to lie over under the rules.

The following resignation of Thomas P. Martin, Esq., enrolling clerk of Senate, was presented and read:

SENATE CHAMBER,
AUSTIN, TEXAS, February 1, 1879. }

Hon. J. D. Sayers, President of the Senate:

DEAR SIR—I hereby tender you my resignation as enrolling clerk of the Senate, in order that I may accept the place of chief clerk in the office of the adjutant general. With my heartfelt thanks to the honorable senators for the complement paid me in electing me to the office I now surrender, and best wishes for them and yourself, I am,

Very respectfully,

THOMAS P. MARTIN.

On motion of Senator Houston, the resignation of Mr. Martin was accepted.

Senator Shannon introduced a bill entitled "An act to amend section 12 of act entitled 'an act to enforce the collection of delinquent taxes assessed since January, 1870,' approved August 19, 1876."

Read by caption and referred to committee on finance.

The hour having arrived for the consideration of Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State," on motion of Senator Hobby, the bill was postponed until after the disposition of Senate bill No. 21, entitled "An act to provide for designating and surveying three million and fifty thousand acres of the unappropriated public domain for the erection of a new state capitol and other necessary public buildings at the seat of government," etc.

Senate bill No. 21, just referred to, was then taken up, read second time and ordered engrossed.

On motion of Senator Hobby, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—27.

NAYS—none.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—28.

NAYS—none.

The unfinished business of yesterday, being Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State," was then resumed.

The motion of Senator Shannon to strike out article 752 of the Penal Code, which was pending on adjournment yesterday, was withdrawn by the mover.

Senator Hobby, chairman of the committee on revision of the code, offered the following amendment by the committee to the Penal Code, which was omitted in the previous report:

Article 196—Strike out "or murder," and after the word "forgery" insert "or the using, uttering or passing of forged instruments."

Adopted.

The president, after reading its caption, signed, in open Senate, House bill No. 12, "An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature."

AMENDMENTS TO CODE OF CRIMINAL PROCEDURE.

Article 199—Amend by adding the words "except murder, for which an indictment may be presented at any time."

Adopted.

Article 206—The offense of forgery may be presented in any county where the written instrument was forged, or where the same was used or passed, or attempted to be used or passed; all forgeries and uttering, using or passing of forged instruments in writing which concern or affect the title to land in this State, may also be prosecuted in the county in which the seat of government is located, or in the county in which the

land or a part thereof, concerning or affecting the title to which the forgery has been committed, is situated. To strike out 410.

Adopted.

Article 564—Amend by inserting the words “affecting diligence” between the words “stated” and “in,” in the first line.

Adopted.

Article 583—Substitute for this the following: The credibility of the persons making affidavit for change of venue or their means of knowledge, may be attacked by the affidavit of a credible person, and the issue thus formed shall be tried and determined by the judge and the application granted or refused, as the law and facts shall warrant.

Adopted.

Article 729—Amend by adding the following: “Nor shall he at any stage of the proceedings, previous to the return of a verdict, make any remark calculated to convey to the jury his opinion of the case.”

Adopted.

Article 825—Amend by adding “the term shall commence from the time of sentence, or in case of appeal from the time of the affirmance of the sentence by the court of appeals.”

Adopted.

Article 845—Amend by adding “but the order dismissing the appeal shall be set aside if it shall be made to appear that the accused had voluntarily returned to the custody of the officer from whom he escaped within ten days.”

Adopted.

Article 934—Amend by striking out “supported by affidavit in writing.”

Adopted.

Article 1052—Amend by adding the following as fourth sub-division: “4. In no case shall the district, county nor justice court allow a plea of guilty to a less grade of offense than the highest grade charged in the complaint, information or indictment.”

Adopted.

Article 1054—Amend fifth sub-division by striking out “a” in first line and inserting “one,” and after “fifteen cents” insert “for each additional prisoner five cents,” and after “railroad,” in second and third lines, insert “or by water.”

Adopted.

Article 1065—Amend by striking out “forty” and inserting “thirty.”

Adopted.

Article 1075 and article 1076—Strike out.

Adopted.

Article 1081—Amend by striking out “two dollars” and inserting “one dollar and fifty cents, except in mayors’, justices’ or recorders’ courts, in which he shall receive a fee of fifty cents for each day or fraction of a day.

Adopted.

Article 1083—Strike out “two dollars” and insert “one dollar and fifty cents.”

Adopted.

Article 1084—Add “provided the pay shall not exceed two dollars and fifty cents per day for riding bailiffs, during the time they ride, and not exceed one dollar and fifty cents per day for other bailiffs;

and provided further, that the deputy sheriff shall not receive pay as a bailiff."

Senator Edwards moved to strike out all of the committee's amendment to article 1084 after the word "bailiffs," in sixth line of same.

Lost and the amendment of the committee adopted.

Article 1085—Amend by striking out all between the words "rendered," in third line, and "which," in fifth line.

Adopted.

Article 1097—Amend by adding "unless otherwise provided by the ordinance of any incorporated city or town."

Adopted.

Article 1099—Amend by adding "unless he has taken some action therein for the State; but in case he has taken no action, a fee of five dollars shall be taxed, for the benefit of the county, instead thereof; and in no case shall the county or district attorney, in consideration of a plea of guilty, remit any part of his lawful fee."

Adopted.

Article 1102—Amend by adding "unless otherwise provided by the ordinance of any incorporated city or town."

Adopted.

Article 1103—Strike out.

Adopted.

Article 1104—Strike out the words "by jury," in third line.

Adopted.

Add after the caption—The fact that the session of this Legislature is restricted to a short period by the constitution, and the fact that there is a large amount of necessary legislation demanding attention, constitutes an imperative public necessity which justifies the suspension of the constitutional rule requiring this bill to be read on three several days, therefore the said rule is hereby suspended.

Adopted.

Senator Hobby, chairman of committee on revision of the code, offered the following amendment of the committee omitted from their previous report:

Article 1054, sub-division 7—Add after the words "twenty-five cents" in last line the words "for each additional prisoner fifteen cents."

Adopted.

Senator Hobby offered the following amendment to committee's amendments:

"Preamble—Whereas."

Adopted.

The amendments of committee as amended were then adopted.

Senator Grace offered the following amendments:

Amend by inserting the word "than" after the word "more," in line 6, section 143, page 21.

Adopted.

Amend Penal Code as follows: Marginal number 2410 instead of 766a, article 748. Marginal number 766a instead of 766b, article 749.

Criminal Procedure—Article 109, marginal number 96 instead of 95. Article 142, marginal number 128 instead of 138. Articles 191 and 192, marginal number reversed—put 177 for 178 and 178 for 177. Article 261, marginal number 241 instead of 242. Article 473, marginal number should be 432. Article 518, marginal number 475 instead of 474.

Article 663, marginal number is 583 instead of 538. Article 882, marginal number should be 762.

Adopted.

Senator Ripetoe offered the following amendment:

Strike out articles 326 and 327 of title 10, chapter 1.

Lost.

Senator Burton offered the following amendment:

"*Provided*, that article 752 shall not be so construed as to shift the burden of proof on the accused."

Senator Duncan offered the following as a substitute for Senator Burton's amendment:

Amend by striking out article 752, Penal Code.

Senator Shannon offered the following as a substitute for the previous amendment and substitute for the previous amendment and substitute:

Strike out section 752, and amend section 753 by striking out all between the word "any," in second line, and the word "and," in third line, and insert "horse, ass or cattle species."

Accepted by Senator Duncan.

Lost by the following vote:

YEAS.

Davenport,
Duncan,
Edwards,
Grace,

Guy,
Lair,
McCormick,

Patton,
Shannon,
Tilson -10.

NAYS.

Buchanan,
Burnett,
Burton,
Gooch,
Hobby,

Houston,
Lane,
Ledbetter,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Storey—14.

Senator Duncan moved a call of the house on Senator Burton's amendment.

Call not sustained.

Senator Houston offered the following amendment to Senator Burton's amendment:

Add to amendment, "so as to require him to prove his innocence of the theft charged."

Accepted by Senator Burton.

Senator Buchanan offered the following substitute for the pending amendment:

Amend by inserting the word "stolen" between the word "any" and the word "animal," in the second line.

Senator Duncan moved a call of the House.

Call sustained.

Absent—Senators Ford, Homan and Martin.

On motion of Senator Edwards, Senator Martin was excused.

On motion of Senator McCormick, the call was suspended.

Senator Buchanan's substitute was adopted.

The amendment of Senator Burton, as amended, was then adopted.

Senator Ripetoe offered the following amendment:

Article 1992a—County judges shall be allowed a fee of five dollars for every case of misdemeanor or *habeas corpus* finally disposed of by them, to be paid by the defendant.

Lost.

The bill was then ordered engrossed.

Senator Hobby then moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Grace,	Moore,
Burnett,	Guy,	Patton,
Davenport,	Hobby,	Stewart,
Duncan,	Houston,	Shannon,
Edwards,	Lane,	Storey,
Ford,	McCormick,	Tilson—20.
Gooch,	McCulloch,	

NAYS.		
Brown,	Burton,	Ripetoe--3.

The bill was then read third time and passed by the following vote:

YEAS.		
Buchanan,	Guy,	Moore,
Davenport,	Hobby,	Patton,
Duncan,	Houston,	Stewart,
Edwards,	Lane,	Shannon,
Ford,	Lair,	Storey,
Gooch,	Ledbetter,	Terrell,
Grace,	McCulloch,	Tilson--21.

NAYS.		
Brown,	Burton,	Ripetoe—5.
Burnett,	McCormick,	

The time for the consideration of the special order being Senate bill No. 78, entitled "An act to provide for designating and working public roads, streets and sidewalks in incorporated towns and villages," having arrived, Senator Guy moved to postpone the same until after House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," could be taken up and passed.

Lost by the following vote:

YEAS.		
Brown,	Motley,	Storey,
Burnett,	Patton,	Terrell,
Guy,	Ripetoe,	Tilson—10.
Ledbetter,		

NAYS		
Burton,	Gooch,	Lane,
Davenport,	Grace,	Lair,
Duncan,	Hobby,	McCormick,
Edwards,	Houston,	Stewart—13.
Ford,		

(Senator Grace in the chair.)

Senate bill No. 78 (just referred to) was then read first time.

On motion of Senator McCormick the rules were suspended and bill placed on its second reading by the following vote:

YEAS.		
Brown,	Duncan,	Guy,
Buchanan,	Edwards,	Houston,
Burnett,	Ford,	Lane,
Burton,	Gooch,	Lair,
Davenport,	Grace,	Ledbetter,

McCormick,
McCulloch,
Motley,

Patton,
Stewart,
Shannon,

Storey,
Terrell,
Tilson—24.

NAYS—none.

Bill read second time.

On motion of Senator McCormick the amendments recommended by the committee were adopted.

Senator Patton offered the following amendment:

In section 2, first line, insert after inhabitant "and qualified voters."

Adopted.

Bill ordered engrossed.

On motion of Senator McCormick, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—27.

NAYS—none.

The bill was then read the third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—27.

NAYS—none.

On motion of Senator Edwards, the rules were suspended and Senate bill No. 103, entitled "An act to organize the state penitentiaries and to regulate the management of the convicts therein," was taken up, 100 copies ordered printed, and made the special order for Tuesday next, immediately after the morning call.

On motion of Senator Davenport, Senator Edwards was added to the committee on public printing.

On motion of Senator Storey, Senator Terrell was added to the committee on finance.

On motion of Senator Edwards, Senators Storey, Lane and Gooch were added to the committee on constitutional amendments.

Senate bill No. 3, entitled "An act to provide for and regulate judgment liens on land," was taken up.

Senator Ledbetter's amendment, pending when last under consideration, was read and adopted.

On motion of Senator Gooch, the vote adopting the amendment of Senator Ledbetter was reconsidered.

Senator Gooch offered the following substitute for the pending amendment of Senator Ledbetter:

"That a lien fixed and secured under this act shall expire in ten years."

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Edwards,
Ford,
Gooch,

Hobby,
Houston,
McCormick,
McCulloch,
Patton,

Stewart,
Shannon,
Terrell,
Tilson—14.

NAYS.

Buchanan,
Burton,
Davenport,
Duncan,

Grace,
Guy,
Lair,
Ledbetter,

Moore,
Motley,
Storey—11.

The amendment, as substituted, was then adopted.

Senator Storey offered the following:

Amend section 5, as substituted, "unless kept alive by re-registration."

Adopted.

Senator Storey offered the following:

Strike out "judgment lien" where it occurs in line fifteen, section 4, and insert "the lien herein provided for."

Adopted.

Senator Duncan offered the following: Insert in twenty-ninth line, page 2, after the word "bond," in two places, the words "or obligated."

Adopted.

Also the following: In the tenth line, second page, strike out "or" and insert after the word "bond" the words "or obligation."

Adopted.

Also, the following: Insert in twenty-fourth line, third page, after the words "any bond" the words "or obligation."

Adopted.

Also the following: In section 5, after the word "re-registration," add "within ten years from each prior registration."

Adopted.

Senator Patton offered the following: Amend section 7 by adding "and the county clerk shall, when notified by lien creditor, enter the date and fact of full discharge of lien opposite the record of lien."

Adopted.

Also the following: Section 8—*Provided*, that no irregularity of the county clerk in making the entries herein provided for shall invalidate the judgment lien sought to be registered.

Adopted.

(President in the chair.)

Senator Duncan offered the following: Insert in third line, second page, after the words "such bond" the words "or obligation."

Adopted.

Senator Ripetoe moved to recommit the bill to judiciary committee No. 2.

Lost.

The bill was then ordered engrossed.

Senator Storey, by leave, introduced a bill entitled "An act to make an appropriation for the support of the state government for the remainder of the fiscal year ending August 31, A. D. 1879."

Read by caption and referred to committee on finance.

Senator Brown, chairman of the committee on engrossed bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 20, entitled "An act to adopt and establish a Criminal Code and a Code of Criminal Procedure for the State of Texas," and find it correctly engrossed.

BROWN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 21, entitled "An act to provide for designating and surveying 3,050,000 acres of the unappropriated public domain for the erection of a new state capitol and other necessary public buildings at the seat of government, and to provide a fund to pay for surveying said lands," and find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Burton, the Senate adjourned until 10 o'clock Monday morning.

EIGHTEENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 3, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of Saturday was dispensed with.

Journals adopted.

Senator Terrell presented the petition of A. and F. C. Eanes, asking an appropriation to settle the account against the State of Texas of \$307 25 for furnishing and planting out cedar trees on the capitol grounds in 1876, under contract with Capt. Fred. Voight, and while he was superintendent of public buildings and grounds.

Read and referred to the committee on finance.

Senator Shannon presented the petition of many citizens of the State asking that the law for the sale of the State school lands, owing to the hard times, stringency in the money market, be so modified as to not require a forfeiture of the amounts previously paid by them in case they should not be able to promptly make the payment or payments due on said land the first of March next, etc.

Read by caption and referred to the committee on public lands.

Senator Shannon, chairman of committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts have had under consideration Senate bill No. 67, entitled "An act prescribing the times of holding the courts in the twenty-fourth judicial district," and instruct me to report the same back to the Senate with the recommendation that it do pass.

SHANNON, *Chairman.*

Senator Davenport, from the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 58, entitled "An act defining the boundaries of and prescribing the times of holding the district courts in the twelfth judicial district of Texas," have had the same under consideration, and instruct me to report the bill back with the recommendation that it do pass.

DAVENPORT, *Chairman.*

Senator Terrell, chairman judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases," have considered the same, and instruct me to report it back recommending the passage of the bill.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 71, entitled "An act to provide for the payment of witnesses and officers in certain criminal cases," have considered the same, and instruct me to report the same back with the recommendation that the bill do not pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 60, to be entitled "An act to amend an act entitled 'an act to fix the times for holding the terms of the district court of the seventeenth judicial district, including the county of McCulloch,'" have considered the same, and instruct me to report it back with the accompanying substitute, and recommend that the substitute do pass.

TERRELL, *Chairman.*

Bill read first time.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 107, entitled "An act to amend an act entitled 'an act to regulate the respective duties of district and county attorneys,'" have considered the same, and instruct me to report the bill back recommending its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 59, entitled "An act to reorganize the seventeenth judicial district of the State of Texas," have considered the same, and instruct me to report it back with the accompanying substitute, and recommend that the substitute do pass.

TERRELL, *Chairman.*

Bill read the first time.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 8, entitled "A petition of Throckmorton county praying to be attached to Young county for judicial purposes," and Senate bill No. 95, to be entitled "An act to attach the county of Throckmorton to the county of Young for judicial purposes," have considered the petition and bill together, and are of the opinion that the prayer of the petition should be

granted, and as the bill when amended by striking out section 5 meets the requirements of the petition, they have so amended, and instruct me to report the petition and bill back with the recommendation that as amended the bill do pass.

TERRELL, *Chairman.*

Senator Lane, from the committee on public debt, submitted the following majority report:

COMMITTEE ROOM, January 31.

Hon. J. D. Sayers, President of the Senate:

Your committee on public debt, to whom was referred Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas that will become redeemable on the first day of July, A. D. 1879, and for the payment of approved pension certificates, by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," have considered the same, and a majority of said committee instruct me to report it back with the accompanying amendment and recommend that as amended the bill do pass.

LANE, *for the Majority.*

Strike out all of section 7 after the words "general revenue," and insert in lieu thereof the following: "No bonds shall issue on such certificates or approved claims after the passage of this act, but the certificates and approved claims shall be paid in full, with interest thereon at the rate of ten per cent. per annum from the first day of July, A. D. 1874, to the first day of July, A. D. 1879, but shall not bear interest after the above last named date; *provided*, that the portion of the proceeds of the sale of the bonds herein provided for, which may be received and set apart by the treasurer for the payment of the principal and interest due on the certificates and approved claims described in this act, if not demanded by the person or persons entitled to the same on or before the first day of January, A. D. 1880, shall be transferred and turned into the general revenue, and such certificate or certificates and approved claim or claims shall be hereafter forever barred.

The undersigned senators, from the committee on public debt, submitted the following minority report:

COMMITTEE ROOM, January 31.

Hon. J. D. Sayers, President of the Senate:

A minority of your committee on public debt, being unable to concur with the majority in their report on Senate bill No. 97, relating to the issuance of bonds bearing five per cent. interest per annum, to redeem the pension bonds, certificates and claims, issued under the act of August 13, 1870, and April 31, 1874, submit this minority report:

We think the bill should be passed without the amendment offered by the majority of the committee. It is necessary to state something of the history of these pension claims, that our position may be understood.

The act of August 13, 1870, provided for a pension of \$250 per annum to certain veterans. The State became unable to meet the same, and on April 21, A. D. 1874, provided for the payment (in other words funding) of the several pension claims which had accrued under the act of August 31, 1870, in bonds, bearing interest at the rate of ten per cent. per annum from date. The said act of 1874 provided certain conditions precedent to the issuance of the bonds to the owners of the pension claim.

There is now in the office of the comptroller certain proof papers, cer

tificates or approved pension claims, which have not been funded or paid in the ten per cent. bonds. They aggregate about the sum of \$18,000, as shown by the comptroller's report for the fiscal year ending August 31, 1878. No bonds have been issued thereon for the reason that the owners have not desired it, or have not made the desire known with proper proof of identification, etc.

The bill as introduced provides in section 7 that no interest shall be paid on the pension certificates or claims unless bonded, but that the principal shall be paid without interest.

The amendment offered by the committee to that section proposes to strike out that clause and insert in lieu thereof that such unbonded pension certificates or claims shall be paid, with interest thereon, from July 1, 1874, to July 1, 1879, (five years,) at the rate of ten per cent. per annum. It will be seen that such interest for five years on \$18,000 will amount to \$9000, and the aggregate will reach \$27,000.

We contend—

1. That the State should not pay the \$9000 or any part thereof, as interest on the certificates or claims not bonded, unless it is legally bound to do so. We think the State is not under contract or legally bound to pay such interest. It was only on the bonds that the State promised to pay interest, and promised the bonds on certain conditions, which, as to these certificates and approved claims, have not been complied with.

2. If, in fact, the State is not now liable to pay interest on the pension certificates and claims, such interest, proposed by the committee to be paid, is not an "existing debt." If it is not an "existing debt," it would be in violation of article 3, section 49, of the constitution of 1876, to issue bonds to pay it; for said section of the constitution reads: "No debt shall be created by or on behalf of the State except * * * to pay an 'existing debt.'"

GOOCH,
PATTON,
DUNCAN,
STOREY.

Senator McCormick introduced a bill entitled "An act to ratify and declare valid a compromise by the commissioner's court of Brazoria county and the issuance of county bonds, and levy of tax therefor, in settlement of bonds of said county, issued under an act of the Legislature, passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for internal improvements,' and the judgments in federal court recovered thereon."

Read by caption and referred to judiciary committee No. 1.

Senator McCulloch introduced a bill entitled "An act to amend an act to regulate the practice of medicine, passed May 16, 1873."

Read by caption and referred to the committee on statistics of industries, public health, etc.

Senator Lane introduced the following resolution:

Resolved by the Senate of the Legislature of the State of Texas, That the number of newspapers now subscribed for and allowed to each Senator be reduced to three as he may direct.

Ruled out of order.

Senator Patton introduced a bill entitled "An act to prevent the taking up and using any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another, without his consent, and to provide a penalty therefor."

Read by caption and referred to judiciary committee No. 2.

Senator McCulloch introduced a joint resolution abrogating section 11, article 16, of the constitution, which limits the rate of interest.

Read and referred to the committee on constitutional amendments.

Senator Homan offered the following resolution:

Resolved, That the Senate discontinue all subscriptions for newspapers for the use of the Senate.

Ruled out of order.

Senator Storey introduced a bill entitled "An act to make an appropriation for the support of the state government for the year ending August 31, 1880, and for the additional period ending December 31, 1880."

Read by caption and referred to the committee on finance.

Senator Ford offered the following resolution:

Resolved, That a committee of senators be appointed by the president of the senate to act with a like committee on the part of the House of Representatives, to examine and report what furniture and repairs are needed in the executive mansion.

Adopted, and Senators Ford, Terrell and Motley were appointed on said committee.

Senator Ledbetter introduced a bill entitled "An act to provide for ascertaining the amount due supervisors, inspectors and teachers of common free schools within the State of Texas from the first of September, 1872, to 31st of August, 1876, and to appropriate money to pay the same."

Read by caption and referred to committee on finance.

On motion of Senator Davenport, the rules were suspended and Senate bill No. 58, "An act defining the boundaries of and prescribing the times of holding the district courts in the twelfth judicial district of Texas," was taken up and read second time.

Senator Storey offered the following amendment:

Section 3. There being an imperative public necessity and emergency for the immediate passage of this act, in order that the same may go into effect before the March term of the court now near at hand, and to prevent confusion which would result by delay, this act shall take effect and be in force from and after its passage.

Adopted.

The bill was then ordered engrossed.

Senator Davenport moved that the rules be suspended and bill placed on its final reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—29.

NAYS—none.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--29.

NAYS—none.

Senator Ledbetter moved that the special orders, being Senate bill No. 13, entitled "An act to provide for the time and place of holding the supreme court of the State of Texas," and Senate bill No. 14, entitled "An act to provide the time and place of holding the court of appeals of the State of Texas," be postponed until to-morrow at 11 o'clock A. M., and made the special order for that hour.

Ruled out of order.

On motion of Senator McCormick, the report of the committee on rules, made Saturday morning, with the amendments recommended therein, were taken up, read and adopted.

On motion of Senator Homan, the rules were suspended and House bill No. 2, entitled "An act to repeal an act entitled 'an act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same,'" was taken up and read first time.

Senator Homan moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Tilson - 27.

NAYS—Brown—1.

Bill read second time.

On motion of Senator Homan, the amendment of the committee was adopted.

Senator Homan moved to suspend the rules and place the bill on its third reading.

Lost by the following vote, it taking four-fifths to suspend:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Gooch,
Grace,
Guy,
Homan,
Lair,
McCulloch,

Moore,
Motley,
Ripetoe,
Terrell,
Tilson—17.

NAYS.

Brown,
Duncan,
Hobby,
Houston,

Lane,
Ledbetter,
Martin,
McCormick,

Patton,
Stewart,
Shannon,
Storey—12.

The president, after reading its caption in open Senate, proceeded to sign House bill No. 135, "An act to make an appropriation to pay the postage of the comptroller's office for six months, commencing January 1, 1879, and ending June 30, 1879;" and House bill No. 3, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Leon county, and to conform the jurisdiction of the district court of Leon county to such change."

A message was received from the House, announcing the passage by that body of Senate bill No. 38, entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas."

Senator Edwards offered the following resolution:

Resolved, That the Senate do now proceed to the election of an enrolling clerk.

Adopted.

The president announced that nominations for enrolling clerk of the Senate were now in order.

Senator Brown nominated H. C. Sughnor, of Bell county.

Senator Edwards nominated Paul McComb, of Galveston county.

Senators Houston, Homan and Guy were appointed tellers.

The first ballot resulted as follows:

Sughnor received 23 votes and McComb received 6 votes.

Mr. Sughnor having received a majority of all the votes cast, the president declared him duly elected enrolling clerk of the Senate. He then came forward and was qualified.

Senate bill No. 24, entitled "An act to secure to creditors the just division of the estates of debtors who convey to assignees or trustees for the benefit of creditors," being the special order for this hour, was taken up and read second time.

(Senator Martin in the chair.)

Senator Lane offered the following amendment:

Strike out in section 5 of this act from the word "given" in the twenty-fourth line all of said section, and insert in lieu thereof "by law from the judgment of the court of such judge or justice."

Adopted.

Senator McCormick offered the following amendment:

In line thirteen, on third page, after the word "belief," insert the word "but."

Adopted.

Senator Terrell offered the following amendment:

Amend section 9 by adding the words "and void."

Adopted.

The bill was then ordered engrossed.

Senator Ledbetter moved that the special order, being Senate bills Nos. 13 and 14, already referred to, be postponed until to-morrow at 11 o'clock A. M., and made the special order for that hour, and from day to day until disposed of."

(The president in the chair.)

Senator Edwards moved a call of the house.

Call sustained.

Roll called.

Absent—Senators Moore and Ripetoe.

The sergeant-at-arms was dispatched for absentees.

Senator Edwards offered the following resolution:

Resolved, That no newspaper shall be taken by the State and paid for out of the contingent fund, unless it publish the journals of the Senate correctly and verbatim.

Senator Terrell moved to refer the resolution to the committee on public printing, and moved the previous question on this motion.

Main question ordered by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Guy,

Hobby,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--25.

NAYS.

Edwards,
Grace,

Homan,

Lane—4.

The motion of Senator Terrell to refer the resolution to the committee on public printing was then adopted.

Senators Moore and Ripetoe appearing, the call of the house was then suspended.

Senator Houston (by leave) introduced a bill entitled "An act to provide for the holding of special terms of the district courts when and where the same may be deemed necessary."

On motion of Senator Gooch, 100 copies of Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas that will become redeemable on the first day of July, A. D. 1879, and for the payment of approved pension certificates by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," and the majority and minority reports on the same were ordered printed.

Senator Buchanan moved that the Senate adjourn until 10 o'clock A. M. to-morrow.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Guy,
Hobby,
Lair,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Storey,
Terrell—19.

NAYS.

Burnett,
Gooch,
Grace,

Homan,
Houston,
Lane,

Ledbetter,
Martin,
Shannon—9.

NINETEENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 4, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ledbetter the reading of the journals of yesterday was dispensed with.

Journals adopted.

Senator Houston presented the memorial of the delegates recently assembled in Austin in attendance on the sheriffs' convention, "recommending and asking for such action on the part of the Legislature (mentioning several particulars) as in their view will make the constabulary of the State more efficient, and cause the criminal laws to be more faithfully and properly administered, and promptly enforced."

Referred to judiciary committee No. 2.

The president of the senate, after reading its caption in open Senate, signed Senate bill No. 38, entitled "An act fixing the times of holding court in the eighteenth judicial district of the State of Texas."

The following message was received from the House announcing the passage by that body of the following resolution:

Resolved, That the speaker of the house, the Senate concurring, appoint a committee of five to act in conjunction with a like committee of the Senate, whose duty it shall be to investigate all land frauds that may have been committed in the State of Texas, and make report to this House as soon as they can consistently do so, and that said committee have power to send for persons and papers and administer all necessary oaths.

This resolution from the House was taken up, read and, on motion of Senator Martin, adopted.

Senator Storey presented the petition of Z. N. Merrell, a veteran of Texas, whose settlement in the State dates back to the year 1835, who has rendered valuable services to the State in years past, asking that the Legislature repeal the law imposing an occupation tax on the vendors of patents or make an exception in favor of citizens of the State obtaining patents of their own; stating, in this connection, that he has obtained two valuable patents within the last year peculiarly valuable to the cotton interests, and that the law is almost or quite a prohibition of him disposing of the same.

Referred to the committee on finance.

Senator McCulloch offered the following resolution:

Resolved, That the committee on military affairs be, and is hereby instructed, at as early a day as practicable, to report by bill or otherwise, what legislation is necessary for the protection of the life and property of the citizens of the State, and particularly of the frontier, from the bands of outlaws known to infest the same.

On motion of Senator Moore, the resolution was referred to the committee on military affairs.

Senator Grace (by request) presented petition of George W. Erwin, asking that an appropriation be made to pay him an account due from the State for the sum of \$452, in the year 1875, for services rendered Captain Fred. Voight, the superintendent of public buildings and

grounds, at that time, in watering the plants, trees, shrubbery, etc., in the capitol grounds.

Referred to committee on finance.

Senator Davenport introduced a bill entitled "An act to legalize the sale of real estate which belonged to Stephens county, in and near the town of Breckenridge, Stephens county, Texas."

Read by caption and referred to judiciary committee No. 1.

Senator Motley introduced a bill entitled "An act to endow Henderson college, in Rusk county, with a land grant."

Read by caption and referred to committee on state affairs.

Senator Lane introduced a bill entitled "An act to require the owners of surveys to pay the patent fee therefor before filing the field notes of of the same in the general land office."

Read by caption and referred to committee on land office.

Also, a bill entitled "An act for the relief of the Aransas road company."

Read by caption and referred to the committee on judiciary No. 1.

The hour having arrived for going into executive session on special message of his excellency the governor, on motion of Senator McCormick, the Senate went into executive session.

(In Senate.)

Senator Grace presented the petition of J. K. P. Campbell, late inspector of the penitentiary, and now residing in Lamar county, asking that an appropriation be made to pay an account for \$281 65 for divers expenditures made from his own private funds for many articles necessary for his use as inspector of the penitentiary.

Referred to the committee on finance.

On motion of Senator Gooch, Senator Motley was indefinitely excused in consequence of sickness in his family.

The hour for special order, being Senate bill No. 103, entitled "An act to organize the state penitentiaries, and to regulate the management of the convicts therein," was taken up and read the first time.

(Senator Brown in the chair.)

On motion of Senator Hobby, the rules were suspended and the bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Bill read second time.

On motion of Senator Hobby, the amendments recommended by the committee were adopted.

A message was received from the House announcing the passage by that body of House bill No. 10, entitled "An act to amend section 4 of an act entitled an act to amend an act entitled 'an act to provide for the supplying of lost records in the several counties in the State,' approved April 14, 1874, approved July 13, 1876," and that the following repre-

sentatives were appointed on the part of the House as a committee required by concurrent resolution adopted this morning for the purpose of investigating "land frauds:"

Frost, chairman; Pickett, Foster, Baker and Johnson, of Shelby.

The president of the senate announced the following senators as a committee on the part of the Senate on the resolution "to investigate land frauds," and just referred to:

Senators Martin, Lane, Duncan, Buchanan and Homan.

Senator Burnett offered the following amendment to the bill under consideration (Senate bill No. 103):

"But the pay of no guard by the State or any lessee or lessees shall be less than \$30 and board."

Add to section 44, as amended.

Senator Edwards moved to amend the pending amendment by striking out "\$30." and inserting "\$25."

Accepted by Senator Burnett.

The amendment, as amended, was then lost by the following vote:

YEAS.		
Burnett,	Homan,	McCormick,
Burton,	Lair,	Ripetoe—8.
Edwards,	Ledbetter,	
NAYS.		
Brown,	Hobby,	Stewart.
Buchanan,	Houston,	Shannon,
Davenport,	Lane,	Storey,
Duncan,	Martin,	Swain,
Gooch,	McCulloch,	Terrell,
Grace,	Moore,	Tilson—20.
Guy,	Motley,	

Senator Burton offered the following amendment:

Provided, No person shall be employed as a guard who is not a qualified voter of this State.

Senator McCormick offered the following as a substitute for the resolution of Senator Burton:

Provided, No person shall be employed as a guard who is not a qualified voter of this State, and when the convicts to be guarded are employed in agriculture no person shall be used as a guard over such convicts who is not a qualified voter of the county wherein such convicts are so employed.

Accepted by Senator Burton.

(President in the chair.)

A message was received from the House announcing the passage by that body of House joint resolution No. 23, in regard to the Aransas pass bar.

On motion of Senator Duncan, the question involved in Senator Burton's resolution was divided into two propositions. The first proposition or division of the pending resolution, to wit: "*Provided*, no person shall be employed as a guard who is not a qualified voter of this State," was adopted by the following vote:

YEAS.		
Brown,	Burton,	Edwards,
Buchanan,	Davenport,	Guy,
Burnet,	Duncan,	Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter.

Martin,
McCormick,
McCulloch,
Ripetoe,
Stewart,

Shannon,
Storey,
Terrell,
Tilson—23.

NAYS.

Gooch,
Grace,

Patton,

Swain—4.

Senator Gooch offered the following substitute for the second division of the amendment of Senator Burton: "Where convicts are operated in agricultural pursuits, the guard over them shall be selected from the citizens of the county in which convicts are operated, if such citizens of good character can be had."

Senator Storey moved the previous question upon the amendment and substitute therefor.

The main question was ordered.

The substitute of Senator Gooch was lost by the following vote:

YEAS.

Brown,
Davenport,

Gooch,
Guy,

Houston,
Ledbetter—6.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Grace,
Hobby,

Homan,
Lane,
Lair,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—21.

The original question, or second division of Senator Burton's resolution, was then lost by the following vote:

YEAS.

Burnett,
Burton,
Edwards,

Gooch,
Homan,
Houston,

McCormick,
Ripetoe—8.

NAYS.

Brown,
Buchanan,
Davenport,
Duncan,
Grace,
Guy,
Hobby,

Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Tilson—19.

Senator Houston moved to reconsider the vote of this morning adopting House concurrent resolution creating a committee to investigate land frauds.

On motion of Senator Duncan, the Senate adjourned until to-morrow morning at 10 o'clock.

TWENTIETH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 5, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Grace the reading of the journals of yesterday was dispensed with.

The journals were then corrected and adopted.

Senator Stewart, chairman *pro tempore* of the committee on revision of the code, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the code, have had under consideration the House concurrent resolution looking to the appointment of a committee from the Senate to act in conjunction with a like committee from the House on the revision and digest of the civil laws of the State, and instruct me to report the resolution back to the Senate with the recommendation that it do not pass.

This action of the committee, I am instructed to say, has been had with the fullest appreciation of the valuable aid that the committee proposed to be raised in the House could render the Senate's committee already appointed for this work.

But inasmuch as a large committee had already been appointed by the Senate for the purpose indicated in the resolution, and had entered upon the performance of the duty assigned them, they feel that the work can be more expeditiously and thoroughly accomplished by committees, respectively, of the Senate and House, acting independently of each other, than by a joint committee composed of members of each body.

Your committee in reaching the conclusion, as recommended in this report, have instructed me to say that it has been done with the utmost respect for the House of Representatives, and only from a sense of what would best promote the public service.

STEWART, *Chairman pro tempore.*

Senator Ledbetter, chairman of the committee on education, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on education, to whom was referred Senate joint resolution No. 112, "in relation to the Agricultural and Mechanical College of Texas," have had the same under consideration, and I am instructed by said committee to report the accompanying resolution as a substitute for the same, and recommend that the substitute do pass.

LEDBETTER, *Chairman.*

Resolved, That a joint committee of two from the Senate and three from the House be appointed by the presiding officers of each branch of the Legislature, whose duty shall be to visit the Agricultural and Mechanical College of Texas, and after carefully examining its present condition, and the manner in which the institution is conducted, to report whether it is in truth, an agricultural and mechanical college, and make such suggestions for the Legislature as they may think necessary.

The joint resolution reported as a substitute for the original resolution was read first time.

Senator Grace introduced a bill entitled "An act for the relief of taxpayers."

Read by caption and referred to the committee on finance.

Senator Terrell introduced a bill entitled "An act for the relief of heirs of Catlett Burnett, deceased."

Read by caption and referred to the committee on land office.

Senator Storey introduced a bill entitled "An act to amend 'an act to amend article 766 of the Penal Code,' approved May 17, 1873."

Read by caption and referred to judiciary committee No. 1.

Senator Storey, chairman of the committee on finance, by leave, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," and I am instructed by a unanimous vote of the committee present to return the bill with the accompanying amendments and to recommend that the bill, as amended, do pass. The committee believe that the law now upon the statute books, authorizing the sale of these lands, is liable to much abuse, and is so defective that the lands sold thereunder will in point of fact be of no perceptible benefit to the available school fund, as the scholastic population of the State increases much faster than the available fund. The consequence is that under the laws now in force, the State will in time have parted with all her school lands without aiding perceptibly in the education of a single child. The State has now nearly twenty-two millions of acres of land surveyed and set apart for the benefit of common free schools, and additions are being made thereto daily, and it is believed by the committee that large bodies of this land can be sold at fair prices, and thereby subject the land to taxation in the hands of purchasers for the benefit of the State and county, and at the same time add to the available school fund more rapidly than the scholastic population increases, so that the present as well as the future generations will realize some benefit from the vast domain set aside for the benefit of free schools.

Again, we fear that the financial condition of the State may render it necessary for this Legislature to decline to appropriate for the benefit of free schools the one-fourth of the annual revenue as heretofore, and believing, as we do, that the bill will, in some measure, repay the available fund what it would lose by the failure to make the appropriation referred to, and that it is our duty to do all we can to husband and increase the available school fund as much as possible without increasing the burdens of taxation upon the people, and that this bill is properly guarded so as to protect the interests of the school fund, as well as to shield the people from unnecessary taxation, we ask, therefore, that the bill as amended do pass.

STOREY, *Chairman.*

Section 17. That an act to provide for the sale of the alternate sections of land as surveyed by railroad companies and set apart for the benefit of the common school fund, approved April 24, A. D. 1874, be and the same is hereby repealed; *provided*, that all sales and contracts made under said act shall be carried out according to provisions of said act.

On motion of Senator Storey, one hundred copies of the amendments of the committee and accompanying bill be printed, and that the bill be made the special order for Saturday next, just after the morning call, and from day to day until disposed of.

(Senator McCormick in the chair.)

The unfinished business of yesterday being Senate bill No. 102, entitled "An act to organize the state penitentiaries and to regulate the management of the convicts therein," was taken up.

Senator Swain moved to reconsider the vote adopting section 16.

Lost.

Senator Burnett offered the following amendment:

Add to section 73 "*provided, that on the first day of January, 1780, or as soon thereafter as practicable, the governor and the commissioners shall require all convicts to be confined at labor inside the walls of the penitentiaries.*"

Adopted.

Senator Burton offered the following amendment:

Amend section 6, line twenty-seven, by striking out the word "the" and insert the word "they."

Adopted.

Senator Ripetoe offered the following ammendment:

Strike out of section 73 all before the word "but" in line twenty-six, page fourteen:

Lost by the following vote:

	YEAS.	
Burnett,	Homan,	Ripetoe,
Burton,	McCormick,	Stewart—6.
	NAYS.	
Blassingame,	Guy,	McCulloch,
Brown,	Hobby,	Patton,
Buchanan,	Houston,	Shannon,
Davenport,	Lane,	Storey,
Duncan,	Lair,	Swain,
Gooch,	Ledbetter,	Terrell,
Grace,	Martin,	Tilson—21.

The bill was then ordered engrossed.

On motion of Senator Hobby, the rules were suspended and bill placed on its third reading by the following vote:

	YEAS.	
Blassingame,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCormick,	Tilson—26.
Guy,	McCulloch,	

NAYS—Ripetoe—1.

The bill was then read third time and passed by the following vote:

	YEAS.	
Blassingame,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCormick,	Tilson—26.
Guy,	McCulloch,	

NAYS.

Ford,

Ripetoe—2.

A message was received from the House announcing the adoption of Senate concurrent resolution "To examine and report what furniture and

repairs are needed for the executive mansion," and that Messrs. Taylor, of Marion, Upton and Crow have been appointed as a committee on the part of the House.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, }
AUSTIN, February 5, 1879. }

To the honorable the Senate and House of Representatives, in Legislature assembled:

The schools of different grades in Texas demand the attention and fostering care of the Legislature. Upon their present condition and operation I beg leave to submit some views for your consideration. And, first, upon the University of Texas:

As early as 1839 fifty leagues of land were donated, and afterwards set apart for a state university. That land has been surveyed and is situated in the counties of Cooke, Fannin, Grayson, Hunt, Collin, Lamar, McLennan, Shackelford and Callahan; there being now unsold 219,906½ acres, much of which is very valuable, compared to other lands in the State.

By the act of 1874, page seventy-two, as amended by the act of 1876, page seventy-five, it is obviously intended to have these lands sold to settlers and to persons who will settle them in tracts of one hundred and sixty acres to one person, to be valued at not less than \$1 50 per acre, payable in ten annual installments with ten per cent. interest. The land being in league tracts, the compensation for surveying and valuing the small tracts thus sold renders their sale expensive. They are selling very slowly as shown by the amount of the permanent university fund derived from their sale.

When, about forty years ago, this liberal donation was made, it could hardly have been anticipated that at this remote period there would be no university in Texas. It has happened from the policy of selling it in small parcels, and by almost hiring settlers to buy it by a long credit at a low valuation by their neighbors.

Settlers in a tide of immigration have passed over many of these lands of the finest quality for hundreds of miles and bought lands from private owners. If the same policy is persisted in it will be twenty years, and it may be forty years more before Texas will have a university, when its founders and most of their children shall have disappeared from the stage of action. The constitution of 1876 donates to the university one million acres of the public domain, to be surveyed and sold as other university lands, which has not been done.

The means, then, of the university may be stated as follows:

Lands unsold and surveyed, acres.....	219,906½
Lands appropriated, but not surveyed, acres.....	1,000,000
	1,219,906½
Texas state bonds, 6 per cent.....	\$175,500 00
“ “ “ 7 “ “	9,000 00
“ “ “ 10 “ “	44,496 00
Cash to be invested in bonds.....	8,875 18
	\$237,870 18
Notes for land sold.....	207,600 00
	\$445,470 18

If steps should be taken now to have the one million of acres of public land set apart and all the lands sold, as I have recommended, we may expect in a few years to have a university in Texas. This is equally important as to have common schools, for while the one elevates the masses to a certain degree in the scale of civilization, the other is a necessity in this age to properly direct it in the progress to power and prosperity. It is declared expressly in the constitution of 1876 that "the University of Texas" shall be located by a vote of the people.

In the same instrument is found the following provision: "The Agricultural and Mechanical College of Texas, established by an act of the Legislature, passed April 17, 1871, located in the county of Brazos, is hereby made and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith."

This is an authoritative construction by the convention, inserted in the constitution, of the act of Congress that made the donation for the support of such an institution in this State. That act provides that the principal of the fund, now amounting to over \$200,000 invested in our state bonds, shall not be diminished, and no part of it or its interest be used in the erection of buildings or the repairs thereof, but that the interest, now amounting annually to over \$14,000, shall be appropriated by the State "to the endowment, support and maintenance of at least one college, where the leading object shall be, without excluding other classical and scientific studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts in such manner as the Legislature may prescribe."

Under this law of Congress Texas might have erected a college in which the pupils were supported and taught agriculture and the mechanic arts practically and scientifically, for the purpose of increasing the skilled labor in the country, which seems to be the object mainly contemplated by the convention by the direction given, as above quoted, in making this institution at Bryan a branch of the University of Texas, to be hereafter located by a vote of the people. But before this direction was given by the constitution of 1876, a law was passed by the Legislature, March 9, 1877, organizing this institution in which it was provided that the interest of the fund should be applied by the board of directors appointed for its management, to the payment of the directors, officers and professors of the college.

Under this law the institution has been carried on up to the present time. The board of directors is composed of the governor, lieutenant governor, speaker of the house of representatives, and one director chosen by joint ballot of both branches of the Legislature every two years from each congressional district. Said board meets twice in each year, in June at the college, and in January at the capitol of the State. At its last meeting in last month at Austin, I, as president of the board, was requested to communicate to the Legislature certain resolutions passed at said meeting, together with a report of the history and condition of the institution, from its foundation to the present time, made by the elected members of the board, whose directorship will terminate with the election of their successors at this session of the Legislature, all of which is most respectfully submitted for your favorable consideration. Their report will be found also to exhibit the history and condition of the branch of that college, for the education of colored youths, situated near Hempstead.

By the resolution adopted at said last meeting it will be seen that the college at Bryan has been given a direction more in harmony with the provision in the constitution "for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith." This is obviously intended to be its sphere of action in and as part "of the University of Texas," as contemplated by our organic law; and in reference to it in this point of view, there are certain unquestionable facts that should be borne in mind, namely:

That it could not have been designed by Congress in furnishing to the states donations of land to found agricultural and mechanical colleges to promote the cause of literary and scientific education as taught generally in colleges, universities and academies all over the United States, but rather to educate skilled laborers, as they are taught in Europe, and thereby secure skilled labor at home, instead of importing it from abroad as has always been heretofore done to a very large extent, from the earliest settlement of this continent by Europeans; that those who are highly educated in literature and the sciences generally are seldom found to spend their lives between the plow handles, or in the work shop or otherwise, where such learning is or can be made contributory to the elevation or improvement of labor; that we lack in Texas skilled laborers more than men learned in literature and science that fit them for and induce them to follow the learned professions.

Agriculture is, and will long continue to be, the great interest in Texas, and the mechanic arts should be encouraged to come in aid of it; and it is certain that those who will practically follow those pursuits will not graduate in colleges of general learning, for they will not be able to pay their way there. That our colored population will not be able to get any of the benefit of this fund, for many years, which was intended for them as well as the white population, if they are required to pay for the board, clothing and tuition of their children, which is fully demonstrated by the report relating to the branch of the college for colored youths now submitted to you.

That the production of Texas may be largely increased, if not doubled, by the same amount of labor and capital, if practical scientific knowledge in agriculture and the mechanic arts could be imparted generally throughout the country to those who do and will follow those pursuits through life. And thereby the national wealth will be increased, individual prosperity promoted, and the dignity of labor secured.

Therefore, in order to enable the directory to further increase the direction of this institution in harmony with the constitutional provisions, which is equally if not more imperative than a legislative direction prescribed by a law enacted, I respectfully recommend that so much of the law that has been referred to, which requires the interest of the fund to be appropriated alone to the payment of "the directors, officers and professors of the college," be repealed, and that a law be passed authorizing the directors to use it for the endowment, support and maintenance "of the college" in the terms of the law of Congress making the donation and in accordance with the terms of the constitution of 1876, giving directions for its use "for instruction in agriculture, the mechanic arts and natural sciences connected therewith." I would cheerfully make other recommendations including appropriations to promote the interest of the institution, if I did not think that the present condition of our finances forbids it. As to the branch of college for the education of

colored youths near Hempstead, I respectfully recommend that it be safely rented out for the year, and until it can be so employed by the directors as to secure pupils to be taught in it. It is now taken care of by a person without cost, under the authority of the president, Gathright.

Having examined thoroughly into the management and present condition of this college at Bryan, I must say, on behalf of the directors and faculty, and especially on behalf of its president, that their conduct deserves the highest commendation for the extraordinary efforts successfully made by them with the means at their command, to promote the best interests of the college under, and in pursuance of the law of the Legislature under which it was organized, and has been carried on up to this time.

O. M. ROBERTS.

REPORT OF THE OUTGOING DIRECTORS AT THE JANUARY SESSION OF THE BOARD, 1879.

To the Honorable Legislature of the State of Texas :

The undersigned the only members present of the board of directors, elected by the Fourteenth Legislature, to administer the affairs of the Agricultural and Mechanical College of the State of Texas, have been appointed by the board, as now organized, to present to your honorable body a statement of what has been done in the organization and development of the college from the date at which it came into their charge to the present time.

Referring to the origin of the college, the Congress of the United States, by the act of July 2, 1862, made to all the states a donation of land, in amount proportional to their representation in Congress, the interest of the money derived from the sale thereof to be devoted to the endowment, support and maintenance of at least one college, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the states may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life."

The State accepted the donations, sold the land scrip, invested the money in seven per cent. frontier bonds, on which interest accruing prior to the completion of the buildings required by the act of Congress to be erected by the State, was reinvested by order of the Legislature, and the aggregate annual interest subject to the action of this board, for running the college, has been for the past year \$14,280, whereas the present annual cost for professors is \$17,400, showing an annual expenditure of \$3120, which the permanent fund does not cover and which has been provided for by the revenue arising from scholarships, the election of two adjunct professors as assistants and the inauguration of a new professorship during the past year, having carried the requirement for pay of faculty beyond the capacity of the permanent fund. Hereafter the permanent fund will yield annually \$14,280, and the requirement for pay of faculty in consequence of reduction of salaries, at this meeting of the board, will be only \$13,500.

The State erected, by successive appropriations, a main college building, a steward's hall, dwellings for the president and five professors, at a cost of \$187,000, all of which, except the \$40,000 appropriated by the Fifteenth Legislature, was expended prior to our charge of the institution,

This last appropriation was for building dwellings for professors, and for furniture for the dormitories and mess hall—not a dollar of it for running the college, which has not at any time drawn one dollar from the state treasury for running expenses. The institution was put in operation by the election of a president and five professors, and on the first Monday in October, 1876, the opening of the college was inaugurated by an address by Governor Coke, president of the board, there being six students in attendance, and at the end of that term only forty-eight. At the close of the annual session this number had increased to one hundred and six. The opening term was not encouraging, but the examinations had been so satisfactory and the rapid improvement of the students so palpable that when the college session commenced in the October following, the students present numbered two hundred. This number increased until on the first of December there were two hundred and fifty-three and the president declined to receive more for lack of rooms to put them in. Two hundred and fifty of these continued to June, 1878, the period of the annual commencement exercises.

The president and faculty had afforded satisfactory evidence of fitness and capacity, and the closing exercises were enthusiastically received by large audiences. Four hundred and sixteen applications for scholarships had been filed, but they could not all be received for want of room, although extraordinary efforts had been made to meet the emergency by erecting two substantial wooden buildings in rear of the main college building, each of which accommodated seventy-two students with bed and study rooms, fitted with the necessary furniture. These buildings were erected and furnished out of the revenues of the college derived from the scholars, and have been paid for at a cost of between six and seven thousand dollars, without calling on the State Legislature for a dollar.

The directors of the college have felt gratified in an eminent degree by the material improvement and development of the students, and they have the assurance of past success that, with the assistance of the Legislature, they could build up a great state institution, from which no boy in Texas, who could compass the small amount required for board, instruction, clothing, surgeon's fee, and all incidentals (\$200), should be turned aside by any plea whatever, if he had good habits; and could feel that he had no need to go elsewhere, for any class of education, from the preparatory to the highest grades known to universities, and by which we could retain within our borders the large amount of money heretofore sent abroad for educational purposes, and build up an elevated state pride and an exalted patriotism. This has been our hope, but it cannot be realized without adequate buildings and adequate apparatus and a respectable library such as are possessed by all colleges of note. These are indispensable and needed now, for we have no library, nor any apparatus worth mention.

The act of Congress, while it proposes to assist in providing "a liberal practical education of the industrial classes in the several pursuits and professions of life," indicates unmistakably that a leading object shall be the teaching of "such branches of learning as pertain to agriculture and the mechanic arts." This admonition has not been forgotten, but the daily expenses of the college, coupled with the erection of buildings, construction of cisterns, etc., have pressed so closely upon all receipts, indeed anticipated them, that not much has been accomplished. More

land should be enclosed, workshops should be erected, machinery obtained, farm implements, mules, etc. Then systematic and practical instruction in agriculture and mechanics may begin on a suitable scale, and opportunity be afforded to such as desire it, to cultivate ground to pay college expenses in whole or in part. A little has been done. One hundred and sixty acres have been enclosed with a substantial plank fence, fifty acres have been broken and cultivated. One thousand apple trees have been set out, and most of them are in good condition, and ornamental shrubs and trees to beautify the grounds have also been set. It is undeniable, however, that not enough has been done to carry out fully the main objects of the grant, and for this short coming the directory can only justify themselves by the positive deficiency of means, which they hope may be furnished to their successors. Could they have used for agricultural development the money put into the new dormitories, much might have been done, but without dormitories we could not have scholars, and without scholars we could not build up a great State institution of learning, and those who have applied for instruction so far have not demanded instruction in agriculture or mechanics. We would like to have the capacity given to the college to instruct thoroughly in these practical branches, for we are well aware that what are usually termed the learned professions are over-full of practitioners, while agriculture and mechanics in the south need learning and skill to elaborate them into prosperity. We have said that there has been no demand by scholars in this direction; but if we had attractive facilities and could demonstrate palpably valuable results, then, as we think, we should have numerous applicants for agricultural and mechanical education. We feel proud of what we have accomplished. We know that we have been carefully economical of our means from the beginning of our administration, having reduced salaries of professors more than a year ago to correspond with the increased purchasing power of money, and having at this meeting, in conjunction with the new official members, agreed upon another reduction; but we know that the great work is not half done and can only be effectually carried out by pecuniary aid from the Legislature, yet we want it fully understood that the college is self-supporting as it is—more than self-supporting. The aid desired is only for the enlargement of permanent teaching facilities that it may have the usual attachments of a great institution of learning, and be enabled to perfect its mission in all the branches indicated and to give entrance and education to every son of Texas who may knock at its portals and ask for it.

The military department of the college is a necessity growing out of the terms of the grant by the general government, but costs literally nothing to the State as the general government furnishes the military instructor and pays his salary as an officer of the army, and also furnishes the arms necessary for the exercises. This officer also teaches a class in mathematics, and is subject to the orders of the president of the college. The military system of government has been found a valuable assistant in enforcing the discipline of the college, as it is undoubtedly greatly beneficial in inculcating deportment and systematic action through life. This officer was detailed by the secretary of war upon application of the board, which in procuring this detail saved to the permanent fund the entire cost of a professorship.

During our administration the board had concluded that by abolishing the office of steward there might accrue a material addition to the college

fund. The building occupied by the steward's family had been built for the president's family, and there were not residences for all the professors, and are not now. These two inducements combining, the board, in January, 1878, resolved to dispense with the office of steward and substitute an unofficial culinary superintendent, who should be a practical laborer, in connection with that department. The object was to increase the available college fund, and it has succeeded. The fund has been increased materially, and the debt growing out of various constructions, absolutely necessary to the success of the institution, is now virtually extinguished, and the college out of debt. The president occupies his proper residence, and another professor obtains a residence thereby. The change from an official stewardship, created by the board, without experience, to an unofficial culinary manager and laborer, employed and subject to discharge at any time when unsatisfactory to the college, assures prompt and acceptable discharge of duty, and has worked well. The results have fully justified the judgment of the board, financially and otherwise.

In conclusion this committee requests that your honorable body will appoint a joint committee to investigate closely the condition of the college as to efficiency and economy of management, and verify all our statements in relation to the administration and progress. Its enlargement of capacities depends upon you. Without another permanent dormitory building, a library, a laboratory, workshops and machinery and agricultural implements, it is not in the power of the faculty to place the state college on the attitude which it should occupy to make it an honor to the State and a great permanent benefit to its young men, who are soon to assume our places and become the people of the State and the rulers of the states, and either do honor to it or perhaps lessen its present rank as a member of the Union. This committee has no interest in this matter other than your interests, common to the people of the State. Our official terms will soon cease, and we feel that we have done our whole duty. Our hope is that our successors, with your aid, may be able to do more than we have, and that the state college of Texas may become a source of continued pride to all the people of the State and cause its value to be felt to the remotest corner of our territory.

Respectfully,

CHARLES DEMORSE,
T. M. SCOTT,
A. J. PEELER,
B. H. DAVIS,
E. B. PICKETT.

AGRICULTURAL AND MECHANICAL COLLEGE FOR COLORED YOUTHS AT
ALTA VISTA.

In pursuance of section 14, article 7, of our present constitution, the Fifteenth Legislature, by an act approved August 14, 1876, authorized the establishment of an agricultural and mechanical college for the benefit of colored youths, and to accomplish this object appropriated the sum of \$20,000. The commissioners appointed under said act, consisting of the Honorable Ashbel Smith, now a member of the House in the Sixteenth Legislature; J. D. Giddings and Jas. H. Raymond, selected a tract of land situated sixteen miles from Hempstead, in Waller county, and known as Alta Vista, upon which were valuable buildings suitable for collegiate use, and improvements fitted for agricultural purposes. The

commissioners in their written report state that in their opinion the selection of the location is an eminently eligible one for healthfulness and convenience of location and superior suitability for farming and general agricultural purposes. After completing their labors by putting the building in suitable repair, the commissioners, about the twenty-first day of January, 1878, formally turned over the property to this board, to whom its supervision and control was confided by said act of August 14, 1876.

The amount expended by the commissioners in the purchase of the lands and buildings and in making necessary repairs before turning the property over to this board, was about \$15,787 67, leaving to the credit of the \$20,000 00 appropriation the sum of \$4,212 33. The board at once (January 22, 1878) took steps to put the institution into operation by electing Prof. T. S. Gathright, the president of the Agricultural and Mechanical College, also president of this without additional salary, and authorizing him to employ necessary instructors, purchase furniture, etc., so as to be ready for the reception of students at the earliest day practicable. Proper furniture for the house, dining-room and kitchen for twenty students was purchased, fifty acres enclosed with a substantial fence, Prof. L. W. Minor employed as instructor, and the school opened on the eleventh day of March, 1878. Notwithstanding the opening of the school had been advertised in the local paper at Hempstead and by a large number of circulars distributed generally among our colored citizens, only eight scholars entered and the number has decreased until it is now entirely without students. Prof. Minor's engagement will terminate on the thirteenth day of February, 1879, and there is money enough left of the balance of \$4,383 02 out of the \$20,000 appropriation to pay him and meet all other expenses incurred, so that the institution is not in debt.

The cost of board, lodging, clothing and tuition were reduced at this institution \$70 below that charged at the Agricultural and Mechanical College near Bryan, and Prof. Minor, a colored man himself, of fine education and excellent character, has, in addition to the ordinary means of advertising in newspapers and by circular, appealed directly and by numerous private letters to persons of influence among his own race to come to the aid of the institution, but the fact is, as stated by Prof. Gathright, there is no demand for higher education among the blacks, and such as this, dependent upon them alone, will not be patronized and cannot be made self-sustaining. We appreciate the justice and propriety of the effort made by the Fifteenth Legislature to extend to our colored citizens the opportunity of higher education, and still believe that in some practical way they should be allowed to share in the benefit of the congressional donation, which was intended for all alike, and we further believe that every reasonable effort should be continued to educate and elevate them.

President, professors and officers of the Agricultural and Mechanical College at Bryan: Thos. S. Gathright, president and professor of mental and moral philosophy and book-keeping; Alex. Hogg, professor of pure mathematics; C. P. B. Martin, professor of natural sciences and agriculture; W. A. Banks, professor of modern languages; John T. Hand, professor of ancient languages; R. P. W. Morris, professor of natural philosophy and engineering; L. M. Lewis, professor of English languages and

literature; J. E. Binsley, adjunct professor of mathematics; L. L. M. Innis, adjunct professor of ancient languages and English; Captain Geo. T. Olmsted, U. S. A., commandant; Dr. D. Port Smythe, surgeon.

Resolutions adopted by the board at its January session, 1878:

Resolved, That in the future the following schedule and payments for the students be made to commence October 1, 1879: October 1, \$95; December 1, \$35; February 14, \$35; April 1, \$35.

Resolved, That the governor, as president of the board, be respectfully requested to communicate to the Legislature now in session, the fact that the Agricultural and Mechanical College for colored youths, located at Alta Vista, is without students, and to request that honorable body to give the continuance of this institute and its future management its early attention.

It was further resolved that a committee of three, composed of Col. DeMorse, Governor Pickett and T. M. Scott, are hereby appointed to draw up a statement of the condition of the Agricultural and Mechanical College, and present it to the Legislature at its present session, to which committee A. J. Peeler was added.

Resolved, That the salary of the president for the year beginning the first of October, 1879, shall be \$2,500, and that the salaries of the professors shall be \$1,800 dollars each, and of the assistant professors \$1,000 each.

Resolved, That after the expiration of the present session, the professorships of modern and ancient languages shall be combined under the title of professor of languages, to which chair a competent professor shall be elected, who shall have the assistance of one of the adjunct professors now in the college, and thereafter, until it shall be found desirable to the interest of the college, there shall be no distinct chair of ancient languages.

Resolved, That the professor of agriculture shall be a person qualified to instruct in the field as well as in the lecture room, and that the duties of said professor shall require him to instruct his scholars as fully as practicable in the nature and composition of soils, and their analysis and relations to special products in the cultivation of fruit and forest trees, and all the other practical matters connected with products of the soil cultivated for profit, and in pursuit of this object he shall, not less than three times per week, take his scholars into the grounds in cultivation in the college enclosure and by practical application teach them all the elements of husbandry, and have them give such personal attention and practice as will enable them to become practical farmers, with a knowledge of the advantages which scientific research and analysis, tested by practice, have already given to agriculture.

Resolved, That for the purpose of carrying out the two foregoing resolutions, information shall be given through the public press that an election for professor of languages and an election for professor of agriculture will be held by the directors at the next meeting in June at the college.

Resolved, That the president is required to see that the superintendent of the farm shall have fifty additional acres of land well broken, and as thoroughly prepared as practicable for culture in the spring.

Resolved, That any student desiring to cultivate land as a means of

paying his college expenses, in whole or in part, shall have assigned to him a tract of such size as the time he proposes to labor will enable him to cultivate, to be determined by the professor of agriculture, and that the crops when ready for market, subject to deduction of the customary charge for use and feed of animals, shall be sold under authority of the professor of agriculture, and the proceeds placed to the credit of said student upon the books of the college.

Resolved, That the professor of agriculture, with the advice of the president, shall, as fast as the carrying out of the culture above named shall require, purchase upon the best market terms suitable mules to make the cultivation; and, furthermore, that every student, to whom a mule shall be assigned, shall be instructed by the professor of agriculture or by the farm superintendent in the best mode of feeding, caring for and working said mule to keep him in efficient working condition.

Resolved, That the report of the members of the old board be made to the Legislature through his excellency the governor, as chairman of the board, with the request that he submit it with such recommendations as his judgment may dictate.

Resolved, That hereafter the students be furnished their uniforms at a cost of not to exceed thirty dollars, or at actual cost, be the same more or less, and that the first payment be reduced to eighty-five dollars.

Members of the board, when the foregoing resolutions were adopted at the January session, 1879:

O. M. ROBERTS,

Governor and President of the Board.

J. D. SAYERS,

Lieutenant Governor.

J. H. COCHRAN,

Speaker of the House of Representatives.

B. H. DAVIS,

CHAS. DEMORSE,

A. J. PEELER,

T. M. SCOTT,

E. B. PICKETT,

F. S. STOCKDALE (not present).

Senator Homan moved to suspend the reading of the message, and that 1000 copies be printed.

Lost.

The message was then read, and on motion of Senator Storey 2500 copies of the message and accompanying documents were ordered printed for the benefit of the Senate.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed the following bills, viz: Senate bill No. 58, entitled "An act defining the boundaries of, and prescribing the times of holding the district courts in the twelfth judicial district of Texas." Senate bill No. 78, entitled "An act to provide for designating and working public roads, streets and sidewalks in unincorporated towns and villages." Senate bill No. 24, entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees or trustees for the benefit of creditors."

BROWN, *Chairman.*

(The president in the chair.)

The special order being Senate bill No. 43, entitled "An act to change the jurisdiction of the county courts and conform the jurisdiction of the district court to such change," was taken up and read second time."

A message was received from the House announcing the passage by that body of House joint resolution No. 21, authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to her university lands in McLennan and Hill counties, and to remove all clouds upon said title.

Senator Homan offered the following amendment to the pending bill: Amend by striking out all after the word "courts," in line fourteen, section 1.

Senator Edwards moved to postpone the further consideration of the bill and amendment.

On motion of Senator Davenport, the Senate adjourned until 10 o'clock A. M. to-morrow.

TWENTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 6, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton the reading of the journals of yesterday was dispensed with.

Senator Storey called attention to an error in the printed journals:

That his motion to print 2500 copies of the governor's message of yesterday was printed "3500."

Senator Homan called attention to a similar error in the journals:

That his motion to print 1000 copies of the governor's message was printed "100."

Upon examination the manuscript journals were found to be correct and the errors only typographical.

The printed journal was then corrected and journals of yesterday adopted.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 3, entitled "An act to provide for and regulate judgment liens on land," and find it correctly engrossed.

BROWN, *Chairman.*

Senator Storey introduced a bill entitled "An act making it a penal offense to hold or exercise more than one office of profit or trust."

Read by caption and referred to judiciary committee No. 1.

The following House bills and joint resolutions were taken up and referred to appropriate committees:

House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," was referred to the committee on finance.

House bill No. 10, entitled "An act to amend section 4 of an act entitled 'an act to amend an act entitled an act to provide for the supply-

ing of lost records in the several counties in this State,' approved April 14, 1874, approved July 13, 1876."

Referred to judiciary committee No. 2.

House joint resolution No. 21, authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said title.

Referred to committee on state affairs.

On motion of Senator Houston, the rules were suspended and House joint resolution No. 23, "in regard to Aransas Pass bar," was taken up and read first time.

Senator Houston moved to suspend the rules and place the joint resolution on its second reading.

Carried by the following vote :

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

Resolution read second time.

On motion of Senator Houston, the rules were still further suspended to place the resolution on its third and final reading by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

The resolution was then read third time and passed by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

Senator Edwards moved that the committee on constitutional amendments be empowered to employ a clerk.

Senator Grace moved to amend the motion of Senator Edwards by adding "that the clerk employed by the committee on constitutional amendments also act for the committee on military affairs, and that of Indian affairs and frontier protection."

Amendment accepted by Senator Edwards, and the motion, as amended, was adopted.

On motion of Senator Guy, Senator Martin was added to the committee on private land claims.

Senator Lane (by leave) introduced a bill entitled "An act amendatory of an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876."

Read by caption and referred to committee on judicial districts.

On motion of Senator Ford, Senator Storey was added to the committee on Indian affairs and frontier protection.

Senator Duncan (by request) presented the memorial of the Jordan Horticultural Company, of St. Louis, asking for an appropriation to pay an account of \$122 50 for trees, shrubs, plants, etc., bought of them in 1875 by Captain Fred. Voight, superintendent of public buildings and grounds, to be planted in the capitol grounds at Austin, Texas.

Referred to the committee on claims and accounts.

On motion of Senator Gooch, the rules were suspended and Senate bill No. 97, entitled "An act to provide for the payment and redemption of bonds of the State of Texas that will become redeemable on the 1st day of July, A. D. 1879, and for the payment of approved pension certificates by the sale of 5 per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," was taken up and made the special order for Monday at 11 o'clock A. M., and from day to day until disposed of.

On motion of Senator Shannon, the rules were suspended and Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate," was taken up and made the special order for Tuesday next directly after the morning call, and from day to day until disposed of.

On motion of Senator Edwards, Senator Hobby was added to the committee on constitutional amendments.

On motion of Senator Shannon, Senator Tilson was added to the committee on internal improvements.

On motion of Senator Duncan, the rules were suspended and Senate bill No. 62, entitled "An act for the suppression of tramping and punishment of tramps," was taken up and made the special order for next Wednesday, immediately after the morning call, and from day to day until disposed of.

Senator Homan moved to suspend the rules and take up House bill No. 2, entitled "An act to repeal an act entitled 'an act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same.'"

Motion objected to and rules not suspended.

Senator Duncan moved to suspend the rules and take up Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases," and make it the special order for Thursday next, just after the morning call, and from day to day until disposed of.

Carried by the following vote:

YEAS.		
Buchanan,	Ford,	Moore,
Burnett,	Guy,	Patton,
Burton,	Hobby,	Ripetoe,
Davenport,	Lane,	Shannon,
Duncan,	McCormick,	Storey,
Edwards,	McCulloch,	Tilson—18.
NAYS.		
Blassingame,	Grace,	Ledbetter,
Brown,	Homan,	Martin,
Gooch,	Lair,	Stewart—9.

On motion of Senator Edwards, the Senate adjourned until Saturday morning at 10 o'clock.

TWENTY-THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 8, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Gooch, the reading of the journals of Thursday was dispensed with and the same adopted.

The president of the senate, after reading its caption in open Senate, signed House joint resolution No. 23, "in regard to Aransas bar."

Senator Burnett presented a petition from the delegates of a convention of citizens of Madison and Grimes counties, "asking for a reduction of twenty-five per cent. in the salaries of state and county officers."

Referred to committee on retrenchment and reform.

Senator Davenport presented the petition of the attorneys and physicians of Bosque county, "asking the repeal of the law imposing occupation taxes," and giving several reasons therefor.

Referred to committee on finance.

Senator Shannon presented the petition of many citizens of Jack county, asking that the Sunday law be so amended as to require that no secular labor be performed on the Sabbath day, and that all business houses and offices shall be closed on that day, also providing adequate penalties for the violation of said law.

Referred to the committee on state affairs.

A message was received from the House announcing the passage by that body of House bill No. 141, entitled "An act making appropriations for the support of the state government for the time beginning January 1, 1879, and ending March 1, 1879;" House bill No. 8, entitled "An act for the preservation of oysters and oyster beds and protecting the rights of persons to the same;" House bill No. 137, entitled "An act to repeal an act entitled 'an act to authorize and require all forced sales of real estate and sales of negroes made by executors and administrators in the county of Travis to be made on Congress avenue at the southeast corner of block No. 70,' approved November 28, 1857;" House bill No. 202, entitled "An act to authorize and require the state board of education to cancel school certificate No. 63, heretofore issued by said board to Wm. Umdenstock, and to issue a duplicate thereof to Reuben Knight, county

treasurer of Harrison county;" Senate bill No. 61, entitled "Joint resolution granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district;" House joint resolution No. 11, "instructing our senators and requesting our representatives in Congress to aid in securing the passage of a law fixing the standard value of Mexican coin and making the same a legal tender for all public and private debts and in payment of import duties," and the defeat of Senate bill No. 16, entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged."

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration House joint resolution No. 21, "authorizing and directing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said title," and a majority of the committee instruct me to report the same back to the Senate with the accompanying amendment, and the recommendation that it do pass as amended.

Houston, Chairman.

Amend section 2—

Strike out the words "in case it should become necessary the attorney general is authorized to employ assistant counsel in the prosecution of said suits and."

Houston, Chairman.

Senator Shannon, chairman of the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 139, entitled "An act fixing the time of holding the district courts in the twenty-third judicial district," have had the same under consideration and instruct me to report it back to the Senate and recommend its passage.

Shannon, Chairman.

Senator Stewart introduced a bill entitled "An act to incorporate the Grand Lodge of Ancient Free and Accepted Masons in and for the State of Texas, under and by the name and style of 'The Grand Lodge of Texas.'"

Read by caption and referred to judiciary committee No. 2.

Senator Houston introduced a bill entitled "An act to regulate the admission and practice of attorneys and counselors-at-law."

Read by caption and referred to judiciary committee No. 1.

Senator Ford introduced a bill entitled "An act to attach certain counties therein named to the twenty-fifth judicial district."

Read by caption and referred to committee on judicial districts.

Senator Buchanan introduced a bill entitled "An act to increase the civil and criminal jurisdiction of the county courts of Hunt, Kaufman, Collin and Denton."

Read by caption and referred to judiciary committee No. 1.

Senator Houston introduced a joint resolution "instructing the Senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico."

Read and referred to committee on commerce and manufactures.

Senator McCulloch introduced a bill entitled "An act prohibiting the sale of liquor to inebriates, habitual drunkards and the sale of the same on the Sabbath, between the hours of 8 o'clock in the morning and 6 o'clock in the evening."

Read by caption and referred to the committee on state affairs.

Senator Burton introduced a bill entitled "An act to amend section 1 and section 26 of an act to regulate grand juries and juries in civil and criminal cases in the courts of the State, approved August 1, 1876."

Read by caption and referred to judiciary committee No. 1.

Senator Burnett introduced a bill entitled "An act to prevent and punish the aiding and abetting the escape of state and county convicts."

Read by caption and referred to judiciary committee No. 2.

On motion of Senator Storey the rules were suspended and House bill No. 141, entitled "An act making appropriations for the support of the state government, for the time beginning January 1, 1879, and ending March 1, 1879," was taken up and referred to the committee on finance.

The following message was received from his excellency, the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 6, 1879. }

To the honorable the Senate and House of Representatives, in Legislature assembled:

The charitable institutions located at the capital, have uniformly received the special attention of the Legislature, and of course should continue to do so. They are all styled asylums in the constitution of 1876, though that for the deaf and dumb and that for the blind are really institutions of learning. During the last fiscal year, ending August 31, 1878, as shown by the reports, there were nearly 400 inmates in these institutions, who were maintained by the State at a cost of about \$80,000, making the average expense about \$200 for each one, which is the amount that it costs to send a student to the Agricultural and Mechanical College at Bryan.

There is for each of these institutions appointed by the governor a superintendent, who holds his office for two years. On the 29th day of July, 1878, the present incumbents, instead of holding over after their terms of office had expired, were reappointed by the governor, and are now holding under said appointments with terms not yet expired.

In the organization and management of these institutions great pains have been taken to secure a proper administration of their affairs by instituting boards for their supervision and control, composed of gentlemen of high standing in the vicinity, and by checks placed upon the mode of obtaining supplies. After all, however, success in the proper and economical management of these institutions must depend mainly upon the character, qualifications and fitness of their respective superintendents. These institutions being here at the capital and so accessible to the inspection of the Legislature, I have not thought it necessary to do more than call your attention to a few subjects in relation to them. Their salaries are stipulated in the act of appropriation, as it is done with respect to other officers employed by the State. In addition to this, by custom, they receive a support for themselves and their families out of the appropriation for the support of the institution. For instance, the superintendent receives a salary of \$2000, and has himself and family supported and waited on by servants in addition to the salary. And hence

these offices are most earnestly sought by numerous persons as the most profitable salaried offices of the State. The amount really paid is measured, not by the services rendered, but by the size of the family. Considering the character and locality of the service rendered, these offices should be profitable to those engaged in them. But I respectfully suggest that it might be more just to stipulate the entire compensation in the salary, so that it might be known what each person receives, and that the compensation should not be dependent upon the size of the family.

The means belonging to these institutions are as follows:

LUNATIC ASYLUM.

Acres of land surveyed.....	100,000
Bonds of State, 10 per cent.....	\$3,500 00
Cash on hand.....	1,339 47
	<u>\$4,839 47</u>
Notes for sale of land unpaid.....	10,040 00
	<u>\$14,879 47</u>

BLIND INSTITUTE.

Acres of land unsurveyed.....	102,642
Bonds of State, 10 per cent.....	\$ 4,470 00
Cash on hand.....	167 00
Notes for sales of land unpaid.....	13,500 00
	<u>\$18,137 00</u>

DEAF AND DUMB INSTITUTE.

Acres of land surveyed.....	101,644
Bonds of State, 10 per cent.....	\$ 3,500 00
Bonds of State, 7 per cent.....	4,000 00
Cash on hand.....	1,793 38
Notes for sales of lands unpaid.....	14,465 00
	<u>\$23,758 38</u>

These lands are situated in the counties of Callahan, Comanche, Eastland, Jones, Shackelford, Stephens, Taylor and Tom Green. There are also in the same counties 103,229 acres of land belonging to the orphan asylum, which has never yet been set in operation by any law. These lands are being sold on a credit as the university lands are, and if they were sold and invested as has been recommended, permanent funds for each might soon be raised, the annual interest of which would to that extent relieve the people from taxation for their support.

Each one of these institutions should be enlarged by extensive additions to their improvements as soon as the financial condition of the State will permit; for it is reasonably certain that twice the number of persons should be in them if there were accommodations for them.

In the deaf and dumb institution of learning there is a printing establishment, in which there are a few of the pupils employed in printing,

under the charge of a practical printer, and which is now doing a part of the public printing. The pupils, as I am informed, are anxious to learn this trade, as a means of livelihood after they shall have left the institution. The number thus engaged might be increased to twenty-five, and constitute a force capable of doing the printing for the State. It would take, perhaps, as much as \$20,000 to furnish the necessary buildings, presses and other things necessary to fit up and carry on such an enlarged establishment. I respectfully recommend that that amount be appropriated for the year 1880, to be used only upon condition that its use for that purpose will not prevent the revenue collected from being as much as the expenses of the state government.

I desire to call attention to the fact that the supplies for these institutions are furnished quarterly by contract, let out to the lowest responsible bidder, for the articles desired. This was devised as a means of preventing extravagance in the outlays, by favoritism or by other cause, and to encourage competition and prevent combinations. This might furnish the easiest possible mode of favoritism, or of combinations to raise the price of articles, by the manner in which estimates for the articles are made out by designating therein certain brands or qualities of goods. And, therefore, the law should require, as a further security, that the articles included in the estimates should be those which are known to be most abundant and in common use and for sale in the markets of the State, and I respectfully recommend the passage of a law to that effect.

Considering the fact that the superintendents were appointed by my predecessor, and are holding unexpired terms under his appointment, and the additional fact that the Legislature would meet before I could be inaugurated and have any authoritative control, I have not made any personal examinations of these institutions, and, therefore, have no authentic facts to communicate to you now in reference to them. I, therefore, recommend that the Legislature will examine thoroughly into the manner in which said institutions are carried on, both in reference to the treatment of those belonging to them and to the financial management of them.

O. M. ROBERTS.

On motion of Senator Davenport, 1000 copies of the governor's message were ordered printed for the use of the Senate.

Senator Storey, chairman of the committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate concurrent resolution, calling for an expression of the contemplated meaning of article 7, section 3, of the constitution, have duly considered the same, and I am instructed to report to the Senate that it is the unanimous opinion of the committee present that the constitution does require the Legislature to appropriate and set apart some part of the revenue derived from *ad valorem* and occupation taxes for the benefit of the public free schools.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 117, entitled "An act to provide for the sale of the public domain, and to apply the proceeds from the sale thereof to the public school fund and to

the payment of the public debt," have duly considered the same, and I am instructed by a majority of the committee to report the bill back to the Senate with the recommendation that the same do pass.

STOREY, *Chairman.*

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 121, to be entitled "An act supplemental and amendatory of an act entitled 'an act to enable part owners of land to obtain partition thereof, and for other purposes,' passed March 5, 1840," have considered the same, and instruct me to report it back with the accompanying amendment, and recommend that as amended the bill do pass.

TERRELL, *Chairman.*

Section 2. A statement of the facts proven in the trial of any cause affecting the interest of unknown owners shall be incorporated in the record, and no judgment shall be rendered against any unknown owner of lands unless it appear from the facts in evidence that diligent efforts have been made to ascertain the unknown parties, which shall be judged of by the courts, and also incorporated in the judgment.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 94, to be entitled "An act to create a lien in favor of proprietors of livery and other public stables, and to provide for the manner in which same may be enforced," have considered the same, and instruct me to report it back and recommend the passage of the bill.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 125, to be entitled "An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county and the issuance of county bonds and levy of tax therefor, in settlement of bonds of said county, issued under an act of the Legislature passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for purposes of internal improvements, and the judgments in the federal court,'" have considered the same, and instruct me to report it back with the recommendation that it do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 138, to be entitled "An act to amend an act to amend article 766 of the Penal Code, approved May 17, 1873," have considered the same, and instruct me to report it back with the recommendation that the bill do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 132, to be entitled "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county," have considered the same and instruct me to report it back and recommend its passage.

TERRELL, *Chairman.*

On motion of Senator McCormick, the rules were suspended and Senate bill No. 24, entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees or trustees for the benefit of creditors," was taken up, read the third time and passed.

On motion of Senator Duncan the rules were suspended and Senate bill No. 6, entitled "An act regulating the election of clerks of the district and county courts, in counties having less than eight thousand inhabitants and to validate the acts of persons heretofore and now holding both of said offices," was taken up and read the third time.

Senator Duncan moved to strike out the word "and" where it last occurs in the caption and insert in lieu thereof the word "or."

Adopted.

Senator Duncan offered the following amendments: Add to section 4 the words "and it is so enacted."

Adopted by the following vote:

YEAS.

Brown,	Homan,	Moore,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Ledbetter,	Stewart,
Davenport,	Martin,	Shannon,
Edwards,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—22.
Hobby,		

NAYS.

Storey, Swain—2.

The bill was then passed by the following vote:

YEAS.

Brown,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Ripetoe,
Burton,	Lane,	Stewart,
Davenport,	Ledbetter,	Shannon,
Duncan,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—21.

NAYS.

Edwards, Storey, Swain—4.
Martin,

On motion of Senator Terrell the rules were suspended and Senate bill No. 91, entitled "An act to regulate the payment of public money out by state treasurer," was taken up, read first time, and fifty copies ordered printed.

On motion of Senator Lane the rules were suspended and Senate bill No. 139, entitled "An act amendatory of an act entitled 'an act fixing the time of holding the district court of the twenty-third judicial district,' approved August 9, 1876," was taken up and read first time.

On motion of Senator Lane, the rules were suspended and the bill placed on its second reading by the following vote:

YEAS.

Brown,	Edwards,	Lane,
Buchanan,	Gooch,	Ledbetter,
Burnett,	Guy,	Martin,
Burton,	Hobby,	McCormick,
Davenport,	Homan,	McCulloch,
Duncan,	Houston,	Moore,

Patton,
Ripetoe,
Stewart,

Shannon,
Storey,
Swain,

Terrell,
Tilson—26.

NAYS—none.

Bill read second time and ordered engrossed.

Senator Lane moved to still further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS.—none.

On motion of Senator Davenport, the rules were suspended and Senate bill No. 132, entitled "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county," was taken up and read first time.

Senator Davenport moved to further suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

The bill was read second time and ordered engrossed.

On motion of Senator McCormick, the rules were still further suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

The bill was then read the third time.

Senator Davenport offered the following amendment to the bill:

Amend by adding "the cloud cast on the titles of purchasers from the commissioners and the necessity for removing it creates an imperative necessity that the law take effect and be in force from and after its passage."

Adopted.

The bill was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

On motion of Senator Burton, the rules were suspended and House bill No. 2, entitled "An act to be entitled an act to repeal an act entitled 'an act to levy a tax on the privilege of keeping and harboring dogs, and to provide for the assessment and collection of the same,'" was taken up by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,

Gooch,
Guy,
Hobby,
Homan,
Lane,
Martin,

McCulloch,
Moore,
Ripetoe,
Shannon,
Terrell,
Tilson—18.

NAYS.

Brown,
Ledbetter,

McCormick,
Stewart,

Storey,
Swain—6.

The bill was then read a third time.

Senator McCormick moved a call of the House.

Call sustained.

Roll called.

Absent—Senators Blassingame, Grace, Lair and Patton.

Senator Edwards moved to excuse Senators Blassingame, Grace and Lair, as they were absent on committee duty.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCulloch,

Moore,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—23.

NAYS.

McCormick,

Storey—2.

Senator Homan moved the previous question.

Senator Edwards made the point of order that the previous question could not be moved when the house was under a call.

Point of order sustained.

Senator Ledbetter moved to take up Senate bill No. 96, entitled "An act for the disposal of the public free school lands, and to secure the proceeds thereof for the benefit of said schools."

Lost by the following vote:

YEAS.

Brown,
Duncan,
Houston,

Lane,
Ledbetter,
Stewart,

Storey.
Swain—8.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,
Martin,
McCormick,

McCulloch,
Moore,
Ripetoe,
Shannon,
Terrell,
Tilson—18.

On motion of Senator Gooch, the call of the house was suspended.

Senator Homan moved the previous question on the passage of the bill.

The main question was ordered by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,

Gooch,
Guy,
Homan,
Lane,
Ledbetter,

Martin,
Moore,
Ripetoe.
Shannon,
Tilson—15.

NAYS.

Brown,
Duncan,
Ford,
Hobby,

Houston,
McCormick,
McCulloch,

Stewart,
Storey,
Swain—10.

The bill was then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Gooch,
Guy,
Homan,
Lane,
Ledbetter,
Martin,

Moore,
Ripetoe,
Shannon,
Terrell,
Tilson.—17.

NAYS.

Brown,
Duncan,
Hobby,

Homan,
Houston,
McCormick,

Stewart,
Storey,
Swain—9.

Senator Duncan moved to suspend the rules and take up Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in the counties where it may be necessary to construct or to complete payment for court houses and jails."

Carried by the following vote:

YEAS.		
Buchanan,	Hobby,	McCulloch,
Davenport,	Homan,	Stewart,
Duncan,	Houston,	Shannon,
Ford,	Lane,	Swain,
Gooch,	Martin,	Terrell--17.
Guy,	McCormick,	
NAYS.		
Brown,	Edwards,	Storey,
Burnett,	Ledbetter,	Tilson--8.
Burton,	Ripetoe,	

Bill read second time.

Senator Duncan offered the following amendment:

"Whereas, in many counties of this State it is necessary to build or finish paying for court houses and jails, and the present law not furnishing authority to raise means therefor, and consequently a public imperative necessity exists that the rules be suspended for the passage of this bill therefore."

Adopted.

Senator Storey moved to order fifty copies of the bill printed, postpone the same, and make it the special order for Tuesday next after the morning call, and from day to day until disposed of.

On motion of Senator Brown, the question was divided into two propositions.

The first proposition, to print fifty copies of the bill, was adopted by following vote:

YEAS.		
Brown,	Ford,	Moore,
Burnett,	Hobby,	Ripetoe,
Burton,	Houston,	Storey,
Edwards,	Lane,	Swain--12.
NAYS.		
Buchanan,	Guy,	Stewart,
Davenport,	Homan,	Shannon,
Duncan,	Ledbetter,	Terrell,
Gooch,	McCormick,	Tilson--12.

The second proposition of the question, "to postpone and make special order," etc., was then adopted.

Senator Terrell (by leave) presented the memorial of Mrs. Emma M. Moore, widow and executrix of Commodore Edwin W. Moore, late post captain of the Texan navy, against the State of Texas.

Referred to the committee on public debt.

On motion of Senator Tilson, the rules were suspended, and Senate bill No. 49, entitled "An act to give effect to section 2, article 9, of the constitution, regulating the manner of removing and locating county seats," was taken up and read the second time.

Senator Buchanan offered the following amendment: Amend by inserting after the word "subject," in the second line from the top of second page, the following language: "Nor shall any county seat be moved from a point more than five miles from the geographical center of

any county to any other point more than five miles from such center, nor from a point within five miles of the geographical center to any other point within five miles of such center, except by a two-thirds vote of all the electors in said county voting on the subject."

Senator Homan offered the following as a substitute for the amendment just offered: Strike out in section 1, lines one and two, the words "situated within five miles of the geographical center."

Adopted.

Senator Homan offered the following as an amendment to the pending amendment: Strike out all of section 1 after the word "subject," line two.

Lost.

Senator Shannon moved to adjourn until 10 o'clock Monday morning.

Lost by the following vote:

YEAS.		
Brown,	Houston,	Ripetoe,
Ford,	Moore,	Shannon--7.
Guy,		
NAYS.		
Buchanan.	Hobby,	Stewart,
Burnett,	Homan,	Storey,
Burton,	Lane,	Swain,
Davenport,	Ledbetter,	Terrell,
Edwards,	Martin,	Tilson--17.
Gooch,	McCormick,	

Senator Edwards moved a reconsideration of the vote adopting Senator Homan's substitute for Senator Buchanan's amendment.

Carried by the following vote:

YEAS.		
Brown,	Gooch,	McCulloch,
Buchanan,	Guy,	Moore,
Burnett,	Hobby,	Stewart,
Burton,	Houston,	Storey,
Davenport,	Lane,	Swain,
Edwards,	Ledbetter,	Tilson--20.
Ford,	Martin,	
NAYS.		
Duncan,	McCormick,	Terrell--5.
Homan,	Shannon,	

Senator Homan then withdrew his substitute.

The pending amendment of Senator Buchanan was then adopted.

Senator Buchanan then offered the following amendment:

Also strike out all after the word "county," in the ninth line from the top, second page, and before the word "it," in the tenth line.

Adopted.

Also the following amendment: Strike out sections 5 and 6 and insert the following as section 5:

Section 5. When the entry mentioned in the preceding section has been made, the county seat, if the election be held to move the county seat from a point within five miles of the geographical center to a point more or less than five miles from the geographical center, or from a point more than five miles from the geographical center to any other point more than five miles from such center, shall be removed to the place receiving two-thirds of all the electors voting on the subject, and such

place shall thereafter be the county seat of such county. But if the election be held to move the county seat from a point more than five miles from the geographical center to a point within five miles of such center, then the county seat shall be removed to the place receiving a majority of all the electors in the county voting at such election, and such place shall thereafter be the county seat of such county.

Senator Burton offered the following amendment:

Amend section 10, line twenty, by striking out "five" and inserting "ten."

Adopted.

Senator Homan offered the following:

Amend by inserting the following additional section to be No. 12, and section 12 to be No. 13:

Section 12. All elections under this act shall be held on the day of a general election for county officers.

Lost.

The bill was then ordered engrossed.

Senator Duncan moved to suspend the rules and take up Senate bill No. 28, entitled "An act to give forfeitures *nisi* on bail bonds and recognizances in criminal cases the force and effect of judgments," and make it the special order for next Saturday just after the morning call, and from day to day until disposed of.

Senator Edwards moved to amend by ordering 50 copies printed.

The amendment of Senator Edwards was accepted by Senator Duncan, and the motion as amended was then adopted.

On motion of Senator Homan, the rules were suspended and House bill No. 202, entitled "An act to authorize and require the state board of education to cancel school certificate No. 63, heretofore issued by said board to William Umbdenstock, and to issue a duplicate thereof to Reuben Knight, county treasurer of Harrison county," was taken up and referred to judiciary committee No. 2.

Senator Lane moved to order 100 copies printed of Senate bill No. 117, "To sell the public domain to pay the public debt, and for the benefit of public schools," etc.

Senator Duncan moved to amend by striking out 100 and insert 500 copies.

Accepted by Senator Lane, and the motion, as amended, was adopted.

On motion of Senator Ripetoe, the Senate adjourned until Monday morning at 10 o'clock.

TWENTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 10, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Moore, the reading of the journals of Saturday was dispensed with and the same adopted.

Senator Lair presented the petition of numerous citizens of Collin county "asking that a law be passed limiting the charges of physicians in the practice of medicine, and imposing penalties for its violation; also favoring the repeal of the occupation tax; that physicians be allowed to

practice with or without diplomas, and requesting the repeal of the produce tax."

Referred to the committee on statistics of industry, public health, etc.

Senator Stewart (by request) presented the memorial of several citizens of Harris county, asking the passage of laws, first, to prevent the adulteration or placing of poisonous ingredients in spirituous liquors, and advising the appointment of a learned and skillful chemist to examine such before sold; secondly, asking penal laws against the sale or use of intoxicating liquors at elections, not allowing persons to vote or approach the polls when under the influence of liquor, and, thirdly, that parties selling liquors to persons intoxicated be held as *particeps criminis* to every illegal act committed by said parties, etc.

Referred to the committee on state affairs.

Also, a memorial from the board of trade of Houston against imposing restrictions upon the traffic rates and operations of the different railroads of the State; particularly, the principles of the bill pending in the House of Representatives known as the "Merritt bill," and against making these restrictions applicable alone to railroads, giving many reasons for their suggestions.

Referred to the committee on internal improvements.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred the memorial from the citizens of Fannin county, asking the repeal of occupation tax, have instructed me to report the same back to the Senate and ask that it be referred to the committee on finance. STEWART, *Chairman.*

Report of committee adopted and the bill referred to the committee on finance.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of the Grand Lodge of Texas," and finding that due notice of the application for such special legislation has been given, I am instructed by said committee to report said bill to the Senate with their recommendation that it do pass. STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 10, entitled "An act to amend an act approved June 20, 1876, entitled 'an act to amend article 382, title 2, chapter 3, of Penal Code,'" have duly considered the same and finding that the purpose of this bill has been accomplished by the Penal Code already passed by the Senate at its present session, I am instructed by said committee to report said bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 76, entitled "An act to provide for the speedy and authoritative publication of the opinions of the supreme court and the court of appeals of the State of Texas in the *Texas Law Journal*," have considered the same, and

I am instructed by said committee to report said bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 2, having considered Senate bill No. 118, entitled "An act extending the landlord's lien for rents to owners of residences, storehouses and other buildings," respectfully report that said bill remedies a defect in the present law, which does not extend to rent liens to owners of buildings occupied as residences or for carrying on business, and we therefore respectfully recommend the passage of the bill.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts, when and where the same may be necessary," and I am instructed by said committee to report said bill back to the Senate with the recommendation that it do pass.

STEWART, *Chairman.*

Senator Moore, chairman of the committee on commerce and manufactures, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on commerce and manufactures, to whom was referred Senate joint resolution No. 145, "instructing our senators and representatives in Congress to favor commercial relations with Mexico," have had the same under consideration and recommend its passage.

MOORE, *Chairman.*

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate bill No. 33, entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas," and presented the same to the governor for his signature, at 9:35 o'clock this morning.

GRACE, *Chairman.*

A message was received from the House announcing the passage by that body of House joint resolution No. 27, "Instructing our senators and requesting our representatives in Congress to ask the United States government payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878, and the payment of the unexpended balance of the \$7,750,810 left with the United States government by this State for the payment of the debt of the late Republic of Texas;" House joint resolution No. 26, "Instructing our senators and requesting our representatives in Congress to take the necessary steps at once, by bill or otherwise, to secure the appointment of United States commissioners with like commissioners on behalf of Texas, to settle and definitely adjust the controversy as to boundary between the United States and Texas involving the territory lying between the north and south forks of Red river, known as the county of "Greer," and that the House has concurred in the Senate amendment to House bill No. 2, entitled "An act to repeal an act entitled 'an act to levy a

tax on the privilege of keeping and harboring dogs, and to provide for the assessment and collection of the same."

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 116, entitled "An act to amend section 12 of 'an act to establish and provide for the support and maintenance of an efficient system of public free schools,' approved August 16, 1876," have carefully considered the same, and I am instructed by the committee to report the same back to the Senate with the accompanying substitute, and to recommend the passage of the substitute.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was referred House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending March 1, 1879," have duly considered the same and I am instructed by the committee present to report the same back to the Senate with the accompanying amendments, and, as amended, to recommend its passage.

STOREY, *Chairman.*

Strike out the words "March 1," wherever they occur in the title and section 1, and insert "February 28." Under the head "Judiciary," strike out the amount, "\$1777 70," for salary of three supreme judges, and insert the amount "\$1775." Under the same head, strike out the amount "\$1800," for salaries of three appellate judges, and insert the amount "\$1775." Under the same head, in the item "Pay of sheriffs in attendance on court of appeals," strike out the word "sheriffs" and insert the word "bailiffs," and strike out the amount, "\$166 66," and insert the amount "\$236." Under the same head, in the item "For librarian for supreme court and court of appeals," strike out the proviso. Under the same head, in the item "For fuel and light for supreme court," strike out the amount "\$42," and insert the amount "\$75." Under the same head, in the item, "For fuel and light for court of appeals," strike out the amount "\$42," and insert the amount "\$75."

Under the same head, immediately following the item "Salary of porter of court of appeals," add the additional item, "For contingent fund for supreme and appellate courts, \$50."

Under the head "lunatic asylum," strike out the item "For support of lunatic asylum, \$10,000."

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred memorial No. 14, from citizens of Bell county, asking for the repeal of the occupation tax; and memorial No. 15, from many citizens of Kaufman county, asking the repeal of the law imposing occupation taxes, have carefully considered the same, and I am instructed by the committee present to report the said memorials back to the Senate, and to state that in the present financial condition of the State the relief prayed for cannot be safely granted.

STOREY, *Chairman.*

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 10, 1879. }

To the honorable the Senate and House of Representatives, in Legislature assembled :

The Indians have been a constant source of annoyance, expense and injury to Texas for more than a hundred years under its different governments. Robbery and murder constitute their occupations. They are now, as they have been, the public enemies of Texas. We are liable to have our frontier settlements attacked by them at any time. The history of the past sufficiently attests, without any enumeration of well known facts, that the danger is constantly impending. They come not as individual robbers, but in organized bands, prepared for warlike attack and defense. We can have no notice of their intended invasion. It is only upon these grounds that the State of Texas, under the constitution of the United States, is justified in keeping a military force on the frontier, as a State guard, to defend our people and their property against the perpetual liability of a hostile invasion, of which we can have no previous notice. Part of these Indians reside in Mexico, and take shelter there from the pursuit of our forces, after their fiendish excursions into Texas. We are debarred thereby from following them in large force and making regular war upon them across the border. The balance of the Indians that infest our frontier are two reserves in charge of the United States authorities, and are there fed, clothed and protected, immediately beyond our northern boundary line. These reserve Indians are permitted to come into Texas with military escort, or they come without it, for the purpose of hunting or under the pretense of hunting for buffalo or other game, well armed and equipped, and then they commit their depredations upon our citizens. If we were to follow them back into their reserves with a force sufficient to punish them and thereby make their tribes responsible for the control of their own members, as was formerly the case in Indian wars, we would be met by the military power of the United States for their protection. Texas, then, occupies the singular and extraordinary position of having now, and of long having continuously had known public enemies in these tribes of wild Indians under the protection and control of Mexico and the United States.

Texas has heretofore had to protect her citizens (with the aid we get from the regular army) against them on her own soil without pursuing them to their homes, and by retaliatory punishment make them afraid to invade its territory as was formerly done by other states or by the forces of the United States. This has caused us to keep a force in the field as a state guard that has required much expense to be incurred. To say nothing of former periods, in 1874 there was appropriated for it three hundred thousand dollars, and one hundred and fifty thousand every year since that time. Notwithstanding it is the duty of the United States to protect us and that they have a large military force on our frontier, we have had to keep a frontier force of our own to aid in our protection. We have authentic information that a large number of these reserve Indians are now upon our northern border, encamped and taking the cattle of our citizens, and are in such numbers as that we have no adequate force to expel them. I am not officially authorized to say so, but I feel assured, from what I do know, that the able and esteemed commander of the United States forces in Texas, Gen. Ord, will attest the fact that our frontier battalion has been of most essential service in aiding him

with his forces to give us protection, and that is still necessary. The reasons for this are numerous, and well known to those who are at all acquainted with the subject.

Under these circumstances I respectfully recommend that a law be passed authorizing the appointment of an agent, with a conditional fee, to act in aid of and to co-operate with our members of Congress, in the prosecution of this claim, together with all our other claims, before the Congress of the United States.

And for our immediate and future protection and self-defense against these public enemies within our own State, I respectfully recommend that a law be passed making it a felony for these Indians, and all those co-operating with them, or having them in charge under pretense of hunting, to come and be found within the limits of this State, with such heavy penalties as will probably keep them out of it in the future, with the addition of a public declaration, justified by experience of many years, that these Indians are public enemies of the Texas people, whenever they are found within the limits of the State. We have no right to make treaties with them, and they would not observe them if we had. They are not citizens of the United States, nor are they citizens of foreign nations at peace with the United States; and if the State should prohibit their coming within its limits, the United States would not, as it is presumed, claim any right to protect them within this State. Such a declaration would not be, nor be designed to be a declaration of war, as it is denied to the states by the constitution of the United States, but a fixing by law of the status of these wild savages, when found within this State, with reference to our own citizens according to the existing fact, evidenced by their barbarities and plunder for ages past, as well as now.

O. M. ROBERTS.

On motion of Senator Shannon 1000 copies of the governor's message just read were ordered printed for the use of the Senate.

Senator Gooch introduced a resolution to amend section 10 of article 1 of the constitution of the State of Texas.

Referred to the committee on constitutional amendments.

Senator Houston introduced a bill entitled "An act to encourage the construction of artesian wells."

Read by caption and referred to the committee on public lands.

Senator Tilson introduced a bill entitled "An act to provide for the change of the location of the court house of Marion county."

Read by caption and referred to committee on counties and county boundaries.

Senator Duncan introduced a bill entitled "An act to authorize counties to compromise existing bonded indebtedness and to issue new bonds at a lower rate of interest in lieu thereof."

Read by caption and referred to judiciary committee No. 1.

Senator Terrell introduced a bill to be entitled "An act to provide for the erection of a new state capitol."

Read by caption and referred to the committee on state affairs.

Senator McCormick introduced a bill entitled "An act to provide for the payment of claims for purchases of books, apparatus and furniture for public schools, made by boards of school directors under the authority of an act entitled 'an act to establish a system of public free schools for the State of Texas, approved August 13, 1870, and under an act entitled

an act to organize and maintain a system of public free schools in the State of Texas,' approved April 24, 1871."

Read by caption and referred to the committee on education.

Senator Buchanan introduced a bill entitled "An act to provide for the assessment and collection of certain back school taxes due from railway corporations."

Read by caption and referred to the committee on finance.

Senator Burton introduced a bill entitled "An act to change the jurisdiction of the courts of justices of the peace and to conform the jurisdiction of the county courts to such change."

Read by caption and referred to judiciary committee No. 1.

Senator Terrell introduced a bill entitled "An act to punish trespassers."

Read by caption and referred to judiciary committee No. 2.

On motion of Senator McCormick the Senate went into executive session.

(In Senate.)

On motion of Senator Storey the secretary of the senate was instructed to inform his excellency, the governor, that the Senate does advise and consent to his nomination of Thomas J. Goree as superintendent of the penitentiary.

The president of the senate, after reading its caption in open Senate, signed Senate joint resolution No. 61, entitled "Joint resolution granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district."

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and signed Senate joint resolution No. 61, entitled "Joint resolution granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district," and presented the same to the governor for his signature at 10:20 o'clock this morning.

GRACE, *Chairman.*

(Senator Terrell in the chair.)

On motion of Senator Storey, the special order was postponed temporarily, the rules were suspended and House bill No. 141, entitled "An act to make an appropriation for the support of the state government for the time beginning January 1, 1879, and ending March 1, 1879," was taken up and read first time.

On motion of Senator Storey, the rules were further suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--28.

NAYS—none.

The bill was then read the second time.

On motion of Senator Storey the amendments of the committee were adopted.

Senator Edwards offered the following amendment:

Add under head of department of insurance, statistics and history a fourth line, as follows: "For postage, printing, wood and lights, \$83 33."

Adopted.

Senator Swain offered the following amendment:

Seventh page, third line from bottom, amend by inserting the following before the salary of district attorneys, etc., "costs to be paid sheriffs, clerks and county attorneys in district, county and justices' courts, \$12,000."

Adopted.

On motion of Senator Edwards, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—30.

NAYS—none.

The bill was then read the third time and passed by the following vote:

YEAS.

Blassingame,
Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

NAYS.—none.

(The president in the chair.)

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 10, 1879. }

To the honorable the Senate and House of Representatives in Legislature assembled:

The free common schools have their foundation in the constitution of the State. The mode and means of creating a permanent fund therefor, and of an available fund, with the manner of its distribution annually, are prescribed in the same instrument. It results in fixing it as a duty upon the government of the State, and not as a charity, to educate the rising generation.

Its permanent fund consists of surveyed lands about 21,000,000 acres, and half of all the vacant domain, making 15,000,000 of acres more, set apart by the constitution. There are now over \$3,000,000 of state and railroad bonds.

Notes for the sale of lands unpaid \$269,000. Cash on hand from sales of land \$6940. As the lands are sold, and amounts collected, the comptroller is required to invest the money in state or United States bonds. These lands are sold on a credit to settlers, payable with interest in ten annual instalments and at considerable expense, at the minimum price of \$1 50 per acre, and are consequently thereby increasing the permanent fund very slowly. The probable fact is easily demonstrated that when three millions more of bonds are thus purchased by their sale, settlers upon those lands and upon the railroad lands surveyed in connection with them, will have introduced into the State children of the scholastic age enough to require the interest on this increase of the fund on their education. And by the increase in the scholastic population in other parts of the State, the proportion of the fund, already accumulated to the scholastic population, except those thus introduced, will continually diminish from year to year and therefore an increase of taxation would be required, if the constitution permitted it, to keep up the schools to an average of four months in the year. But by a more rapid sale of the lands, as has been recommended, the fund may be increased before the increased scholastic population is introduced into the State by immigration. The lands sold being taxed before they are settled, the general revenue will be increased. By this means the schools may be supported by the interest of the fund, with a much less appropriation of the revenue than at the present time, which is one-fourth of the state taxes and one dollar poll tax. For the present year the board of education set apart \$900,000 to the free common schools. This included an amount over \$300,000 that had accumulated in the treasury from the collection of previous years' taxes. It is, therefore, estimated by the comptroller that the amount to be set apart for the next year will be about \$200,000 less.

In the effort to perfect the free common school system certain fixed guides, as prescribed in the constitution, must be acted on, as follows :

The permanent fund cannot be used otherwise than by the annual appropriation of the interest accruing from it. To which may be added not more than one-fourth of the annual state taxes and one dollar poll tax. Whatever amount is set apart must be distributed by the board of education to each county, according to its scholastic population, irrespective of whether or not the children are taught by the county. The counties receiving it must apply it in such manner as may be provided by law. The discretion then left to the Legislature is to determine what amount of the state tax, so it does not exceed one-fourth of it, shall be appropriated for this object, and to regulate by law the manner in which the counties shall apply it in carrying on free common schools. The present school law, it is believed, is a foundation upon which may be built a system as far as practicable adapted to the wants of the country. It is to be remarked, however, that it proceeds upon the idea of providing for the compensation of the teachers more effectually than for the teaching of the scholars, for whom the money has been distributed to the counties. A teacher employed by the trustees of a school community to teach a certain number of scholars gets his pay whether all the scholars come to

school or not, and indeed it is for his convenience that half of them should not come. The punctual attendance of the scholars depends upon the efforts of the teacher to secure it, and if practicable he should be made pecuniarily interested in making the efforts. This is shown by the reports of the last scholastic year, in which it appears that the scholastic population was \$164,294, for whom, as they resided in each county, the whole of the money allowed for that year was distributed. Out of that number there were 23,963 who did not attend any school in the State, and 17,348 of them were not enrolled in any school community. Still the counties got the money according to the terms of the constitution; and, as we may suppose, it was given to the teachers who taught the balance of them. Thus nearly one-seventh of the children for whom the money was appropriated received no benefit from it, and over one-ninth of them were not enrolled in any school community. Since the meeting of the Legislature there has assembled at Austin a convention of teachers, from different parts of the State, composed of gentlemen of experience and distinguished ability in their profession, who have presented a memorial, to be presented through me to the Legislature, containing their views upon the manner in which our free common schools may be improved. Their memorial, attached to this message, is respectfully submitted for your favorable consideration.

In attendance upon said convention was also Dr. B. Sears, general agent of the Peabody education fund, who addressed the following letter to me :

“AUSTIN, February 1, 1879.

“*His Excellency, O. M. Roberts, Governor of Texas :*

“SIR—I beg leave to address, through you, to the General Assembly of the State the following proposition, to-wit: If the Legislature shall see fit to establish a first-class normal school, and to appropriate for its current expenses \$6000 per annum, the trustees of the Peabody educational fund will duplicate that sum for the same purpose for a period of two years, with the expectation of renewing the arrangement from year to year after that period during the pleasure of both parties.

“Your obedient servant,

“B. SEARS, *General Agent.*”

The first question is, can the Legislature constitutionally accede to and comply with this liberal offer, if it be so inclined ?

The constitution provides that “taxes shall be levied and collected by general laws, and for public purposes only.” In the enumeration of the objects alone for which the Legislature shall have the right to levy taxes is included, “the support of public schools in which shall be included colleges and universities established by the State.” A normal school might most properly be regarded as a public school in connection with and auxiliary to free common schools. The greatest want in our common schools is a supply of competent teachers, who would teach upon the most improved modern plan of teaching.

The second question is, how shall the pupils be procured at such a school ? Few persons, in different parts of the State, who might desire to be teachers of common schools, would have the means to spend two or three hundred dollars in going to such a school. Persons who had education enough to enter such a school to learn the science and practice of teaching school, would most likely go to some higher school to learn those

things which would fit them for some of the learned professions. A normal school for the education of teachers must, therefore, be a very cheap school in order to attract pupils.

I would respectfully suggest that should such a school be established, the building for which might be easily obtained by gift or rent, the Legislature might direct the counties to reserve that portion of the money appropriated to them each year, for which no scholars are taught, or even that for which no scholars are enrolled in school communities, and set it apart annually as a fund for the support of scholars at the normal school to the extent of paying their board and tuition.

These scholars, selected by the county court of each county having such a fund reserve, might be pledged to return to the county from which they were sent and teach so many years in its free common schools. Such moneys would be well spent in the promotion of the purposes of free common schools by spreading educated teachers all over the State, without which our system never can, and never will, be perfected, however lavishly the money of the people may be devoted to it. I respectfully submit, also, in this connection, a condensed summary of the views of the secretary of the board of education of the State as to the laws necessary to the improvement of our school system. He has been connected with this business as superintendent and secretary for five years, and his views deserve consideration.

O. M. ROBERTS.

To His Excellency, O. M. Roberts, Governor of Texas:

In pursuance of the invitation made by your excellency to the teachers of Texas, "to meet in convention and investigate the present school law, and suggest such practicable improvements as can and should be made in our system of education," a meeting was held in the city of Austin, commencing on the 28th of January, 1879, and continued in session for three days. Many important matters were considered and discussed, and the undersigned, a committee appointed by said convention, have the honor to submit as the result of their deliberations the following suggestions, and respectfully ask your excellency to transmit the same, with such recommendations as you may deem proper, to the honorable Legislature now in session:

1. We recommend that the generous offer made by the trustees of the Peabody education fund, through the Rev. Dr. Barnes Sears, the general agent, to duplicate an appropriation of six thousand dollars per annum for the support of a normal school by the State be accepted, and that the State establish a first-class normal school, which shall be exclusively devoted to the education of teachers, as early as practicable. It affords the committee great pleasure to state that Dr. Sears, in consultation with us, has given unqualified assurance that the appropriation from the Peabody fund will be increased and continued as may be required by this important department of education.

2. We recommend that an appropriation of twenty thousand dollars be made to the State Agricultural and Mechanical College of Texas, to establish a course of practical instruction in agriculture.

3. We recommend that not more than two school communities be allowed to be formed in any village, town or city not taking control of its own schools, and that one community shall include all the white and the other all the colored children in said village, town or city.

4. We recommend that there be three grades of certificates: Applicants who shall pass an examination in orthography, reading, writing, geography and arithmetic, as far as simple proportion, getting general average of seventy, and not lower than fifty in any branch, shall be entitled to a third grade certificate, valid for one year. Applicants who, in addition to the studies of the third grade, shall pass an examination in grammar, composition and history of the United States, getting a general average of eighty, and not less than sixty in any branch, shall be entitled to a second grade certificate, valid for two years. Applicants who, in addition to the studies of the first and second grades, shall pass an examination in the elements of algebra, geometry, physics, and the theory and practice of teaching, attaining a general average of ninety, and not less than seventy in any branch, shall be entitled to a first grade certificate, valid for three years.

5. We recommend that pupils under the instructions of a teacher holding a third grade certificate, receive one dollar per month; those under a teacher holding a second grade certificate, receive one dollar and a half per month; those under a teacher holding a first grade certificate, receive two dollars per month.

6. We recommend that the state board of education divide the State, by counties, into six districts having reference to scholastic population and contiguous territory, and that said board of education appoint in each district, as superintendent of schools in the same, a man, who, in addition to the other necessary qualifications, shall be a practical teacher; who shall devote his entire time to the work of supervision, and shall hold his office for three years, and shall receive an annual salary of \$2300, payable quarterly, from which he shall defray all traveling and incidental expenses.

7. We recommend that the six district superintendents, with the secretary of the state board of education, be constituted the board of supervision for the State, with power to prescribe regulations relating to the examination of teachers, the organization, gradation and general management of schools, not inconsistent with the law or the regulations of the state board of education. Said board of supervision shall hold their meetings at the capital, and a majority shall constitute a quorum, but a two-thirds vote of the members present shall be necessary to make or alter any regulation.

8. The several district superintendents shall appoint in each of the counties under their jurisdiction a school examiner, who shall be a practical teacher in good repute, whose duty it shall be to examine all persons desiring a certificate of competency to teach, hold county institutes, perform all the duties relating to the public schools which have heretofore devolved upon the county judge, and such other duties as may be prescribed by the district superintendent.

9. We recommend that the county treasurer be allowed one-half of one per cent. for receiving and disbursing the public school funds. We recommend this plan of supervision for two reasons. First, because some form of supervision is essential to an efficient system of public schools. In proof of this truth we beg leave to refer you to the remarks made on this subject in the excellent report of Hon. O. N. Hollingsworth, secretary of the board of education, page —. Second, because this form of supervision through district superintendents, whose duties nearly correspond with those of state superin-

tendents in smaller states, and county examiners in each county, whose duties nearly coincide with those of a county superintendent, combines economy with the highest degree of efficiency which we believe attainable at present.

We invite your consideration of the following comparison of the expense of the present plan and of the proposed system of supervision.

Under the present plan:

156 county judges receive an average of \$110 each, not less than.....	\$17,160 00
County treasurers receive.....	9,000 00
<hr/>	
Making a total of.....	\$26,160 00

Under the proposed system:

156 county examiners will receive for postage, stationery and printing.....	\$3,900 00
6 district superintendents.....	13,800 00
County treasurers, for receiving and disbursing.....	4,500 00
<hr/>	
Making a total of.....	\$22,200 00

Total without supervisors.....	\$26,160 00
Total with supervisors.....	22,200 00
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Difference.....	\$3,960 00
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This estimate shows a clear saving to the public school fund, by the plan of supervision, of three thousand nine hundred and sixty dollars.

Respectfully submitted,

W. C. CRANE,
 W. C. ROTE,
 MILTON COOPER,
 R. C. BURLERSON,
 T. L. NORWOOD,
 OSCAR H. COOPER,

Committee State Teachers' Convention.

DEPARTMENT OF EDUCATION, STATE OF TEXAS, }
 AUSTIN, February 7, 1879. }

To His Excellency O. M. Roberts, Governor of the State of Texas:

I have the honor to acknowledge receipt of your favor of the third instant, asking for information with reference to expenditures in the support of our public free school establishment, and in reply respectfully state as follows:

1. Excepting the board of education and the secretary thereof we have under the present school law four classes of officers charged with duties in connection with its administration, viz: Judges, county treasurers, assessors and clerks of the respective counties of the State. Of these officers there is only one whose services can be entirely dispensed with without detriment to the public school interest, to wit, the county clerk. The duties required of this officer under the school law, which are simply the filing and recording of certain papers, can be imposed on the

county judge without increasing the official labors of said officer, for there need be no further record of the papers referred to than is now required of the county judge.

2. The result sought to be accomplished by means of our public school system can be more effectually attained by the following amendments to the school law:

First amendment:

Require assessors to make return of the scholastic population of their respective counties on or before the first day of June of each year.

Second amendment:

Require county judges to forward abstract of scholastic population of their respective counties to the department of education on or before the fifteenth day of June of each year.

Third amendment:

Require the board of education to declare the apportionment of the available school fund to the several counties of the State on the first day of July of each year.

These amendments would enable county judges to make their apportionments, and to notify trustees of the sums credited to their respective committees in time for trustees to employ teachers before the beginning of the scholastic year. As the law is now the board of education cannot make an apportionment of the school fund until the first day of September; and hence in many instances a month or even more of the school year has passed before trustees are apprised as to what amount of fund they will receive, and are consequently delayed in making contracts for opening their schools.

Fourth amendment:

Charge the county judges with the duties imposed by the present school law upon county clerks.

Fifth amendment:

Regulate the compensation allowed county judges for services in the administration of the school law according to the amount of funds disbursed in support of public schools.

Sixth amendment:

Establish a minimum average daily attendance, which must be maintained in order to guarantee a continuation of the school.

Seventh amendment:

Authorize county judges to apportion the school fund of their respective counties to the organized school communities to the exclusion of the unorganized population.

This amendment would utilize the entire fund, and would secure to such as desire to avail themselves of the benefits of the law a longer school term.

Eighth amendment:

Classify certificates granted to teachers into three grades, and establish compensation accordingly; allowing teachers holding a first-class certificate not more than \$2 per pupil; teachers holding a second-class certificate not more than \$1 50, and teachers holding a third-class certificate not more than \$1 per month.

Ninth amendment:

Authorize the board of education to appoint a county superintendent of public schools, for such counties as receive \$8000 or over, for support of public schools. Let said superintendents receive as a salary 10 per

cent. upon the sum disbursed for public school purposes; *provided*, in no event should the salary allowed exceed \$1500 per annum; the said superintendent should be a bonded officer.

No department of government is as dependent upon constant and intelligent supervision for success as the school department, both in county and in state.

It matters not how excellent may be our school statutes, if we have not efficient and zealous supervision the results will never be responsive to the means expended. Faithful supervision is economy, while, on the other hand, partial supervision is extravagance.

A careful observation of the workings of the law for the past two years, as made through extensive official correspondence with officers who have tested its efficiency by the keen edge of experience, leads me to propose for your respectful consideration these suggestions.

Respectfully your obedient servant,

O. N. HOLLINGSWORTH,
Secretary Board of Education.

Senator Edwards moved that the reading be suspended and 1000 copies of the governor's message just placed before the Senate (on free schools) be printed.

Senator Swain moved to amend by striking out "1000" and inserting "100."

Senator Moore moved to amend by striking out "1000" and inserting "500."

Accepted by Senator Edwards.

Senator Duncan moved the previous question on the original motion and amendments, which was seconded and the main question ordered.

The motion of Senator Edwards, as amended by the motion of Senator Moore, was then adopted by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Ledbetter,
Martin,
McCormick,
Moore,

Patton,
Ripetoe,
Stewart.
Shannon,
Storey,
Terrell,
Tilson—22.

NAYS.

Blassingame,
Burnett,
Grace,

Lane,
Lair,

McCulloch,
Swain—7.

Senator Storey (by leave) introduced a bill entitled "An act to make appropriation for the support of the lunatic asylum for the time beginning January 1, 1879, and ending February 28, 1879."

Read by caption and referred to committee on finance.

Senator Edwards offered the following resolution:

Resolved, That the printing committee of the Senate be instructed to have printed in pamphlet form 600 copies of all the acts of the Sixteenth Legislature that take effect from and after their passage, for general distribution by the Senate.

Read and adopted.

The special order being Senate bill No. 43, entitled "An act to change the jurisdiction of the county courts and to conform the jurisdiction of the district court to such change," was taken up as unfinished business on the speaker's table.

Senator Stewart moved to postpone the bill.

Carried by the following vote:

YEAS.		
Blassingame,	Guy,	Ripetoe,
Buchanan,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Edwards,	Martin,	Storey,
Gooch,	McCulloch,	Swain,
Grace,	Moore,	Terrell—18.
NAYS.		
Brown,	Hobby,	McCormick,
Burnett,	Homan,	Motley,
Davenport,	Lair,	Patton,
Duncan,	Ledbetter,	Tilson—13.
Ford,		

The special order being Senate bill No. 69, entitled "An act requiring the owners of land to pay the taxes due thereon, before recording the titles thereto," was taken up and read first time.

The special order being Senate bill No. 46, entitled "An act to provide for the election of a district attorney in certain judicial districts of the State of Texas," was taken up.

Senator Houston moved to postpone the special order for half an hour.
Lost.

Senator Burton offered the following amendment: "Amend by exempting the counties of Waller, Fort Bend and Wharton from the operation of this act."

Senator Stewart moved to amend Senator Burton's amendment by adding the counties of Harris and Montgomery.

Accepted by Senator Burton.

Senator Stewart then withdrew his amendment.

Senator Storey then offered the following:

That the bill and pending amendment be recommitted to judiciary committee No. 1, and that said committee inquire into the constitutional right of the Legislature to exempt any part of a district from the operations of the bill.

Adopted and the bill referred to judiciary committee No. 1.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 139, entitled "An act fixing the times of holding the district courts of the twenty-third judicial district, approved August 9, 1876," and find it correctly engrossed.

BROWN, *Chairman.*

Special order being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," was taken up, when Senator McCulloch moved to adjourn until 10 A. M. to-morrow.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Grace,
Guy,

Lane,
Lair,
Martin,
McCormick,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--21.

NAYS.

Burnett,
Edwards,
Ford,

Gooch,
Hobby,

Homan,
Ledbetter--7.

TWENTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 11, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Ledbetter presented a petition from the members of the bar of Bastrop county against the changing of the civil and criminal jurisdiction of the county courts of the State, stating that such a change would be exceedingly unwise, inexpedient and impracticable; that the county court of Bastrop county has been self-sustaining and has given entire satisfaction, and that the abolition of its present jurisdiction would be detrimental to the interest of the entire people of the county. Also, asking if the change is made that their county be excepted from the provisions of the law.

Referred to judiciary committee No. 1.

Senator Homan presented a petition from the bar association of Washington county in the form of resolutions adopted by said association:

1. That the civil and criminal jurisdiction of the county court be taken away and the same be transferred to the district court, and that the number of judicial districts be so increased as to be enabled to hold three times a year.

2. That the Legislature adopt a system of rules for the government of the district courts of the State.

3. Asking that their judicial district be so reorganized as to embrace Washington, Lee, Burleson and Milam counties in the order named.

Referred to the committee on constitutional amendments.

Senator Duncan presented a petition from many citizens of the State, asking that article 4608 of Paschal's Digest on judgments be materially amended, accompanied with a bill proposing amendments to said law.

Read by caption and referred to judiciary committee No. 1.

Senator Tilson presented a petition from numerous citizens of Texarkana and Bowie county, asking that the Legislature take such action as will require the Texas and Pacific railway company to build and establish depots and buildings in the city of Texarkana, in the State of Texas, at the terminus of their road on the Arkansas line, as said railroad company pledged itself to do; that they sold lots and blocks at said terminus under a pledge to the purchasers thereof that such depots would be established at their terminus on the State line, but that they had estab-

lished such depots in the State of Arkansas, greatly to the injury and inconvenience of petitioners, etc.

Referred to the committee on internal improvements.

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance to whom was referred Senate bill No. 158, entitled "An act to make appropriation for the support of the lunatic asylum for the time beginning January 1, 1879, and ending February 28, 1879," have carefully considered the same, and I am instructed by the committee present to report the bill to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have examined Senate bill No. 132, entitled "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county," and find it correctly engrossed.

BROWN, *Chairman.*

Senator Houston, from the committee on judiciary No. 2, submitted following report:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled "an act to establish a Code of Criminal Procedure for the State of Texas," and a majority of said committee instruct me to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *for the Committee.*

Senator Stewart, for the minority of judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

The undersigned, a minority of judiciary committee No. 2, to whom was referred Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled "an act to establish a Code of Criminal Procedure for the State of Texas," respectfully dissent from the opinion expressed by the majority of this committee in recommending the passage of this bill, and in doing so beg leave to express their reasons therefor: The Senate has but recently passed the Code of Criminal Procedure, after having given to it mature consideration, and the minority are of the opinion that no change should be made in it unless there is an apparent necessity for doing so. The bill in question is but a re-enactment of the old law and as it is expressed in the code with but two exceptions, viz: section 6 provides that the application shall show that there is no reasonable expectation that the attendance of the witness can be secured during the present term of the court by a postponement of the trial to some future day of said term. This amendment was doubtless suggested by some individual case, but we are of the opinion that in its general application it will be found unnecessary and work no practical good; but, to the contrary, will operate so as to produce hardship upon other witnesses

who, at great expense, will be detained at court to await some future day thereof for no other purpose than to see the case finally continued for the term. The next change proposed by this bill is as follows: "And the truth of the first or any subsequent application, as well as the merits of the grounds set forth therein, and its sufficiency shall be addressed to the sound discretion of the court called to pass upon the same, and shall not be granted as a matter of right; *provided*, that should an application for continuance be overruled and the defendant convicted, if it appear upon the trial that the evidence of the witness or witnesses named in the application was of a material character, and the facts set forth in said application were probably true, a new trial should be granted."

The minority of your committee see no reason for enlarging the discretion of the presiding judge, and object to the truth or materiality of an application for a continuance to be determined by the results of a trial. We think the court should, in the first instance, be possessed of enough learning and discrimination to determine relevancy and materiality of testimony without subjecting the party making the application to the ordeal of a trial in order to determine upon the sufficiency of his application.

Besides, the law as it now is, has been so for many years, and has been often judicially construed and we see no good accomplished in ever changing statutory enactments so that now and then they may be accommodated to individual cases.

STEWART, *for minority*.

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate bill No. 109, entitled "An act to provide for painting the portraits of the presidents of the Republic of Texas and of the former governors of Texas," and a majority of the committee instruct me to report the same back to the Senate with the accompanying amendment, and recommendation that it do pass as amended.

HOUSTON, *Chairman*.

Amend by adding—section 3. As but few citizens survive who can judge of the fidelity of all the portraits to be painted, a necessity and emergency exists for the immediate passage of this bill.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration petition No. 28, from citizens of Jack county, "Asking amendments to the 'Sunday laws,'" and instruct me to report that the subject matter of the petition is already before the Legislature by bill, and that no action is necessary upon this petition.

HOUSTON, *Chairman*.

Senator Tilson, chairman of the committee on counties and county boundaries, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on counties and county boundaries, to whom was referred Senate bill No. 149, to be entitled "An act to provide for the change of location of the court house of Marion county," have had the same under consideration and find that publication of the same has been made as required by law; that the same is intended to be local in its

effects, therefore said committee instruct me to report the said bill back to the Senate with the recommendation that it do pass.

TILSON, *Chairman.*

Senator Terrell introduced a bill entitled "An act to create the office of state librarian."

Read by caption and referred to the committee on state affairs.

Senator Gooch introduced a bill entitled "An act to provide a method for determining what claims, locations, surveys, grants and titles to lands are forfeited to the State."

Read by caption and referred to judiciary committee No. 1.

Senator Blessingame introduced a bill entitled "An act to create and establish a state board of health for the State of Texas, and to define their powers and duties."

Read by caption and referred to the committee on statistics of industries, public health, etc.

Senator McCulloch introduced a bill entitled "An act for the relief of James A. Barker, of Brazos county."

Read by caption and referred to the committee on private land claims.

Senator Lane introduced joint resolution proposing "An amendment to section 40, article 16, of the constitution of the State of Texas."

Referred to the committee on constitutional amendments.

Senator Burnett introduced a bill entitled "An act for the relief of Miles N. Taylor, of Grimes county."

Read by caption and referred to committee on private land claims.

Senator Homan introduced a bill entitled "An act to prescribe the requisites of indictments in certain cases."

Read by caption and referred to judiciary committee No. 1.

Senator Ford, chairman of committee on Indian affairs and frontier protection (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

A majority of the committee on Indian affairs and frontier protection, to whom was referred a bill to be entitled "An act to suppress lawlessness and crime and to organize a force for that purpose," have had the same under consideration, and have instructed me to report the same back and recommend its passage.

FORD, *Chairman.*

Senator Blessingame introduced a bill entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original sub-divisions made under the act, approved August 30, 1856."

Read by caption and referred to the committee on public lands.

Senator Martin offered the following resolution:

Resolved, That the finance committee be instructed to examine the comptroller's office and ascertain why "An act to enforce the collection of delinquent taxes on lands assessed since January, 1870," has not been complied with, and report if further legislation and appropriations are necessary to carry out the provisions of said act.

Senator Terrell offered the following amendment to the resolution:

After the word "report" add the words "such bill as may be necessary to meet the necessities of the case."

Accepted by Senator Martin, and the resolution as amended was then adopted.

The following House joint resolutions were taken up and referred to appropriate committees:

House joint resolution No. 26, "Instructing our senators and requesting our representatives in Congress to take the necessary steps at once, by bill or otherwise, to secure the appointment of United States commissioners to act with like commissioners on behalf of Texas, to settle and definitely adjust the controversy as to boundary between the territory lying between the north and south forks of Red river, known as the county of Greer."

Referred to the committee on federal relations.

And House joint resolution No. 27, "Instructing our senators and requesting our representatives in Congress to ask the United States government for payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878, and the payment of the unexpired balance of the \$7,750,810 left with the United States government by this State for the payment of the debt of the late Republic of Texas."

Referred to the committee on federal relations.

The special order, pending on adjournment yesterday, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands, and to secure the proceeds thereof for the benefit of said schools," was taken up and read the second time.

Senator Davenport offered the following:

Resolved, That Senate bill No. 96 be referred to judiciary committee No. 2, and that said committee be instructed to report, at as early a day as possible, a bill making uniform the price and interest.

Senator Gooch moved the previous question on the pending resolution.

Motion seconded and main question ordered by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—27.

NAYS.

Duncan,

McCormick,

Swain—3.

The resolution was then put and lost.

Senator Shannon offered the following amendment:

Amend section 3 by striking out in line ten all after the word "acre."

Senator Patton offered the following as a substitute for the pending amendment of Senator Shannon:

Amend section 3 by striking out "fifty cents" between "than" and "per" in ninth line, and inserting "two dollars," and by striking out of the words that follow the word "acre" when it first occurs in the tenth line.

Senator Davenport moved to adjourn until to-morrow at 10 o'clock A. M.

Senator Gooch moved to adjourn until 3 o'clock P. M. to-day.

Senator Edwards made the point of order that Senator Gooch's motion to adjourn could not be entertained while another motion to adjourn was pending.

Not sustained.

Senator Davenport's motion to adjourn was then lost by the following vote:

YEAS.		
Blassingame, Buchanan, Davenport, Hobby, Homan,	Houston, Lane, Lair, McCormick,	McCulloch, Patton, Shannon, Storey—13.
NAYS.		
Brown, Burnett, Burton, Duncan, Edwards, Ford,	Gooch, Grace, Ledbetter, Martin, Moore,	Ripetoe, Stewart, Swain, Terrell, Tilson—16.

Senator Gooch's amendment to adjourn was then considered.

Senator Edwards raised the point of order that another motion to adjourn could not be acted upon by the Senate until some other business had intervened.

Overruled, and Senator Gooch's motion was then voted upon and lost by the following vote:

YEAS.		
Gooch, Grace, Houston,	Lane, Ledbetter,	McCulloch, Moore—7.
NAYS.		
Blassingame, Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Edwards,	Ford, Hobby, Homan, Lair, Martin, McCormick, Patton,	Ripetoe, Stewart, Shannon, Storey, Swain, Terrell, Tilson—22.

Senator Ledbetter moved the previous question on the pending amendment of Senator Shannon and the substitute of Senator Patton.

Motion seconded and the main question ordered by the following vote:

YEAS.		
Blassingame, Buchanan, Gooch, Grace, Homan,	Houston, Lair, Ledbetter, Martin, McCulloch,	Moore, Ripetoe, Storey, Terrell, Tilson—15.
NAYS.		
Brown, Burnett, Burton, Davenport, Duncan,	Edwards, Hobby, Lane, McCormick.	Patton, Stewart, Shannon, Swain—13.

The substitute of Senator Patton was then lost by the following vote:

YEAS.		
Buchanan, Davenport,	Duncan, Homan,	McCormick, Patton—6.
NAYS.		
Blassingame, Brown, Burnett,	Burton, Edwards, Ford,	Gooch, Grace, Hobby,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Ripetoe,
Stewart,
Shannon,

Storey,
Swain,
Terrell,
Tilson—23.

Senator Shannon's amendment was then lost by the following vote:

YEAS.

Blassingame,
Burnett,

Burton,
Gooch,

Shannon,
Ripetoe—6.

NAYS.

Brown,
Buchanan,
Duncan,
Edwards,
Ford,
Grace,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Stewart,
Storey,
Swain,
Terrell,
Tilson—22.

Senator Terrell offered the following amendment, which was pending on adjournment:

Amend the bill by adding the following sections, viz:

Section 18. Before the appointment of the agents authorized by section 1, the county commissioners' court of each county in which school lands are situated shall, as soon as practicable, transmit to the commissioner of the general land office a true statement of the value of each un-sold section of school land, and also the value of the alternate section which was surveyed with it. Such report shall designate what lands were valuable chiefly for pasturage and what for agriculture, and thereupon the governor shall, on the appointment of said agents for selling said land, instruct them before selling any pasture lands to negotiate with the owners of the alternate sections of such lands for the exchange of titles to lands of equal value, which were titled to railroads and other corporations, so as to consolidate in as large quantities as practicable all lands valuable only for pasture and be effectual. Such exchange of land titles shall be made by the commissioner of the land office on the order of the governor.

Section 19. The county commissioners' court of each county to which is attached an unorganized county shall make report, as required in the preceding section, regarding the value and character of all lands in such unorganized county, from the best sources of information attainable, and to this end said court may require the attendance of surveyors and other witnesses and examine them under oath.

Section 20. The report required from the commissioners' court shall specify what each school section or half section situate in the county and in the unorganized counties to which it is attached is worth per acre, and no sales shall be made for a less sum than is specified in said report.

On motion of Senator Story, the Senate adjourned until 10 o'clock A. M. to-morrow.

TWENTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 12, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ledbetter the reading of the journals of yesterday was dispensed with and the same adopted.

A message was received from the House announcing the passage by that body of House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar, in this State, from the payment of taxes assessed, and now due for the year 1878, in consequence of a great public calamity;" and Senate bill No. 139, entitled "An act amendatory to an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876."

Senator Stewart introduced a bill entitled "An act to amend an act entitled 'an act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof.'"

Read by caption and referred to the committee on agricultural affairs.

Senator Houston introduced a bill entitled "An act to amend section 18 of an act entitled 'an act regulating elections,' approved August 23, 1876, and to repeal section 22 thereof."

Read by caption and referred to the committee on finance.

Senator Ripetoe offered the following resolution:

WHEREAS, Nearly half the session of the Legislature has already been consumed, and mainly in preliminary matters; and

WHEREAS, There is much yet to do that is demanded by the public interest, and in order to hasten necessary legislation and cut off useless matter,

Resolved, That the Legislature adjourn on the 15th of March next, at 12 m.

On motion of Senator Storey, the resolution was referred to the committee on state affairs.

Senator Stewart introduced the following joint resolution, requesting the Congress of the United States to pass an act for the compensation of members of Congress elected from Texas in 1866.

Referred to the committee on state affairs.

Senator Edwards introduced a bill entitled "An act to authorize and require county clerks to issue license for the retail of spirituous, vinous and other intoxicating liquors in quantities less than one quart, and to prohibit such sale without license."

Read by caption and referred to judiciary committee No. 1.

Also a bill entitled "An act to amend section 38 of an act entitled 'an act to establish and provide for the support and maintenance of an efficient system of public free schools,' approved August 19, 1876."

Read by caption and referred to the committee on education.

Senator Guy introduced a bill entitled "An act to amend section 5 of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this State that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved August 21, 1876:"

Read by caption and referred to judiciary committee No. 2.

Also a joint resolution "proposing an amendment to the constitution of the State of Texas," (changing sections 50 and 51 of article 16, with regard to homesteads).

Referred to the committee on constitutional amendments.

Senator Homan introduced a bill entitled "An act to prohibit the sale, exchange or gift of intoxicating liquors within three miles of Frainville high school, in Burleson county."

Read by caption and referred to judiciary committee No. 2.

Senator Shannon introduced a bill entitled "An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the election of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts."

Read by caption and referred to the committee on judicial districts.

Senator Terrell introduced a bill entitled "An act for the relief of Dr. S. W. Baker, late superintendent of the blind asylum."

Read by caption and referred to the committee on claims and accounts.

Senator Gooch introduced a bill entitled "An act regulating the sale and extent of land under executions."

Read by caption and referred to judiciary committee No. 2.

Senator Homan offered the following resolution:

Resolved, That the committee on retrenchment and reform be and they are hereby instructed to take into consideration and report whether the offices of commissioners of penitentiaries, superintendent of public buildings and grounds, commissioner of insurance, statistics and history, and adjutant general, can be dispensed with without detriment to the public good, and whether the number and salaries of the clerks in the several departments of the state government should be reduced.

Read and referred to committee on retrenchment and reform.

The following House bills and joint resolutions were taken up for reference to appropriate committees:

House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar, in this State, from the payment of taxes assessed and now due for the year 1878, in consequence of a great public calamity."

Referred to committee on finance.

House bill No. 137, entitled "An act to repeal an act entitled 'an act to require all forced sales of real estate and sales of negroes made by executors and administrators in the county of Travis to be made on Congress Avenue, at the southeast corner of block No. 70,' approved November 28, 1857."

Referred to judiciary committee No. 1.

Substitute for House bill No. 8, entitled "An act for the preservation of oysters and oyster beds and protecting the rights of persons to the same."

Referred to committee on state affairs.

House joint resolution No. 11, "Instructing our senators and requesting our representatives in Congress to aid in securing the passage of a law fixing the standard value of Mexican coin and making the same a legal tender for all public and private debts and in payment of import duties."

Referred to committee on state affairs.

On motion of Senator Houston, the special order being the unfinished

business of yesterday, was postponed fifteen minutes, the rules were suspended, and Senate joint resolution No. 145, "Instructing our senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico," was taken up and read first time.

Senator Houston moved to suspend the rules and place the resolution on its second reading.

Carried by the following vote :

YEAS.		
Blassingame,	Guy,	Moore,
Brown,	Homan,	Patton,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Storey,
Duncan,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—26.
Grace,	McCulloch,	

NAYS—none.

Bill read second time and ordered engrossed.

The rules, on motion of Senator Houston, were still further suspended, resolution placed on its third and final reading by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Buchanan,	Guy,	Moore,
Brown,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson - 30.

NAYS—none.

Resolution read third time and passed by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Houston,	Ripetoe.
Burton,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain.
Ford,	McCormick,	Tilson—28.
Gooch,		

NAYS—Homan—1.

The special order and the unfinished business of yesterday, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds for the benefit of said schools," was taken up, the pending question being the amendment of Senator Terrell.

Senator Stewart offered the following as a substitute for Senator Terrell's amendment:

Amend section 16, in fifth line, after the word "act," by adding these words: "And shall contain such restrictions to the price of the lands to be sold as the governor in his discretion may see proper to impose; but in no event shall said lands be sold for a less amount per acre, for arable

and pasture lands, than that fixed by this act, and such letter of authority restricting agents about price may be changed by the governor whenever he in his discretion may deem it for the best interests of the State to do so."

Senator Lane offered the following as an amendment to Senator Stewart's substitute:

After the word "impose," in fourth line, add, "upon the sale of any land by the provisions of this act, the agent shall report the same to the governor, accompanied by the affidavit of the surveyor of the county in which the land is situated, and which affidavit shall contain an appraised value of the land sold, and of the adjoining surveys, with a description and classification of the same, and the agent to compensate from his commissions the surveyor for such services in all cases on such terms as they may agree to."

Accepted by Senator Stewart.

Senator Patton moved the previous question on the pending amendment and substitute.

Motion seconded, but the main question was lost by the following vote:

YEAS.

Blassingame,
Buchanan,
Burnett,
Davenport,
Duncan,

Gooch,
Lair,
McCulloch,
Moore,
Patton,

Ripetoe,
Storey,
Swain,
Tilson--14.

NAYS.

Brown,
Burton,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,

Ledbetter,
Martin,
Stewart,
Shannon--14.

Senator Duncan moved to recommit the bill and pending amendments to the committee on education.

Senator Grace made the point of order that the motion of Senator Duncan was out of order, as a motion to amend has precedence over a motion to commit.

Point of order not sustained.

Senator Duncan then withdrew his motion to commit, and moved to postpone the further consideration of the bill and amendments until tomorrow, just after the morning call.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Davenport,
Duncan,

Ford,
Guy,
Homan,
Lair,
Martin,
McCormick,

Patton,
Shannon,
Storey,
Terrell,
Tilson--17.

NAYS.

Burton,
Edwards,
Gooch,
Grace,
Hobby,

Houston,
Lane,
Ledbetter,
McCulloch,

Moore,
Ripetoe,
Stewart,
Swain--13.

On motion of Senator Edwards, Senator Hobby was added to the committee on insurance, statistics and history.

Your committee went through every room in the mansion, and regret to say that there is but little there, either in bedding or table ware, for the ordinary comfort of a family. We have estimates carefully made of cost of repairs and necessary purchases, and now report that the sum of three thousand three hundred and thirty-eight dollars will be required, and that no less sum should be appropriated. We therefore report the accompanying joint resolution and recommend its adoption.

JOHN S. FORD,

A. W. TERRELL,

On the part of the Senate.

W. T. UPTON,

M. D. K. TAYLOR,

On the part of the House.

Joint resolution providing for repairs on the executive mansion and fencing and to provide for furnishing the same:

Be it Resolved by the Legislature of the State of Texas, That the sum of \$3338 be and the same is hereby appropriated to repair the executive mansion and fencing and to properly furnish the same.

2. That the condition of the executive mansion, which is suffering for immediate repairs, and the unfinished condition of the same creates an emergency and necessity for the immediate passage of this resolution, and that the same take effect and be in force from and after its passage.

On motion of Senator Ford, the rules were suspended and the joint resolution just reported by the joint committee on governor's mansion, etc., was taken up and read first time.

Senator Edwards moved the further suspension of the rules to place the resolution on its second reading.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--30.

NAYS—none.

Resolution read second time and ordered engrossed.

On motion of Senator Edwards, the rules were suspended and resolution placed on its third reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson--29.

NAYS—none.

Resolution read the third time and passed by the following vote:

YEAS.

Blassingame,	Guy,	Moore,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Houston,	Shannon,
Burton,	Lane,	Stewart,
Davenport,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—29.
Grace,	McCulloch,	

NAYS—none.

On motion of Senator Edwards the special order was postponed.

Senator Duncan moved to adjourn until 3 o'clock P. M.

Withdrawn.

Senator Storey moved to suspend the rules and take up Senate bill No. 158, entitled "An act to make an appropriation for the support of the lunatic asylum for the time beginning January 1, 1879, and ending February 28, 1879."

Carried.

The bill was taken up and read the first time.

On motion of Senator Storey the rules were suspended and the bill placed on its second reading by the following vote:

YEAS.

Blassingame.	Guy,	Moore,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Houston.	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter.	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—29.
Grace,	McCulloch,	

NAYS—none.

Bill read second time and ordered engrossed.

On motion of Senator Storey, the rules were still further suspended and the bill placed on its third reading by the following vote:

YEAS.

Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport.	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

The bill was then read the third time and passed by the following vote:

YEAS.

Blassingame,	Burton,	Ford,
Brown,	Davenport.	Gooch,
Buchanan,	Duncan,	Grace,
Burnett,	Edwards,	Guy,

The president, after reading its caption, signed Senate bill No. 139, entitled "An act amendatory of an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876."

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and report correctly engrossed the following bills, viz: Senate bill No. 49, entitled "An act to give effect to section 2, article 9 of the constitution, regulating the manner of removing and locating county seats." Senate bill No. 103, entitled "An act to provide for the organization of the state penitentiaries and to regulate the management of the convicts therein."

BROWN, *Chairman.*

On motion of Senator Stewart, the special order was postponed for fifteen minutes, the rules suspended and Senate bill No. 98, entitled "An act to fix the fees of the department of state in certain cases," was taken up and read the first time.

Senator Stewart moved that the rules be suspended and the bill placed on its second reading.

Carried by the following vote:

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

YEAS.

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

NAYS—Ripetoe—1.

Bill was read the second time.

Senator Stewart offered the following amendment:

Amend section 2 by adding after the word "commision" the words "and for every official certificate the sum of two dollars."

To section 3 add: "And whereas, a daily loss accrues to the State for the want of an act fixing the fees of the department of state, thereby creating an imperative public necessity and emergency for the immediate passage of this act, and it is enacted that this act take effect from and after its passage."

Adopted.

Senator Terrell offered the following amendment:

"It shall be the duty of the secretary of state to pay over at once all money collected under the act to the state treasurer."

Adopted and bill ordered engrossed.

Senator Burnett offered the following amendment:

Strike out "\$25" and insert "\$5" instead; and in addition thereto "twenty-five cents for each hundred words of any charter so recorded."

Lost by the following vote:

Brown,
Burnett,
Burton,

YEAS.

Edwards,
Ford,

Lane,
Ripetoe—7.

Blassingame,
Buchanan,
Davenport,
Duncan,
Gooch,
Guy,
Hobby,
Homan,

NAYS.

Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—21.

Senator Stewart moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

YEAS.

Grace,
Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Bill read third time and passed by the following vote:

Blassingame,
Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

YEAS.

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—24.

NAYS.

Burnett,

Burton,

Ripetoe—3.

On motion of Senator Ford, the special order was postponed for ten minutes, the rules suspended and the special joint committee to examine and report on the condition of the governor's mansion, etc., were permitted to make a report, which was as follows:

Hon. J. D. Sayers, President of the Senate; Hon. John H. Cochran, Speaker of the House of Representatives:

The undersigned, who compose the joint committee appointed by you to examine and report what sum is necessary to repair the state property occupied as a residence by the governor, and to properly furnish the same, now report that they have performed the duty assigned them, and find that the property has been much neglected, and its preservation requires that repairs be promptly made. The roof leaks over every room, the plastering has been broken on account of water leaking on it, and has fallen off in the upper rooms in many places. The entire building must be repainted to prevent permanent injury. The fences have also been neglected, and the plank and posts have rotted until they should be replaced. The same is true of the porch floors. The carpeting is generally worn out and should be replaced, and nearly every piece of furniture needs repairing.

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCormick,
McCulloch,
Moore,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—30.

NAYS.—none.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed Senate bill No. 145, being a joint resolution instructing the senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico. **BROWN, Chairman.**

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined, and find correctly enrolled and properly signed, Senate bill No. 139, entitled "An act amendatory of an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876," and the same was presented to the governor for his signature at 12:25 P. M. this day. **GRACE, Chairman.**

Senator Edwards moved to postpone the special order fifteen minutes, suspend the rules and take up Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of 'the Grand Lodge of Texas.'"

Carried and the bill was taken up and read first time.

On motion of Senator Edwards the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—28.

NAYS—none.

Bill read second time and ordered engrossed.

Senator Edwards moved to still further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,

Duncan,
Edwards,
Ford,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,

Storey,
Terrell,
Tilson—28.

NAYS—none.

Bill read third time and passed by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—28.

NAYS—none.

A message was received from the House announcing the passage by that body of Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State of Texas," with amendment.

On motion of Senator Hobby, the rules were suspended and Senate bill No. 20, just reported from the House, was taken up and the bill, with House amendments, was referred to the committee on revision of the code.

Senator Tllson moved to adjourn until 3 P. M.
Lost by the following vote:

YEAS.

Duncan,
Gooch,

Houston,
Ledbetter,

McCulloch— 5.

NAYS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Guy,
Hobby,
Homan,
Lane,
Lair,
Martin,
McCormick,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—23.

Senator Gooch moved to adjourn till 9 A. M. to-morrow.

Senator Terrell moved to adjourn till 10 A. M. to-morrow.

Senator Blassingame made the point of order that no business having intervened since the motion of Senator Tllson to adjourn was acted on, that the last motions to adjourn were out of order.

Point of order sustained.

Senator Gooch moved to postpone the special order five minutes.

Senator Blassingame then moved to adjourn until 10 o'clock to-morrow morning.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Ford,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Patton,
Ripetoe,
Stewart,
Storey,
Terrell—18.

	NAYS.	
Davenport, Duncan, Edwards,	Gooch, Homan, Houston,	Shannon, Tilson—8.

TWENTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 13, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Moore, the reading of the journals of yesterday was suspended and the same adopted.

Senator Buchanan presented a memorial from the members of the bar of the town and county of Kaufman, asking that the civil and criminal jurisdiction of the county courts of the State be not reduced, particularly the county court of Kaufman county. They also suggest that it would be better to increase the jurisdiction of the county courts than to decrease the same, and they especially request an increase of such jurisdiction in Kaufman county.

Referred to judiciary committee No. 1.

Senator Storey presented the petition of many citizens of Hays county, asking the passage of stringent laws against the liquor traffic, setting forth many of its evils in strong language; also, endorsing the local option law and recommending its amendment so as to make it more effective.

Referred to judiciary committee No. 1.

Senator Hobby, chairman of committee on revision of the code, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the code, to whom was referred Senate bill No. 20, entitled "An act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas," and the House amendments thereto, have instructed me to report the bill and amendments back to the Senate with the recommendation that the Senate concur in the first amendment of the House "to amend article 326 of the Penal Code;" also, to concur in House amendments "to strike out articles 688 and 689 of the Penal Code;" also, to concur in House amendment to article 752 of the Penal Code; and House amendment "to strike out article 758a of the Penal Code;" also, the preamble by the House; and that the Senate disagree to House amendments to article 495 of the Penal Code; also, to article 186 of the Penal Code, and article 430a of the Penal Code.

HOBBY, *Chairman.*

Senator Tilson, from the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred the memorial of the grand jurors of Collin county, looking to the prohibition of rolling or ten pin alleys, beg leave to report that they have duly considered the same, and, in order to attain the object therein indicated, have instructed me to report the accompanying bill to be entitled "An act

to amend article 358, chapter, of the Penal Code, approved, 1879," and recommend that the same do pass. *TILSON, for committee.*

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 128, entitled "An act to permit the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another, without his consent," and I am instructed by said committee to report said bill back to the Senate with the recommendation that it do pass.

STEWART, Chairman.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration the memorial from the convention of sheriffs of Texas, and have given it that consideration its importance demands. Your committee are pleased to say that the memorial contains many valuable suggestions in regard to our criminal law, some of which have already been acted upon by this Legislature, and it is hoped that others therein made will also be embodied in statutory enactments before the session is over, and I am instructed by said committee to report said memorial back to the Senate, and ask that the committee be relieved from the further consideration of the same.

STEWART, Chairman.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2, to whom was referred Senate bill No. 148, entitled "An act to prevent and punish the aiding and abetting the escape of state and county convicts," have considered the same and instructed me to report it back and recommend its passage.

STEWART, Chairman.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 87, entitled "An act regulating juries in capital cases," and I am instructed by said committee to report said bill back to the Senate with their recommendation that it do pass.

STEWART, Chairman.

Senator Gooch introduced a bill entitled "An act to define in what civil cases depositions of witnesses may be taken."

Read by caption and referred to judiciary committee No. 2.

A message was received from the House announcing the passage by that body of House bill No. 132, entitled "An act to require persons and corporations, to whom patents for land have been granted, to pay the fees thereon within sixty days from the passage of this act, and to provide a penalty for failure to pay such fees, and to provide for the manner and means of enforcing the provisions hereof;" and Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors or agents, to pay their wages when due, and to provide a lien for such wages;" and that the House concurs in part of the Senate amendments to House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending March 1, 1879," and refuses to concur in others as shown in the report of the action of the House accompanying the bill.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have examined and report correctly engrossed the following bills, viz: Senate bill No. 98, entitled "An act to fix the fees of the department of state in certain cases." Senate bill No. 174, being a joint resolution providing for repairs on the executive mansion and fencing, and to provide for furnishing the mansion. Senate bill No. 158, entitled "An act to make an appropriation for the support of the lunatic asylum for the period beginning January 1, 1879, and ending February 28, 1879." BROWN, *Chairman.*

The special order for unfinished business of yesterday, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," was taken up for consideration.

Senator Terrell, by leave of the Senate, withdrew his amendment, which was pending on adjournment yesterday.

Senator Stewart (by leave) then withdrew his substitute for Senator Terrell's amendment as amended by the amendment of Senator Lane, and also pending on adjournment yesterday, when Senator Terrell offered the following amendment:

Section —. The governor may, in his discretion, before authorizing the agents to be appointed under this act to proceed with sales, require the commissioners' courts of the several counties to make out in a uniform manner to be prescribed, and return to the commissioner of the general land office, a report of the valuation placed by said court on all unsold school sections of land, and the adjoining unoccupied sections surveyed with them. All sales made of said lands shall be confirmed by the governor before titles shall issue, and the comptroller shall promptly inform the governor, when required, of the average value at which the sections of land surveyed with the school sections have been assessed in any county in which sales have been negotiated, at the last assessment thereof.

Senator Hobby offered the following substitute for the amendment just offered by Senator Terrell:

Amend section 11, by adding after the word "sell" in line sixteen, "and the governor may require of the officers of the State or county such information as they may have, relative to the value and character of said land."

Adopted by the following vote:

YEAS.		
Blassingame, Edwards, Gooch, Grace, Hobby, Houston,	Lane, Lair, Ledbetter, Martin, McCormick, McCulloch,	Moore, Patton, Stewart, Swain, Tilson--17.
NAYS.		
Brown, Burnett, Davenport,	Duncan, Guy, Homan,	Ripetoe, Shannon, Terrell--9.

The pending amendment, as substituted by the amendment of Senator Hobby, was then adopted.

Senator Davenport offered the following amendment:

Add to section 3 the following: "*Provided*, That the purchasers of the alternate sections of land under the act of April 24, 1874, entitled "An act to provide for the sale of the alternate sections of lands as surveyed by railroad companies, and set apart for the benefit of the common school fund," shall have the benefit of any reduction in the price fixed upon the lands by this act, and if said purchasers have paid under said act of April 24, 1874, a greater price than is provided for by this act, than the excess in the amount paid under this act of 24th of April, 1874, above the amount specified in this act, shall be placed to the credit of said purchaser, so that purchasers, under laws heretofore passed, may not pay a larger price for said lands than is provided for purchasers under this act."

Amendment lost.

Senator Davenport offered the following amendment:

Amend section 5 by adding: "*Provided*, where any of the public free school lands have heretofore been sold, or may hereafter be sold, to actual settlers under any law of this State, such purchasers, their heirs and assigns, shall suffer no forfeiture thereof, or of prior payments made thereon, so long as the interest annually accruing thereon is regularly and promptly paid."

Senator Martin offered the following amendment to the amendment of Senator Davenport:

Amend by adding after the word "interest" the words "and all taxes."

Accepted by Senator Davenport.

Senator Davenport's amendment, as amended by Senator Martin's amendment, was then adopted by the following vote:

YEAS.

Blassingame,
Buchanan,
Brown,
Burnett,
Davenport,
Gooch,

Hobby,
Homan,
Lane,
Lair,
Martin,
McCormick,

Moore,
Patton,
Ripetoe,
Shannon,
Swain,
Terrell--18.

NAYS.

Burton,
Duncan,
Edwards,
Ford,

Grace,
Guy,
Houston,
Ledbetter,

McCulloch,
Stewart,
Storey--11.

Senator Lair offered the following amendment:

In section 8, line thirty, after the word "cash" strike out "two and a half" and insert "one and a half."

Senator Stewart offered the following substitute for Senator Lair's amendment:

Section 8, line thirty, after the word "cash" insert "not to exceed."

Adopted, and the amendment of Senator Lair, as substituted by Senator Stewart's amendment, was then lost by the following vote:

YEAS.

Brown,
Burnett,
Edwards,
Ford,
Grace,

Hobby,
Houston,
Lane,
Ledbetter,
Martin,

McCulloch,
Stewart,
Shannon,
Storey--14.

NAYS.

Blassingame,
Burton,
Buchanan,
Davenport,
Duncan,

Gooch,
Guy,
Homan,
Lair,
McCormick,

Moore,
Patton,
Ripetoe,
Terrell,
Tilson—15.

Senator McCormick offered the following amendment:

Amend by adding the following as section 16, to come in after section 15 of the printed bill, and change the numbering of the subsequent sections to correspond:

Section 16. Said land shall be subject to taxation from date of sale, and all taxes, both state and county, which may hereafter accrue on any of the lands hereafter or heretofore sold out of the public free school lands, shall be separately assessed and the proceeds when collected, exclusive of the cost of collection, shall be placed to the credit of the available school fund, provided the proceeds of any county tax thereon, exclusive of the costs of collection, shall be distributed to the counties respectively in which the land is situated, in addition to the share of such county in the available school fund otherwise derived.

Pending on adjournment.

On motion of Senator Edwards, Senator Ledbetter was excused until Wednesday next.

On motion of Senator Edwards, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

The question pending on adjournment, being the amendment of Senator McCormick, was then considered.

(Senator Guy in the chair.)

Senator Edwards offered the following amendment to the amendment of Senator McCormick:

Amend by striking out the words, in the third line, "taxes, both state and county," and insert instead thereof the words "state taxes," and strike out the proviso.

A message was received from the House announcing the passage by that body of Senate joint resolution No. 145, "instructing the senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico."

(President in the chair.)

The president, after reading its caption, signed Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors to pay their wages when due."

Senator Duncan moved to indefinitely postpone the bill under consideration with pending amendments.

Senator Stewart moved to lay the motion of Senator Duncan on the table.

Carried by the following vote:

YEAS.

Blassingame,
Brown,

Burnett,
Burton,

Davenport,
Edwards,

Ford,
Gooch,
Grace,
Guy,
Hobby,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—25.

Buchanan,
Duncan,

NAYS.
McCormick,

Patton—4.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of the Grand Lodge of Texas," and find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Ripetoe, the Senate adjourned until to-morrow morning at 10 o'clock.

TWENTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 14, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Burton presented the petition of many citizens of Waller, Fort Bend and Austin counties, asking that the Sunday law be made more stringent, so as to prohibit all secular labor and the keeping open of offices and business houses on the Sabbath day, and to provide adequate penalties for the violation of the same.

Referred to committee on state affairs.

Senator Houston presented the memorial of the citizens of Menard county in the form of resolutions adopted by said citizens at a public meeting held in Menardville, in said county, on the 11th instant, requesting the continuance of frontier protection by the State, eulogizing the late officers and privates of the state troops for their valuable services to their section of the State, and showing still greater reasons for the protection of the frontier in the future than have existed in the past, etc.

Referred to the committee on Indian affairs and frontier protection.

Senator McCulloch, chairman of the committee on statistics of industry, public health and history of Texas, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on statistics of industry, public health and history of Texas, to whom was referred Senate memorial No. 27, of citizens of Collin county praying the passage of a law regulating the fees and mileage of physicians, have considered the same, and I am instructed to report it back and recommend that it do not pass, for the reason that

physicians, generally speaking, are poorly paid for their services and they can regulate their own fees. McCULLOCH, *Chairman.*

Senator Duncan, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 152, to be entitled "An act to authorize counties, cities and towns to compromise existing railroad bonded indebtedness, and to issue new bonds at a lower rate of interest in lieu thereof," have had the same under consideration and instruct me to report the same back with the recommendation that it do pass. DUNCAN, *for committee.*

Senator McCulloch, chairman of the committee on statistics, industry, etc., submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on statistics of industry, public health and history of Texas, to whom was referred Senate bills Nos. 25 and 163, entitled "Acts to create and establish a state board of health for the State of Texas and to define their powers and duties," have had the same under consideration. They are unanimous in the conclusion that if chemical analysis and the light of the electric beam could make their revelations in southern, eastern and central Texas during the months of July, August and September, many loaded firearms would be found in our midst, ready to destroy our lives only upon the application of the match.

The essential features of the bill are borrowed by the committee appointed by the State Medical Association, to frame an act from the bill No. 25, introduced at the beginning of the session. I am unanimously instructed by the committee to return the bill No. 163, with the recommendation that it do pass. McCULLOCH, *Chairman.*

On motion of Senator McCulloch, 100 copies of the bill and report just reported from the committee were ordered printed.

(Senator Shannon in the chair.)

Senator Terrell introduced a bill entitled "An act to reorganize the sixteenth judicial district of the State of Texas, and provide for the time of holding court therein."

Read by caption and referred to committee on judicial districts.

Senator Lane introduced a bill entitled "An act amendatory of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this State that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved June 24, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Edwards introduced a bill entitled "An act to amend 'an act to better protect the papers, records and files in the general land office,' approved June 2, 1873."

Read by caption and referred to the committee on general land office.

The following House bills were taken up for reference to appropriate committees:

House bill No. 132, entitled "An act to require persons and corporations to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty

for failure to so pay said fees, and to provide the manner and means of enforcing the provisions thereof."

Referred to the committee on finance.

House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending March 1, 1879."

Referred to committee on finance.

On motion of Senator Moore, the unfinished business was postponed ten minutes, the rules suspended and House joint resolution No. 21, authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said title, was taken up and read first time.

Senator Moore moved to suspend the rules and place the resolution on its second reading.

Carried by the following vote:

YEAS.		
Blassingame,	Guy,	McCulloch,
Brown,	Hobby,	Moore,
Burnett,	Homan,	Patton,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—25.
Grace,		

NAYS---none.

Resolution read second time.

Senator Storey offered the following amendment:

Amend section 1 by inserting after the word "empowered" in line three, the following words: "If deemed necessary to protect the rights of the State."

Adopted.

On motion of Senator Moore the rules were suspended and resolution placed on its third reading by the following vote:

YEAS.		
Blassingame,	Guy,	Moore,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Martin,	Swain,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson—27.

NAYS-- none.

Resolution read third time and passed by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Terrell,
Edwards,	Martin,	Tilson—26.
Gooch,	McCormick,	

NAYS.

Storey,

Swain—2.

(President in the chair.)

The president, after reading its caption, signed Senate joint resolution No. 145, "instructing the senators and requesting the representatives of the State of Texas in Congress to favor commercial relations with Mexico."

On motion of Senator Hobby, the unfinished business was postponed fifteen minutes, the rules suspended and Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure," was taken up and the report of the committee on revision of the code on House amendments to the bill was read and considered.

House amendment to article 326 of the Penal Code was read and adopted.

House amendment "to strike out articles 688 and 689 of the Penal Code," was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS.

Blossingame,
Duncan,

Homan,

McCormick—4.

House amendment to article 752 of Penal Code was adopted.

Senator Hobby moved that the Senate do not concur in House amendment to article 758*a* of Penal Code.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,

Edwards,
Guy,
Hobby,
Homan,
McCormick,

Moore,
Ripetoe,
Stewart,
Swain,
Tilson—15.

NAYS.

Davenport,
Ford,
Gooch,
Grace,
Houston,

Lane,
Lair,
Martin,
McCulloch,

Patton,
Shannon,
Storey,
Terrell—13.

Senator Terrell moved the previous question on House amendment to strike out article 86 of Penal Code, etc.

Motion seconded and main question ordered.

The Senate refused to disagree to the said House amendment by the following vote:

YEAS.

Brown,
Davenport,
Edwards,
Ford,
Guy,

Hobby,
Homan,
Houston,
Lane,

McCulloch,
Patton,
Stewart,
Shannon—13.

NAYS.

Blassingame,
Buchanan,
Burnett,
Burton,
Duncan,

Gooch,
Grace,
Lair,
McCormick,
Moore,

Ripetoe,
Storey,
Swain,
Terrell,
Tilson—15.

Senator Terrell moved to reconsider the vote just taken.
Lost by the following vote:

YEAS.

Brown,
Davenport,
Edwards,
Ford,
Guy,

Hobby,
Homan,
Houston,
Lane,
Martin,

Patton,
Stewart,
Shannon,
Terrell—14.

NAYS.

Blassingame,
Buchanan,
Burnett,
Burton,
Duncan,

Gooch,
Grace,
Lair,
McCormick,
McCulloch,

Moore,
Ripetoe,
Storey,
Swain,
Tilson—15.

The Senate then refused to disagree to House amendment to article 430a of Penal Code by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Ford,

Houston,
Lane,
McCormick,
Patton,

Ripetoe,
Stewart,
Storey,
Terrell—13.

NAYS.

Blassingame,
Davenport,
Edwards,
Grace,
Guy,

Hobby,
Homan,
Lair,
Martin,
McCulloch,

Moore,
Shannon,
Swain,
Tilson—14.

Senator Ford moved to reconsider the vote just taken.
Motion lost.

On motion of Senator Hobby, the Senate disagreed to House amendment to article 495.

On motion of Senator Hobby, the Senate concurred in House amendment to preamble.

Senator Grace, chairman of the committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors or agents to pay their wages when due and to provide a lien for such wages," and presented the same to the governor at 10:40 A. M. for his signature.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate joint resolution No. 145, "Instructing the senators and requesting the representatives of Texas in

Congress to favor commercial relations with Mexico," and presented the same to the governor at 10:40 A. M. for his signature.

GRACE, *Chairman.*

On motion of Senator Burton, the rules were suspended, the unfinished business postponed for five minutes, when the senator offered the following resolution:

Resolved, That the committee on finance be requested to report House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879."

Adopted.

The unfinished business, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," was taken up.

The pending question on adjournment, being the amendment of Senator Edwards to the amendment of Senator McCormick, was adopted by the following vote:

YEAS.		
Blassingame,	Grace,	Moore,
Brown,	Guy,	Ripetoe,
Buchanan,	Hobby,	Stewart,
Burnett,	Lane,	Storey,
Edwards,	Lair,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCulloch,	Tilson—21.
NAYS.		
Davenport,	Houston,	Patton,
Duncan,	McCormick,	Shannon—7.
Homan,		

Senator Homan offered the following amendment to that of Senator McCormick, pending on adjournment yesterday:

Strike out the word "sale," in second line, and insert as follows: "The obligation of the State to be executed by the commissioner of the general land office, as provided in the fifth section of this act."

Adopted.

Senator Lair moved the previous question on Senator McCormick's amendment.

Motion seconded and the main question ordered.

Senator McCormick's amendment, as amended by the amendments of Senator Edwards and Senator Homan, was then adopted by the following vote:

YEAS.		
Blassingame,	Guy,	McCulloch,
Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lane,	Stewart,
Duncan,	Lair,	Storey,
Edwards,	McCormick,	Tilson—22.
Gooch,		
NAYS.		
Brown,	Martin,	Swain,
Ford,	Shannon,	Terrell—6.

Senator Storey moved to reconsider the vote just taken.

Senator McCormick moved to lay the motion to reconsider on the table.

Carried by the following vote:

YEAS.		
Buchanan,	Guy,	McCulloch,
Burnett,	Homan,	Moore,
Burton,	Houston,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Stewart—17.
Gooch,	McCormick.	
NAYS.		
Blassingame,	Grace,	Swain,
Brown,	Martin,	Terrell,
Edwards,	Shannon,	Tilson—11.
Ford,	Storey,	

Senator Patton offered the following amendment as a substitute for section 8 of the bill:

Substitute for section 8:

Section 8. Agents appointed to sell lands under this act shall for their services receive in cash, out of the money actually collected from sales made by them, a commission of two and a half per cent. until they get the sum of \$5000, and, in addition to this sum, each agent shall receive a commission of one per cent. on the amount realized through sales of land by him exceeding the value of two dollars per acre and less than three dollars per acre, and two per cent. on amounts exceeding three dollars and less than four dollars per acre, and two and a half per cent. on all amounts realized at a sale of over five dollars per acre, said commissions to be paid in the ratio and as the money is realized from the sales aforesaid, on warrants issued by the comptroller upon the treasurer, and in no other way shall such agents be paid by the State, and under no circumstances shall extra compensation be paid by the State to such agents; *and it is further provided*, that the commissions of said agents on lands sold by them for a less sum than two dollars per acre shall not exceed five thousand dollars.

Senator Storey offered the following as a substitute for the amendment of Senator Patton:

Amend section 8 by inserting after the word "made" in line thirty-one, the following: "On the first five hundred thousand dollars (\$500,000) worth of sales, and one per cent. on all sales over five hundred thousand dollars."

Adopted, and the amendment of Senator Patton, as substituted by the substitute of Senator Storey, was then adopted.

Senator Brown offered the following amendment:

Insert after the word "shall," in first line of section 8, the word "each."

Adopted.

Senator Storey offered the following amendment:

Amend section 3, line nine, by inserting after the word "sold" the following: "Subject to the approval of the governor."

Adopted.

Senator Patton offered the following amendment:

Amend section 3 by inserting in line nine, between the words "than" and "fifty," "one dollar and," and in line ten striking out all of the words after "acre," where it first occurs in said line.

Senator Tilson offered the following amendment as a substitute for the amendment of Senator Patton:

After the word "at," in section 3, line nine, strike out the words "a

price not less than fifty cents per acre for pasture land and not less than \$1 per acre for arable lands," and insert "\$2."

Senator Edwards made the point of order that, as the substance of the amendment of Senator Tilson had already been acted upon, the amendment could not be entertained.

Point of order sustained.

Senator Stewart offered the following as a substitute for the amendment of Senator Patton:

Amend section 16, in the fifth line, after the word "act," by adding the words "and shall contain such restriction to the price of the lands to be sold as the governor in his discretion may see proper to impose, but in no event shall said lands be sold for a less amount per acre, for arable and pasture lands, than that fixed by this act; and such letter of authority, restricting agents about price, may be changed by the governor whenever he in his discretion may deem it for the best interest of the State to do so."

Senator Brown offered the following amendment to the substitute of Senator Stewart:

Strike out of section 16, as amended, the words: "But in no event shall said lands be sold for less price per acre, for arable and pasture lands, than that fixed by this act."

Senator Swain moved to adjourn till 3 o'clock P. M.

Lost by the following vote:

YEAS.		
Burnett, Duncan,	McCulloch,	Swain—4.
NAYS.		
Blassingame, Brown, Buchanan, Burton, Davenport, Edwards, Ford, Gooch, Grace,	Guy, Hobby, Homan, Houston, Lane, Lair, Martin, McCormick,	Moore, Patton, Ripetoe, Stewart, Shannon, Storey, Terrell, Tilson—25.

Senator Lair moved the previous question on the bill and pending amendments, which was seconded, but the Senate refused to order the main question by the following vote:

YEAS.		
Blassingame, Buchanan, Guy,	Houston, Lair, McCormick,	Moore, Ripetoe—8.
NAYS.		
Brown, Burton, Davenport, Duncan, Edwards, Ford, Gooch,	Grace, Homan, Lane, Martin, McCulloch, Patton,	Stewart, Shannon, Storey, Swain, Terrell, Tilson—19.

Senator Edwards moved the previous question on the pending amendments and the amendments upon the president's desk.

Motion seconded and the main question ordered by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,
Homan,
Houston,
Lair,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell—24.

NAYS.

Lane.

Swain,

Tilson—3.

Senator Brown's amendment to the substitute of Senator Stewart was then voted on by the Senate and lost.

Senator Patton made the point of order that the substitute of Senator Stewart for his amendment was not properly a substitute for the same. Not sustained.

The substitute of Senator Stewart was then adopted and the amendment of Senator Patton, as substituted by the amendment of Senator Stewart, was then adopted.

Senator Swain offered the following amendment:

Amend after the enacting clause inserting the following in lieu of sections 1 and 2:

Section 1. That the governor, comptroller and commissioner of the general land office of the State of Texas are herein constituted a board of commissioners for the sale of lands set apart for the public schools, and are hereby authorized and empowered to sell not more than 18,000,000 acres of said lands upon the terms and conditions hereinafter provided.

Section 2. Said board shall have authority to appoint a secretary at a salary of not more than \$2000 per annum, which salary shall be paid out of the proceeds of the sales of said lands.

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Gooch,

Homan,
McCormick,
Patton,
Shannon,

Storey,
Swain,
Terrell,
Tilson—13.

NAYS.

Blassingame,
Burton,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,

Martin,
McCulloch,
Moore,
Ripetoe,
Stewart—15.

Senator Burton offered the following amendment:

Amend section 3 by adding "*provided*, that the money arising from the sale of said lands shall not be used for any other purpose than the benefit of public free schools."

Adopted.

Senator Lane offered the following amendment:

Amend section 16, after the word "act" in the last line, "and upon the sale of any lands, under the provisions of this act, the agent shall report the same to the governor, accompanied by the affidavit of the surveyor of the county or district in which the land is situated, and which affidavit shall contain an appraised value of the land sold and of the adjoining surveys with a description and classification of the same, and

the agent shall compensate from his commission the surveyor for such services in all cases, upon such terms as they may agree on, and should the surveyor knowingly undervalue the marketable value of the land, then he shall be liable upon his official bond for the difference between the marketable value of the same and the sum paid by the purchaser therefor, which may be recovered in the name of the State of Texas for the benefit of the permanent school fund."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Duncan,
Edwards,
Ford,
Hobby

Homan,
Houston,
Lane,
McCormick,
McCulloch,

Patton,
Storey,
Swain,
Terrell,
Tilson—16.

NAYS.

Blassingame,
Burton,
Davenport,
Gooch,

Grace,
Guy,
Lair,
Martin,

Moore,
Ripetoe,
Stewart,
Shannon—12.

Senator Lane offered the following amendment:

Amend section 14 by adding after the word "void," in the last line, "and any such sales upon judicial inquiry shall be canceled, the purchase money thereof be forfeited to the use of the public school fund, and the land be again subject to sale under the provisions of this act."

Adopted.

Senator Brown moved to adjourn until to-morrow at 10 o'clock.

The motion was ruled out of order, the previous question having been ordered on the pending business.

Senator Grace offered the following amendment:

Amend by inserting after the word "purchases" in line twelve, section 10, the words "not less than eighty acres, unless it be a fractional part less than eighty acres."

Lost.

Senator Houston offered the following amendment:

Amend by inserting in section 15, page 4, line two, before the word "purchase," the words "contract of."

Adopted.

Senator Brown moved a call of the house.

The motion was ruled out of order, as the previous question had been ordered on the pending question.

Senator Houston offered the following amendment:

Amend section 5, page 2, line nine, by adding after the word "Texas," the words "for the use and benefit of the public school fund."

Adopted.

Senator Gooch offered the following amendment:

Add after the last word in section 3, "and said land, not already enclosed, may be leased for a term of years, not exceeding twenty, for an annual sum of not less than two cents an acre, and said land already enclosed for an annual sum of not less than four cents an acre. The rent money shall be paid annually in advance to the comptroller of the state, and by him to the treasurer of the state, as a part of the available school fund. The lease shall prohibit the cutting of the timber except for building and fencing purposes on the land leased, and that the failure to

fence the same within one year, or the failure to pay the annual rent shall forfeit the money paid and the improvements made before then and shall avoid the contract of lease. The agent of the State who shall be authorized to sell shall also be authorized to lease, and the agent shall reserve twenty-five per cent. of the first year's rent, and no more, for his service in making the lease."

Lost by the following vote:

YEAS.		
Brown, Davenport. Duncan,	Gooch, Homan, McCormick,	Patton, Storey, Swain—9.
NAYS.		
Blassingame, Buchanan, Burton, Ford, Grace, Guy,	Hobby, Houston, Lane, Lair, Martin, McCulloch,	Moore, Ripetoe, Stewart, Shannon, Terrell, Tilson—18.

The following amendment, recommended by the committee as section 17 of the bill, was adopted:

Section 17. That an act to provide for the sale of the alternate sections of land as surveyed by railroad companies and set apart for the benefit of the common school fund, approved April 24, 1874, be and the same is hereby repealed; *provided*, that all sales and contracts made under said act shall be carried out according to the provisions of said act.

Senator Duncan moved to adjourn until 10 o'clock to-morrow morning.

Lost by the following vote:

YEAS.		
Brown, Buchanan, Davenport,	Duncan, Patton,	McCulloch, Storey—7.
NAYS.		
Blassingame, Edwards, Ford, Gooch, Grace, Guy, Hobby,	Homan, Houston, Lane, Lair, Martin, McCormick, Moore,	Ripetoe, Stewart, Shannon, Swain, Terrell, Tilson—20.

Senator Duncan moved that the bill be read for information.

Motion lost by the following vote:

YEAS.		
Brown, Buchanan, Burnett,	Duncan, Homan,	McCulloch, Patton—7.
NAYS.		
Blassingame, Burton, Davenport, Edwards, Ford, Gooch, Grace, Guy,	Hobby, Houston, Lane, Lair, Martin, McCormick, Moore,	Ripetoe, Stewart, Shannon, Storey, Swain, Terrell, Tilson—22.

The bill was then ordered engrossed by the following vote:

YEAS.

Blassingame,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Martin,
McCormick.

McCulloch,
Moore,
Ripetoë,
Stewart,
Shannon,
Storey,
Terrell—22.

NAYS.

Brown,
Buchanan,
Duncan,

Homan,
Patton,

Swain,
Tilson—7.

Senator Homan gave his reasons, as follows, for his vote just given: "I vote no, because the minimum limit upon the price at which said land shall be sold is too small."

Senator Terrell gave the following in explanation of his vote: "I vote aye, though the bill is not guarded as I desired, and one of its provisions, which dedicates all taxes to arise from the land to the available school fund, is at least of doubtful constitutionality. The compensation of agents is also extravagant, but I waive these objections to secure a change of policy as to school lands, than which nothing can be more injurious than the present."

On motion of Senator Burton, the Senate adjourned until to-morrow morning at 10 o'clock.

TWENTY-NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 15, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Homan, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Lair, Senator Blassingame was excused indefinitely in consequence of sickness in his family.

Senator Shannon, chairman of the committees on internal improvements and judicial districts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 12 entitled "An act to regulate the management of railroad companies," have had the same under consideration and have instructed me to report the same back to the Senate with the accompanying substitute, and recommend the adoption of the substitute and the passage of the same.

SHANNON, *Chairman.*

Report and substitute read.

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 176, entitled "An act establishing the tenth, twelfth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the time of holding the district courts therein, and providing for the election of district judges for the twenty-eighth, twenty-ninth and thirtieth districts," have had the same under consideration and instruct me to report that your

committee are of the opinion that the constitution only provides for the election of district judges at the general biennial elections for state and county officers, and that it provides that all vacancies in the office of district judge must be filled by appointment by the governor until the succeeding general election for state and county officers, and they recommend the following amendments, and, when so amended, unanimously favor its passage:

Amend first the caption by striking out "election," where it occurs therein, and insert "appointment."

Amend section 15 by striking out of said section "issue his proclamation directing an election to be held in the said twenty-eighth, twenty-ninth and thirtieth judicial districts," and insert "appoint suitable persons as judges of the twenty-eighth, twenty-ninth and thirtieth judicial districts."

SHANNON, *Chairman.*

Senator Edwards, chairman of the committee on constitutional amendments, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments have had under consideration Senate bill No. 102, entitled "An act proposing an amendment to article 5 of the constitution," also joint resolution No. 5, amending sections 1, 2, 3, 4, 5, 6, 8 and 16, of article 5 of the constitution, and to make valid laws passed in harmony therewith by the Sixteenth Legislature;" also resolution suggesting changes in the judiciary system, and request me to report, as a substitute therefor, the accompanying joint resolution "proposing an amendment to article 5, of the constitution of the State of Texas," with the recommendation that it do pass.

EDWARDS, *Chairman.*

The report of the committee and accompanying substitute were read.

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 9, entitled "An act making appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," have carefully considered the same, and I am instructed by a majority of the committee present to amend the same by striking out, in section 1, the words "six hundred thousand," and inserting instead thereof the words "four hundred and fifteen thousand," and as amended, report the bill back to the Senate and to recommend its passage.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was referred House bill No. 132, entitled "An act to require persons and corporations to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to pay said fees, and to provide the manner and means of enforcing the provisions thereof," have carefully considered the same, and I am instructed by the committee present to report the bill, with the accompanying amendments, back to the Senate, and as amended to recommend its passage.

STOREY, *Chairman.*

Amendments by the committee:

Amend caption of bill by striking out the same and inserting the fol-

lowing: "A bill to be entitled 'an act to regulate the issuance and delivery of land patents and to secure the payment of fees due thereon.'"

Amend section 2 by inserting the following after the word "land," in fourth line from the end of the section: "Certified copy thereof, field notes or certificates relative thereto."

Amend section 4 by adding to the same the following, commencing after the word "commissioner," in last line, "and by publishing four weeks in some newspaper published at the city of Austin, a list of the patents in the general land office ready for delivery to the parties owning the same, said publication to continue for the period of four weeks in each case, and the cost to be charged to the owners or claimant of the land so patented as a part of the penalty or cost incurred."

Amend by adding the following section:

Section 5. No title shall vest either in law or equity by virtue of any sale or deed hereafter made of land, the patent whereof may be ready for delivery in the general land office, until after the full payment of all fees required by this act.

Amend section 5 by striking out the number 5 and inserting in lieu thereof the number 6.

Senator Grace, chairman of special committee to investigate alleged exposures of the executive session of the Senate, etc., submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee appointed to investigate the matter of alleged exposure of the proceedings of this body in executive session, and published in the *Galveston News*, have had before them Mr. Doremus, reporter of said paper, and he has refused to answer the questions propounded by your committee. By such action of Mr. Doremus a majority of your committee are forced to the conclusion that he is able to give his authority for his statements in said paper, but your committee, feeling that they had no authority to compel the witness to answer, report the matter back to the Senate for its action.

GRACE, *Chairman.*

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 96, entitled "An act for the disposal of the public free school lands, and to secure the proceeds thereof for the benefit of said schools," and report it correctly engrossed.

BROWN, *Chairman.*

(Senator Swain in the chair.)

Senator Ford introduced a bill entitled "An act to fix the times of holding the district courts in the twenty-fifth judicial district of the State of Texas."

Read by caption and referred to the committee on judicial districts.

Senator Homan introduced a bill entitled "An act to provide against the evils resulting from the sale of intoxicating liquors in the State of Texas."

Read by caption and referred to judiciary committee No. 2.

On motion of Senator Houston, the special order was postponed ten minutes, the rules suspended and Senate bill No. 67, entitled "An act prescribing the times of holding the courts in the twenty-fourth judicial district," was taken up and read first time.

Senator Houston moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.—none.

Bill read second time and ordered engrossed.

On motion of Senator Houston, the rules were further suspended and the bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—23.

NAYS—none.

Senator Grace arose to a question of privilege, and moved to suspend the rules and take up the report of the special committee made this morning with regard to alleged exposures of the executive session of the Senate.

Carried, and the report taken up and read.

(President in the chair.)

Senator Storey offered the following resolution :

Resolved, That the report of the committee and the matter to which it refers be recommitted to the same committee, with instructions to report such resolutions as the committee may think necessary to protect the Senate, and to compel the witness to answer.

Senator Brown offered the following as a substitute for the resolution of Senator Storey :

Resolved by the Senate, That the report be received, and that the committee be discharged from further consideration of the subject.

Senator Terrell offered the following as a substitute for the resolution of Senator Brown :

Resolved, That since it is notorious that through misadventure on the part of the Senate in securing the privacy of its executive session from those who were in the hall and porch of the capitol, its dignity is not involved in further prosecuting an inquiry regarding the publication in the *Galveston News*. The fact that no Senator could have given the information is apparent from the fact that a portion of the article referred to is without foundation.

Accepted by Senator Brown as a substitute for his resolution.

Senator Terrell moved the previous question on the whole pending business.

Motion seconded, and the Senate refused to order the main question by the following vote:

YEAS.		
Brown, Buchanan, Burnett, Davenport,	Gooch, Houston, McCulloch, Moore,	Patton, Ripetoe, Shannon, Swain—12.
NAYS.		
Duncan, Edwards, Ford, Grace, Guy,	Homan, Hobby, Lane, Lair,	Martin, Stewart, Storey, Tilson—13.

Senator Lair moved to lay the whole pending business on the table. Lost by the following vote:

YEAS.		
Brown, Burnett,	Davenport, Lair,	McCulloch—5.
NAYS.		
Buchanan, Burton, Duncan, Edwards, Ford, Gooch, Grace, Guy,	Hobby, Homan, Houston, Lane, Martin, Moore, Patton,	Ripetoe, Stewart, Shannon, Storey, Swain, Terrell, Tilson—22.

Senator Storey's resolution was then substituted by the resolution of Senator Terrell (which had been accepted as a substitute for the resolution of Senator Brown) and adopted by the following vote:

YEAS.		
Brown, Burnett, Burton, Davenport, Gooch,	Homan, Houston, Martin, McCulloch, Moore,	Ripetoe, Stewart, Shannon, Terrell—14.
NAYS.		
Buchanan, Duncan, Edwards, Ford, Grace,	Guy, Hobby, Lane, Lair,	Patton, Storey, Swain, Tilson—13.

On motion of Senator Gooch, the special order was postponed thirty minutes, the rules suspended and Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas, that will become redeemable on the first day of July, A. D. 1879,

and for the payment of approved pension certificates by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," was taken up and read first time.

Senator Duncan moved to adjourn until 3 o'clock P. M.

Lost by the following vote:

	YEAS.	
Duncan,	Lair,	Patton--3.
	NAYS.	
Buchanan,	Guy,	Ripetoe,
Burton,	Homan,	Stewart,
Davenport,	Houston,	Shannon,
Edwards,	Lane,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCulloch,	Terrell,
Grace,	Moore,	Tilson--21.

Senator Edwards moved to postpone pending business for one minute, suspend the rules and take up the joint resolution substituting article 5 of the state constitution reported from the committee on constitutional amendments this morning.

Motion carried.

Senator Homan then (by leave) introduced a substitute for the said joint resolution.

Senator Edwards then moved that the joint resolution just taken up be made the special order for Tuesday next just after the morning call, and from day to day until disposed of, and that 300 copies of it and substitute and reports be printed.

Carried.

(Senator Homan in the chair.)

Senator Gooch moved to suspend the rules and place Senate bill No. 97, the pending bill, on its second reading, upon which motion the vote resulted as follows:

	YEAS.	
Brown,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCulloch,	Swain,
Gooch,	Moore,	Terrell,
Hobby,	Patton,	Tilson--20.
Houston,	Ripetoe,	
	NAYS.	

Burnett,

Homan 2.

Declared by the chair to be lost.

Senator Patton, chairman of the committee on claims and accounts (by leave) submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts instruct me to report that they have had under consideration the memorial of Moran Brothers, and have found it advisable to take the testimony of absent witnesses in behalf of the State; that the memorialists are represented by attorneys, and that your committee have postponed the further investigation of the claim until Monday, the twenty-fourth of this month, and they ask that the attorney general be requested to represent the State before the committee, and in taking the depositions of absent witnesses to be used in said investigation.

PATTON, *Chairman.*

The report was read and adopted and the request of the committee granted.

On motion of Senator Houston, the special order was postponed, rules suspended and the following Senate bills were called up and fifty copies each ordered printed:

Senate bill No. 87, entitled "An act regulating juries in capital cases;"
Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a Code of Criminal Procedure, for the State of Texas;'" Senate bill No. 116, entitled "An act to amend section 12 of 'an act to establish and provide for the support and maintenance of an efficient system of public free schools,' approved August 16, 1876;"
Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts when and where the same may be necessary;"
Senate bill No. 152, entitled "An act to authorize counties, towns and cities to compromise existing railroad bonds and indebtedness and to issue new bonds at a lower rate of interest in lieu thereof."

(The president in the chair.)

On motion of Senator Shannon, 100 copies of the substitute for Senate bill No. 12, entitled "An act to regulate the management of railroad companies," with the accompanying report of committee, were ordered printed.

On motion of Senator Storey, the rules were suspended and House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," was taken up and bill read first time.

Senator Storey moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Grace,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Storey,
Duncan,	Lair,	Swain,
Edwards,	Martin,	Shannon,
Gooch,	McCulloch,	Tilson—24.
	NAYS—none.	

Bill read second time.

Senator Duncan moved to disagree to the amendment recommended by the committee on finance, which reported the bill.

Motion ruled out of order, the chair holding that a motion to disagree would not apply to an amendment by a committee.

A message was received from the House announcing that the House had had under consideration Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State," and recedes from its amendment to article 495, and refuses to recede from its amendment striking out article 758a, and asks for a conference committee of three on the part of the House, and a like number on the part of the Senate, and that the House had appointed as said committee Representatives Finlay, Frost and Johnson, of Shelby.

The president then appointed as said committee, on the part of the Senate, Senators Edwards, Storey and Stewart.

Senator Burnett moved to lay the committee amendment to House bill No. 9, now pending, on the table.

Carried by the following vote:

YEAS.		
Buchanan, Burnett, Burton, Duncan, Ford, Grace,	Guy, Homan, Lair, McCulloch, Moore,	Patton, Ripetoe, Stewart, Shannon, Swain—16.
NAYS.		
Brown, Davenport, Edwards, Gooch,	Hobby, Houston, Martin,	Storey, Terrell, Tilson—10

A message was received from the House announcing the passage by that body of House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State of Texas and to fix the times for holding courts in the different counties composing same," and that the House has concurred in Senate amendment to House joint resolution No. 21, "authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said titles."

Senator Gooch moved to reconsider the vote by which Senator Terrell's substitute on the investigation of the alleged exposure of the executive session of the Senate was adopted.

On motion of Senator Brown, Senator McCormick was excused for ten days.

Senator Duncan moved to suspend the rules and place the bill under consideration upon its second reading.

Ruled out of order.

Senator Edwards moved to adjourn until 10 o'clock A. M. Monday.

Lost by the following vote:

YEAS.		
Brown, Davenport, Edwards, Gooch,	Hobby, Lane, Martin, McCulloch,	Moore, Storey, Terrell—11.
NAYS.		
Buchanan, Burnett, Burton, Duncan, Ford, Grace,	Guy, Homan, Houston, Lair, Patton,	Ripetoe, Stewart, Shannon, Swain, Tilson—16.

Senator Burnett moved the previous question on passing the pending bill to its third reading.

Senator Edwards moved a call of the House.

Call sustained.

Roll called and none absent.

The previous question moved by Senator Burnett was then seconded and main question ordered.

Senator Edwards moved to reconsider the vote ordering the main question.

Senator Burnett made the point of order that the motion to reconsider was out of order pending the operation of the previous question.

Point of order sustained.

The bill was then placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.

Brown,

Davenport—2.

Senator Edwards moved to reconsider the vote just taken, but afterwards withdrew it.

Senator Edwards moved to adjourn until 10 o'clock Monday morning, upon which motion the vote resulted as follows:

YEAS.

Brown,
Davenport,
Edwards,
Gooch,
Hobby,

Houston,
Lane,
McCulloch,
Moore,

Storey,
Swain,
Terrell,
Tilson—13.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,
Ford,

Grace,
Guy,
Homan,
Lair,

Patton,
Ripetoe,
Stewart,
Shannon—13.

The president then declared the Senate adjourned until 10 o'clock Monday morning.

THIRTIETH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 17, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Guy, the reading of the journals of Saturday was dispensed with and the same adopted.

Senator Shannon presented a memorial from the commissioners' court of Young county, asking that an act with regard to the disposal of public lands known as the "Indian reservation" be so changed as to allow the commissioners appointed to sell said lands to sell the same without regard to the limitations of maximum and minimum rates in said act, as the land is generally rocky and poor and cannot be sold at the present rates; and also to give the present occupants the prior right of purchase, and that the improvements be exempt from valuation in the sale of said land.

Referred to the committee on state affairs.

Senator Houston presented a memorial from the commissioners' court and county officers of Mason county, asking the continued protection of

the frontier by the state troops, enlogizing the officers and men of said force, and giving many reasons for the continuance of frontier protection against both the Indians and desperadoes which abound throughout said border, and among them they state that without such protection the frontier will be driven back at least eighty miles, and that many counties will be abandoned.

Referred to committee on Indian affairs and frontier protection.

Also, the memorial and account of Patrick Mullins for work done in repairing the state capitol in 1876, under contract with the superintendent of public buildings and grounds at that time (Captain Fred. Voigt), for the amount of \$278.

Referred to the committee on claims and accounts.

Senator Tilson presented the petition of many citizens of Bowie county asking that the pension law be so extended in its application as to allow pensions to all the old Texas soldiers who served in the armies up to and embracing the campaigns of 1841, stating that many of them are poor, needy, etc.

Referred to the committee on finance.

Senator Ford presented a memorial from the commissioners' court of Frio county, considered and adopted in open court, "asking the Legislature to donate the state tax of said county for the years 1879 and 1880, in consequence of the destruction of their court house by fire (the work of incendiaries) and the loss of their land records by theft, and that they also in addition be permitted to levy and collect an annual tax of fifty cents on the one hundred dollars worth of taxable property in the county for the years referred to, to enable them to restore their public buildings, etc."

Referred to the committee on finance.

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred petition No. 32, "of sundry citizens of Bowie county praying for the establishment of depot, other buildings, etc., on the Texas side of the state line between Texas and Arkansas," have duly considered the same, and I am instructed to report the same back to the Senate with the accompanying bill and recommend the passage of the bill.

SHANNON, *Chairman.*

• Bill read first time.

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending February 28, 1879," have duly considered the refusal of the House to concur in the Senate amendments to the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that the Senate adhere to its amendments.

STOREY, *Chairman.*

The report of the committee was read, and, on motion of Senator Storey, was adopted.

Senator Swain, chairman of the committee on penitentiary, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiary have instructed me to inform the Senate that the accompanying report of the joint sub-committee, appointed to visit the penitentiaries at Huntsville and Rusk, has been made to your committee, and said committee instructs me to report the same for the information of the Senate.

SWAIN, *Chairman.*

AUSTIN, February 10, 1879.

To the Senate and House Committees on Penitentiaries:

Your joint sub-committee, appointed to visit the penitentiaries at Huntsville and Rusk, and inquire into the management and condition of the same, beg leave to report that your committee left the capital on the 28th day of January last and proceeded directly to Huntsville, arriving at said place on the evening of the 29th of January.

On the morning after the arrival of your committee at the penitentiary it went into the work of a careful examination of all the departments and surroundings of the same, visiting in person the various workshops and other buildings, including the cells. During the labors of your committee they were allowed every facility for making a most careful and thorough inspection of the management and condition of the prison—Messrs. Cunningham & Ellis, the lessees, and Capt. Goree, the superintendent, conducting your committee through every department of the same. Your committee had before them a number of witnesses, amongst whom were the officers, employes and convicts of the prison, and some citizens of Huntsville and vicinity, who testified with reference to the present management. Your committee also privately interviewed many of the convicts, and as the result of its investigations does not hesitate to pronounce the management, under the present lease, exceptionally good in the prison proper. The convicts are well fed, well clothed and humanely treated, and subjected to only such restraints and punishments as are necessary to their safe keeping. The entire establishment presented a neat and healthful condition, and the convicts seemed as contented and happy as could be expected of persons so circumstanced. No convict complained to your committee of bad treatment, too much labor or want of food, notwithstanding every facility of doing so was given them by the members of your committee. Your committee ascertained that there were a few instances of harsh treatment in some of the camps, but the evidence shows that the sergeants and guards guilty of the same are in every instance promptly discharged by the lessees, when they were informed of the facts.

The old cell building accommodates about 345 convicts, and if the building was otherwise safe, so that two men could be put in one cell, would accommodate as many more. The new cell building contains 101 cells, sufficiently large to accommodate two convicts each. These cells are not floored and are without doors. Under the contract of Messrs. Cunningham & Ellis, they are to complete these cells as soon as practicable. If it is found practicable to keep all the convicts within the prison walls, and machinery can be supplied for the employment of the same, we submit that the lessees ought to be required to complete this building immediately; otherwise, it is unnecessary to require the work except at their convenience. Before more convicts than are at present

employed within the walls can be employed there profitably, there will have to be an outlay of a large sum of money for repairs and new machinery. The machinery in want for the manufacture of cotton and woolen fabrics is old and worn out beyond repair. If possible, the old machinery of the prison should be sold and the prison supplied with modern improved machinery. The fabrics made on the old machinery are so depreciated in value as to form some inducement for the outlay. Your committee found many of the hinges on the cells so badly adjusted as to render the cells insecure. The outer guard walks on the building should be protected by railing, and the steps leading up the walls are too narrow, many of the stairways are decaying and have become dangerous. The main walls of the building are in bad condition generally, many of the brick decaying and falling from their places. There are 390 locks with eighty different keys. In case of fire, from the necessary delay in unlocking cells, the lives of the convicts would be jeopardized.

If practicable, the lever-lock should be substituted, by which all the cells could be unlocked at once. The institution is now supplied with cisterns, but is without the appliances requisite to the use of the water in extinguishing fire. If practicable these appliances should be at once furnished, since your committee believe the prison constantly in danger of being destroyed by fire. If so much money can be expended for that purpose, your committee think that the walls should be built on two sides of the prison, so as to form a court into which the convicts could be placed in case of fire and kept secure. These walls would also make the prison much more secure from efforts on the part of the convicts to escape from within and assaults on the part of their friends from without. These walls and many other improvements could be made by the lessees with convict labor, the State paying for the same out of the moneys due and to be paid by the lessees under their contract with the State. The new cell building is covered with shingles. Your committee think that it would diminish the danger from fire if a metallic or slate roof was put on the same. It would be much better if the dining room could be increased to twice its present size and provisions made for a chapel above. At the end of this house it would be better to erect a new cooking establishment, and the old one (which is much dilapidated) removed. In the contract with lessees the State has reserved only one room in the administration building, which is used as the office of the superintendent. In the absence of legislation on the subject, this renders it impossible for the superintendent to reside within the walls.

Your committee learned that by some mistake the cemetery for convicts was placed on the land of Colonel Grant, adjoining the State land. Colonel Grant expressed himself to your committee as being willing to exchange this land for State land if the State would give him two acres for one, or that he would take \$25 per acre for it. Your committee recommend an exchange, and requested Colonel Grant to furnish them with a plat of fifteen acres of his land which would include the cemetery, and a plat of thirty acres of the State land which he proposed to take in exchange. He promised to do so at an early day, and your committee hope to present them to you shortly.

Your committee cannot refrain from saying that although the escapes from the prison proper and the camps have not been so frequent under the present management as under former lessees, it does seem that more convicts have escaped than necessary under proper care and management.

Your committee ascertained some facts with reference to the manner in which the commissioners of the penitentiary have performed their duties, which is deemed proper to lay before you. The law requires the commissioners to visit the prison proper twice every month, and each camp once a month. The commissioners have usually performed the first duty by assembling at Huntsville on the last day of the month and remaining until the first day of the next month. Your committee does not think that all the camps were visited with perfect regularity once every month by a commissioner.

Your committee were informed while at Huntsville that there was some question connected with the title to some of the State land. To ascertain the precise condition of the matter, Dr. Carr, a practical surveyor, was employed to examine said title and to plot all the State land, for which he was to receive fifteen dollars. He has not reported to your committee yet, but it is hoped will do so in a short time.

Having finished its duties at Huntsville your committee proceeded to Rusk and inspected the new penitentiary, situated about one mile from that place. Your committee found a magnificent building in appearance, containing five hundred and twenty-eight cells, capable of imprisoning about one thousand convicts. The center or administration building is an imposing structure, flanked on either side by the cell building. The floors of the cell building are made of cement, or artificial stone, while those of the administration building are of wood. The basement floors of the administration building are of wood and from dampness and want of ventilation are fast decaying. The buildings were constructed by Messrs. Kanmacher & Denig, and your committee believe is fully up to the contract made for their erection. So far as your committee was able to judge, the work is excellently and honestly done. They are constructed mostly of red sandstone found in that locality. Your committee cannot say whether this material will stand the test of time or not. It is now quite soft. There are no walls around the buildings, neither are there any workshops in connection therewith, and your committee cannot see how the institution can be utilized without both.

Messrs. Kaumacher & Denig estimate the value of a wall extending from each end of the cell building far enough back to enclose chattel, sick room, laundry, cook room, etc., and brick shops at \$40,000. They estimate the cost of workshops at \$20,000. The basement of the administration building, in which is the dining room, kitchen, etc., is underground. Unless the earth is removed from the walls on the outside the building will greatly damage in a very short time. One side of the building in which is situated the sick room, chapel, etc., is in a like condition.

Your committee call attention to the fact that in the arrangement of this prison the hospital and pest room are situated directly over the laundry and cooking establishment. These rooms will not be comfortable for the sick during the summer months. About 800 yards north of the penitentiary are situated a number of never-failing springs of water. The lowest of these springs is about sixty-eight feet higher than the grounds of the building. These springs can be united and the water conducted to the building in such quantities as to supply the institution with water for all purposes. Heavy excavations would have to be made if this water was attempted to be conducted on a direct line, but a ravine can be followed and very little of this work be found necessary.

Your committee learned that this water is on the land of Col. Guinn, and that he had deeded the privilege of using the same to the State, but your committee was informed that this deed is not of record.

Iron ore is said to exist in large quantities near the prison, and your committee found considerable quantities of the same on the surface, but were unable to determine its precise quality. Coal also abounds in the vicinity, but there seems a diversity of opinion as to whether it would be valuable in smelting iron or not. The better opinion seems to be that it would not. The tract of State and on which this penitentiary is situated contains about eleven acres. The cell buildings extend to within a few feet on either side of the penitentiary, and in front there is not room left for a walk. The lands surrounding are owned by private parties, and should be purchased by the State to give room for the erection of a wall, and to keep undesirable settlements from being made near the penitentiary. If this penitentiary is to be finished by the erection of walls, workshops, etc., your committee are of opinion that convict labor can be profitably employed to do the same.

In conclusion, your committee would say that the best interest of the State demands that all the convicts be confined within the walls of the penitentiary at as early a day as practicable. To that end it is advisable that the penitentiary be put in a condition to receive convicts as soon as possible. When the new cell buildings at Huntsville and the other improvements needed there are finished, and the penitentiary at Rusk is completed, it is believed that it will be found possible for the State to establish industries at both these places which will make the plan feasible. The present financial condition of the State causes your committee to fear that these things cannot be accomplished at once, and these suggestions are only made that you may have the full benefit of our labors and investigations.

W. J. SWAIN,

Chairman Senate Committee.

B. M. BAKER,

Chairman House Committee.

STEWART, of Delta,

COLEMAN,

BLASSINGAME,

Senator Edwards, chairman of the committee of conference on Senate bill No. 20, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of conference, to act with a like committee on the part of the House, to whom was referred Senate bill No. 20, and the House amendments thereto, have had the same under consideration, and I am instructed to report to the Senate that committee of conference could not agree, and to recommend that it be referred to a committee of free conference, consisting of three members from each house.

EDWARDS, *Chairman Senate Committee.*

FINLAY, *Chairman House Committee.*

The report of the committee was read and adopted, and the president appointed as members of the free conference committee asked for and granted, Senators Edwards, Stewart and Storey.

Senator Martin, chairman of committee on agricultural affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on agricultural affairs, to whom was referred Senate bill No. 167, entitled "An act amendatory of an act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof," have carefully considered the same, and I am instructed by the committee to report the bill with the accompanying amendments back to the Senate and, as amended, to recommend its passage.

MARTIN, *Chairman.*

Amend by striking out the words "grain, cotton, seed-oil and other produce" wherever they occur in the bill. Amend section 3 by inserting after the word "thereof," in last line the following: "And he shall also keep copies of the weights of all articles weighed by him, and shall furnish a certified copy of the same at any time to the owner or his agents, or the purchaser thereof, on demand." Section 4—Strike out the word "four" and insert "three." Insert after the word "purchase," in eleventh line, the words "or sale." Strike out in ninth line the word "provided," and in tenth line the word "that" and insert in tenth line before the word "no," the word "and." Section 6—Strike out in eighth line the word "to," and in ninth line the word "pick," and insert in eighth line, after the word "allowed," the word "pay," and insert in ninth line, before the word "any," the words "for picking." Amend section 9—Strike out the word "title," in second line, and insert the word "act." Strike out sections 11 and 12.

A message was received from the House announcing the passage by that body of Senate bill No. 98, entitled "An act to fix the fees of the department of state in certain cases," with amendments by the House.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have carefully examined and considered the memorial of Messrs. R. T. Merrick and J. A. Durant, together with the evidence presented by memorialists, and I am instructed to report the same back to the Senate with the statement that memorialists, with a knowledge of all their rights under the contract upon which the memorial is based, accepted \$8000 in satisfaction of any claim which they might have had, and they are concluded from asking legislative action. I am further instructed to recommend that the prayer of memorialists be not granted.

HOUSTON, *Chairman.*

(Senator Duncan in the chair.)

Senator Hobby, chairman of committee on revision of the code, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the code have had under consideration Senate bill No. 54, entitled "An act to adopt and establish the Revised Statutes of the State of Texas," which consists of about 800 pages of printed matter, embracing an entire code of laws, intended to be applicable to and sufficient for the civil government of the State. In the examination of the bill referred, your committee was confronted at the threshold of its labors with many practical difficulties not generally experienced in the consideration of bills ordinarily, the most notable of which was found in the restriction of the Senate's session by the consti-

tution to a period of time entirely inadequate to a prolonged and detailed examination of a bill of this character, and the additional discharge of other pressing legislative duties demanding attention. After several weeks devoted by the individual members of the committee to an examination of the portions of the Code referred to them, and after a comparison of views relative to the proposed changes respectively suggested to the titles investigated, it was the judgment of the committee that the public interests will be better subserved by adopting it as a whole, and, by prompt supplemental legislation, effect whatever changes may be desirable, than to embody in a report the separate amendments of each member of the committee as amendments to the bill. It is believed by your committee that the advantage is great of consolidating into one volume the now numerous laws running through many session acts, thereby rendering it accessible and convenient to the public, and I am instructed by your committee to report the bill back to the Senate and recommend its passage.

Hobby, *Chairman.*

Senator Tilson introduced a bill entitled "An act to amend chapter 17 of the Penal Code of the State of Texas," approved A. D. 1879.

Read by caption and referred to judiciary committee No. 1.

Senator Storey offered the following resolution:

Resolved, That judiciary committee No. 1 inquire if there is any further legislation needed to exempt from taxation the buildings, books and furniture and the grounds attached to such buildings belonging to boarding schools of high grade, necessary to the proper occupancy and enjoyment of the same; and that said committee report by bill or otherwise.

Read and referred to judiciary committee No. 1.

Senator Grace offered the following resolution:

Be it resolved, That the Senate hold night sessions for the purpose of considering the Civil Code, reported by the committee on the revision of the code.

The resolution was then read and considered.

Senator McCulloch offered the following amendment:

Strike out "night session" and insert "evening session, beginning at 3 P. M."

Lost.

Senator Edwards offered the following amendment:

And during said session no senator shall speak longer than five minutes at any one time.

Accepted by Senator Grace.

Senator Burton offered the following amendment:

Amend after the word "time," by inserting "unless by leave of the Senate."

Adopted.

The resolution of Senator Grace, as amended, was then voted on and lost by the following vote, it taking a two-thirds vote to adopt:

YEAS.

Davenport,
Duncan,
Edwards,
Grace,
Guy,

Hobby,
Houston,
Lair,
Moore,
Stewart,

Shannon,
Storey,
Swain,
Tilson—14.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,

Ford,
Gooch,
Homan,
Lane,

McCulloch,
Patton,
Ripetoe,
Terrell—12.

A message was received from the House announcing the passage by that body of House joint resolution No. 2, amending section 2 of article 8 of the constitution of the State of Texas.

(President in the chair.)

Senator Shannon (by leave) introduced a bill to be entitled "An act to authorize M. B. Starkey and R. A. Eddleman to erect a dam across the Clear Fork of the Brazos river, at Crystal Falls, in Stephens county, Texas."

Read by caption and referred to committee on state affairs.

Senator Houston (by leave) presented a memorial of the county officers and many citizens of Kimball county, asking the continued protection of the frontier—contrasting its condition before the furnishing of troops to protect the same and at the present time, and stating that if the troops are withdrawn that the Indians and outlaws will overrun and ruin the country; that it is now rapidly settling up and improving, but if protection is not given this will be prevented and the frontier reduced in population and property and to former conditions of murder, robbery, theft, etc.

Referred to the committee on Indian affairs and frontier protection.

Senator Edwards offered the following resolution:

Resolved, That the clerk of the committee on codes, J. P. C. Whitehead, act as reading clerk of the Senate and general committee clerk.

Adopted.

Senator Patton, chairman of the committee on claims and accounts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have had under consideration the memorial of Louis de Tejada, asking compensation for services rendered the State, and the majority of said committee instruct me to report that they find that the services have been rendered, and are of opinion that the petition of memorialist should be granted, and they recommend that the committee on finance report an appropriation not to exceed \$750 to pay memorialist for said services.

PATTON, *Chairman.*

Senators Gooch and Patton, from the committee on claims and accounts, submitted the following minority report:

Hon. J. D. Sayers, President of the Senate:

A minority of your committee being unable to concur in the opinion of the majority in their report on memorial No. 5, beg leave to present this minority report:

The memorial of Mr. Louis de Tejada shows that he performed the service rendered with a knowledge that there was no authority of law for his appointment. It may have been and was necessary work, in our judgment, yet the law required the secretary of state to perform it. He could not translate the documents and permitted memorialist to do so with the understanding that he must look to future legislation for compensation. Section 44, article 3, of the constitution of 1875, in our

judgment, prohibits the Legislature from granting compensation for service rendered under the circumstances, which the service of the memorialist appears to have been rendered.

Gooch,
Patton.

The president, after reading its caption, signed House joint resolution No. 21, "authorizing the attorney general to institute such legal proceedings as may be necessary to establish the title of the State to her university lands in McLennan and Hill counties, and remove all clouds upon said titles."

Senator Lane offered the following resolution:

Resolved, That the Senate do pass upon the Civil Code as recommended by the committees, without amendment or discussion.

Senator Duncan made the point of order that the resolution just offered was out of order, as it was contrary to the rules of the Senate, founded upon a constitutional provision which requires that a bill shall not have the force and effect of a law until it has been read on three several days in each house, and free discussion allowed thereon.

Point of order sustained.

(President *pro tempore* in the chair.)

Senator Stewart moved to reconsider the vote passing House bill No. 9, entitled "An act making an appropriation for the support of public free schools for the scholastic year ending August 31, 1879," to its third reading.

Senator Swain moved to lay the motion to reconsider on the table.

Senator Edwards moved a call of the house.

Call sustained.

Roll called, and the Senate being full the call was suspended.

The motion of Senator Swain, to table the motion to reconsider, was then carried by the following vote:

YEAS.

Buchanan,	Gooch,	Moore,
Burnett,	Guy,	Patton,
Burton,	Homan,	Ripetoe,
Duncan,	Lair,	Swain,
Ford,	McCulloch,	Shannon—15.

NAYS.

Brown,	Hobby,	Stewart,
Davenport,	Houston,	Storey,
Edwards,	Lane,	Terrell,
Grace,	Martin,	Tilson—12.

Senator Burnett moved the previous question.

Senator Edwards made the point of order that the bill was not before the Senate.

Point of order sustained.

Senator Storey moved to postpone the special order for ten minutes, suspend the rules and take up House bill No. 9, entitled "An act making an appropriation for the support of public free schools for the scholastic year ending August 31, 1879."

Carried by the following vote:

YEAS.

Buchanan,	Ford,	Hobby,
Burnett,	Gooch,	Homan,
Burton,	Grace,	Houston,
Duncan,	Guy,	Lane,

Lair,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,

Swain,
Terrell,
Tilson—23.

NAYS.

Brown,
Davenport,

Edwards,

Martin—4.

The bill was then read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—Brown—1.

The undersigned Senators presented the following protest to be placed on the journals in connection with this bill:

The undersigned, though voting for the bill, have done so only because some appropriation is necessary, but we protest that the action of the Senate in voting down the amendment to limit the appropriation for the rest of this scholastic year to \$415,000 was unwise, as that amount would have made the appropriation for this year about equal to the last year, and the passage of this bill renders it almost certain that the payment of the \$600,000 appropriated by the bill will leave a deficiency of about \$200,000 to be covered by State bonds, thus increasing our debt that amount. Much as we favor the cause of public free schools, we protest that it is unwise to increase the State debt even for their benefit. We must either retrench the amount devoted to schools or increase taxation, and we do not believe the people desire, or that the Legislature will increase taxation.

EDWARDS,
TERRELL,
MARTIN,
LANE.

On motion of Senator Gooch, the special order was postponed, rules suspended and Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas that will become redeemable on the first day of July, A. D. 1879, and for the payment of approved pension certificates by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," was taken up and read second time.

Senator Brown offered the following amendment:

Amend by inserting in the committee's amendment, between the words "full" and "with," the words "upon full and satisfactory proof of identity of persons holding certificates and approved claims."

Senator Houston offered the following as a substitute for the amendment of Senator Brown:

Amend the amendment of committee, by adding after the word "full," in line thirteen, the following: "Upon applicant making proof of identity as required in section 12 of the act of April 21, 1874, upon which the certificates or claims were approved."

Accepted by Senator Brown and adopted as a part of the committee's report.

Senator Duncan moved the previous question on the pending amendments.

Motion seconded, the main question ordered and the amendments of the committee lost by the following vote:

YEAS.		
Brown, Burnett, Burton,	Edwards, Ford, Homan,	Houston, Lane, Stewart—9.
NAYS.		
Buchanan, Davenport, Duncan, Gooch, Grace, Guy,	Hobby, Lair, Martin, McCulloch, Moore, Patton,	Storey, Shannon, Swain, Terrell, Tilson—17.

Senator Burton moved to adjourn until 10 o'clock A. M. to-morrow. Lost by the following vote:

YEAS.		
Burnett,		Burton—2.
NAYS.		
Buchanan, Brown, Davenport, Duncan, Edwards, Gooch, Grace, Guy,	Hobby, Homan, Houston, Lane, Lair, Martin, McCulloch, Moore,	Patton, Stewart, Shannon, Storey, Swain, Terrell, Tilson—23.

Senator Swain offered the following amendment:

Amend by striking out "five per cent." where it occurs in the bill, and insert "four per cent."

Senator Grace moved to adjourn until 7:30 o'clock to-night.

Lost by the following vote:

YEAS.		
Brown, Duncan, Edwards, Grace,	Guy, Homan, Lair,	Martin, Stewart, Shannon—10.
NAYS.		
Buchanan, Burnett, Burton, Ford, Gooch, Hobby,	Houston, Lane, McCulloch, Moore, Patton,	Ripetoe, Storey, Swain, Terrell, Tilson—16.

Senator McCulloch moved to postpone the pending business, suspend the rules, and take up House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State."

On request of Senator Edwards, the motion was withdrawn until to-morrow.

Senator Swain moved to adjourn until 3:30 P. M.

Lost by the following vote:

	YEAS.	
Burnett, Burton, Duncan,	Grace, Lair, McCulloch,	Stewart, Swain—8.
	NAYS.	
Brown, Buchanan, Davenport, Edwards, Ford, Gooch,	Guy, Hobby, Homan, Houston, Lane, Martin,	Moore, Patton, Shannon, Storey, Terrell, Tilson—18.

Senator Gooch moved the previous question on the pending amendment and the engrossment of the bill, which was seconded, and the main question ordered by the following vote:

	YEAS.	
Brown, Buchanan, Davenport, Duncan, Ford, Gooch, Grace,	Guy, Hobby, Houston, Lane, Lair, Martin, McCulloch,	Moore, Patton, Stewart, Storey, Swain, Terrell, Tilson—21.
	NAYS.	
Burnett, Burton,	Edwards, Homan,	Ripetoe, Shannon—6.

The pending amendment of Senator Swain was lost by the following vote:

	YEAS.	
Brown, Buchanan, Burnett, Edwards,	Grace, Homan, Lane,	Martin, Ripetoe, Swain—10.
	NAYS.	
Burton, Davenport, Duncan, Ford, Gooch, Guy,	Hobby, Houston, Lair, McCulloch, Moore, Patton,	Stewart, Shannon, Storey, Terrell, Tilson—17.

The bill was then ordered engrossed by the following vote:

	YEAS.	
Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Edwards, Ford, Gooch,	Grace, Guy, Hobby, Homan, Houston, Lane, Lair, Martin, McCulloch,	Moore, Patton, Ripetoe, Stewart, Shannon, Storey, Terrell, Tilson—26.
	NAYS—none.	

The following senators presented the following protest to be entered on the journals in connection with this bill:

“We vote ‘aye’ on this bill (Senate bill No. 97) as we cannot withhold our assent to any measure calculated to reduce the interest on the public debt, but we protest against the action of the majority in defeating the

amendments of a majority of the committee, whereby the veterans who now hold pension certificates in the comptroller's office were discriminated against and deprived of interest on the same, and in defeating the amendment reducing the rate of interest at four per cent., and we also protest against the passage of the bill under the 'previous question,' by which further amendments could not be proposed. We think the bonds should be payable in lawful money of the United States instead of gold coin, and that the denomination of the bonds should be much less than \$1000.

"BURNETT,
"HOMAN,
"RIPETOE,
"BURTON."

Senator Terrell moved to adjourn until to-morrow morning 10 o'clock. Carried by the following vote:

YEAS.		
Brown,	Ford,	Moore,
Buchanan,	Guy,	Patton,
Burnett,	Hobby,	Ripetoe,
Burton,	Homan,	Stewart,
Davenport,	Lane,	Terrell,
Edwards,	Martin,	Tilson---18.
NAYS.		
Duncan,	Houston,	Shannon,
Gooch,	Lair,	Storey,
Grace,	McCulloch,	Swain---9.

THIRTY-FIRST DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, February 18, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by chaplain

On motion of Senator Moore, the reading of the journals of yesterday was suspended and the same adopted.

On motion of Senator Davenport, the sergeant-at-arms of the Senate was excused for two days in consequence of sickness.

A message was received from the House announcing the passing by that body of Senate bill No. 21, entitled "An act to provide for designating and surveying 3,050,000 acres of the unappropriated public domain for the erection of a new State capitol and other necessary public buildings at the seat of government," with amendments by the House, and requesting the return of House joint resolution No. 2, "amending section 2 of article 8 of the constitution of the State of Texas."

The president, by consent of the Senate, ordered the return of the joint resolution asked for.

Senator Houston presented the memorial of Edward Miles, committee-man of the thirtieth senatorial district state veteran association, with other old Texas veterans of said district, "asking the enactment of a better pension law—one that will be perpetual and impose as few restrictions and as little cost on applicants as possible, setting out the defects in the previous pension laws and stating that they operated injuriously to the old pensioners, particularly to those living west of the Colorado river, etc."

Referred to the committee on finance.

Senator Buchanan, chairman of committee on federal relations, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on federal relations have had under consideration House joint resolution No. 21, instructing our Senators and requesting our Representatives in Congress to take the necessary steps at once, by bill or otherwise, to secure the appointment of United States commissioners to act with like commissioners on the part of Texas to settle and definitely adjust the controversy as to boundary between the United States and Texas, involving the territory lying between the north and south forks of Red river, known as the county of Greer, and I am instructed to report the resolution back with the recommendation that it do pass.

BUCHANAN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on federal relations have had under consideration House joint resolution No. 27, "Instructing our Senators and requesting our Representatives in Congress to ask of the United States government payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878, and the payment of the unexpended balance of \$7,750,810, left with the United States government by the State, for the payment of the debt of the late Republic of Texas," and I am instructed to report the same back to the Senate, and recommend that it pass.

BUCHANAN, *Chairman.*

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration Senate bill No. 113, being "An act for the preservation of fish, and to build fish ways and fish ladders," and have instructed me to report the bill back to the Senate with the recommendation that it do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration House bill No. 137, being "An act to repeal an act entitled 'an act to authorize and require all forced sales of real estate and sale of negroes made by executors and administrators in the county of Travis to be made on Congress Avenue at the southeast corner of block No. 70,'" approved November 28, 1857, and have instructed me to report the same back to the Senate and recommend its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered Senate bill No. 135, being a bill entitled "An act for the relief of the Aransas Road Company," and have instructed me to report the same back to the Senate and recommend its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration Senate bill No. 171, being "An act to authorize and require county clerks to issue license for the retail of spirituous, vinous and other intoxicating liquors in quantities less than one quart, and to prohibit such sale with-

out license," and have instructed me to report the same back to the Senate with accompanying amendment, and as amended recommend its passage.

TERRELL, *Chairman.*

Amend by inserting in section 3, line ten, after the word "learning," the following language: "or habitual drunkards or inebriates."

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate bill No. 153, entitled "An act to provide for building a new state capitol," and instruct me to report the same back to the Senate and recommend its passage, and that two hundred copies of the bill be printed for the use of the Senate.

HOUSTON, *Chairman.*

The request of the committee was granted, and two hundred copies ordered printed.

Hon. J. D. Sayers, President of the Senate:

Your committee on State affairs, to whom was referred the resolution "requiring the adjournment of the Legislature on the sixteenth instant," have instructed me to report the same back to the Senate with the accompanying substitute, with the recommendation that the substitute be adopted.

HOUSTON, *Chairman.*

Substitute of the committee:

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the Legislature of Texas do adjourn on the 31st of March, A. D. 1879.

The report and resolution read.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred a resolution instructing them to inquire into the propriety of suppressing the indiscriminate slaughter of buffaloes within the limits of the State, and to report by bill or otherwise, have instructed me to report that they have duly considered the same, and, believing that Congress is the proper authority to undertake the regulation and prevention of the evil complained of, and with that view recommend the passage of the accompanying joint resolution.

HOUSTON, *Chairman.*

"Joint resolution instructing our senators and requesting our representatives in the Congress of the United States to use their best endeavors to stop the indiscriminate slaughter of buffalo within the limits of the State of Texas."

The report and resolution read.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred Senate bill No. 161, being "An act to create the office of state librarian," have instructed me to report the bill back to the Senate and recommend that it be referred to the committee on statistics, history and insurance.

HOUSTON, *Chairman.*

Report adopted and the bill referred as requested.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate

joint resolution No. 169, being a resolution "Requesting the United States Congress to pass an act for the compensation of members of congress elected from Texas in 1866," and have instructed me to report the same back to the Senate and recommend its passage.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred Senate bill No. —, being an act entitled "An act prohibiting the sale of liquor to inebriates, habitual drunkards, and the sale of the same on the Sabbath between the hours of 8 o'clock A. M. and 6 o'clock P. M.," after considering the same, have instructed me to report the bill back to the Senate and recommend that it be referred to judiciary committee No 1.

HOUSTON, *Chairman.*

Report of committee read, adopted and bill referred as requested.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration memorial No. 29, "From citizens of Harris county in relation to the sale of intoxicating liquors," and instruct me to report the same back to the Senate with the statement that legislation upon the subject matter of the memorial is now under consideration by bill, and that any further action at this time is deemed unnecessary.

HOUSTON, *Chairman.*

The president of the senate appointed Senators Terrell, Lane and Gooch, on the part of the Senate, as a committee of conference on the disagreement of the Senate and House to Senate amendments to House bill No. 141, entitled "An act making appropriations for the support of the state government for the time beginning January 1, 1879, and ending February 28, 1879," and a like committee was requested by the Senate on the part of the House.

Senator Shannon, chairman of the committee on judicial districts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 184, entitled "An act to fix the time of holding the district courts in the twenty-fifth judicial district of the State of Texas," have had the same under consideration, and I am instructed by said committee to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 143, entitled "An act to attach certain counties therein named to the twenty-fifth judicial district," have had the same under consideration and instruct me to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

The following message was received from his excellency the governor, which was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 18, 1879. }

To the honorable the Senate and House of Representatives, in Legislature assembled:

There are some matters connected with the election of county officers

in the counties of Harrison and Smith, which I consider should be called to your attention, for such action as you may deem proper.

My attention has been called to them by applications to me for commissions for persons claiming to have been elected in Harrison county. My information is derived mainly from papers filed in this office, and in the office of the secretary of state, together with such others properly certified which have been presented to me by persons having an interest in the controversy which has grown out of said election.

The election took place in Harrison county on the 5th day of November, 1878. Before the expiration of ten days thereafter, the Hon. J. B. Williamson, then the county judge, was enjoined at the suit of a number of the citizens of said county, by the district judge, then holding a session of the district court in said county, from counting the votes polled at a certain place of voting within said county.

Judge Williamson answered in said suit that he did, on the 18th of said November, open and count the votes, and issue certificates of election in disobedience to the writ of injunction, because if he had not done it he would have placed himself in violation of the criminal law of the State and of the United States. On the twentieth of said month he, as county judge, certified under his hand and the seal of his office to a duplicate copy of the returns of said election, which is now in the secretary of state's office. This return shows the aggregate votes polled for each candidate in the county, and by it said Williamson was re-elected county judge, and those reputed to be on the same ticket with him were also elected, and the Hon. George Lane and those on the ticket with him were not elected.

On the 29th of said November Judge Williamson certified to a list of persons, as those elected to the respective county offices, his name heading the list, which certificate had no seal attached to it, but instead thereof states as follows:

"[L. S.] My office and seal have been taken by force, and hence the seal is not hereto attached.

"J. B. WILLIAMSON,
"County Judge Harrison County."

If the vote had not been counted at the voting place which Judge Williamson was enjoined from counting, Judge Lane and those on his side would have been shown to have been elected, and therefore he and they claimed to have been elected to office, and by the interposition of the citizens on their behalf, they were put in possession of the respective county offices, as it is said by Judge Williamson, by force. By this it is meant, as I presume, the force of numbers co-operating in aid of Judge Lane and others, against those in office who did not consent to the ejection. Those put into possession of the office filed a contest against those put out in the district court, then in session, and a judgment was rendered by said court in their favor, from which an appeal was taken to the supreme court, which, in the regular course, will come up for trial in Tyler, after the first Monday in October next. The persons in possession of the offices have given no bonds to account for the fees in the event they are finally adjudged not to be entitled to them.

It would seem from papers on file in this office that both parties applied to my predecessor for commissions, and he submitted the matters involved to the then attorney general, and upon his opinion his excellency, Governor R. B. Hubbard, declined to issue commissions to either party,

as it is presumed, because the title to the offices was disputed first and afterwards was contested in the court. Still both parties claim a right to the exercise of the offices—those that are in possession, by virtue of the decision of the district court in their favor, and those that are out of possession, by virtue of Judge Williamson's certificate, they contending that the judgment of the district court, being appealed from, confers no right in opposition to said certificate.

Those claiming under the certificate have applied to me for commissions. I see no occasion under existing circumstances to reverse the action of my predecessor, because a commission is not that which confers a title to the office, but only evidence of it, and is usually issued only when the right is plainly established or is not questioned, and because there may be some doubt as to the right of appeal from the judgment of the district court in the contest for the offices. The action of the executive in giving a commission, or in refusing to give it, cannot possibly aid or affect either party in any way whatever, either as to the possession or as to the right to the offices. I do not propose to do a thing that might be used in aggravation of an angry controversy.

It is not in reference to that matter that your attention is called to these things; but there are considerations of the very gravest import that arise out of these transactions demanding, as I believe, the most serious attention of the Legislature.

Before said election the board of education had sent its order upon the collector of taxes of Harrison county for its portion of the free common school fund, which order is in possession of the person to whom it was then sent, and who is on the side of Judge Williamson, still claiming to be county treasurer, and another person on the side of judge Lane claims to be the elected and acting county treasurer. Mr. William C. Pierce is, without any dispute or controversy, the legally recognized tax collector of Harrison county, having on hand a large amount of said school fund, and declines to pay it over to either one of those two persons who claim to be county treasurer. By this means the teachers of the free common schools cannot be paid for their services. He is anxious to pay over the money, but fears to take the responsibility of determining to whom to pay it, some action, if practicable, should be taken to obviate this great inconvenience.

The writ of injunction restraining Judge Williamson was disobeyed by him and he was not fined or imprisoned for it. His duty, as has often been decided by the highest courts, was merely ministerial, to count the votes legally returned to him by properly authorized returning officers, and give certificates to those thereby appearing to have been elected, and if, in doing that, a person failed to get the certificate who had received a majority of legal votes, he could institute a contest in the district court in which the informality or irregularity in the manner of returning such legal votes might be disregarded and that person declared to be elected who had received the majority of legal votes, which is the main object in holding an election. The interference of the judiciary to control the officers of the election in the discharge of their prescribed duties is a modern innovation, fraught with serious consequences and, as it is believed, dangerous to the rights of the people in the exercise of their free suffrage in elections. I therefore respectfully recommend that a law be passed preventing the issuing of any such writs by the judges of any court in this State. The issuance of this writ of injunction, and

the violation of it doubtless provoked the action of the citizens in their interference to place those in possession of the offices to which they would have been declared elected, if the writ had been obeyed; and such interference by the citizens is another extraordinary feature in the history of elections in this State deserving the attention of the Legislature.

The answer of Judge Williamson that if he had not counted the votes "he would have placed himself in violation of the criminal laws of this State and of the United States," has reference to the laws of the United States contained in the Revised Statutes of the United States in sections 5510, 5515 and 5522, providing for the punishment of returning officers in elections for members of congress, who violate their duties therein as prescribed by the laws of the State or of the United States. There being an election for a representative in congress at the same time and in the same connection with this election for county and state officers, the returning officer, Judge Williamson, became amenable to this law, if he violated it. Its violation is made a misdemeanor. The time of holding election for members of congress is fixed on the first Tuesday after the first Monday in November in every other year, by the twenty-fifth section of the Revised Statutes of the United States. Our election law fixes the same day for the general election for county and state officers. Judge Williamson's apprehensions of a prosecution under the laws referred to were verified by what took place at Tyler in Smith county. There, Benjamin Bass, the acting county judge of Smith county, failed or refused to count the votes polled at one or more places of holding the election, because of some alleged defect in the returns, and thereupon an information was filed against him, for violating the laws of the United States in so doing, in the federal district court then in session at Tyler. He was immediately arrested by the deputy marshal and held to bail in a bond of two thousand dollars to answer said criminal charge. It was currently reported and believed at Tyler that a similar information would be filed against Judge Williamson if he did not count all the votes in the election in Harrison county. In neither county could the counting or not counting of the votes have possibly affected the congressional elections, nor was the court's interference sought in reference to them, but obviously in reference to the election of county officers.

Thus has the federal court been made the instrument of interference in our local elections, subjecting the returning officers to harrassing prosecutions in the federal courts, which may be hundreds of miles distant from the county where the election is held. The situation of Judge Williamson is a good illustration of the danger in which a returning officer of an election may be placed in the discharge of a simple ministerial duty by these practices of the several courts in reference thereto. He was required by the district court of the State not to count certain votes, under the penalty of fine and imprisonment for contempt if he did, and at the same time he knowingly rendered himself liable to a certain prosecution in the federal courts, subjecting him to fine and imprisonment if he did not count the votes. Shall we continue to subject our officers to such a dilemma and our local elections to such interference? I think not, and therefore I respectfully recommend that the biennial election of State and county officers be fixed by a law, passed for that purpose, at a different day than that at which the representatives in Congress are elected.

In reference to the doubt expressed about the right of appeal to the supreme court from the judgment of the district court in these cases of

contest of the election, reference may be had to the case of *Rogers vs. Johns*, (42 Texas R., p. 339) in which it was decided that there was no such appeal from the district to the supreme court, because there was no right of appeal given by the statutes of 1873 under which that case was determined. In the case of *McKinney vs. O'Conner* (25 Texas R.,) the right of such an appeal was maintained because it was expressly given in the statutes under which it was tried. The statutes of 1873 (Gen. Laws, p. 67), in section 2, after providing the manner in which a contest for an office shall be instituted and tried in the district court, says that "such cases shall have precedence over all others." In the act of 1876, amending that section (Gen. Laws, 1876, p. 70), the corresponding clause reads as follows: "Such causes shall have the precedence over all other causes, both in the district court and on appeal in the supreme court." This is the only expression in the original or amended act, and it is only inferential, that can be said to recognize the right of appeal from the district to the supreme court. Whether this will change the course of decisions in the supreme court from that in the last case of *Rogers vs. Johns*, in which the right of appeal is denied, remains to be determined when a case shall arise under the act of 1876.

This question was incidentally referred to in the opinion of the supreme court, as well as in the dissenting opinion, in the case of *ex parte Towles*, reported in 48 Texas Reports, pages 435-6 and 442-3. It is certain, however, that under the amended act of 1876, section 2, cases may arise of a trial in chambers of a contested election by a district judge, as was done lately by Judge John C. Robertson in Smith county, wherein there would be a decision of a case of contested election in which an appeal would not be entertained by the supreme court, for the supreme court has decided that it could not entertain an appeal in a case from a decision of the district court rendered in chambers.

If the decisions of the supreme court are examined from the earliest days down to the present time, it will be found that the laws relating to the contested election, so far as they require any action of the courts, have been and are now shaped so as to engender difficulties and doubts as to the proper mode of construction and of action under them.

I therefore respectfully recommend a careful revision of the existing laws relating to contested elections, in reference to the decisions of the supreme court, and that they be so shaped that the action of the courts in relation thereto may be plainly expressed, and defined in such way as that the courts can perform what is required of them consistently with their powers, according to the jurisdiction conferred upon them by the constitution; and if it be the pleasure of the Legislature that there should be an appeal in such cases from the district to the supreme court, that the right be plainly and expressly conferred by statute, and that such appeal when taken be returnable forthwith to the supreme court, wherever it may be in session, and therein have precedence over all other cases, so that there may be no delay in trying the same.

If such a law should be passed now, being a law relating to the remedy, the parties interested might have the appeal brought up to the supreme court during its present session at Galveston, or Austin, and determine so as to settle the rights of the parties either by trying it or by dismissing it for want of jurisdiction to try it. The great and leading object of laws relating to elections, and to contested elections, is to ascertain the will of the majority of legal voters as expressed at an election,

and unless the laws are plain and full in every particular, and are so shaped that each officer, tribunal and court required to act therein, can constitutionally perform what is required of them, and in the way that it is required, there is no certainty that such leading object will be attained. The principle upon which the democratic republican institutions of this country is based is that the majority shall rule; and if by resort to the courts for their interference, or by the uncertainty or inadaptibility of the laws relating to elections and to contested elections, the will of the majority may be perverted or defeated, the foundations of free government are undermined. The confidence of the people in them will be destroyed, and ultimately force will take the place of peace and order.

The time was when men would scorn to hold an office, knowing that it was contrary to the majority of legal votes cast in the election. But now, in this day of judicial writs and returning boards, even good and honorable men may be found willing to hold office under such circumstances upon the principle that a great good attained justifies the means of attaining it.

In this changed spirit of the times the laws should more carefully and explicitly define all of the means by which the will of the majority should be certainly and speedily ascertained.

O. M. ROBERTS.

Senator Stewart moved that the message of the governor be referred to a special committee of five senators.

Senator Edwards moved to amend the motion of Senator Stewart by adding that 500 copies be printed, which amendment was accepted by Senator Stewart and the motion, as amended, was adopted.

The president appointed on said committee Senators Stewart, Buchanan, Patton, Edwards and Swain.

(President *pro tempore* in the chair).

Senator Guy, chairman of committee on land office, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on general land office, to whom was referred Senate bill No. 134, entitled "An act to require the owner of surveys to pay the patent fee therefor before filing the field notes of the same in the general land office," have had the same under consideration, and I am instructed by said committee to report said bill back to the Senate and to recommend its passage.

GUY, *Chairman.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed Senate bill No. 67, entitled "An act prescribing the times of holding the district courts in the twenty-fourth judicial district."

BROWN, *Chairman.*

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 177, entitled "An act to prohibit the sale, exchange or gift of

intoxicating liquors within three miles of Fraimville high school, in Burleson county," and finding that due notice has been given of the intention to apply for the passage of this act, I am instructed by the committee to report said bill back to the Senate, and to recommend the passage of the same.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 2 have had under consideration Senate bill No. 172, entitled "An act to amend section 5 of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this State that may so elect; prescribing the mode of election and affixing a punishment for its violation, approved June 21, 1876,'" and finding that the end sought to be attained by this bill is provided for in Senate bill No. 182, reported upon favorably by this committee, I am instructed by your committee to report this bill back to the Senate with their recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 182, entitled "An act amendatory of 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this State that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved June 24, 1876," and I am instructed by said committee to report said bill back to the Senate with their recommendation that it do pass.

STEWART, *Chairman.*

Senator Grace introduced a bill entitled "An act to amend an act entitled 'an act regulating interest,' approved August 21, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Edwards introduced a bill entitled "An act to amend section 2 of an act to regulate taxation and to fix the rate of the same, passed August 21, 1876."

Read by caption and referred to committee on finance.

Senator Storey (by leave) presented the memorial of the commissioners' court of San Saba county, in the form of a resolution adopted by said court in regular session, "against the using, owning, etc., of a kind of fence that is attempted to be made in said county, styled 'barbed wire fence,' stating that it is dangerous to cattle, killing and causing wounds, and in warm weather causing great injury to stock so wounded, by death from the screw worm;" also stating that a great deal of their county is a grazing country, and as parties are aiming to fence in large tracts of country, the evils herein enumerated will be common and oppressive, and asking for a law against legalizing such fences, with a statement that there is plenty of material in the county for making other kinds of fences.

Referred to committee on judiciary No. 1.

Also, a bill entitled "An act to punish persons for erecting fences in this State made wholly of barbed wire."

Read by caption and referred to judiciary committee No. 1.

Senator Duncan offered the following resolution:

Resolved, That the committee on printing be instructed to inquire into and report to the Senate the cause of the delay in the printing and fur-

nishing to this body of the messages of his excellency, the governor, and to secure if possible the more speedy printing and furnishing the same.

Adopted.

Senator Duncan introduced a bill entitled "An act to regulate the practice of medicine, surgery and pharmacy, and to repeal an act entitled 'an act to regulate the practice of medicine,' approved August 21, 1876."

Read by caption and referred to the committee on statistics, public health and history of Texas.

Senator Homan offered the following resolution:

Resolved, That it is the sense of the Senate that when Senate bill No. 54, entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas," is taken up, it should be passed without amendment.

Senator Storey moved to postpone the consideration of the resolution until Senate bill No. 54 (the Civil Code) is taken up.

Senator Martin moved to indefinitely postpone the resolution of Senator Homan and the motion of Senator Storey to postpone, etc.

(President in the chair.)

Senator Terrell moved the previous question upon the pending business before the Senate.

Motion seconded, but the Senate refused to order the main question by the following vote:

YEAS.		
Davenport, Gooch, Homan, Houston,	Moore, Patton, Stewart,	Swain, Terrell, Tilson—10.
NAYS.		
Brown, Buchanan, Burnett, Burton, Duncan, Ford,	Grace, Guy, Hobby, Lane, Lair,	Martin, McCulloch, Ripetoe, Shannon, Storey—16.

Senator Grace moved to recommit the bill to the committee on revision of the code.

Ruled out of order.

The motion of Senator Martin was voted on and lost by the following vote:

YEAS.		
Brown, Duncan, Ford,	Grace, Hobby Martin,	Storey, Tilson -8.
NAYS.		
Buchanan, Burnett, Burton, Davenport, Edwards, Gooch,	Guy, Homan, Houston, Lane, Lair, McCulloch,	Moore, Patton, Stewart, Shannon, Swain, Terrell—18.

Present, not voting—Ripetoe.

Senator Duncan moved the previous question upon Senator Storey's motion, which was seconded, and the main question ordered by the following vote:

YEAS.

Brown,
Duncan,
Davenport,
Edwards,
Gooch,
Grace,
Guy,

Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—21.

NAYS.

Buchanan,
Burnett,

Burton,
Ford,

Hobby,
Storey—6.

Senator Storey's motion was then adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Lane,
Lair,
McCulloch,
Moore,

Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson—19.

NAYS.

Buchanan,
Davenport,
Gooch,

Homan,
Houston,
Martin,

Stewart,
Terrell—8.

Senator Duncan (by leave) introduced a bill entitled "An act to harmonize the provisions of 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' approved day of A. D. 1879, with other laws relating to crime and criminal procedure passed at the same session of the Legislature."

Read by caption and referred to the committee on the revision of the code.

Senator Storey (by leave) introduced a bill entitled "An act for the relief of the heirs of Lieutenant Samuel Wilson, deceased, who fell at Fannin's massacre in 1836."

Read by caption and referred to committee on private land claims.

Senator Guy, chairman of the committee on general land office, by leave, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on general land office, to whom was referred "An act to be entitled 'an act to amend an act to better protect the papers, records and files in the general land office,' approved June 2, 1873," have had the same under consideration, and instruct me to report same with the recommendation that it do pass.

GUY, *Chairman.*

Senator Terrell presented a memorial and accompanying account of Charles Johnson, for work done on the capitol building and grounds in 1875, and material furnished in same year, under contract with Captain Fred Voight, the superintendent of public buildings at that time, and asking an appropriation to pay the same.

Referred to the committee on claims and accounts.

Also (by leave) a bill entitled "An act to amend an act entitled 'an act supplementary to an act of limitation,' approved February 5, 1841."

Read by caption and referred to judiciary committee No. 1.

Senator Grace offered the following resolution:

Resolved, That the Senate postpone all special orders and take up Sen-

ate bill No. 54, entitled "An act to establish the Civil Code," and consider the same until disposed of.

Adopted.

Senator Houston (by leave) presented a memorial of numerous citizens of Texas, asking the continuance of frontier protection, giving many reasons for the same of a full and forcible character.

Referred to the committee on Indian affairs and frontier protection.

A message was received from the House announcing the appointment of Messrs. Coleman, Linn and McComb, as a conference committee on the part of the House, to meet Senate committee on the disagreements on House bill No. 141, entitled "An act making appropriation for the support of the State government for the time commencing January 1, 1879, and ending March 1, 1879."

In accordance with resolutions already adopted, postponing special orders, etc., to take up Senate bill No. 54 entitled "An act to establish a Civil Code, etc.," the said bill was taken up and read first time.

Senator Hobby moved to suspend the rules and pass the bill to the second reading.

Passed by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—23.

NAYS.

Brown,

McCulloch--2.

The bill was read the second time.

The president, after reading its caption, signed House bill No. 9, entitled "An act making appropriations for the support of the public free schools for the scholastic year ending August 31, 1879."

Senator Storey offered the following amendment:

Amend section 1, article 57, by striking out the words "or by any other person."

Adopted.

Senator Shannon offered the following amendment:

Strike out articles 4039, 4040 and 4041.

Senator Homan made the point of order that his resolution had been postponed till the bill was taken up and is now the first thing in order.

Point of order sustained.

Senator Duncan made a point of order that the adoption of Senator Grace's resolution postponing all special orders, etc., and to take up the pending bill and consider it until disposed of, made the resolution out of order.

Point of order sustained and Senator Homan's resolution ruled out of order.

Senator Terrell was granted leave of absence until to-morrow morning.

Senator Swain moved the previous question upon the bill and amendments.

Senator Duncan made the point of order that the constitution requires that a bill should be read upon three several days and free discussion

allowed thereon, and therefore the motion of Senator Swain was out of order.

Point of order not sustained.

A message was received from the House announcing the passage by that body of Senate bill No. 132, entitled "An act to legalize and make valid the acts of E. T. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county."

Senator Swain's motion for the previous question was seconded, but the Senate refused to order the main question by the following vote:

YEAS.

Buchanan,
Davenport,
Edwards,

Gooch,
Houston,

Patton,
Swain—7.

NAYS.

Brown,
Burnett,
Burton,
Duncan,
Ford,
Grace,

Guy,
Hobby,
Homan,
Lair,
Martin,
McCulloch,

Moore,
Ripetoe,
Shannon,
Stewart,
Storey,
Tilson—18.

Present, not voting—Lane.

Senator Duncan moved that the Senate go into committee of the whole on the consideration of this bill.

Senator Grace moved a call of the Senate.

Call not sustained.

The motion of Senator Duncan to go into committee of the whole on the pending bill was lost by the following vote:

YEAS.

Brown,
Duncan,

Grace,
Lair,

Patton—5.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Martin,
McCulloch,
Moore,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—20.

Senator Duncan moved to indefinitely postpone the consideration of the bill and pending amendment.

Senator Edwards moved to lay this motion on the table.

Carried by the following vote:

NAYS.

Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lair,
Martin,
McCulloch,
Moore,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—20.

NAYS.

Brown,

Duncan—2.

Present, not voting—Buchanan, Ford, Lane, Patton.

Senator Duncan moved to postpone the consideration of the bill and amendment till this day week.

Senator Edwards made the point of order that another motion to postpone was not in order, as his previous motion to postpone had just been acted upon.

The point of order was sustained.

Senator Swain moved to lay the motion of Senator Shannon on the table.

Lost by the following vote:

YEAS.		
Buchanan, Davenport, Edwards, Gooch,	Hobby, Houston, Lane, McCulloch.	Moore, Patton, Swain—11.
NAYS.		
Brown, Burnett, Burton, Duncan, Grace,	Guy, Homan, Lair, Martin, Ripetoe,	Shannon, Stewart, Storey, Tilson—14.

Senator Shannon moved to adjourn until 3 o'clock P. M.

Lost by the following vote:

YEAS.		
Burnett, Duncan, Houston,	McCulloch, Moore, Stewart,	Shannon, Swain, Tilson—9.
NAYS.		
Brown, Buchanan, Burton, Davenport, Edwards,	Gooch, Grace, Guy, Homan, Lane,	Lair, Martin, Patton, Ripetoe, Storey—15.

Present and not voting—Ford and Hobby.

Senator McCulloch moved to adjourn until 10 o'clock to-morrow morning.

Senator Davenport made the point of order that as there had been no intervening business since the last motion to adjourn was acted on, the motion was out of order.

Point of order sustained.

Senator Edwards, from the free conference committee, appointed on the disagreement of the Senate and House on amendment to Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State," submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of free conference, appointed to act with a like committee on the part of the House, have had under consideration Senate bill No. 20, and beg leave to report that they have agreed upon the accompanying amendments, which they recommend be adopted.

PEYTON F. EDWARDS,
CHAS. STEWART,
L. J. STOREY,

Senate Committee.

GEO. P. FINLAY,
SAM. R. FROST,
F. L. JOHNSTON,

House Committee.

That the Senate recede from its refusal to concur in House amendment striking out article 758*a* of the Penal Code and do now concur in said amendment.

Amend article 186 of the Penal Code by a substitute to read as follows:

Article 186. Any merchant, grocer or dealer in wares and merchandise, or trader in any lawful business whatsoever, who shall sell or barter, on Sunday, between the hours of 9 o'clock A. M. and 4 o'clock P. M., shall be fined not less than one, nor more than fifty dollars.

Add to section 3:

"*Provided*, that any law passed by the Sixteenth Legislature, in conflict with any provision of this act, shall be the law of the State, this act to the contrary, notwithstanding."

Senator Brown moved that the Senate adjourn until 7:30 to-night.

Carried, and the Senate adjourned.

NIGHT SESSION.

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

A report made by Senator Houston, chairman of the committee on state affairs, submitted this morning, and inadvertently left out of the journals of the session of to-day:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration the petition of citizens of Waller, Fort Bend and Austin counties in regard to the Sunday law, and have instructed me to report the same back to the Senate with the statement, as the conclusion of your committee, that the Penal Code recently enacted by the Legislature of Texas provides, as far as they deem it expedient to do so, a remedy for the evil complained of by petitioners.

Houston, *Chairman.*

On motion of Senator Ripetoe, Senator Homan was added to the special committee on the governor's message appointed to-day.

The pending question on adjournment to-day was the amendment of Senator Shannon to the pending bill, Senate bill No. 54, entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas."

Senator Davenport moved the previous question on the pending amendment and the bill.

Senator Duncan moved a call of the Senate.

Call sustained; roll called.

Absent—Senators Burton, Ford and Swain.

On motion of Senator Edwards the call was suspended.

Senator Brown moved to adjourn till 10 o'clock to-morrow morning.

Senator Duncan moved to adjourn until 9 o'clock to-morrow morning.

Senator Brown's motion to adjourn was lost by the following vote:

YEAS—Brown.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,

Edwards,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Martin,

McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,

Storey,
Terrell,
Tilson—24.

Not voting—Ford, Swain.

Senator Duncan's motion to adjourn ruled out of order.

Senator Davenport's motion for the previous question was seconded and the main question ordered by the following vote:

YEAS.

Buchanan,
Davenport,
Edwards,
Gooch,
Hobby,

Houston,
Homan,
Lane,
Lair,
McCulloch,

Moore,
Patton,
Stewart,
Terrell,
Tilson—15.

NAYS.

Brown,
Burnett,
Burton,
Duncan,

Grace,
Guy,
Martin,

Ripetoe,
Shannon,
Storey—10.

Not voting—Ford, Swain.

Senator Shannon's amendment was then voted on and lost.

The bill was then ordered engrossed by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Edwards,
Gooch,
Hobby,

Homan,
Houston,
Lane,
Lair,
McCulloch,
Moore,

Stewart,
Storey,
Swain,
Terrell,
Tilson—17.

NAYS.

Brown,
Burton,
Duncan,

Grace,
Guy,
Martin,

Patton,
Ripetoe,
Shannon—9.

Senator Terrell moved to postpone the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson—21.

NAYS.

Brown,
Burton,

Duncan,
Grace,

Shannon—5.

The bill was read the third time.

Senator Burton offered the following amendment:

Page 14, strike out section 28.

Lost.

Senator Burton offered the following amendment:

Page 728, section 22, insert in the blank "the first day of July."

Senator Houston offered a substitute for the amendment of Senator Burnett.

The substitute was voted on and lost.

The amendment of Senator Burnett was then lost.

(Senator Edwards in the chair.)

Senator Grace offered the following amendment:

Amend by striking out all after the word "defendant" in article 3324, page 492.

Senator Houston moved the previous question on the amendment of Senator Grace.

Motion seconded and the main question ordered.

Senator Grace's amendment was then lost.

Senator Grace offered the following amendment:

Amend 3274, strike out after the word "present," sixth and seventh line, page 485.

Lost by the following vote, it taking two-thirds to adopt:

YEAS.

Brown,
Burnett,
Duncan,
Ford,
Grace,
Guy,

Hobby,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Ripetoe,
Stewart,
Shannon,
Storey,
Tilson—17.

NAYS.

Buchanan,
Davenport,
Edwards,
Gooch,

Homan,
Houston,
Ledbetter.

Patton,
Swain,
Terrell—10.

Senator Gooch offered the following amendment:

Add to the "final title" as section 23—Because this bill cannot be read in one day or on three several days, an imperative public necessity exists, requiring that the constitutional rule, that the same be read on three several days, should be suspended, it is therefore suspended.

Adopted.

Senator Houston offered the following amendment:

Amend final title, section 22, by filling the blanks by inserting in first, the word "first," and in second blank the word "September."

Senator Houston moved the previous question upon his amendment, which was seconded and the main question ordered.

Senator Houston's amendment was adopted.

Senator Duncan offered the following amendment:

Amend article 2300 by inserting in the third line, after the word "bound," these words: "in double the amount of the value of the property levied on."

Lost.

Senator Ripetoe offered the following amendment:

Strike out article 2843, page 418.

Lost.

Senator Duncan offered the following amendment:

Strike out sub-division 10, of article 2335, page 347.

(President in the chair.)

Senator Duncan's amendment was lost by the following vote:

YEAS.

Duncan,

Stewart,

Shannon—3.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,

Davenport,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Patton,
Ripetoe,

Storey,
Swain,
Terrell,
Tilson--25.

The bill was then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Moore,
Stewart,
Storey,
Swain,
Terrell,
Tilson--19.

NAYS.

Brown,
Burton,
Duncan,

Grace,
Martin,
McCulloch,

Patton,
Ripetoe,
Shannon--9.

On motion of Senator Storey, the Senate adjourned until to-morrow morning at 10 o'clock.

THIRTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 19, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Homan, the postmaster was excused for the day.

On motion of Senator Buchanan, Senator Martin was added to the committee on retrenchment and reform.

The president, after reading its caption, signed Senate bill No. 132, entitled "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county."

Senator Terrell introduced a bill entitled "An act to validate certain land certificates issued on bounty land warrants to John Steele, William S. Williamson, Robert Middleton, John Scully and Richard Eggleston."

Read by caption and referred to the committee on private land claims.

On motion of Senator Houston, the special orders were postponed and Senate bill No. 21, entitled "An act to provide for designating and surveying 3,050,000 acres of the unappropriated public domain for the erection of a new state capitol and other necessary public buildings at the seat of government," was taken up.

Senator Stewart moved that the Senate concur in House amendments to said bill (Senate bill No. 21.)

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--21.

NAYS.

Brown,
Edwards,

Guy,

Martin—4.

Not voting—Burton, Ford, Grace.

The special order being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," was taken up and read third time.

Senator Homan offered the following amendment:

In section 3, page 1, strike out the words "fifty cents" in line nine and insert "one dollar and twenty-five cents," and strike out in line ten all after the word "acre" where it first occurs.

Amendment lost by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,Duncan,
Homan,
Patton,Ripetoe,
Swain—8.

NAYS.

Brown,
Davenport,
Edwards,
Gooch,
Grace,
Guy,Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,McCulloch,
Moore,
Shannon,
Stewart,
Storey,
Tilson—18.

Not voting—Ford, Terrell.

Senator Swain offered the following amendment:

Section 9, in last line, strike out "available school fund" and insert in lieu thereof "general revenue of the State."

Lost by the following vote:

YEAS.

Brown,
Grace,
Martin,Shannon,
Storey,
Swain,Terrell,
Tilson—8.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,Ledbetter,
McCulloch,
Moore,
Patton,
Ripetoe,
Stewart—19.

Senator Gooch offered the following amendment:

Add to section 3, after the last word, "the governor may authorize pasture land to be leased for a term not longer than twenty years at not less than four cents an acre, nor in less quantities than a section."

Senator Storey offered the following amendment to the amendment of Senator Gooch:

Strike out "four cents" and insert "ten cents" in lieu thereof.

Accepted by Senator Gooch, and the amendment of Senator Gooch, as amended by the amendment of Senator Storey, was voted on and lost by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,Gooch,
Hobby,
Homan,
Patton,
Ripetoe,Shannon,
Storey,
Swain,
Terrell,
Tilson—15.

NAYS.

Brown,
Edwards,
Grace,
Guy,

Houston,
Lane,
Lair,
Ledbetter,

McCulloch,
Moore,
Stewart—11.

Not voting—Ford, Martin.

The bill was then passed by the following vote:

YEAS.

Davenport,
Edwards,
Gooch,
Grace,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Stewart,
Shannon,
Storey—16.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,

Duncan,
Homan,
Patton,
Ripetoe,

Swain,
Terrell,
Tilson—11.

Not voting—Ford.

Senator Duncan presented the following protest to be entered on the journals in connection with the passage of this bill:

"I desire, in voting in the negative upon the passage of this bill, to have my reasons therefor spread upon the records, because I deem the measure one of such vast importance that the action taken thereon at this hour will be reviewed for all time to come with either strong approbation or condemnation. I then enter this solemn protest against this bill becoming a law:

1. Because now is not the time to sell our school lands in large bodies, values being so shrunken that a return to good times and sufficient circulating medium for the demands of trade would immeasurably appreciate the value of the land as measured by a dollar.

2. The terms of the bill are such that 18,000,000 acres of our territory will immediately go into the hands of capitalists and corporations who own contiguous lands of a like area, thus for a time barring out the actual settler and subverting the letter and spirit of the constitution by offering a premium to monopoly and discouraging immigration.

3. It is expected under its provisions to sell the lands to capitalists who will be led to invest in it only because they will have a certainty of realizing a better profit by a resale to actual settlers than can be found by investing elsewhere. I think that the actual settler who produces value from the soil pays the debt after all; then why cannot the State sell to the actual settler and thus save the profits of the capitalists.

4. The increase in the price of these lands for the past five years has been more than five times the amount which could have been realized from the value of the lands five years ago invested in any bonded security, as is proposed to invest the proceeds now, and this in the face of an unparalleled scarcity of money and its consequent high value, and there is every reason to believe that the increase of the value of the lands in the immediate years to come will be far above that of the past.

5. Under the law as it now exists there was sold nearly a half million dollars worth of the land last year at one dollar and a half an acre, nine-tenths of which, remaining unpaid, draws securely ten per cent. interest, or as much as an invested capital of one million in four per cent. bonds, whereas it is provided by this bill that the minimum price

of the lands be fifty cents and one dollar per acre, and experience shows that every acre of it will be sold at the minimum should this bill pass. The existing law fixes the minimum at \$1 50 per acre, and the sales under it increase rapidly each year, though it is nearly all returned at the minimum price.

6. The fund to be derived for the available school fund each year from the proposed sale would be but about one dollar at most for each child of scholastic age in this State, whereas if the lands were held until their price reached \$2 or \$3 per acre, it would furnish an invested fund which would yield enough to send each child in the State to school four months in the year; and if we waste the lands now the time will come when the half of the general revenue will not support the public schools.

7. There is great danger in converting these permanent lands into bonds, which have, at best, a fluctuating value and are, in these days of wild ideas, subject to covert if not open repudiation, the fate of eight millions of school bonds in Texas, which are now classed as "debts of doubtful validity," proving that the "sacred school fund" is not the "holy thing" friends of this bill would have us believe.

8. The commissions to be paid to agents to sell this land is out of all reason, being, at an average price for land, not less than a quarter of a million dollars.

9. The provision in the bill that the taxes on the land forever, as well as school lands heretofore sold, shall be diverted from the general revenue and devoted to school purposes, I believe to be obnoxious to more than one clause of the state constitution, and would impose upon the people who pay taxes on little or no land originally of the school domain, the burden of paying for the government and protection of those who occupy school lands, who, though they may be said to get it back in the shape of school money, do not want it in that way, but to supply gaping deficiencies in the general revenue which will be made wider by this subversion.

10. I believe that the passage of the bill is wished for by the enemies of the public free school system, which portends no good to that system and its means of support.

11. I believe that if the necessity exists for disposing of the lands that it can best be done by amending the existing law so as to increase the number of acres which may be purchased by a settler, from 160 to 640, and by placing the minimum for arable lands at \$2 and for pasture lands \$1 50, with a reduction of interest to 8 per cent.

12. The bill provides for a half dozen unbonded agents whose pay depends upon quick sales at the lowest prices.

DUNCAN.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and report correctly engrossed Senate bill No. 54, entitled "An act to adopt and establish the Revised Statutes of the State of Texas."

BROWN, Chairman.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find

correctly enrolled and properly signed Senate bill No. 132, "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county," and presented the same to the governor for his signature at 10:07 A. M. this day.

GRACE, *Chairman*.

On motion of Senator Edwards, the report of the conference committee on the differences of the Senate and House on Senate bill No. 20, entitled "An act to establish a Penal Code and a Code of Criminal Procedure for the State of Texas," was taken up as a privileged question.

Senator Gooch moved to recommit.

Senator Edwards made the point of order that no motion regarding the report was in order except to adopt or reject.

Point of order sustained.

Senator Duncan made the point of order that action upon the report was action upon the bill, and could not properly be had without a suspension of the rules.

Overruled.

Senator Gooch made the following point of order:

Mr. President—The conference committee appointed to confer on the amendment of the House to article 758a of the Penal Code have reported that the Senate recedes from its refusal to concur therein, which was the only question before them; but they have considered other parts of the bill, and I raise the point of order that the part of the report not relating to the amendment about which there was a disagreement, is not properly before the Senate.

The president made the following ruling on the point of order raised by Senator Gooch:

"The chair decides that the question submitted by the senator from Anderson is a matter within the control of the Senate and does not address itself to the chair."

Senator Gooch called for a division of the question.

Senator Edwards made the point of order "that the report of a conference committee is not divisible."

Point of order sustained.

Senator Swain moved to reject that part of the report which affects the part already agreed upon by the two houses.

Senator Edwards again made the point of order that the report of the free conference committee is not divisible, and must be acted upon as a whole, and that the motion of Senator Swain, in effect, was a division of the question.

Point of order sustained.

Senator Gooch moved to discharge the committee on free conference and refer the matter of disagreement to another conference committee.

Ruled out of order.

Senator Brown offered the following resolution:

Resolved, That the Senate disagree to the report of the committee of free conference on Senate bill No. 20, and ask that another committee of free conference be appointed by the president of the Senate to act with a like committee on the part of the House.

Senator Patton moved to lay Senator Brown's motion upon the table.

Senator Duncan moved a call of the house.

Call sustained.

Roll called. Absent—Grace.

Senator Guy moved to adjourn until 10 A. M. to-morrow.
 Withdrawn, and Senator Grace appearing, the call was suspended.
 Senator Duncan moved to adjourn until 9 A. M. to-morrow.
 Lost by the following vote:

YEAS.		
Buchanan, Davenport, Duncan,	Gooch, Lair,	Moore, Tilson—7.
NAYS.		
Brown, Burnett, Burton, Edwards, Ford, Grace, Guy,	Hobby, Homan, Houston, Lane, Ledbetter, Martin, McCulloch,	Patton, Shannon, Stewart, Storey, Swain, Terrell—20.

Not voting—Ripetoe.

Senator Edwards moved the previous question upon Senator Brown's motion.

Motion seconded and the main question ordered by the following vote:

YEAS.		
Brown, Burnett, Burton, Davenport, Duncan, Edwards, Gooch, Grace, Guy,	Hobby, Homan, Houston, Lane, Lair, Ledbetter, Martin, McCulloch, Moore,	Patton, Ripetoe, Shannon, Stewart, Storey, Swain, Terrell, Tilson—26.
NAYS—Buchanan.		

Senator Patton's motion to lay Senator Brown's motion upon the table carried by the following vote:

YEAS.		
Burnett, Burton, Davenport, Edwards, Ford,	Hobby, Houston, Lane, Ledbetter, Patton,	Ripetoe, Stewart, Storey, Swain, Terrell—15.
NAYS.		
Brown, Buchanan, Duncan, Gooch, Grace,	Guy, Homan, Lair, Martin,	McCulloch, Moore, Shannon, Tilson—13.

Senator Burton moved to reconsider the vote just taken.

Senator Terrell moved to lay the motion to reconsider on the table, the vote on which motion resulted as follows:

YEAS.		
Burnett, Davenport, Edwards, Ford, Hobby,	Houston, Ledbetter, Martin, Patton, Ripetoe,	Stewart, Shannon, Storey, Terrell—14.
NAYS.		
Brown, Buchanan,	Burton, Duncan,	Gooch, Grace,

Guy,
Homan,
Lane,

Lair,
McCulloch,
Moore,

Swain,
Tilson—14.

There being a tie vote, the president voted in the affirmative and declared the motion to reconsider laid on the table.

Senator Ledbetter moved to adopt the report of the committee on free conference, and then moved the previous question on this motion.

The latter motion was seconded, and the main question not ordered by the following vote:

YEAS.

Burnett,
Davenport,
Edwards,
Ford,
Hobby,

Houston,
Lane,
Ledbetter,
Patton,

Shannon,
Stewart,
Storey,
Terrell—13.

NAYS.

Brown,
Buchanan,
Burton,
Duncan,
Gooch,

Grace,
Guy,
Homan,
Lair,
Martin,

McCulloch,
Moore,
Ripetoe,
Swain
Tilson—15.

Senator Grace moved to adjourn until 9:30 A. M. to-morrow.
Lost by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,

Gooch,
Grace,
Lair,
McCulloch,

Ripetoe,
Swain,
Tilson—11.

NAYS.

Brown,
Davenport,
Edwards,
Ford,
Guy,
Hobby,

Homan,
Houston,
Lane,
Ledbetter,
Martin,
Moore,

Patton,
Shannon,
Stewart,
Storey,
Terrell—17.

Senator Buchanan moved the previous question upon Senator Ledbet-
ter's motion.

Senator Duncan moved a call of the Senate.

Call sustained.

Roll called; absent—Guy.

Senator Edwards moved to excuse Senator Guy.

Carried by the following vote:

YEAS.

Brown,
Burton,
Davenport,
Edwards,
Ford,
Hobby,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS.

Buchanan,
Absent, not voting—Burnett, Gooch.

Duncan,

Grace—3.

Senator Duncan moved to adjourn until to-morrow morning at 10
o'clock.

Ruled out of order.

Senator Buchanan's motion for the previous question was seconded and the main question ordered by the following vote:

YEAS.

Brown,	Homan,	Patton,
Buchanan,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCulloch,	Terrell,
Hobby,	Moore,	Tilson—21.

NAYS.

Burnett,	Duncan,	Lair,
Burton,	Grace,	Ripetoe—6.

Senator Ledbetter's motion to adopt the report of the free conference committee was lost by the following vote:

YEAS.

Brown,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Patton,	Terrell—13.
Hobby,		

NAYS.

Buchanan,	Grace,	Moore,
Burnett,	Homan,	Ripetoe,
Burton,	Lair,	Swain,
Duncan,	McCulloch,	Tilson—13.
Gooch,		

Senator Houston presented the following explanation of his vote, and to be entered on the journals:

"I vote for the report of the committee as being an improvement on the House amendment to the Code as concurred in heretofore, although I am opposed to regulating the observance of the Sabbath by legislative act."

Senator Patton (by leave) introduced a bill entitled "An act to provide for the taking and preservation of testimony in capital cases, and the use of the testimony so taken in cases of appeal."

Read by caption and referred to judiciary committee No. 2.

Senator Gooch entered a motion to reconsider the vote just taken rejecting the free conference report of the committee on the difference of the two houses on Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State."

Senator Storey, chairman of committee on finance (by leave) submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 194, entitled "An act to amend 'an act to regulate taxation and to fix the rate of the same,'" passed August 21, 1876, have carefully considered the same, and I am instructed by a majority of the committee present to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

The senate committee on finance have had under consideration House bill No. 217, entitled "An act to release certain inhabitants in the county

of Lamar, in this State, from the payment of taxes assessed and now due for the year 1878, in consequence of a great public calamity," and I am instructed by the committee to return the bill to the Senate with an unfavorable recommendation for the following, among other reasons:

1. It is believed to be a local law, such as is forbidden by section 57, article 3, of the constitution, unless notice of the application for relief is published for thirty days in the locality where the parties live, before the bill is introduced into the Legislature. No evidence of any such publication accompanies this bill.

2. The calamity referred to in the preamble of the bill is not underestimated by the committee, but if relief is to be granted in such cases, then the committee believe that a number of the citizens of Comal county, Refugio county, a great portion of the citizens of Lockhart, Caldwell county, and the citizens of numerous other localities should be included in the bill.

3. That owing to the financial condition of the State, with a deficit in the revenues aggregating since the adoption of the new constitution of nearly \$700,000, it is believed to be unwise to grant the relief prayed for. The committee therefore recommend that the bill do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration the memorial of Mrs. Clemence Toby, together with the itemized accounts of Thomas Toby against the State of Texas for the amount of \$63,451 62, as furnished in the report of Stephen H. Darden, comptroller, and A. J. Dorn, treasurer. Your committee believe that the said claim, to the amount of \$45,000, is just, due and meritorious, and that, so far as they have been able to ascertain, has never been paid. Your committee would therefore recommend that the said petition of Mrs. Clemence Toby, to the amount of \$45,000 and no more, be allowed in full payment of said claim.

STOREY, *Chairman.*

On motion of Senator Swain, the Senate adjourned until 10 o'clock to-morrow morning.

THIRTY-THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 20, 1879. }

The Senate met pursuant to adjournment; president *pro tem.* in the chair. Roll called; quorum present. Prayer by chaplain.

On motion of Senator Ripetoe, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Davenport, Senator Homan was excused for a week.

On motion of Senator Grace, Senators Terrell, Gooch and Lane were excused as being engaged in necessary committee duty.

Senator Buchanan, chairman of the committee on federal relations, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on Federal relations, to whom was referred that portion of his excellency Gov. Hubbard's message pertaining to an indebtedness by the United States government to the State of Texas, on account

of expenditures by the State of Texas for frontier protection, have had the same under consideration, and I am instructed to report the same back with the statement that the demands of that message are complied with by House joint resolution No. 27, and therefore it is not necessary to further consider the same.

BUCHANAN, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on federal relations have had under consideration Senate joint resolution No. 45, instructing our senators and requesting our representatives in Congress to ask for protection to the Texas frontier, and compensation for past expenses by the State in that behalf; and I am instructed to report the same back with the statement that the objects of this resolution are fully met by House joint resolution No. 27, and for that reason need not be further considered.

BUCHANAN, *Chairman.*

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance, to whom was referred Senate bill No. 75, entitled "An act to set aside the available school fund remaining on hand for the fiscal year ending August 31, 1879," having duly considered the same hereby return it to the Senate.

Your committee believe that the object of said bill is fully provided for in House bill No. 141, entitled "An act to make appropriation for the support of the state government for the time beginning January 1, 1879, and ending February 28, 1879."

STOREY, *Chairman.*

A message was received from the House announcing the passage by that body of Senate bill No. 67, entitled "An act prescribing the times of holding the courts in the twenty-fourth judicial district." House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State of Texas, and to fix the time for holding courts in the different counties composing same;" and that the House refuses to adopt the report of the committee of free conference on Senate bill No. 20, re-refers the matter back to the committee with instructions to the committee on the part of the House to consider only the matter of disagreement between the two houses; and upon Mr. Finlay declining to further serve upon said committee, the speaker appointed Mr. Gause in his stead.

Senator McCulloch, chairman of the committee on statistics of industry, public health and history of Texas, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on statistics of industry, public health and history of Texas, to whom was referred Senate bill No. 196, entitled "An act to regulate the practice of medicine, surgery and pharmacy, and repeal an act entitled 'an act regulate the practice of medicine,' approved August 31, 1876, and all other laws in conflict therewith," have had the same under consideration, and I am instructed to report the same back and recommend that it do pass.

MCCULLOCH, *Chairman.*

Senator Edwards, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to which was referred Senate bill No.

159, entitled "An act to prescribe the requisites of indictments in certain cases," have considered the same, and instruct me to report it back and recommend its passage.

EDWARDS, *for Committee.*

Senator Burton offered the following resolution:

Resolved, That the committee on education is instructed to inquire into the practicability of the State establishing a manual school in connection with the agricultural and mechanical college for colored youths, whereby students at said college may be enabled to pay all or part of their tuition and other expenses by labor on the farm, and report by bill or otherwise.

Adopted.

On motion of Senator McCulloch, 100 copies of Senate bill No. 196, entitled "An act to regulate the practice of medicine, surgery and pharmacy, and to repeal an act entitled 'an act to regulate the practice of medicine,'" approved August 31, 1876, and all other laws in conflict herewith, were ordered printed.

On motion of Senator McCulloch, the rules were suspended, special order postponed, and House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State of Texas and to fix the times for holding courts in the different counties composing same," was taken up and read first time.

Senator McCulloch moved to suspend the rules and place the bill on its second reading.

Withdrawn by request.

On motion of Senator Shannon, the special orders were postponed, rules suspended and Senate bill No. 176, entitled "An act to establish the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the times of holding the courts therein and providing for the election of district judges for the twenty-eighth, twenty-ninth and thirtieth districts," was taken up and read first time.

Senator Shannon moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

	YEAS.		
Brown,	Guy,	Moore,	
Buchanan,	Hobby,	Patton,	
Burnett,	Houston,	Ripetoe,	
Burton,	Lane,	Stewart,	
Davenport,	Lair,	Shannon,	
Duncan,	Ledbetter,	Storey,	
Ford,	Martin,	Swain,	
Gooch,	McCulloch,	Tilson—25.	
Grace,			

NAYS—none.

Not voting—Edwards, Terrell.

Bill read second time.

The amendments recommended by the committee were adopted.

Senator Terrell from the conference committee on House bill No. 141, entitled "An act making appropriations for support of the state government for the time beginning January 1, 1879, and ending March 1, 1879," submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The conference committee to whom was referred House bill No. 141,

entitled "An act making appropriations for the support of the state government for the time beginning January 1, A. D. 1879, and ending March 1, A. D. 1879," have considered the disagreement of the Senate and the House thereon and have agreed to and do recommend as follows:

1. That the Senate do recede from its amendments inserting \$236, instead of \$166 66, for bailiff.

2. That the Senate do recede from its amendment striking out the proviso in the item for librarian for supreme court and court of appeals.

3. That the Senate do adhere to the following amendment: "For contingent fund for supreme and appellate courts, \$50."

4. That the Senate do adhere to its amendment striking out "for support of lunatic asylum, \$10,000."

5. That the Senate do recede from its amendment, viz: "costs to be paid sheriffs, clerks and county attorneys in district, county and justice courts, \$12,000."

TERRELL,
LANE,
GOOCH,

On part of Senate.

COLEMAN,
MCCOMB,
LINN,

On part of House.

Senator Terrell moved to adopt the report of the committee.

Senator Grace made the following motion:

Strike out "for librarian at Galveston."

Ruled out of order.

On motion of Senator Grace, the amendments or recommendations of the committee were acted on *seriatim*.

The first recommendation of the committee was adopted.

Second recommendation of committee adopted by the following vote:

YEAS.

Davenport,
Ford,
Gooch,
Guy,
Hobby,

Houston,
Lane,
Ledbetter,
McCulloch,
Moore,

Stewart,
Shannon,
Storey,
Swain,
Terrell -15.

NAYS.

Brown,
Buchanan,
Burnett,
Duncan,

Edwards,
Grace,
Lair,
Martin,

Patton,
Ripetoe,
Tilson—11.

Not voting—Burton.

The third amendment or recommendation of committee was adopted.

The fourth recommendation of the committee was adopted.

The fifth recommendation of the committee was lost by the following vote:

YEAS.

Brown,
Davenport,
Edwards,
Gooch,

Hobby,
Lane,
Moore,

Storey,
Terrell,
Tilson—10.

NAYS.

Buchanan,
Burton,
Burnett,

Duncan,
Ford,
Grace,

Guy,
Houston,
Lair,

Ledbetter,
Martin,

McCulloch,
Patton,

Ripetoe,
Shannon—15.

Not voting—Stewart, Swain.

The consideration of Senate bill No. 176, was resumed.

Senator Davenport offered the following amendment to the bill: Substitute for section 12:

“Section 12. That the district courts in the counties composing the thirtieth judicial district shall be holden as follows: In the county of Palo Pinto, on the first Mondays in March, July and November, and may continue in session two weeks. In the county of Hood, on the second Mondays after the first Mondays in March, July and November, and may continue in session two weeks. In the county of Somervell, on the fourth Mondays after the first Mondays in March, July and November, and may continue in session one week. In the county of Erath, on the fifth Mondays after the first Mondays in March, July and November, and may continue in session three weeks. In the county of Hamilton, on the eighth Mondays after the first Mondays in March, July and November, and may continue in session three weeks. In the county of Coryell on the eleventh Mondays after the first Mondays in March, July and November, and may continue in session until the business is disposed of.

Adopted and the bill ordered engrossed.

Senator Shannon moved to still further suspend the rules, and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson---26.

NAYS—none.

Not voting—Terrell.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Tilson— 22.

NAYS—none.

Not voting—Edwards, Grace, Storey, Swain, Terrell.

Senator Storey, chairman of committee on finance, (by leave) submitted the following report:

Hon. J. D. Sayers, President of the Senate:

I am instructed by the finance committee to report the accompanying joint resolution, making an appropriation to pay interest on the bonded debt of the State falling due March 1, A. D. 1879, and to second its passage.

STOREY, *Chairman.*

On motion of Senator Storey, the special orders were postponed, the rules suspended, and Senate joint resolution No. 202, making an appropriation to pay the interest on the bonded debt of the State falling due March 1, A. D. 1879, was taken up and read first time.

On motion of Senator Storey, the rules were further suspended, and the resolution placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace.

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—25.

NAYS—none.

Not voting—Burton and Tilson.

Resolution read second time and ordered engrossed.

Senator moved to still further suspend the rules and place the resolution on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—24.

NAYS—none.

Not voting—Burton, Duncan and Terrell.

The resolution was then read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—24.

NAYS—none

Not voting—Burton, Duncan and Terrell.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. Edwin Hobby, President pro tempore of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas that will become redeemable on the first day of July, A. D. 1879, and for the payment of approved pension certificates by the sale of five per cent. bonds

of the State and to make an appropriation to carry into effect the provisions of the same," and report it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Gooch, the special orders were postponed, rules suspended and Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas that will become redeemable on the first day of July, A. D. 1879, and for payment of approved pension certificates by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," was taken up and read third time.

Senator Burnett offered the following amendment:

Strike out "gold coin" wherever it occurs, and insert "lawful money of the United States."

Senator Brown offered the following substitute for the amendment of Senator Burnett:

Strike out the word "coin" wherever it occurs in the bill, and insert after the word "gold" wherever it occurs in the bill the words "or silver coin."

Senator Duncan offered the following amendment to the substitute of Senator Brown:

Amend after the words "gold or silver coin" the words "at the option of the State."

Senator Buchanan offered the following substitute for the substitute of Senator Brown:

Insert in lieu of the words "gold coin," in line two, page 5, the words "lawful money."

Senator Swain moved to lay all the pending amendments upon the table.

Carried by the following vote:

YEAS.		
Davenport,	Ledbetter,	Stewart,
Gooch,	McCulloch,	Swain,
Houston,	Moore,	Terrell,
Lane,	Patton,	Tilson—13.
Lair,		
NAYS.		
Brown,	Grace,	Ripetoe,
Buchanan,	Guy,	Shannon,
Burnett,	Hobby,	Storey—11.
Duncan,	Martin,	

Not voting—Burton, Edwards, Ford. (Senators Edwards and Burton, being paired off, did not vote.)

Senator Shannon offered the following amendment:

Strike out "\$1000," as to the denomination of the bonds, and insert in lieu thereof "bonds of the denomination of not less than \$50 or more than \$100."

Senator Brown offered the following as a substitute for the amendment of Senator Shannon:

Amend the bill by substituting in place of "bonds of \$1000," "bonds of not less than \$50 nor more than \$1000, preference in all cases being given to bonds of the smaller amounts, whenever they can be placed at the rate of interest provided in the bill."

Senator Shannon accepted the substitute of Senator Brown for his amendment.

The amendment as substituted was lost by the following vote:

YEAS.		
Brown, Burnett, Duncan,	Ford, Grace, Hobby,	Ripetoe, Shannon—8.
NAYS.		
Buchanan, Davenport, Gooch, Guy, Houston, Lane,	Lair, Ledbetter, Martin, McCulloch, Moore,	Patton, Stewart, Storey, Swain, Terrell—16.

Not voting—Burton, Edwards, Tilson.

Senators Edwards and Burton being paired, did not vote.

The president *pro tempore* then signed Senate bill No. 21, entitled "An act to provide for designating and surveying 3,050,000 acres of the unappropriated public domain for the erection of a new State capitol and other necessary public buildings at the seat of government."

The bill under consideration (Senate bill No. 97) was then passed by the following vote:

YEAS.		
Brown, Buchanan, Burnett, Davenport, Duncan, Edwards, Ford, Gooch,	Guy, Hobby, Houston, Lane, Lair, Ledbetter, Martin, McCulloch,	Moore, Patton, Ripetoe, Stewart, Shannon, Storey, Swain, Terrell—24.
NAYS—none.		

Not voting—Burton, Grace, Tilson.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. Edwin Hobby, President pro tempore of the Senate:

Your committee on engrossed bills have examined Senate joint resolution No. 202, making an appropriation to pay the interest on the bonded debt of the State to the first day of March, A. D. 1879, and find it correctly engrossed.

BROWN, *Chairman.*

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate bill No. 21, "An act to provide for designating, surveying and sale of 3,050,000 acres of the unappropriated public domain for the erection of a new State capitol and other necessary public buildings at the seat of government and to provide a fund to pay for surveying said lands," and presented the same to the governor at 12:15 P. M. this day for his signature.

GRACE, *Chairman.*

Senator Lair offered the following resolution:

"I move to postpone all special orders to such time as they will come up in their regular order, and that they resume their respective places on the calendar."

Adopted.

Senator Edwards made the point of order that it required a two-third vote to adopt the resolution of Senator Lair.

Overruled, the chair deciding that a simple majority vote could postpone.

Senator Gooch moved to take up his motion to reconsider the vote of yesterday rejecting the report of the free conference committee on the disagreement of the two houses on Senate bill No. 20, entitled "An act to establish a Penal Code of Criminal Procedure for the State."

Carried, and the vote reconsidered.

Senator Gooch offered the following resolution:

Resolved, That the House of Representatives be requested to appoint a committee of three members, to act with a like committee to be appointed by the Senate, as a committee of free conference to take into further consideration the disagreement between the two houses in relation to Senate bill No. 20, and report an agreement thereon if same can be effected.

Adopted, and the same committee appointed as acted before—Senators Edwards, Stewart and Storey.

The committee asked to be excused from serving again, and were so excused by the Senate, when the president *pro tempore* appointed as said committee in their stead, Senators Burnett, Davenport and Shannon.

Senator Stewart moved to suspend the rules and take up Senate bill No. 98, entitled "An act to fix the fees of the department of State in certain cases."

Carried, and the bill taken up.

On motion of Senator Stewart, the Senate concurred in House amendments.

Senator Terrell presented the invitation from his royal highness, King Momus, inviting the members of the Legislature to attend his grand carnival to be held at his grand capitol (Galveston) on the 25th instant, which was read to the Senate by order of the president *pro tempore*.

Senator Storey (by leave) introduced a bill entitled "An act to authorize the treasurer to keep a special deposit account with the general land office, and to provide how money shall be placed to the credit of said account and how withdrawn or transferred."

Read by caption and referred to the committee on finance.

On motion of Senator Terrell, the rules were suspended and Senate bill No. 59, entitled "An act to reorganize the seventeenth judicial district," was taken up and substituted.

On motion of Senator Terrell, the rules were suspended and the bill placed on second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,

Grace,
Guy,
Hobby,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson—21.

NAYS.

Edwards,
Houston,

Lane,

Ledbetter—4.

Not voting—Ford, Shannon.

Bill was read the second time and ordered engrossed.

On motion of Senator Terrell, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Ford, Shannon.

Bill was read the third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Grace,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS.

Edwards,

Houston—2.

Not voting—Ford, Gooch, Shannon.

On motion of Senator Terrell, the rules were suspended, and Senate bill No. 60, entitled "An act to amend an act entitled 'an act to fix the times for holding the terms of the district court in the seventeenth judicial district, including the county of McCulloch,'" was taken up, substituted, read second time, and ordered engrossed.

Senator Terrell moved to further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Shannon.

The bill was read the third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,

Edwards,
Ford,
Gooch,
Grace,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,

Stewart,
Storey,
Swain,

Terrell,
Tilson--26.

NAYS—none.

Not voting—Shannon.

A message was received from the House announcing the passage by that body of House bill No. 304, entitled "An act to repeal 'an act to encourage irrigation and navigation,'" approved August 21, 1876.

Senator Swain moved to adjourn until to-morrow morning at 9 o'clock. Lost by the following vote:

Buchanan,
Burnett,
Davenport,
Duncan,

YEAS.
Grace,
Lair,
McCulloch,
Moore,

Patton,
Stewart,
Swain,
Tilson--12.

Brown,
Burton,
Edwards,
Ford,
Gooch,

NAYS.
Guy,
Hobby,
Houston,
Lane,
Ledbetter,

Martin,
Ripetoe,
Storey,
Terrell--14.

Not voting—Shannon.

Senator Lane (by leave) introduced a bill entitled "An act to require persons inclosing public free school lands to pay an annual rent therefor."

Read by caption and referred to the committee on finance.

"On the final passage of Senate bill No. 96 to sell the public school lands, I vote no, because I believe the provision which appropriates all future taxes on the school lands, after they become by purchase private property, to be unconstitutional.

TERRELL."

Senator Storey moved to adjourn until to-morrow morning 10 o'clock. Carried by the following vote.

Brown,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,

YEAS.
Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

Moore,
Patton,
Ripetoe,
Stewart,
Storey,
Terrell--20.

Buchanan,
Duncan,
Not voting—Shannon.

NAYS.
Grace,
McCulloch,

Swain,
Tilson--6.

THIRTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 21, 1879. }

The Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Moore, the reading of the journals of yesterday was dispensed with.

The journals of yesterday stated that the president was in the chair, when it should have been the president *pro tempore* in the chair.

In the amendment of Senator Davenport to Senate bill No. 176, the

thirtieth district was printed thirteenth; and in Senator Shannon's amendment to Senate bill No. 97, denomination was printed administration.

Upon examination, the errors were found to be only typographical.

The manuscript journal being correct, except in one case, was then adopted and the printed journal corrected to correspond.

The president after reading their captions, signed the following bills:

Senate bill No. 6, entitled "An act prescribing the times of holding the courts in the twenty-fourth judicial district."

Senate joint resolution No. 202, entitled "Joint resolution making an appropriation to pay the interest on the bonded debt of the State to the first day of March, A. D. 1879."

(Senator Ledbetter in the chair.)

Senator McCulloch offered the following resolution:

Resolved, That in memory of the father of our republic, George Washington, the Senate adjourn to-day at 1 o'clock until 10 o'clock A. M. Monday, the twenty-fourth instant. Lost by the following vote:

YEAS.

Burton,
Ford,
Gooch,
Guy,

Hobby,
Houston
McCulloch,
Patton,

Ripetoe,
Storey,
Swain,
Terrell--12.

NAYS.

Brown,
Burnett,
Davenport,
Duncan,
Grace,

Lane,
Ledbetter,
Martin,
Moore,

Motley,
Stewart,
Shannon,
Tilson--13.

Not voting—Buchanan, Edwards, Lair.

Senator Burnett, from the free conference committee on Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State," submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The joint committee of free conference on Senate bill No. 20, having duly considered the only matter of disagreement between the two houses, namely, the refusal of the Senate to concur in House amendment striking out article 758a to the bill, have agreed on and respectfully submit the following recommendation:

That the Senate recede from its refusal to concur with the House amendment striking out article 758a of the Penal Code.

BURNETT,
DAVENPORT,
SHANNON,
Senate Committee.

GAUSE,
JOHNSON,
FROST,
House Committee.

The report was read and adopted.

A message was received from the House announcing the passage by that body of House bill No. 258, entitled "An act to amend section 17 of 'an act to incorporate the Gulf, Colorado and Santa Fe Railway Company, and to grant land in aid of the construction of the same,'" passed May 28, 1873; Senate bill No. 54, entitled "An act to adopt and estab-

lish the Revised Statutes of the State of Texas;" Senate joint resolution No. 202, making an appropriation to pay the interest on the bonded debt of the State to the first day of March, A. D. 1879; that the House has adopted the report of the conference committee on Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State;" and that Messrs. Gause, Frost and Johnston, of Shelby, have been appointed as a committee of free conference upon the part of the House upon differences arising on House bill No. 141.

On the differences arising between the houses on House bill No. 141, the president appointed on the part of the Senate, Senators Terrell, Lane and Gooch as a committee of free conference to act with the committee just reported from the House.

House bill No. 304, entitled "An act to repeal 'an act to encourage irrigation and navigation,'" approved August 21, 1876, was taken up and referred to the committee on State affairs.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate bill No. 67, "An act prescribing the times of holding the district courts in the twenty-fourth judicial district;" also, Senate joint resolution No. 202, "making an appropriation to pay the interest on the bonded debt of the State to the first day of March, A. D. 1879," and presented the same to the governor at 10:10 o'clock A. M., this day, for his signature.

GRACE, *Chairman.*

On motion of Senator Edwards, the rules were suspended, and House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State of Texas, and to fix the times for holding courts in the different counties composing the same," was taken up and read second time.

Senator McCulloch offered the following amendment:

Amend as follows: Strike out all of sections 3 and 4, and substitute as follows:

Section 3. That all writs and process heretofore issued out of the district courts of the several counties named above, and returnable to the terms of their respective courts as they now exist, be and the same are hereby made returnable to the first terms of said courts, as provided for in this act.

Section 4. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Section 5. That the overcrowded condition of the dockets in said district courts, whereby public business is much delayed, creates an imperative public emergency and necessity that the constitutional rules should be suspended; *provided*, that this act shall take effect on the third Monday in March, at which time the first term only held under this act shall begin in Houston county on the third Monday in March, 1879, and may continue in session five weeks.

Adopted.

Senator Edwards moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Davenport, Martin.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Davenport, Martin.

On motion of Senator Tilson, the rules were suspended and Senate bill No. 149, entitled "An act to provide for the change of location of the court house of Marion county," was taken up and read first time.

Senator Tilson moved to suspend the rules and place the bill upon its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—Brown.

Not voting—Burton.

Bill read second time.

Senator Tilson offered the following amendment:

After the word "necessity," in last section, insert "and an emergency exists."

Adopted.

Senator Brown offered the following amendment:

Strike out section three.

Lost.

Bill ordered engrossed.

Senator Tilson moved to still further suspend the rules and place the bill on its third reading.

Carried by the following vote:

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

YEAS.
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—Brown.

Not voting—Burton.

The bill was read third time and passed by the following vote:

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

YEAS.
Grace,
Guy,
Hobby,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Not voting—Lane.

(President in the chair.)

On motion of Senator Martin, the rules were suspended and Senate bill No. 167, entitled "An act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof," was taken up and read first time.

On motion of Senator Edwards, the rules were suspended and bill placed on its second reading by the following vote:

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

YEAS.
Grace,
Guy,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Hobby, Moore.

Bill read second time.

On motion of Senator Brown, the amendments of the committee were adopted.

Senator Brown offered the following amendment :

Amend section 1 by adding the following: "Provided, That in cities receiving for sale or shipment less than twenty-five thousand bales of cotton per annum, not more than two public weighers shall be appointed."

Adopted.

Senator Burton offered the following amendment :

Amend by striking out the words "incorporated city" wherever it

occurs in the bill, and insert "any town or village where cotton or other produce is weighed and sold for the convenience of the farmer."

Lost and the bill ordered engrossed.

On motion of Senator Swain, the rules were suspended and Senate bill No. 163, entitled "An act to create and establish a state board of health for the State of Texas and to define their powers and duties," was taken up by the following vote:

YEAS.		
Brown,	Guy,	Patton,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Burton,	Lair,	Storey,
Edwards,	Ledbetter.	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCulloch,	Tilson—26.
Grace,	Moore,	
NAYS.		
Duncan,		Motley—2.

Bill was read the first time.

Senator Swain moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Lane,	Ripetoe,
Buchanan,	Lair,	Shannon,
Davenport,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Gooch,	McCulloch,	Terrell,
Houston,	Moore,	Tilson—18.
NAYS.		
Burnett,	Duncan,	Motley—3.

Not voting—Burton, Ford, Grace, Guy, Hobby, Patton, Stewart.

Bill was read second time.

Senator McCulloch offered Senate bill No. 25 as a substitute for the bill just read.

On motion of Senator McCulloch, the bill and substitute were postponed until to-morrow and 100 copies ordered printed.

(Senator Martin in the chair.)

The following message was received from his excellency the governor, which was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 21, 1879. }

To the honorable the Senate and House of Representatives, in Legislature assembled:

The Legislature is authorized to levy taxes for the support of public schools. By the law of 1876 for the levy and collection of taxes, one-fourth of fifty cents on the one hundred dollars and one dollar poll tax, annually thereafter, was levied and collected, and is being collected, for the available common school fund, in accordance with the third and fifth sections of the seventh article of the constitution, in the latter of which sections it is said: "The taxes herein authorized and levied shall be the available school fund, which shall be applied annually to the support of the public free schools; and no

law shall ever be enacted appropriating any part of the permanent or available school fund to any other purpose whatever." Therefore, the one-fourth of the *ad valorem* taxes and one dollar poll tax, that enter into, and is part of the \$900,000 apportioned by the board of education as the amount to be applied during the present scholastic year in pursuance to the act of 1876, authorizing them to make such apportionment, was levied and collected, and is being collected, as part of the available school fund, and is bound to belong to that fund when collected, whether it is deposited in the county treasuries or in the treasury of the State. It is none the less so, because there must be an act of appropriation passed by the Legislature to authorize the board of education to give orders to the tax collectors of the several counties to pay it over to the county treasurers. Being levied and collected for the available free common school fund, it becomes part of it, and remains part of it, wherever it may be, whether it is appropriated to be paid out for that purpose by an act of the Legislature or not, and under the constitution it cannot be appropriated for "any other purpose whatever."

When coming to act, as chief executive, upon the bill appropriating \$600,000 for the free common schools, lately passed by the almost unanimous vote of both houses of the Legislature, I have deliberately arrived at the conclusion that it should be approved, notwithstanding it may make it necessary to issue bonds or, if necessary, increase the taxes to meet the deficiencies that have long been accumulating from year to year in the past. The present Legislature are not responsible for the present embarrassed condition of the finances of the State. It is the part of true statesmanship to fully understand it as it is and to practically meet the emergency in which it involves us so that in the future the available revenue shall certainly be sufficient to defray the necessary expenses of the State government. That is the duty of the present. And that you may have authentic and reliable information upon which to base your action, I herewith respectfully submit estimates by the comptroller of deficiency at present and in the future to be provided for.

O. M. ROBERTS.

COMPTROLLER'S OFFICE,
AUSTIN, February 20, 1879. }

His Excellency O. M. Roberts, Governor of Texas:

DEAR SIR—In reply to your first communication of the 19th instant, I have the honor to state, viz:

Warrants on the treasury outstanding February 19, 1879,	
amount	\$46,871 55
Estimated deficiencies for the year ending August 31, 1878 and previous years:	
Repairs and furniture governor's mansion and grounds.	\$250 00
Gas for mansion	33 00
Recovering fugitives from justice	10,101 00
Contingent expenses general land office	100 00
Fees of attorney general	2,800 00
Clerk fees supreme court	1,000 00
Sheriff fees conveying prisoners to the penitentiary	50,000 00
Cash to be paid sheriffs, clerks and attorneys	150,000 00
Payment of pensioners under present law	145,625 00
Books, stationery and furniture court of appeals	300 00

The above estimates are taken on the basis that if a given amount appropriated will last six months, that twice the amount would be necessary for twelve months. The estimated deficiencies on August 31, 1878, were \$300,000. Claims have come in since that time which have increased the amount to \$360,108.

Very respectfully,

STEPHEN A. DARDEN, *Comptroller.*

COMPTROLLER'S OFFICE,
AUSTIN, February 20, 1879. }

To His Excellency O. M. Roberts, Governor of Texas:

DEAR SIR—In reply to your communication of 19th inst., requesting to be informed what my estimate is of the probable deficiency in the revenue at the close of the fiscal year ending August 31, 1878, and supposing further that no bonds be issued with which to extinguish in part the existing deficiency, and no other means be provided for raising revenue than those now in force, I beg to hand you the following statement, viz:

Supposed appropriation for fiscal year ending August 31, 1879.....	\$1,283,232 00
Add probable deficiency in appropriation for the year, say	150,000 00
Add probable deficiencies for the two years 1877 and 1878, say.....	300,000 00
We thus have total revenue necessary to August 31, 1879..	\$1,733,232 00
Against which we have as follows, viz:	
Probable receipt of revenue from all sources during the fiscal year ending August 31, 1879.....	\$1,626,657 68
Deduct one-fourth for public schools.....	506,664 42
Balance	\$1,219,993 26
To which add balance of revenue on hand August 31, 1878, in excess of unpaid warrants.....	76,049 57
Total	\$1,296,049 63

Excess of probable expenditures over probable receipts for the three fiscal years ending August 31, 1879..... 437,189 37

My opinion is that a change of the fiscal year from August 31 to November 30, will not effect any material change in either receipts or expenditures.

Very respectfully,

STEPHEN H. DARDEN, *Comptroller.*

Senator Shannon moved to print 1000 copies of the message for the use of the Senate.

Senator Lair moved to strike out 1000 and insert 500.

Withdrawn.

The motion of Senator Shannon was adopted.

On motion of Senator Lair, the rules were suspended and Senate bill No. 180, entitled "An act to amend article 358, chapter 3, of the Penal Code," was taken up and read second time.

The bill was ordered engrossed by the following vote:

YEAS.

Burnett,
Davenport,
Gooch,
Grace,

Lane,
Lair,
Martin,
Moore,

Motley,
Shannon,
Swain,
Tilson--12.

NAYS.

Brown,
Burton,
Duncan,
Ford,

Guy,
Houston,
Ledbetter,

Patton,
Stewart.
Terrell--10.

Not voting—Buchanan, Edwards, Hobby, McCulloch, Ripetoe, Storey.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 98, "An act to fix the fees of the department of state in certain cases," and presented the same to the governor at 11 A. M. this day for his signature.

GRACE, *Chairman.*

On motion, Senator Storey, chairman of committee on finance (by leave) submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance to whom was referred Senate bill No. 203, entitled "An act to authorize the state treasurer to keep a special deposit account with the general land office and to provide how money shall be placed to the credit of said account and how withdrawn or transferred," have carefully considered the same and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

(President in the chair.)

On motion of Senator Storey, the rules were suspended and Senate bill No. 203, entitled "An act to authorize the state treasurer to keep a special deposit account with the general land office, and to provide how money shall be placed to the credit of said account and how withdrawn or transferred," was taken up and read first time.

Senator Storey moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Houston,
Lair,
Lane,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Ripetoe,
Shannon,
Stewart,
Storey,
Swain,
Terrell--25.

NAYS—none.

Not voting—Grace, Patton, Tilson.

Bill was read second time and ordered engrossed.

On motion of Senator Storey, the rules were still further suspended, and the bill placed upon its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,

Burton,
Davenport,
Duncan,

Edwards,
Ford,
Gooch,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Not voting—Grace.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Not voting—Grace.

Senator Lair entered a motion to reconsider the vote passing Senate bill No. 180, entitled "An act to amend article 358, chapter 3, of the Penal Code," to its engrossment.

Senator Duncan moved to suspend the rules and take up Senate bill No. 54, entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas."

Carried, and the bill taken up.

On motion of Senator Ledbetter, the Senate concurred in House amendments.

Senator Grace (by leave) introduced a bill entitled "An act to prevent officers of the different asylums of the State from misapplying supplies."

Read by caption and referred to judiciary committee No. 2.

Senator Gooch (by leave) introduced a joint resolution authorizing the governor of the State of Texas to lease certain grounds belonging to the capitol grounds of the State in the city of Austin.

Referred to the committee on state affairs.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 176, entitled "An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts."

Also Senate bill No. 59, entitled "An act to reorganize the seventeenth judicial district of the State of Texas."

Also Senate bill No. 60, entitled "An act to amend an act entitled 'an act to fix the times of holding the terms of the district court for the seventeenth judicial district, including the county of McCulloch,'" approved July 29, 1876, and report them all correctly engrossed.

BROWN, Chairman.

On motion of Senator Edwards, the rules were suspended and substi-

tute for Senate joint resolutions Nos. 55 and 102, proposing amendments to article 5 of the constitution was taken up for consideration.

On motion of Senator Stewart, the pending business was postponed, the rules were suspended and Senate bill No. 121, entitled "An act supplemental and amendatory to an act entitled 'an act to enable part owners of land to obtain partition thereof and for other purposes,'" passed March 5, 1840, was taken up and read first time.

On motion of Senator Lane, the pending business was postponed, rules suspended and Senate bill No. 69, entitled "An act requiring the owners of land to pay the taxes due thereon before recording their titles thereto," was taken up and read second time.

Senator Lane offered the following amendment:

Amend section 1, in line six, after the words "that all the" insert the words "state and county."

Adopted and bill ordered engrossed.

A message was received from the House announcing the passage by that body of Senate bill No. 176, entitled "An act to reorganize the fourth judicial district of the State of Texas, and to fix the times for holding courts in the different counties composing the same."

The president signed, after reading its caption, Senate bill No. 98, entitled "An act to fix the fees in the department of state in certain cases."

Senator Patton, chairman of the committee on claims and accounts, (by leave) submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts, to whom was referred Senate bill No. 64, entitled "An act for the relief of C. Jordan," have duly considered the same, and instruct me to report the same back to the Senate with the recommendation that it do not pass.

PATTON, *Chairman.*

Report read and adopted, and bill lost.

Senator Shannon, chairman of the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts to whom was referred Senate bill No. 181, entitled "An act to reorganize the sixteenth judicial district and to provide the time of holding the courts therein," have had the same under consideration, and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Houston (by leave) introduced a bill entitled "An act supplemental to and amendatory of an act entitled 'an act to adopt and establish the Revised Civil Statutes of Texas.'"

Read by caption and referred to judiciary committee No. 1.

On motion of Senator Grace, the rules were suspended and House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar in this State, from this payment of taxes assessed and now due for the year 1878, in consequence of a great public calamity," was taken up and read first time.

Senator McCulloch offered the following resolution:

Resolved, That in respect for the memory of George Washington, the Senate, when it adjourns to-day, will adjourn on this eve of the anniversary of his birth until Monday morning at 10 o'clock.

Senator Brown offered the following substitute:

Resolved, That the Senate, while cherishing the profoundest respect for the memory of the illustrious Washington, does not feel justified, in view of the important business now pending and in view of the limited time remaining before the expiration of the present regular session of the Legislature, in dispensing with the ordinary daily session on the anniversary of his birth; therefore

Resolved, That the Senate do now adjourn to meet to-morrow morning, February 22, at 10 A. M.

Senator Brown's substitute was lost by the following vote:

YEAS.		
Brown, Burnett, Gooch,	Houston, Lane, Martin,	Stewart, Shannon, Tilson—9
NAYS.		
Buchanan, Burton, Davenport, Duncan, Edwards, Ford,	Grace, Guy, Hobby, Lair, Ledbetter, McCulloch,	Motley, Patton, Ripetoe, Storey, Swain, Terrell—18.

Not voting—Moore.

Senator Houston moved to adjourn until 3 P. M.

Lost by the following vote:

YEAS.		
Burnett, Edwards, Ford, Gooch,	Grace, Houston, Lane, Motley,	Ripetoe, Stewart, Shannon—11.
NAYS.		
Brown, Buchanan, Burton, Davenport, Duncan, Guy,	Hobby, Lair, Ledbetter, Martin, McCulloch,	Patton, Storey, Swain, Terrell, Tilson—17.

Not voting—Moore.

Senator Brown moved to adjourn until 10 o'clock A. M. to-morrow.

Senator Storey made the point of order that no intervening business having been transacted since the last motion to adjourn was acted upon, the last motion of Senator Brown was out of order.

Point of order sustained.

The pending resolution of Senator McCulloch was then adopted by the following vote:

YEAS.		
Buchanan, Burton, Duncan, Ford, Guy,	Hobby, Houston, Lair, McCulloch, Motley,	Patton, Stewart, Storey, Swain, Terrell—15.
NAYS.		
Brown, Burnett, Davenport, Edwards,	Gooch, Grace, Lane, Ledbetter,	Martin, Ripetoe, Shannon, Tilson—12.

Not voting—Moore.

On motion of Senator Edwards, the Senate took recess until 3:30 P. M. Recess expired and the Senate reconvened, the president in the chair. Roll called; not a quorum present.

Senator Patton moved a call of the Senate.

Call sustained.

Roll called; absent—Ford, Lair and Motley, who were on committee duty.

A quorum having appeared, Senator Edwards moved a suspension of the call.

Carried and the call suspended.

The pending business was committee's substitute for joint resolutions Nos. 5 and 102, proposing amendments to article 5 of the state constitution, which, with the substitute for the same by Senator Homan, was taken up for consideration.

The substitute offered by Senator Homan for the substitute recommended by the committee was lost.

Senator Edwards moved to adopt the substitute recommended by the committee.

Carried.

Senator Edwards moved to consider the substitute of committee by sections.

Carried.

Senator Shannon moved to adopt section 1 of the substitute.

Senator Martin offered an amendment, to add "county courts" after "district courts," which he afterward withdrew.

A message was received from the House announcing the passage by that body of the following resolution:

WHEREAS, It will incur an unnecessary and enormous outlay of both time and money to have enrolled the Civil and Criminal Codes passed by this Legislature, as required by joint rule No. 9; therefore

Be it resolved, the Senate concurring, That said joint rule No. 9 be suspended as far as relates to the said codes, and that an enrollment of the amendments made thereto, properly arranged, shall be considered a proper and sufficient enrollment of said codes.

Senator Edwards moved to postpone the pending business five minutes to consider the concurrent resolution just reported from the House.

Carried, and the resolution read and unanimously adopted.

The first section of the joint resolution was then adopted.

On motion of Senator Edwards, the word "which" was struck out of section 2 in ninth, eleventh and twelfth lines and the word "whom" inserted instead thereof.

On motion of Senator Gooch, the vote just taken was reconsidered.

Senator Edwards then withdrew his motion and moved to strike out the word "which" in ninth line and insert in lieu thereof the word "whom."

Carried, and the second section adopted.

The president, after reading its caption, signed Senate bill No. 176, entitled "An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts."

Senator Terrell offered the following amendment:

On page 3 insert in line thirteen, after the word "lot," the words "which allotment and division shall be entered of record by the supreme court, and the governor notified thereof by the chief justice."

Adopted.

The third section was then adopted.

Senator Burton offered the following:

Section 4, lines twenty-one and twenty-two, strike out "\$3550," and insert "\$3300."

Lost.

Senator Duncan offered the following:

Add to line fifteen, on page 3, section 3, "so that two judges shall be elected every two years thereafter."

Lost.

Also the following:

Add after line twenty, in section 4, after the words "six years," these words, "after the expiration of first allotment."

Adopted, and section 4 adopted.

Senator Edwards (by leave) introduced a bill entitled "An act to provide for the state library and for the supreme court library."

Read by caption and referred to the committee on insurance, statistics, history, etc.

Senator Storey moved to adjourn until 10 o'clock Monday morning.

Lost by the following vote:

YEAS.

Buchanan,
Edwards,
Ford,
Gooch,

Moore,
Patton,
Stewart,

Storey.
Swain.
Terrell—10.

NAYS.

Brown,
Burnett,
Burton,
Davenport,

Duncan,
Grace,
Guy,
Hobby,

Houston,
Lane,
Motley,
Shannon—12.

Not voting—Ledbetter, Martin, Ripetoe, McCulloch.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 176, entitled "An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts," and the same was presented to the governor this day at 5 o'clock P. M. for his signature.

GRACE, *Chairman.*

Senator Houston moved to reconsider the resolution of Senator McCulloch to adjourn to-morrow in honor of Washington's birthday.

Senator Patton moved a call of the Senate.

Call sustained.

Roll called. Absent—Senators Lair, Motley and McCormick, who were on committee duty.

Senator Duncan moved to suspend the call.

The Senate refused to suspend the call.

Senators Lair, Motley and McCulloch appearing, the call was suspended. The motion of Senator Houston to reconsider was then voted on and carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,

Gooch,
Grace,
Houston,
Lair,
Ledbetter,
Martin,

Moore,
Ripetoe,
Stewart,
Shannon,
Swain,
Tilson—19.

NAYS.

Ford,
Guy,
Hobby,

Lane,
McCulloch,
Motley,

Patton,
Storey,
Terrell—9.

On motion of Senator Houston, the Senate adjourned until 10 o'clock to-morrow morning.

THIRTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 22, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Tilson, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Burnett presented the petition of many citizens of Madison county "asking that the Sunday law be so amended as to prohibit the performance of any secular labor and the keeping open of offices and business houses on the Sabbath day and providing adequate penalties for the violation of said law."

Read and referred to committee on state affairs.

Senator Grace presented a petition from Joseph Fenner, "asking for the donation of a bounty warrant for 1280 acres of land, and a donation warrant of 640 acres of land, being the quantity of land to which the said Fenner is entitled as a soldier in the Texas army of 1836, under Col. J. W. Fannin, at Goliad," accompanied by a bill entitled "An act for the relief of Joseph Fenner."

The memorial and bill was referred to the committee on private land claims.

House bill No. 258, entitled "An act to amend section 17 of an act to incorporate the Gulf, Colorado and Santa Fe Railway Company, and to grant land in aid of the construction of the same," passed May 28, 1873, was taken up and referred to the committee on internal improvements.

Senator Edwards introduced a bill entitled "An act to reorganize the third judicial district, and prescribe the times of holding the courts in said district."

Read by caption and referred to the committee on judicial districts.

Senator Ripetoe introduced a bill entitled "An act to amend chapter 6 of title 15 of the new Penal Code by further defining and punishing the offense of kidnapping."

Read by caption and referred to judiciary committee No. 2.

Senator Burnett introduced a bill entitled "An act to amend 'an act to prohibit the judges of county courts of the State from practicing as attorneys or counselors-at-law in the county courts and the courts of the justices of the peace of this State, and to affix a penalty for a violation of its provisions,'" approved August 19, 1876.

Read by caption and referred to judiciary committee No. 2.

(Senator Storey in the chair.)

Senator Shannon moved to suspend the rules, postpone unfinished business and take up Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate."

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Davenport, Moore, Swain.

The bill was taken up and read the first time.

On motion of Senator Ledbetter, the rules were suspended, the unfinished business postponed ten minutes and Senate joint resolution No. 112, "in relation to the Agricultural and Mechanical College of Texas," was taken up and read second time.

On motion of Senator Moore, the substitute of the committee was adopted.

Senator Moore offered the following amendment:

Resolved, That the session of the Legislature being restricted to a short period by the constitution, and the further fact that the passage of this resolution and its importance to the well-being and success of the Agricultural and Mechanical College constitutes an imperative public necessity, that this joint resolution be at once passed, so that the constitutional rules requiring this bill to be read on three several days be suspended, therefore the rule is hereby suspended.

Adopted and resolution ordered engrossed.

On motion of Senator Moore, the rules were suspended and resolution placed upon its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Gooch,
Grace,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.

Davenport,

Ford—2.

Not voting—Burton.

Resolution was read the third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Gooch,
Grace,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--25.

NAYS—Burton.

Not voting—Davenport, Ford.

(President in the chair.)

On motion of Senator Stewart, the unfinished business was postponed ten minutes, rules suspended and Senate bill No. 121, entitled "An act supplemental to and amendatory of an act entitled 'an act to enable part owners of land to obtain partition thereof, and for other purposes,'" passed March 5, 1840, was taken up, read the second time and ordered engrossed.

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your finance committee have had under consideration Senate bill No. 204, entitled "An act to require persons inclosing public free school lands to pay an annual rent therefor," and I am instructed by the committee to report the bill back to the Senate, and recommend its passage.

STOREY, *Chairman.*

Senator Grace was granted leave of absence for one hour to attend to committee duty.

On motion of Senator Houston, the unfinished business was postponed five minutes, the rules suspended and Senate joint resolution No. 169, entitled joint resolution requesting the United States Congress to pass an act for the compensation of members of Congress elected from Texas in 1866, was taken up and read first time.

Senator Houston moved to suspend the rules and place the resolution on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--24.

NAYS.

Burton,

Ripetoe--2.

Not voting—Ledbetter.

Resolution read second time.

(President *pro tempore* in the chair.)

Senator Houston offered the following amendment to the pending bill:

Amend by adding:

Section —. It being important that this resolution should be for-

warded to the United States Congress at once for their action thereon, creates an imperative public necessity and emergency for the immediate passage thereof, and it is enacted that it take effect and be in force from and after its passage.

Adopted and resolution ordered engrossed.

Senator Houston moved to still further suspend the rules, and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Brown,	Hobby,	Patton,
Buchanan,	Houston,	Stewart,
Burnett,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCulloch,	Terrell,
Gooch,	Moore,	Tilson—23.
Guy,	Motley,	
NAYS.		
Burton,		Ripetoe --2.

Not voting—Ledbetter.

The resolution was read the third time and passed by the following vote, which was unanimous:

YEAS.		
Brown,	Guy,	Motley,
Buchanan,	Hobby,	Patton,
Burnett,	Houston,	Ripetoe,
Burton,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCulloch,	Terrell,
Gooch,	Moore,	Tilson—27
NAYS—none.		

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and report correctly engrossed the following bills, viz:

Senate bill No. 149, entitled "An act to provide for the change of location of the court house of Marion county."

Senate bill No. 203, entitled "An act to authorize the state treasurer to keep a special deposit with the general land office, and to provide how money shall be placed to the credit of said account and how withdrawn or transferred."

BROWN, *Chairman.*

Senator Terrell (by leave) introduced a bill entitled "An act granting to Mrs. Florence Whitis, executrix, the right to make a change in Laurel street, in the city of Austin."

Read by caption and referred to the committee on public buildings and grounds.

(President in the chair.)

The unfinished business of yesterday being the substitute for joint resolutions Nos. 5 and 102, proposing an amendment to article 5 of the state constitution, was taken up.

The amendment of Senator Patton, pending on adjournment yesterday, and which was as follows:

Amend section 5 by striking out, in line thirteen, all after the word "only," and inserting "at the discretion of the Legislature," was then considered.

Senator Burnett offered the following substitute for Senator Patton's amendment:

Section 5, line twelve, strike out all after the word "capital" where it first occurs in line twelve.

(Senator Swain in the chair.)

Senator Burnett's substitute was lost by the following vote :

YEAS.

Brown,
Burnett,
Houston,

Lair,
Ledbetter,

Martin,
Storey—7.

NAYS.

Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Lane,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson--20.

Senator Terrell presented the following reason for his vote to be entered on the journals, on motion to strike out all after "capital," in line twelve, section 5:

"Though I believe the court should be permanent at the capital, I prefer, if it is localized, it should be done by legislative enactment and not by organic act. By placing it in the constitutional amendment it will, in my opinion, weaken the vote for the judiciary article we propose. The sensitiveness shown on this question always, when it is agitated, renders it proper, in my judgment, that it should not be settled now and in this way. I vote 'no.'"

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance, to whom was referred Senate bill No. 130, "To make an appropriation for the support of the state government for the year ending August 31, 1880, and for the additional period ending December 31, 1880," have considered the same and I am instructed by the committee to report as a substitute therefor, "a bill to be entitled an act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881," and to recommend that the substitute do pass. STOREY, *Chairman.*

On motion of Senator Storey, the rules were suspended, pending business postponed, and the bill and substitute just reported were taken up and 100 copies of the substitute ordered printed.

(President in the chair.)

On motion of Senator Hobby, Senator Storey was excused for the remainder of the day.

The pending amendment of Senator Patton was voted on and lost.

Senator Burnett offered the following amendment:

Section 5. Strike out in line thirteen the words "if the Legislature hereafter shall provide," and insert instead the following: "as is now or may be hereafter provided by law."

Senator Lane offered the following as a substitute for the amendment of Senator Burnett:

Amend by striking out all of section 5 after the word "jurisdiction," in line nine.

Senator Duncan moved a call of the house.

Call sustained.

Roll called; absent—Grace, Terrell.

Senator Lair moved to suspend the call.

Senators Grace and Terrell appeared and the call was suspended.

The substitute of Senator Lane was adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,

Grace,
Hobby,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Storey,
Swain,
Terrell—15.

NAYS.

Buchanan,
Edwards,
Guy,
Houston,

Moore,
Motley,
Patton,

Stewart,
Shannon,
Tilson—10.

Not voting—Ford, Gooch, Ripetoe.

The amendment of Senator Burnett, as substituted by the amendment of Senator Lane, was then adopted.

Section 5 was then adopted.

Senator Edwards offered the following amendment:

Add, after the word "the," line one, section 6, page 5, the words "end of the."

Adopted.

Section 6 was then adopted.

Senator Swain offered the following amendment:

Between the words "regulations" and "for," in line twelve, section 7, insert the words "under the statutes of the State," and pending on adjournment.

The following resolution was offered by Senator McCulloch:

Resolved, That in commemoration of the birthday of George Washington and respect to his illustrious fame, the Senate stand adjourned until next Monday morning at 10 o'clock.

The resolution was adopted and the Senate accordingly adjourned.

THIRTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 24, 1879. }

The Senate met pursuant to adjournment; the president in the chair. Roll called; quorum present. Prayer by chaplain.

On motion of Senator Motley, the reading of the journals of Saturday was dispensed with and the same adopted.

A message was received from the House announcing the passage by that body of substitute for House bill No. 115, entitled "An act to create the thirty-first judicial district of the State of Texas, and to organize the same;" House joint resolution No. 35, "On the subject of Indian depredations in the State of Texas;" and that the House has concurred

in Senate amendments to House bill No. 255, "An act to reorganize the the fourth judicial district of the state, and to fix the times for holding the courts in the different counties composing the same."

Senator Burnett presented the petition of many citizens of Walker county, "asking the passage of a law transferring the civil and criminal jurisdiction of their county court to the district court of said county," stating that the operation of the present county court system has not been satisfactory to the people of their county.

Referred to judiciary committee No. 2.

Senator Stewart presented the memorial of many citizens of Harris county, "asking that Harris county be exempted from the operation of the provisions of the stock law," approved August 23, 1876, entitled "An act to encourage stockraising and for the protection of stockraisers," giving many strong reasons sustaining the justice of their request.

Referred to committee on stock and stockraising.

Also, a memorial from many citizens of Harris county, "asking the passage of a law conferring on the district court of Harris county criminal jurisdiction, and also civil jurisdiction in all cases above \$200 as in all other counties of this state," giving three forcible reasons therefor: First, that it would save \$15,000 per annum to the county; second, that it would greatly relieve the people from oppressive jury duty; and thirdly, that the county is greatly in debt and that it is unjust to have to support an extra judge and clerk, when in every other county in the state, save Galveston, the same duties are performed by one judge and clerk.

Referred to committee on judicial districts.

Also, a memorial from the commissioners' court of Harris county, the county judge voting in the negative, asking that the criminal court of said county be dispensed with; that their district judge is not engaged more than one-fourth of the year in disposing of the business of his court, and has ample time to dispose of all the criminal business of their county besides what should go to the county court in addition to the other business of said district court, even if the number of terms are increased, and they ask that if the change is so made that the number of terms of their judicial district be increased from two to four terms per annum; that by this change many thousand dollars will be saved to the county, besides many more to the state; asking, also, that the commissions and perquisites of the officers of said county should be cut down and reduced to a maximum not exceeding \$2000, exclusive of necessary allowances for deputies, etc.

Referred to committee on judicial districts.

Senator Moore presented a petition from sundry citizens of McLennan county and retail dealers in spirituous liquors, asking that House bill No. 187, entitled "An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart, etc.," be not passed, as it discriminates against retail dealers and in favor of wholesale dealers, and also giving many other objections to the bill as viewed from their standpoint.

Referred to committee on finance.

Senator Buchanan presented the petition of Capt. Henry Stout, an old soldier and veteran of the Texas revolution of 1836 and now a citizen of Wood county, first serving in Capt. Benton's company and then in William Beckwell's company, of Gen. Rusk's brigade, asking for a

special act granting him a pension for said services, stating that his proof of service was duly and properly made out and sent to the comptroller's office, but his application was refused; also stating that he is old, infirm and needy, and as his proof is from reliable parties, he hopes his request will be granted.

Referred to committee on finance.

Senator McCulloch presented the memorial from the Robertson county Medical Association in the form of a resolution adopted in their regular meeting, asking the repeal of the occupation tax now imposed upon the medical profession of Texas.

Referred to judiciary committee No. 1.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 72, entitled "An act amendatory of an act entitled 'an act to provide for and regulate mechanics', contractors', builders' and other liens in the State of Texas,'" approved August 7, 1876, and the committee have prepared a substitute therefore, which accompanies this report, and I am instructed to report said substitute to the Senate and recommend that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate joint resolution No. 99, entitled "joint resolution giving consent of the state for certain late lessees of the penitentiary to sue the state," and I am instructed by a majority of said committee to report the resolution back to the Senate so amended as to give Nathan Patten, one of said lessees, the right to sue the state, and as thus amended to recommend that the resolution do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 179, entitled "An act to define in what civil cases depositions of witnesses may be taken," and a majority instruct me to recommend the accompanying amendment, and thus amended, that it do pass.

STEWART, *Chairman.*

Add after the last word in section 1; "*provided*, the failure to secure the depositions of a male witness, residing in the county in which the suit is pending, shall not be regarded as want of diligence where diligence has been used to secure his personal attendance by the service of subpoena or attachment under the rules of law, unless, by reason of age, infirmity, sickness or official duty, the witness will be unable to attend the court; or unless he is about to leave or has left the state or county in which the suit is pending and will not probably be present at the trial.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 26, entitled "An act to provide for the removal of county offices," and your committee being of the opinion that the Penal Code sufficiently provides for the evil attempted to be remedied by this bill, instruct me to report the bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish separate from community property," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 having considered Senate bill No. 211, entitled "An act to amend chapter 6 of title 15 of the new Penal Code by further defining and punishing the offense of kidnapping," respectfully return the same and recommend its passage.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 having considered Senate bill No. 213, respectfully return the same with the substitute entitled "An act to amend article 265 of the new Penal Code," and recommend the passage of the substitute.

STEWART, *Chairman.*

The bill and substitute were read the first time.

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration memorial No. 38, from the commissioners' court of Young county, and instruct me to report the same back to the Senate with the recommendation that the prayer of memorialists be not granted, your committee being of opinion that the subject matter of said memorial is now before the Legislature by bill.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate joint resolution No. 205, authorizing the governor to lease certain grounds belonging to the capitol grounds of the state in the city of Austin, and instruct me to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *Chairman.*

Senator Martin presented the petition of many citizens of Corsicana, asking that a law be passed or existing laws so amended as to allow all cities and towns of less than ten thousand inhabitants to do away with their city governments and charters by a majority vote of the legal voters within their corporate limits expressed at the ballot box, and that such cities and towns, repudiating their city or town government, may be subjected to the government of the counties in which they are respectively situated, and the citizens thereof be subjected to do road duty inside of the corporate limits of the city or town, etc.

Referred to the committee on counties and county boundaries.

Senator Terrell introduced a bill; entitled "An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes and for the payment of the public debt."

Read by caption and referred to committee on state affairs.

Senator Stewart introduced a joint resolution, requesting senators and representatives in congress to use their influence in securing a loan from the general government of four battalions of artillery to the adjutant general."

Read and referred to the committee on military affairs.

Senator Houston introduced a bill, entitled "An act specifying the fees of collectors of taxes for sale of real estate for delinquent taxes."

Read by caption and referred to judiciary committee No. 1.

Also, a bill entitled "An act to prevent certain public officers from using their offices to forward their private interests."

Read by caption and referred to judiciary committee No. 2.

Senator Grace offered the following resolution:

Resolved, That the committees on enrolled and engrossed bills be authorized to employ such assistance as may be necessary to the speedy transaction of the business of this session whenever the same may be required by a press of business.

Read and adopted.

Senator Burton introduced a bill, entitled "An act to better establish the Agricultural and Mechanical college of Texas, for the benefit of colored youths."

Read and referred to committee on education.

Senator Swain introduced a bill entitled "An act to ascertain the amount due and outstanding against the State of Texas for land purchased by the state under act of August 13, 1870, for the use of public free schools, and for material and labor furnished in building houses for the same prior to the first day of July, 1873, and to provide for the same."

Read by caption and referred to committee on education.

Senator Burnett offered the following resolution:

Resolved, That the Senate of Texas has received with profound gratification the generous invitation of his imperial highness, King Momus, to attend his majesty's royal entrance into his noble capital city of Galveston, and that the Senate regrets that the duty it owes to his majesty's most loyal subjects of the state demands that it deny itself the pleasure of accepting his majesty's invitation and of visiting his majesty's most generous and public spirited subjects of the capital city. Long live the king!

The resolution was adopted.

The president, after reading its caption, signed House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State of Texas, and to fix the times for holding courts in the different counties composing the same."

(President *pro tempore* in the chair.)

Senator Houston, chairman of committee on state affairs, by leave, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate bill No. 214, entitled "An act to set aside the public lands embraced within the territorial limits of the county of Greer, to educational purposes and for the payment of the public debt," and instruct me to report the same back to the Senate with the recommendation that it do pass. I am also instructed to state that it is important that this be passed without delay to prevent irreparable injury to the state, and to further recommend that the rules be suspended and that it be acted upon immediately.

Houston, *Chairman.*

On motion of Senator McCormick, the rules were suspended, unfinished

business postponed for fifteen minutes and Senate bill No. 125, entitled "An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county, and the issuance of county bonds and a levy of a tax therefor, in settlement of bonds of said county, issued under an act of the Legislature passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for purposes of internal improvements and the judgments in the federal court recovered therein,'" was taken up and read first time.

On motion of Senator McCormick the rules were suspended, unfinished business postponed and Senate bill No. 214, entitled "An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes, and for the payment of the public debt," was taken up and read first time.

Senator Houston moved a suspension of the rules to place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Hobby,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Stewart,
Edwards,	Martin.	Shannon,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson—23.
Guy,	Moore,	

NAYS—none.

Not voting—Buchanan, Davenport, Ford, Lane, Storey, Swain.

Bill read second time and ordered engrossed.

On motion of Senator Houston the rules were still further suspended and bill placed on its third reading by the following vote:

YEAS.		
Buchanan,	Guy,	Moore,
Burnett,	Hobby,	Motley,
Burton,	Houston,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Shannon,
Ford,	Ledbetter,	Swain,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson—24.

NAYS—none.

Not voting—Brown, Edwards, Martin, Stewart, Storey.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Guy,	Motley,
Burnett,	Hobby,	Patton,
Burton,	Houston,	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter.	Swain.
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson—23.
Grace,	Moore,	

NAYS—none.

Not voting—Buchanan, Davenport, Lane, Martin, Ripetoe, Storey.

Senator Grace offered the following resolution:

Resolved, That 500 copies of the amendments made to the Penal and Civil Codes be printed for the use of this body.

Adopted.

On motion of Senator Shannon, the rules were suspended, the unfinished business postponed for fifteen minutes and Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate," was taken up and read second time.

Senator Shannon offered the following amendment:

Add, in line 2, section 1, after the word "land," the words "and number of acres therein."

Adopted.

Also the following:

Add to end of section 1, "*provided*, that in case the records of the land office do not show the quantity of acres in a survey, the surveyor of the district shall furnish said assessor a certified statement of the number of acres therein."

Senator Davenport moved to postpone the consideration of the bill and amendments for two days.

Lost.

The pending amendment of Senator Shannon was then adopted.

Senator Duncan offered the following amendment:

Strike out, on page 4, lines four and five, the words "sanctioned by the board of equalization."

Lost by the following vote:

	YEAS.	
Duncan,	Edwards,	Terrell—3.
	NAYS.	
Brown,	Guy,	McCulloch,
Buchanan,	Hobby,	Moore.
Burnett,	Houston,	Motley,
Burton,	Lane,	Patton,
Davenport,	Lair,	Stewart,
Ford,	Ledbetter,	Shannon,
Gooch,	Martin,	Swain,
Grace,	McCormick,	Tilson—24

Not voting—Ripetoe and Storey.

Senator McCormick offered the following amendment:

"*Provided*, the owner or owners of any survey and grant of land may show, by a survey to be made by the county surveyor of the county, that the survey and grant in which they are interested does not contain the full complement of acres, showing how many acres are, in fact, embraced within the calls of the particular survey and grant."

Adopted.

Senator Tilson offered the following:

Section 2, in line six, page 2, printed bill, after the word "same" insert "and such other stationery as may be necessary."

Adopted and bill ordered engrossed.

A message was received from the House announcing the appointment of Messrs. Coleman, Linn and Bryan as a conference committee on the part of the House on the disagreements of the two Houses on House bill No. 241.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 69, entitled "An act requiring the owners of land to pay the taxes due thereon before recording their titles thereto;" Senate joint resolution No. 112, in relation to the Agricultural and Mechanical College of Texas; Senate bill No. 180, entitled "An act to amend article 358, chapter 3 of the Penal Code," approved, 1879, and report them all correctly engrossed.

BROWN, *Chairman.*

(President in the chair.)

Senator Burnett offered the following resolution:

Resolved, That the Senate hold daily evening sessions, beginning at 3 o'clock, and that the evening session be devoted exclusively to business on the president's table in regular order.

Lies over under the rules.

On motion of Senator Gooch, the rules were suspended, unfinished business postponed three minutes and Senate bill No. 183, entitled "An act to amend 'an act to better protect the papers, records and files in the general land office,'" approved June 2, 1873, was taken up and read first time.

On motion of Senator Ford, the rules were suspended, unfinished business postponed twenty minutes and Senate bill No. 143, entitled "An act to attach certain counties therein named to the twenty-fifth judicial district," was taken up and read first time.

Senator Ford moved a further suspension of the rules to place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown	Houston,	Motley,
Burnett,	Lane,	Patton,
Burton,	Lair,	Ripetoe,
Davenport,	Ledbetter,	Stewart,
Edwards,	Martin,	Shannon,
Ford,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell,
Grace,	Moore,	Tilson - 25.
Guy,		

NAYS—none.

Not voting—Buchanan, Duncan, Hobby, Storey.

The bill was read second time and ordered engrossed.

On motion of Senator Ford, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,	Grace,	Moore,
Buchanan,	Guy,	Motley,
Burnett,	Hobby,	Patton,
Burton,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Swain,
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson--27.

NAYS—none.

Not voting—Houston, Storey.

The bill was read third time and passed by the following vote:

YEAS.		
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burton,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Swain,
Ford,	McCulloch,	Terrell,
Gooch,	McCormick,	Tilson—28.
Grace,		

NAYS—none.

Not voting—Storey.

On motion of Senator Ford, the rules were suspended, the unfinished business postponed and Senate bill No. 184, entitled "An act to fix the time of holding the district courts of the twenty-fifth judicial district of the State of Texas," was taken up and read first time.

Senator Ford moved to further suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Swain,
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson—28.
Grace,		

NAYS—none.

Not voting—Storey.

Bill read second time and ordered engrossed.

On motion of Senator Ford, the rules were further suspended to place the bill on its third reading by the following vote:

YEAS.		
Brown,	Grace,	Moore,
Buchanan,	Guy,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Swain,
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson—27.

NAYS—none.

Not voting—Hobby, Storey.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Edwards,	Houston,
Buchanan,	Ford,	Lane,
Burnett,	Gooch,	Lair,
Burton,	Grace,	Ledbetter,
Davenport,	Guy,	Martin,
Duncan,	Hobby,	McCormick,

McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,

Swain,
Terrell,
Tilson—28.

NAYS—none.

Not voting—Storey.

On motion of Senator Patton, Senator Stewart was excused until Monday next.

On motion of Senator Gooch, the rules were suspended, the unfinished business postponed and Senate bill No. 186, entitled "An act requiring railway companies to stop their trains at the boundary line of the state for a certain length of time," and substitute for Senate bill No. 12, entitled "An act to regulate railroad companies and dealers with them, and to provide a remedy for persons injured thereby, and to provide a punishment for violations of this act," were taken up and recommitted to the committee on internal improvements.

(Senator Ledbetter in the chair.)

On motion of Senator Duncan, the rules were suspended, unfinished business postponed for five minutes and Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or to complete, or to complete payment for court houses and jails," was taken up, read second time and ordered engrossed.

The pending business, being Senate joint resolutions Nos. 5 and 102, proposing amendments to article 5 of the state constitution, was then taken up for consideration.

(President in the chair.)

The amendment of Senator Swain was pending on adjournment.

Senator Brown offered the following amendment as a substitute for the amendment of Senator Swain:

Amend section 7, by adding the following: "Subject to revision by the Legislature."

(Senator Ledbetter in the chair.)

Senator Brown withdrew his substitute and offered the following as an amendment for Senator Swain's amendment:

Add after the last word in section 7 the words "not inconsistent with the constitution or laws of the state."

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Gouch,
Hobby,
Houston,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Ripetoe,
Stewart,
Storey,
Terrell—18.

NAYS.

Buchanan,
Duncan,
Grace,
Guy,

Lane,
Lair,
Ledbetter,
Patton,

Shannon,
Swain,
Tilson—11.

(President in the chair.)

Senator Brown moved to amend his substitute by inserting it after the word "regulation" in line twelve, instead of ahead of section as at first proposed.

Adopted.

The amendment of Senator Swain, as substituted by the amendment of Senator Brown, was then adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Gooch,
Grace,
Guy,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS.

Buchanan,
Duncan,

Edwards,

Hobby—4.

Not voting—Ford.

Section 7 was then adopted.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 121, entitled "An act supplemental to and amendatory of an act to enable part owners of land to obtain partition thereof, and for other purposes," passed March 5, 1840; also, Senate bill No. 214, entitled "An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes, and for the payment of the public debt," and find them correctly engrossed. BROWN, *Chairman.*

Senator Lane, by leave, introduced a joint resolution proposing an amendment to article 16 of the constitution of the State of Texas.

Referred to committee on constitutional amendments.

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 23, "An act to diminish the civil and criminal jurisdiction of the county court of Polk county, and to conform the jurisdiction of the district court of said county to such change," have instructed me to report the bill back to the Senate with the remark that the proper notice was given of the introduction of the bill in accordance with law and to recommend its passage. STEWART, *Chairman.*

The following message, received from his excellency the governor, was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 24, 1879. }

To the honorable the Senate and House of Representatives in Legislature assembled:

I herewith submit to you a special message supplemental to that which was sent in on the twenty-first instant, relating to the estimated deficiencies in the current revenue, as shown by the comptroller, for the purpose of exhibiting the deficiencies in other departments not therein included.

From the adjutant general's office there is reported to me a deficiency, at present, of \$46,200 06, as shown by the letter of the adjutant general, John B. Jones, herewith annexed.

There is also a deficiency in the printing account, under the control of the printing board, at the present time, of \$18,369 50.

These two items, amounting to \$64,578 56, added to the estimated present deficiency in the comptroller's report of \$360,108, makes the estimated present deficiency amount to the sum of \$424,686 56.

The estimate of the cost of printing laws, etc., up to August 31, 1879 is the sum of \$19,000.

The estimate of the cost of printing the codes that must be provided for this Legislature is \$22,150.

These two items make an additional deficiency for August 31, 1879, not embraced in the comptroller's report, of \$41,150.

These estimates are exhibited in the letter of the clerk of the printing board, W. D. Moore, herewith annexed.

The addition thus shown of \$64,578 56 to the present deficiency and \$41,150 to the deficiency at the end of the fiscal year will make it, on August 31, 1879, amount to the sum of \$542,918 19, being \$105,728 56 more than the amount estimated by the comptroller from the information in his office, as exhibited in the special message of February 21.

Should the Legislature appropriate any amount for the improvement of the penitentiaries, and of the charitable institutions, and of the agricultural and mechanical college, that amount would be added to the \$542,918 19.

The difficulty found in arriving at anything like accurate information concerning the financial condition of the state suggests the propriety of a law being passed, which I respectfully recommend, requiring all persons having claims against the government for services or otherwise, incurred under any law, to present them to the officer or board for examination or approval, as required by the statute relating to them, and report them to the comptroller, if approved, on or before the first day of each regular session of the Legislature, provided the claims accrued one month before said session, and upon failure to thus present and report the claims they shall be postponed to the next session of the Legislature, or be barred from payment entirely, as the Legislature may think proper.

This large deficiency thus ascertained and exhibited, present and prospective, demands the most serious attention of the Legislature.

I see no way out of the overwhelming embarrassment, in which it involves the finances of the state, but by borrowing \$200,000, by issuing bonds, which is the limit allowed by the constitution, to extinguish a deficiency at any one time; by retrenching expenses as far as practicable; by increasing the subjects of taxation in a manner least injurious to the business of the country; by decreasing the interest on the bonded debt, through the negotiation of bonds of a less rate of interest; and by a prompt sale of the public lands, to pay as fast as possible any and all debts of any sort that the state may own at the time of their sale.

The reason why I recommend the issuing of bonds to the extent of \$200,000 to pay that amount of the deficiency is, that the people can better pay the interest on that amount than to be now taxed to pay the principal, and the deficiency of over \$500,000 can not be met during the next two years by any practical retrenchment of expenses and by any increase of the subjects of taxation without an increase of taxation over fifty cents ad valorem to pay the interest on the bonded debt.

The reason why I recommend the issuing of bonds of less rate of interest sufficient to pay off or purchase in our bonds bearing six,

seven and ten per cent. interest, is that it will very soon be a large saving of interest and consequently a relief in the taxation upon the people necessary to pay the interest upon our bonded debt. We can, it is believed, now negotiate five per cent. bonds at par, and should not, therefore, issue bonds of a higher rate of interest for any purpose whatever. There is now a large amount of money seeking safe investment at a low rate of interest; that, with returning prosperity and confidence, will find other investments than in bonds, which makes the present opportunity favorable for a reduction of the interest on our bonded debt to a uniform standard of five per cent. as soon as practicable.

There is no good reason, as I think, why we should not at once and in one act provide for issuing such bonds for an amount sufficient to answer all the purposes here indicated, which amount may be easily ascertained by reference to the report of the comptroller submitted to this Legislature, and to the report of the deficiency, which shows the necessity for issuing bonds to the amount of \$200,000. Any half-way measures, it is feared, will but complicate our financial condition, and may fail to give the necessary relief that is certainly attainable by a comprehensively devised and practical effort. Though by this policy, if found practicable, the bonded debt would be increased, the interest would be diminished and the people would to that extent be relieved from taxation to pay it.

The reason why I recommend a prompt sale of the lands, is that any means derived therefrom may be used, if appropriated by the act authorizing the sale, to the payment of the floating debt, which now seems inevitable to some extent as well as our bonded debt, if a sale should be found to be practicable.

If these measures should not be deemed proper by the Legislature, and others, suggested by their wisdom, should not be adopted sufficient to give relief from the financial embarrassment of this large deficiency, then we are reduced to the alternative of taxing the people an additional amount over fifty cents ad valorem, which is permitted by the constitution, to pay the interest on the bonded debt, or to drag the government along upon a credit, under a load of deficiency, which will bring down the warrants issued from the treasury during the next two years to an amount of depreciation that will be an onerous tax upon all those who may obtain them for services or otherwise, to the discredit of the administration of the government. This would exhibit, under the operation of the existing laws, the sacrifice of the interest of all those who are actively engaged in carrying on and furnishing the means to carry on, the actual government, in order to make prompt payment of compensation in full to common school teachers, and of interest in full to our bonded creditors, both of whom are paid, whether there is any money left in the treasury to pay anybody else or not.

Such a policy, persisted in, is a violation of the rules of reason and common sense, when applied to government, as much as it would be to keep constantly a family half starved in order to send the children to school, and to pay debts extravagantly contracted. The administration of an economical and efficient government being the imperious necessity and prime object in the protection of society, those who faithfully devote their time, their labor and their means to carry it on should be the preferred creditors and should be first paid in this or any other government.

The legislators usually are preferred, because they have the power to make themselves preferred creditors for their services, and the same reason, though not the same power, applies equally to other officers and agents whose services are equally necessary in the proper administration of the government. Under existing laws, under the restrictions and limitations of the present constitution, and under the present condition of our finances, this Legislature may not have the power, if it is desired, to make its members preferred creditors, but they will have to sell their warrants at a sacrifice as other officers do, unless they pass a law requiring their own warrants to be paid at the treasury out of the current available revenue as it comes in during the session to the exclusion of other warrants that may be presented for payment.

I respectfully refer you to general laws of 1874, section 7, page 15, section 4, page 208, and of 1876, section 8, page 42, and other acts authorizing the issuing of bonds, together with article 12, section 23 of the constitution of 1869, by which the faith of the state is pledged to the provision made for the punctual payment of the interest and for the reservation of a sinking fund for the ultimate payment of the principal on the bonds, and also to the laws passed at the session of the Fifteenth Legislature in 1876 relating to the free common schools and the collection and apportionment of taxes, giving the available fund for free common schools preference in payment, by which it will be seen, as I have stated, teachers and bond creditors are given the first proceeds of the current revenue collected by taxes every year. O. M. ROBERTS.

ADJUTANT GENERAL'S OFFICE, STATE OF TEXAS, }
AUSTIN, February 21, 1879. }

To His Excellency O. M. Roberts, Governor of the State of Texas :

SIR—In reply to your inquiry of this date, I have the honor to inform you that the deficiency for Capt. J. L. Hall's company of special state troops is forty-six thousand, two hundred and nineteen dollars (\$46,219), for which vouchers have been approved, "subject to an appropriation by the Legislature," and that \$400 or \$500 would cover the amount of vouchers which have not yet been presented for approval.

Very respectfully,
Your obedient servant,
JOHN B. JONES, Adjutant General.

OFFICE SECRETARY OF STATE, }
AUSTIN, February 22, 1879. }

Statement of deficiency in printing and estimates required for printing for two years:

DEFICIENCY.	
For year ending August 31, 1877	\$1,313 85
For year ending August 31, 1878	7,166 66
From September 1, 1878, to February 22, 1879	9,078 99
Estimated amount of valid outstanding claims contracted from September 1, 1876, to February 22, 1879	810 00
	\$18,369 50

Estimated amount required for printing for two years:	
From March 1, 1879, to August 31, 1879 (including allowance of \$5,000 for translating and printing the general laws, German and Spanish)	\$19,000 00
From September 1, 1879, to August 31, 1880 (allowing \$2,000 for printing reports of departments).....	12,000 00
From September 1, 1880, to March 1, 1881.....	7,000 00
	\$38,000 00

1. Note—In the deficiency is included the sum of \$560 43 for printing the message of Gov. Hubbard, which, it is thought, should go as current printing of the Sixteenth Legislature. Deduct this sum and the deficiency will be \$17,809 00.

2. Note—No allowance is made in amount required for next two years for printing revised statutes. Estimates on this work will be furnished whenever wanted if data is furnished as to number of copies, style, etc.

Respectfully submitted,

W. D. MOORE, *Clerk Printing Board.*

Estimate for printing 10,000 copies of revised statutes:	
Composition at 74c.....	\$3,100 00
Presswork at 50c.....	2,250 00
Paper, 51,800 pounds, at 16c.....	8,300 00
Binding 10,000 copies at 85c.....	8,500 00
	\$22,150 00

1. Note—Estimates for 5000 copies:

Composition at 74c.....	\$3,100 00
Presswork at 60c.....	2,700 00
Paper at 17c.....	4,400 00
Binding at 90c.....	4,000 00
	\$14,700 00

2. Note—The edition of O. & W.'s digest was 5000, and the appropriation \$20,000.

3. Note—If the state will purchase material and have electrotyped this work, a considerable item could be saved by issuing small editions as needed, thus avoiding interest and wastage on large edition to begin with.

SUMMARY.

Deficiency	\$18,369 50
Amount required to March 1, 1881.....	38,000 00
Amount required for revised statutes	22,150 00
	\$78,519 50

Respectfully submitted,

W. D. MOORE, *Clerk of Printing Board.*

On motion of Senator Davenport, 1000 copies of the message which had just been read were ordered printed, and the message, with others heretofore printed, were to be referred to appropriate committees.

Senator Swain moved to adjourn until to-morrow at 10 A. M.

Carried by the following vote:

YEAS.		
Brown,	Lair,	Ripetoe,
Buchanan,	Ledbetter,	Stewart,
Burnett,	Martin,	Shannon,
Burton,	McCormick,	Storey,
Davenport,	McCulloch,	Swain,
Guy,	Moore,	Terrell,
Hobby,	Motley,	Tilson—23.
Houston,	Patton,	
NAYS.		
Duncan,	Gooch,	Grace—4.
Edwards,		
Not voting—Ford and Lane.		

THIRTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 25, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Tilson, the reading of the journals of yesterday was dispensed with and the same adopted.

A message was received from the House announcing the passage by that body of Senate bill No. 214, entitled "An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes and for the payment of the public debt; House bill No. 15, entitled "An act for relief of all persons whose lands have been sold for taxes and bought in by the state;" House joint resolution No. 24, entitled "Joint resolution in regard to Pelican Island," and substitute for House joint resolution No. 2, amending article 8 of the constitution of the State of Texas, by adding a new section to be section 19.

Senator Davenport presented the petition of numerous citizens of Brown county, "asking that the contemplated new county of Mills, to be formed from the territory of the present counties of Brown, Lampasas, Hamilton and Comanche be not created," and giving many reasons for their request.

Referred to committee on counties and county boundaries.

Senator Patton presented the petition of many citizens of the town of Gonzales, in Gonzales county, "asking that the Legislature repeal the act of their incorporation and place the town under the immediate government of the county authorities, for the reasons mainly that their charter powers are too great and the government under it too expensive," etc.

Referred to judiciary committee No. 2.

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration House bill No. 8, entitled "An act for the preservation of oysters and oyster beds and protecting the rights of persons to use same," and instruct me to report it back to the Senate with the recommendation that it do pass.

Houston, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration petition No. 49, from the citizens of Madison county, asking the enactment of a Sunday law, and instruct me to report the same back to the Senate with the statement that in the opinion of your committee any further legislation on the subject would be unwise. HOUSTON, Chairman.

Senator Lane, chairman of the committee on public lands, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public lands and land office, having considered Senate bill No. 151, entitled "An act to encourage the construction of artesian wells," respectfully return the same and recommend its passage. LANE, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on public lands and land office, have had under consideration Senate bill No. 52, entitled "An act to protect the rights of pre-emption settlers who have heretofore or may hereafter enlist in the frontier battalions or other military forces of the state," instruct me to report the same back to the Senate with the recommendation that it do pass. LANE, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on public lands have had under consideration Senate bill No. 166, entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act approved August 30, 1856," and instruct me to report it back and recommend that it do pass. LANE, Chairman.

Senator Edwards, chairman of committee on constitutional amendments, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, to whom was referred Senate joint resolution No. 220, "proposing an amendment to article 16 of the constitution of the state," after considering the same, a majority of your committee have instructed me to report it back and recommend its passage. EDWARDS, Chairman.

The undersigned senators submitted the following minority report:

Hon. J. D. Sayers, President of the Senate:

The undersigned, a minority of your committee on constitutional amendments, respectfully dissent from the views of the majority of the committee recommending submitting to the people as a separate proposition an amendment of the constitution requiring the sessions of the supreme court to be held at the capital only. In 1845 the people, by constitutional provision, authorized the sessions of this court to be held "at not more than three places in the state." In 1866 the provision was continued, with the qualification that one of the places should be the capital. "The supreme court shall sit * * * at the capital and at not more than two other places in the state." In 1869, when a large part of the people were not permitted to vote, the provision on this subject was changed so as to read: "The supreme court shall hold its sessions annually at the capital of the state." As soon as the people of

the state were fully restored to the exercise of the suffrage franchise, the constitution of 1869 was, by amendment, so changed in this particular as to permit, if not require, the sessions of this court to be held at the capital and not more than two other places in the state.

Again in 1875 the people passed upon this question by direct action and provided that "the supreme court shall sit at * * the seat of government and at not more than two other places in the state." The amendment proposed, if adopted, would not settle the question, as this resume shows, and if not adopted would not either legally or logically withdraw the question from legislative consideration. We therefore recommend that the resolution proposing said amendment be not passed.

McCORMICK,
DUNCAN,
TILSON.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on military affairs have had under consideration Senate joint resolution No. 215, and I am instructed to report the same back recommending its passage.

GRACE, *Chairman.*

Senator Swain, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 142, "An act to regulate the admission and practice of attorneys and counselors at law," have had the same under consideration and instruct me to report it back to the Senate with the recommendation that it should become a law.

SWAIN, *for Committee.*

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have carefully considered Senate bill No. 190, to be entitled "An act to amend chapter 17 of the Penal Code of the State of Texas," and instruct me to report it back with the accompanying substitute and recommend the passage of the substitute.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have duly considered Senate bill No. 146, to be entitled "An act prohibiting the sale of liquor to inebriates and habitual drunkards and the sale of the same on the Sabbath between the hours of 8 o'clock A. M. and 6 o'clock P. M.," and, as the objects sought to be accomplished by this bill are fully covered by the terms of a bill now pending on the same subject, instruct me to report it back with the recommendation that it do not pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was recommitted Senate bill No. 46, to be entitled "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas," and amendments offered thereto in the Senate, have again considered the bill in connection with the proposed amendments, and the members of the committee

present being unanimously of the opinion that by sections 22 and 23, article 16, and section 21, article 5 of the constitution, no power exists in the Legislature to exempt particular counties from the operation of the law, instruct me to report the bill and said amendments back, stating that they adhere to their former recommendation, and recommend that the bill as originally reported do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 199, to be entitled "An act to amend an act supplementary to 'an act of limitations,'" approved February 5, 1841, have duly considered the same and instruct me to report it back with the recommendation that the bill do not pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have carefully considered Senate bill No. 81, to be entitled "An act to amend section 15 of an act entitled 'an act to organize the district courts, and to define their powers and jurisdiction,'" approved May 11, 1846, and instruct me to report the bill back with the recommendation that it do not pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have carefully considered Senate bill No. 195, to be entitled "An act to punish persons for erecting fences in this state made wholly of barbed wire," and instruct me to refer it back with the accompanying amendment, and recommend that as amended that the bill do pass.

TERRELL, *Chairman.*

Amendment: After the word "to" in the fourth line of section 1 insert the word "hereafter."

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration Senate bill No. 207, entitled "An act supplementary to and amendatory of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" which relates to county boundaries, and instruct me to report it back and recommend the passage of the bill.

TERRELL, *Chairman.*

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 214, "An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes and for the payment of the public debt," and this day at 10:10 A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 186, entitled "An act requiring railroad companies to stop their trains at the boundary line of the State for a certain length of time," have had the same under consideration, and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

The president after reading its caption signed Senate bill No. 214, entitled "An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes and for the payment of the public debt."

Senator Davenport introduced a bill entitled "An act to provide for the advertisement of judicial sales."

Read by caption and referred to judiciary committee No. 1.

Senator Swain introduced a bill entitled "An act to provide for furnishing and utilizing the East Texas penitentiary and making an appropriation therefor."

Read by caption and referred to committee on penitentiary.

Senator Shannon introduced a bill entitled "An act to validate bounty certificate of Joseph Hawkins."

Read by caption and referred to committee on private land claims.

Senator Buchanan introduced a bill entitled "An act to amend article 539, of section 2, of an act entitled 'an act to adopt and establish a penal code and a code of criminal procedure for the State of Texas.'"

Read by caption and referred to judiciary committee No. 1.

Senator Burnett introduced a bill entitled "An act to diminish the civil and criminal jurisdiction of the county court of Trinity county and conform the jurisdiction of the district court of said county to said change."

Read by caption and referred to judiciary committee No. 2.

Senator Patton introduced a bill entitled "An act to repeal an act entitled 'an act to amend and consolidate the several acts incorporating the town of Gonzales,' approved March 6, A. D. 1873, and to provide for the turning over of the books, papers, records and tax rolls of said corporation to the commissioners' court of Gonzales county, and to authorize the said commissioners' court to collect the taxes levied and due said corporation for the years 1876, 1877 and 1878, and to authorize and empower the said commissioners' court to levy a tax upon the citizens living within the limits of said corporation, for the year 1879, to pay off and satisfy the outstanding indebtedness of said corporation."

Read by caption and referred to judiciary committee No. 2.

Senator McCormick introduced a bill entitled "An act to authorize the commissioner of the general land office to cancel titles and patents issued on titled or patented lands and issue certificates for the amount covered by the older titles or patents."

Read by caption and referred to committee on land office.

Also, "An act to provide a mode for colonists and other persons, their heirs and assigns justly entitled to lands in this state under any laws of the government of Mexico or of the Republic of Texas, or of the State of Texas, who, from any cause, have not obtained the same heretofore, to have certificates issued therefor, and have the same approved and patented."

Senator McCulloch introduced a joint resolution proposing an amendment to the constitution to establish a department of health and a board for pardons.

Referred to committee on constitutional amendments.

Senator Ledbetter offered the following resolution:

WHEREAS, There are many indigent lunatics in the various counties of this state that have not been admitted into the lunatic asylum, for want of sufficient accommodation, and who are now supported by the counties, when it is made the duty of the state by section 54, article 16 of the

constitution to provide for the custody and maintenance of indigent lunatics; therefore,

Resolved, That the finance committee be instructed to ascertain how much is due the several counties in the state for the support and maintenance of indigent lunatics, and report a bill appropriating a sufficient amount to reimburse the counties the amounts thus expended.

Resolution referred to committee on finance.

Senator Burnett's resolution of yesterday with regard to holding evening sessions was taken up.

Senator Patton moved a division of the question, which was granted.

The first proposition "to hold evening daily sessions beginning at 3 o'clock P. M.," was adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Edwards,
Grace,
Hobby,

Lane,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Swain,
Tilson—16,

NAYS.

Brown,
Burton,
Davenport,
Gooch,

Guy,
Houston,
Ledbetter,
McCormick,

Motley,
Storey,
Terrell—11.

Not voting—Shannon, Ford.

The second part of the resolution, "that the evening sessions be devoted exclusively to business on the president's table in regular order," was adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Grace,

Guy,
Houston,
Lair,
Lane,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Ripetoe,
Shannon,
Storey,
Swain—20.

NAYS.

Brown,
Gooch,
Hobby,

McCormick,
Patton,
Stewart,

Terrell,
Tilson—8.

Not voting—Ford.

The following House bills and resolutions were taken up and referred to appropriate committees:

Substitute for House bill No. 151, entitled "An act to create the thirty-first judicial district of the State of Texas, and to organize the same."

Referred to committee on judicial districts.

House joint resolution No. 35, "Joint resolution on the subject of Indian depredations in the State of Texas."

Referred to committee on Indian affairs and frontier protection.

On motion of Senator Motley, the secretary of the Senate, Major Leigh Chalmers, was excused until next Saturday week.

On motion of Senator Grace, the rules were suspended, the pending business postponed ten minutes, and Senate joint resolution No. 215, "Requesting senators and representatives in congress to use their influence in receiving the loan from the general government of four bat-

teries of artillery to the adjutant generals," was taken up and read first time.

On motion of Senator Grace, the rules were suspended and joint resolution placed on its second reading by the following vote:

YEAS.		
Buchanan,	Guy,	Motley,
Burnett,	Hobby,	Patton,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—26.
Grace,	McCulloch,	
	NAYS—Brown.	

Not voting—Moore, Ripetoe.

Resolution read second time and ordered engrossed.

Senator Grace moved to still further suspend the rules to place the resolution on its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Guy,	Motley,
Burnett,	Hobby,	Patton,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—26.
Grace,	McCulloch,	
	NAYS—Brown.	

Not voting—Moore, Ripetoe.

Resolution read third time and passed by the following vote:

YEAS.		
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCormick,	Tilson—26.
Guy,	McCulloch,	
	NAYS—Brown.	

Not voting—Ford, Moore, Riptoe.

On motion of Senator McCormick, the rules were suspended, pending business postponed and Senate bill No. 125, entitled "An act to satisfy and declare valid a compromise by the commissioners' court of Brazoria county and the issuance of county bonds and levy of tax therefor in settlement of bonds of said county issued under an act of the Legislature passed September 1, 1856," etc., was taken up, read second time and ordered engrossed.

On motion of Senator Swain, the rules were suspended, pending business postponed fifteen minutes and House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar, in this state, from the payment of taxes assessed and now due for the year 1878, in conse-

quence of a great public calamity," was taken up and read second time, with an adverse report of the committee.

Senator Brown moved to further postpone the pending business.

Lost, and the unfinished business being substitute for Senate joint resolutions Nos. 5 and 102, proposing amendments to article 5 of the constitution, was taken up.

Section 8 of the amendment was then considered.

(Senator Motley in the chair.)

Senator Ripetoe offered the following amendment:

Strike out section 8.

Lost by the following vote:

	YEAS.	
Burnett,	Burton,	Ripetoe--3.
	NAYS.	
Brown,	Houston,	Motley,
Davenport,	Lane,	Patton,
Duncan,	Ledbetter,	Stewart,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell,
Guy,	Moore,	Tilson--22.
Hobby,		

Not voting—Buchanan, Grace, Lair, Shannon.

Section 8 was then adopted.

Senator Lane offered the following amendment to section 9:

Amend by striking out section 9 and inserting the following:

"The state shall be divided into convenient judicial districts, and for each there shall be appointed a judge by the supreme court, upon the knowledge of the members thereof of the merit and fitness of the individual, and the Legislatore shall pass laws making it an offense for any person either directly or indirectly, for himself or another, to solicit such appointment from said court. The district judge shall have the qualifications of a vote in the district at the time of his appointment; shall receive an annual salary of not less than two thousand five hundred dollars, which shall not be increased or diminished during his term of service, and shall hold a term of court in each county in the district at least twice a year in such manner as shall be prescribed by law, and shall hold his office for the term of four years."

Senator Martin moved a call of the Senate.

Call sustained.

Roll called; absent—Buchanan, Swain.

Senator Storey moved to excuse Senator Buchanan.

Senator Martin moved to suspend the call.

Call suspended.

Senator Shannon offered the following as a substitute for the amendment of Senator Lane:

Strike out of section 9 all between the words "be," in line twenty-five and "a" in line twenty-six, and insert "elected by the qualified electors for members of the Legislature."

In line twenty-seven strike out "appointment" and insert "election."

The following message was received from his excellency the governor:

(President in the chair.)

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 25, 1879. }

To the honorable Senate in session assembled :

GENTLEMEN—I respectfully ask your advice and consent to the following appointment, to wit: T. L. Nugent to be the district judge of the thirtieth judicial district of the State of Texas.

Respectfully,

O. M. ROBERTS, *Governor.*

On motion of Senator Davenport, the Senate went into executive session by a unanimous vote.

(In Senate.)

Senator Davenport moved to spread upon the Senate journals the action of the Senate in executive session, except the motions, votes, etc., of the members.

Adopted.

The secretary is instructed to inform his excellency the governor, that the Senate does advise and consent to his appointment of T. L. Nugent as judge of the thirtieth judicial district of the state.

(Senator Burnett in the chair.)

Senator Swain offered the following amendment as a substitute for the pending amendments:

Judiciary—Article 5, section 1. The judicial power of the State of Texas shall be vested in one supreme court, and in such inferior courts as the Legislature may from time to time establish. The judges, both of the supreme and inferior courts, shall hold their offices for four years, and shall at stated times receive for services a compensation which shall not diminish during their continuance in office, and shall have such jurisdiction as may be established by law.

Senator Edwards made the point of order that Senator Swain's substitute was an amendment in the third degree, and as such, was out of order.

Point of order sustained.

(President in the chair.)

On motion of Senator Terrell, Senator Gooch was excused for the evening.

The following messages was received from his excellency the governor, which were taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 25, 1879. }

To the honorable Senate of the State of Texas :

GENTLEMEN—I respectfully ask your advice and consent to the following appointments in the counties composing the thirteenth senatorial district, to wit:

Alfred H. Benners, W. F. Cummins, H. B. Strange, J. E. Wolf, J. C. Ruple, W. H. Price, Franklin Field, John M. McCoy, Wm. Harris, James H. Swindells, Lewis H. Taylor, W. A. Sims, R. A. Roberts, E. G. Bower, J. W. Thompson, C. B. Wellborn, Charles F. Tucker, Richard Morgan, R. W. Goldthwaite and A. K. Work, to be notaries public in Dallas county.

A. Rainey, S. C. McCormick, C. L. Edwards R. H. Cook, R. M. Wyatt, G. P. Powell, R. D. Ap Rice, John Wiley, W. T. M. Dickson,

V. Sevier, John L. Cheek, Alex. Mosely, R. G. Phillips, W. V. Waldrop and J. M. Dickson, to be notaries public in Ellis county.

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 25, 1879. }

To the honorable Senate of the State of Texas :

GENTLEMEN—I respectfully ask your advice and consent to the following appointments in the counties composing the third senatorial district, to wit:

S. P. Page, Thos. G. Allison, H. Fykes, T. A. Lawrence, J. T. Lacy, D. Z. Gammage, T. A. Codenhead, W. M. Donaldson, to be notaries public in Panolo county.

James P. Ross, L. D. Stephens, W. P. Devereaux, M. W. Pierson, Dallas Foreman, James G. Garrison, W. B. Garrison, Bentley Hollingsworth, T. H. Still, L. J. Hendrick, to be notaries public in Rusk county.

J. M. Hairgrove, Tom. C. Davis, James P. Payne, D. M. Short, R. L. Parker, Oliver Martindale, to be notaries public in Shelby county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 25, 1879. }

To the honorable Senate of the State of Texas :

GENTLEMEN—I respectfully ask your advice and consent to the following appointments, to wit:

Joseph Cole, J. Y. Hawkins, John Z. Wade, H. N. Spooner, Jessie Hays, J. J. Elliott, Thomas B. Love, to be notaries public in Hill county.

James M. Odell, W. F. Ramsey, G. H. Maxey, S. B. Killough, B. B. House, J. F. Golden, W. J. Driver, Wm. Scarlock, Phil. T. Allen, J. R. McKensie, A. N. Wilbank, N. W. Grant, C. Z. Kouns, J. H. Logan, Warren Rutledge, to be notaries public in Johnson county.

Thomas A. Blair, Felix H. Robertson, W. S. Baker, John T. Walton, M. Suratt, E. A. McKinney, D. C. McCoun, J. W. Speight, Thomas L. McGhee, Thomas C. Smith, R. G. Pedcocke, T. D. Penry, D. A. Kelly, T. B. Cox, Thomas P. Kelly, Wm. L. Prather, James I. Moore, L. N. Bruce, W. W. Evans, to be notaries public in McLennan county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, }
AUSTIN, February 25, 1879. }

To the honorable Senate of the State of Texas :

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public from the seventh senatorial district:

J. E. Robinson, W. H. Acker, T. F. Donnels, P. L. Minshew, Bailey Barton, Pittsburg, Camp county; W. D. Cudille, Leesburg, Camp county.

Robt. M. Keasler, John F. Witherspoon, L. L. Teague, Longview, Gregg county; John T. Kilgore, Kilgore, Gregg county.

Martin Jernigan, Troupe, Smith county; Jeff. D. Burnes, L. A. Secrest, N. W. Finley, John H. Bonner, Tyler, Smith county; W. O. Murphey, Garden Valley, Smith county; E. G. Littlejohn, Starrville, Smith county.

A. B. Boren, M. R. Henderson, James Sales, Gilmer, Upshur county; H. W. Collins, Henry C. Cunliffe, Coffeerville, Upshur county; J. H. Carter, Thomas Cranfell, Callaway, Upshur county; J. H. Sewell, W. H.

Adams, Lafayette, Upshur county; J. W. McDowen, Simpsonville, Upshur county.

Respectfully,

O. M. ROBERTS, *Governor.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 143, entitled "An act to attach certain counties therein named to the twenty-fifth judicial district;" also Senate bill No. 184, entitled "An act to fix the times of holding the district courts of the twenty-fifth judicial district," and find the same correctly engrossed. **BROWN, Chairman.**

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements have had under further consideration Senate bill No. 12 and substitute entitled "An act to regulate railroad companies, etc.," and instruct me to report the same back to the Senate with the accompanying amendments to the substitute, and recommend the adoption of the amendments and the passage of the bill.

SHANNON, Chairman.

On motion of Senator Edwards, the Senate took recess until 3 o'clock P. M.

AFTERNOON SESSION.

Recess expired and Senate reconvened; president *pro tempore* in the chair. Roll called; quorum present.

A message was received from the House announcing that that body had adopted the report of the conference committee on the matter of disagreement between the two Houses on House bill No. 141, entitled "An act making an appropriation for the support of the state government for the time beginning January 1, 1879, and ending March 1, 1879.

Senator Shannon, chairman of the committee on judicial districts (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred substitute for House bill No. 151, entitled "An act to create the thirty-first judicial district of the State of Texas, and to arrange the same," have had the said bill under consideration and have instructed me to report it back to the Senate and recommend its passage. **SHANNON, Chairman.**

Senator Edwards (by leave) introduced a bill to be entitled "An act to amend an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' " passed February 21, 1879.

Read by caption and referred to committee on revision of the codes.

The unfinished business being substitute for joint resolutions Nos. 5 and 102, proposing amendments to article 5 of the state constitution, was taken up, and the pending amendments of Senators Lane and Shannon were considered.

(The president in the chair.)

Senator Terrell, from the conference committee on House bill No. 141, submitted the following privileged report:

COMMITTEE ROOM, AUSTIN, February 25, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

The undersigned conference committee, to whom was referred the matter of disagreement between the Senate and House concerning House bill No. 141, entitled "An act making appropriation for the support of the state government for the time beginning January 1, 1879, and ending March 1, 1879," have again considered the same, and have agreed to and do recommend as follows, viz: That the House concur in Senate amendment as follows, viz: "Fifth—Costs to be paid sheriffs, clerks, county attorneys, in district, county and justices' courts, \$12,000."

TERRELL,
LANE,
GOOCH,

On part of the Senate.

COLEMAN,
BRYAN,
LINN,

On part of the House.

On motion of Senator Swain, the report of the conference committee, just submitted, was adopted.

The following House bills and resolutions were taken up and referred to appropriate committees:

House bill No. 15, entitled "An act for the relief of all persons whose lands have been sold for taxes and bought in by the state."

Referred to committee on state affairs.

House joint resolution No. 24, "In regard to Pelican Island."

Referred to committee on state affairs.

Substitute for House joint resolution No. 2, "amending article 8 of the constitution of the State of Texas by adding a new section, to be section 19."

Referred to committee on constitutional amendments.

Senator Edwards, from committee on revision of the codes (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the codes having had under consideration Senate bill No. 228, entitled "An act to amend an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed February 21, 1879, a majority of said committee request me to report the same back to the Senate with the recommendation that it do pass.

EDWARDS, *for Committee.*

On motion of Senator Edwards, the Senate adjourned until 9:30 A. M. to-morrow.

THIRTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 26, 1879. }

The Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Swain, the reading of the journals of yesterday was dispensed with, and the same adopted.

(Senator Grace in the chair.)

Senator Tilson presented a petition from several citizens (taxpayers) of Texarkana, in Bowie county, in this state, against the passage of the bill introduced in the House by Mr. Finlay, of Galveston, known as the "bell-punch bill," giving, among other reasons, that it will drive the trade from the Texas part of their town to the Arkansas part of the same, and that *it would stop immigration from everywhere*; and they also ask for such legislation as would be suitable to them considering their peculiar location on the state line.

Referred to judiciary committee No. 1.

Senator Burton offered the following resolution:

Resolved, That the Senate hold two sessions a day, commencing at 10 o'clock A. M. and continue until 12 o'clock M. and then adjourn until 3 o'clock P. M.; and at the afternoon session, the roll shall be called alphabetically, when each senator, as his name is called, shall have the right to call up any bill he may desire.

Resolution lies over under the rules.

Senator Ledbetter introduced a bill, entitled "An act to amend section 94 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved February, 1879."

Read by caption and referred to judiciary committee No. 2.

Senator Gooch introduced a bill, entitled "An act to amend chapter 3, title 78 of the Revised Statutes by creating article 3732a."

Read by caption and referred to committee on education.

Also, a bill entitled "An act to provide for the payment of sums due county school superintendents and directors for services rendered for the year ending August 31, 1876.

Referred to committee on education.

On motion of Senator Burnett, the unfinished business was postponed ten minutes, rules suspended, and House bill No. 151, entitled "An act to create the thirty-first judicial district of the State of Texas, and to organize the same," was taken up and read first time.

Senator Burnett moved to further suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnet,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Houston,
Lair,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Tilson—22.

NAYS—Swain.

Not voting—Burton, Hobby, Lane, Ledbetter, Stewart, Terrell.
Bill read second time.

On motion of Senator Burnett, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,	Grace,	Moore,
Burnett,	Guy,	Motley.
Burton,	Houston,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Martin,	Shannon,
Edwards,	McCormick,	Storey,
Ford,	McCulloch,	Tilson—22.
Gooch,		

NAYS—Swain.

Not voting—Buchanan, Hobby, Lane, Ledbetter, Stewart, Terrell.
Bill read third time and passed by the following vote:

YEAS.

Brown,	Grace,	Motley,
Buchanan,	Guy,	Patton,
Burnett,	Houston,	Ripetoe,
Burton,	Lair,	Shannon,
Davenport,	Martin,	Storey,
Duncan,	McCormick,	Swain,
Edwards,	McCulloch,	Tilson---23.
Ford,	Moore,	

NAYS—none.

Not voting—Gooch, Hobby, Lane, Ledbetter, Stewart, Terrell.

Senator Davenport (by leave) introduced a bill entitled "An act amendatory of and supplemental to an act entitled 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the time of holding courts therein and providing for the appointment of district judges thereof,'"

Read by caption and referred to committee on judicial districts.

(President in the chair.)

On motion of Senator McCormick, the rules were suspended, unfinished business postponed five minutes and Senate bill No. 125, entitled "An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county and the issuance of county bonds and levy a tax therefor in settlement of bonds of said county, issued under an act of the Legislature, passed September 1, 1856," etc., was taken up, read third time and passed.

On motion of Senator Gooch, the unfinished business was postponed fifteen minutes, rules suspended and Senate bill No. 183, to be entitled "An act to amend 'an act to better protect the papers, records and files in the general land office,' approved June 2, 1873," was taken up, read second time and ordered engrossed.

Senator Storey (by leave) introduced a joint resolution "Amending section 18 of article 3 of the constitution."

Referred to committee on constitutional amendments.

On motion of Senator Buchanan, the unfinished business was postponed, rules suspended and Senate bill No. 49, entitled "An act to give effect to section 2, article 9 of the constitution, regulating the manner of removing and locating county seats," was taken up, read third time and passed.

On motion of Senator Motley, the rules were suspended, the unfinished business postponed and Senate bill No. 113, entitled "An act for the

preservation of fish and to build fish-ways and fish-ladders," was taken up and read first time.

On motion of Senator Houston, the unfinished business was postponed, rules suspended and Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts when and where the same may be necessary," was taken up and read first time.

Senator Houston moved to suspend the rules and place the bill upon its second reading.

Carried by the following vote:

YEAS.

Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Gooch,	Martin,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—24.

NAYS—none.

Not voting—Brown, Edwards, Ford, Lane, McCormick, Stewart.

Bill read second time.

Senator Houston offered the following amendment:

Amend by striking out "certified," and insert "true" in line nineteen, section 4.

Adopted.

Also, the following amendment:

Amend section 5, page 3, line four, by inserting before the word "all," the words "all process issued to a previous regular term or to such special term, and all."

Adopted and the bill ordered engrossed.

On motion of Senator Houston, the rules were suspended and the bill placed upon its third reading by the following vote:

YEAS.

Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Gooch,	Martin,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—24.

NAYS—none.

Not voting—Brown, Edwards, Ford, Lane, McCormick, Stewart.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,	Homan,	Patton,
Burnett,	Houston,	Ripetoe,
Burton,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Gooch,	Martin,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—23.
Hobby,	Motley,	

NAYS—none.

Not voting—Brown, Davenport, Edwards, Ford, Lane, McCormick, Stewart.

On motion of Senator Terrell, the unfinished business was postponed five minutes, rules suspended and Senate bill No. 181, entitled "An act to reorganize the sixteenth judicial district, and to provide for the times of holding courts therein," was taken up and read first time.

A message was received from the House announcing the passage by that body of the following concurrent resolution:

Resolved, the Senate concurring, That 11 o'clock A. M., on Tuesday next, March 4, be fixed as the time for the present Legislature to elect, as required by law, six directors of the Agricultural and Mechanical College of Texas, to serve the ensuing two years, and that the Senate be respectfully invited to meet this House in joint session at said time to elect such directors.

On motion of Senator Grace, the pending business was postponed, and the Senate went into executive session to consider the appointments of notaries public sent in by his excellency the governor, on yesterday.

(Senator McCormick in the chair.)

IN SENATE—The secretary is authorized to inform his excellency the governor, that the Senate does advise and consent to all his appointments of notaries public sent in by special messages on yesterday, except that the notaries public appointed for Gregg county and J. Y. Hawkins, of Hill county, were withdrawn for correction and not acted upon.

On motion of Senator McCormick, the unfinished business was postponed ten minutes, rules suspended and Senate bill No. 23, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Polk county, and to conform the jurisdiction of the district court of said county to said change," was taken up and read first time.

Senator Hobby moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,	Guy,	McCulloch,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lane,	Shannon.
Edwards,	Lair,	Storey,
Ford,	Ledbetter,	Terrell,
Gooch,	Martin,	Tilson—26.
Grace,	McCormick,	

NAYS—none.

Not voting—Duncan, Moore, Stewart, Swain.

Bill read second time and ordered engrossed.

Senator Hobby moved a further suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown	Grace,	McCormick,
Buchanan,	Guy,	McCulloch,
Burnett,	Hobby,	Moore.
Burton,	Homan,	Shannon,
Davenport,	Houston,	Storey,
Duncan,	Lane,	Swain,
Edwards,	Lair,	Terrell,
Ford,	Ledbetter,	Tilson—26.
Gooch,	Martin,	

NAYS—none.

Not voting—Motley, Patton, Stewart, Ripetoe.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin.

McCormick,
McCulloch,
Moore,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAYS—none.

Not voting—Motley, Patton, Ripetoe, Stewart.

On motion of Senator Storey, the unfinished business was postponed, rules suspended and the memorial of Mr. Clarence Toby, with report of committee was taken up and the report of the committee read.

(President *pro tempore* in the chair.)

The time for which the unfinished business was postponed having expired, the said business being substitute for joint resolutions Nos. 5 and 102, "Proposing amendments to article 5 of the state constitution," was taken up.

The pending amendment of Senator Lane and Senator Shannon's substitute for same were then considered.

(President in the chair.)

Senator Hobby from judiciary committee No. 2, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2, to whom was referred Senate bill No. 231, entitled "An act amendatory of and supplemental to an act, entitled 'an act establishing the tenth, twelfth, thirteenth, twenty-eight, twenty-ninth and thirtieth judicial districts, and providing for the holding of courts therein and providing for the appointment of the district judges,' " etc, have considered the same, and I am instructed by the committee to report the bill back and recommend its passage.

EDWIN HOBBY, *for Committee.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report :

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have duly examined the following bills, viz:

Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or to complete, or to complete payment for court houses and jails."

Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate."

Senate joint resolution No. 215, "Requesting senators and representatives in congress to use their influence in securing loan from general government of four batteries of artillery to adjutant general," and report them all correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Burton, the Senate took recess until 3 o'clock P. M.

AFTERNOON SESSION.

Recess expired. Senate reconvened. President in the chair. Roll called; quorum present.

The pending business being the amendment of Senator Lane and substitute for same of Senator Shannon to section 9 of substitute for joint resolution Nos. 5 and 102, proposing amendments to article 5 of the constitution, were taken up and considered.

Senator Martin moved a call of the Senate.

Call sustained.

Roll called. Absent, Senator Gooch.

The absent Senator being paired with a Senator present the call was suspended.

Senator Shannon's substitute for the amendment of Senator Lane was adopted by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Ford,
Grace,
Guy,

Homan,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Shannon,
Swain,
Tilson—16.

NAYS.

Brown,
Buchanan,
Edwards,
Hobby,

Houston,
Lane,
McCormick,
Patton,

Ripetoe,
Storey,
Terrell—11.

Senator Shannon's substitute for the amendment of Senator Lane was then adopted as an amendment to section 9 of the joint resolution under consideration by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Ford,
Guy,

Homan,
Lair,
Ledbetter,
McCulloch,
Moore,

Motley,
Shannon,
Storey,
Swain,
Tilson—16.

NAYS.

Brown,
Edwards,
Hobby,

Lane,
McCormick,
Patton,

Ripetoe,
Terrell—8.

Senator Duncan, who was present, was paired with Senator Gooch, who was absent on duty, but stated that Senator Gooch would vote aye, while he would vote no on this proposition.

Senator Houston stated he was paired with Senator Grace, who was absent on committee duty, but that he would vote no and Senator Grace aye on this proposition.

Senator Brown offered the following substitute for section 9:

The state shall be divided into convenient judicial districts, for each of which there shall be elected by the joint vote of both houses of the Legislature a judge who shall have the qualifications of a voter of the district at the time of his election. The district judge shall hold his office during, or until removed, in the manner prescribed in this constitution, and shall at the same time hold no other office, appointment or public trust, and the acceptance thereof by him shall vacate his judicial

office. The district judge shall receive a fixed and adequate salary which shall neither be increased nor diminished during his continuance in office, and shall hold a term of the court in each county in the district at least twice a year, in such manner as shall be prescribed by law.

Amendment lost.

Senator Homan offered the following amendment to section 9, line twenty-eight, strike out "four" and insert "six."

Lost.

Senator Duncan offered the following amendment:

Amend by striking out section 9.

Lost by the following vote:

YEAS.		
Brown, Duncan,	Hobby,	Patton—4.

NAYS.		
Buchanan, Burnett, Burton, Edwards, Ford, Grace, Guy, Homan,	Houston, Lane, Lair, Ledbetter, Martin, McCormick, McCulloch, Moore,	Motley, Ripetoe, Shannon, Storey, Swain, Terrell, Tilson—23.

Not voting—Davenport, Gooch.

On motion of Senator McCormick, the vote just taken was reconsidered.

Senator Martin offered the following amendment:

Amend section 4: Strike out all after the word "shall," in line twenty-one, and all in line twenty-two to the word "which," and insert therein, "severally receive, at stated times, for their services a compensation to be established by law."

Section 9: Strike out all after the word "shall," where it occurs the second time, in line twenty-eight, and all in line twenty-nine to the word "which," and insert therein, "severally receive at stated times for their services a compensation to be established by law."

Adopted.

Senator Brown offered the following:

Amend twenty-eighth line of section 9 by striking out after the word "office" the words "for the term of four years," and insert instead thereof the words "during good behaviour."

Lost by the following vote:

YEAS.		
Brown, Hobby,	Lane,	Motley—4.

NAYS.		
Burnett, Burton, Duncan, Edwards, Ford, Guy, Homan,	Houston, Lair, Ledbetter, Martin, McCormick, McCulloch, Moore,	Ripetoe, Shannon, Storey, Swain, Terrell, Tilson—20.

Not voting—Buchanan, Davenport, Gooch, Grace.

Senator Duncan then withdrew his pending amendment and offered the following amendment:

Strike out the twenty-fifth, twenty-sixth and twenty-seventh lines to and including the word "election."

Lost.

Section 9 was then adopted.

Senator Guy offered the following amendment:

Amend section 10 by adding thereto the following: "*provided, that in any county in which a county court is now established, the original jurisdiction of the district court shall be and remain as is now provided by law until such county court shall have been abolished by a special act of the Legislature.*"

Lost by the following vote:

YEAS.		
Buchanan, Guy,	Lair, Moore,	Motley, Shannon—6.
NAYS.		
Brown, Burnett, Burton, Davenport, Duncan, Edwards, Ford,	Gooch, Hobby, Homan, Houston, Lane, Ledbetter, McCormick,	McCulloch, Patton, Ripetoe, Stewart, Swain, Terrell, Tilson—21.

Not voting—Grace, Martin.

(Senator Storey in the chair.)

Senator Edwards offered the following amendment (first offered as a substitute for the amendment of Senator Guy and withdrawn as a substitute):

Add to section 10, line one, after the word "original" the words "and concurrent."

Adopted by the following vote:

YEAS.		
Brown, Burnett, Davenport, Edwards, Gooch,	Homan, Lane, Moore, Motley,	Ripetoe, Shannon, Storey, Tilson—13.
NAYS.		
Buchanan, Duncan, Guy, Houston,	Lair, Ledbetter, Martin, McCormick,	McCulloch, Patton, Swain, Terrell--12.

Not voting—Burton, Ford, Grace, Hobby.

Section 10 was then adopted.

Section 11 was adopted.

Senator Buchanan offered the following amendment:

Add after the word "interest" in third line from top of seventh page, the following language: "and where jurisdiction over amounts in controversy equal to or exceeding two hundred and fifty dollars is so conferred on any such inferior tribunal, the judge thereof shall be a licensed lawyer, well versed in his profession."

Adopted by the following vote:

YEAS.		
Brown, Buchanan, Davenport, Duncan, Guy,	Homan, Houston, Lane, Lair, McCulloch,	Motley, Shannon, Swain, Tilson—14.

NAYS.

Burnett,
Burton.
Edwards,
Ford,

Gooch,
Ledbetter,
McCormick,
Moore,

Patton,
Ripetoe,
Storey,
Terrell—12.

Not voting—Grace, Hobby, Martin.

(The president in the chair.)

The president, after reading its caption, signed House bill No. 141, entitled "An act making an appropriation for the support of the state government for the time beginning January 1, 1879, and ending March 1, 1879."

(Senator Storey in the chair.)

Section 12 was then adopted.

A message was received from the House announcing the passage by that body of Senate bill No. 184, entitled "An act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas."

Senate bill No. 148, entitled "An act to attach certain counties therein named to the twenty-fifth judicial district."

Senate bill No. 149, entitled "An act to provide for the change of location of the court house of Marion county."

Senate bill No. 59, entitled "An act to reorganize the seventeenth judicial district of the State of Texas."

Senate bill No. 60, entitled "An act to amend an act entitled 'an act to fix the times for holding the terms of the district courts in the seventeenth judicial district, including the county of McCulloch.'"

Senator Ledbetter offered the following amendment:

Amend section 13 by striking out in lines eight and nine the words "subject to be removed by the governor for cause assigned by him."

On motion of Senator Edwards the pending business was postponed until to-morrow just after the morning call.

Senator Edwards, chairman of the committee on constitutional amendments, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments to whom was referred Senate joint resolution No. 165, proposing an amendment to section 40, article 16 of the constitution of the State of Texas, have duly considered the same, and I am instructed by a majority of the committee to report it back to the Senate with the accompanying amendment, and as amended to recommend its passage.

EDWARDS, *Chairman.*

Amend by adding the following:

Provided, that this section shall not apply to the appointment of private secretary by the governor.

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments have had under consideration Senate joint resolution No. 178, proposing amendments to article 16, sections 50 and 51, of the constitution of the State of Texas, and I am instructed by a majority of your committee to report the same back and recommend its passage.

EDWARDS, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, to whom was referred Senate joint resolution No. 129, proposing an abrogation of section 11,

article 16, of the constitution of the State of Texas, after considering the same, a majority of the committee have instructed me to report the resolution back to the Senate and recommend that it do not pass.

EDWARDS, *Chairman.*

On motion of Senator Edwards, the rules were suspended and Senate bill No. 159, entitled "An act to prescribe the requisite of indictments in certain cases," was taken up and one hundred copies ordered printed.

Senator Houston (by leave) introduced a bill, entitled "An act to amend title 42, chapter 4 of an act entitled 'an act to adopt and establish the Revised Statutes of the State of Texas.'"

Read by caption and referred to judiciary committee No. 2.

On motion of Senator Duncan, the rules were suspended and Senate bill No. 152, entitled "An act to authorize counties, towns and cities to compromise existing bonded indebtedness, and to issue new bonds at a lower rate of interest in lieu thereof," was taken up and read first time.

Senator Terrell (by leave) introduced a bill, entitled "An act to establish a state normal school."

Read by caption and referred to committee on education.

On motion of Senator Ripetoe the rules were suspended and Senate bill No. 211, entitled "An act to amend chapter 6, of title 15 of the new Penal Code, by further defining and punishing the offense of kidnapping," was taken up and read first time.

On motion of Senator Houston, the rules were suspended and the following bills and resolutions were taken up and 50 copies of each were ordered printed, to wit:

Senate bill No. 142, entitled "An act to regulate the admission and practice of attorneys and counselors-at-law."

Senate bill No. 151, entitled "An act to encourage the construction of artesian wells."

Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish separate from community property," and the joint resolutions reported this evening from the committee on constitutional amendments and already given by number and caption.

On motion of Senator Lane, the rules were suspended and Senate bill No. 90, entitled "An act to suppress lawlessness and crime and to organize a force for that purpose," was taken up and read first time.

On motion of Senator Burton, the Senate adjourned until 9:30 to-morrow morning.

THIRTY-NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 27, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ledbetter, the reading of the journals of yesterday was dispensed with and same adopted.

In the journals of yesterday, with regard to the action of the Senate in executive session, the following statement was omitted from the journals:

"That the notaries public appointed in Gregg county, and the name

of J. Y. Hawkins, of Hill county, were withdrawn for correction and not acted upon."

Senator Patton, chairman of committee on claims and accounts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have duly considered Senate bill No. 173, entitled "An act for the relief of S. W. Baker," and a majority of said committee instruct me to report that they recommend that the bill be amended by striking out "three hundred and fifty-four dollars and seventeen cents," where it occurs in the bill, and substituting therefor "one hundred and seventy-seven dollars and eight cents," and that the bill so amended do pass.

PATTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts, having considered the memorial of Moran brothers, do not find that it presents a meritorious claim against the State of Texas, and instruct me to report unfavorably to the relief in said memorial asked.

PATTON, *Chairman.*

Senator Lair, chairman of committee on public buildings and grounds, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public buildings and grounds, have had under consideration a bill to be entitled "An act granting to Mrs. Florence Whitis the right to make a change in Laurel street, in the city of Austin," and have instructed me to report the same back to the Senate and recommend that it do pass.

LAIR, *Chairman.*

Senator Guy, chairman of committee on private land claims, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 209, entitled "An act for the relief of Joseph Fenner," have had the same under consideration, and find that due notice of the same has been given, and, after examining the evidence accompanying said bill, a majority of your committee instruct me to report the same back to the Senate and to recommend its passage.

GUY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 200, entitled "An act to validate certain land certificates issued on bounty land warrants to John Steele, Wm. S. Williamson, Robert Middleton, John Sculley and Richard Eggleston," have had the same under consideration, and find that notice of the same has been given as the law directs, and a majority of your committee, having examined the evidence accompanying said bill, instruct me to report the same back to the Senate and to recommend its passage.

GUY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims having duly considered Senate bill No. 160, entitled "An act for the relief of Miles N. Taylor, of Grimes county," and investigated the proofs, find that due publication was made as required by law, and that the facts stated in the preamble of the bill are true; the committee therefore return the bill and respectfully recommend its passage.

GUY, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on private land claims having duly considered Senate bill No. 164, entitled "An act for the relief of James A. Barker, of Brazos county," and investigated the proofs, find that due publication was made as required by law, and that the facts stated in the preamble of the bill are true ; the committee therefore return the bill and respectfully recommend its passage.

GUY, *Chairman.*

Senator Homan introduced a bill entitled "An act to prevent attorneys who may have represented the state in any proceeding from afterward appearing as counsel adversely to the state in the same, or any other proceeding involving the same subject matter."

Read by caption and referred to judiciary committee No. 2.

Senator Houston introduced "An act prescribing the time of holding the district courts in the twenty-second judicial district."

Read by caption and referred to committee on judicial districts.

Senator McCulloch introduced "An act to regulate the proceedings in the several courts of the State of Texas and define the duties thereof."

Read by caption and referred to judiciary committee No. 1.

Senator Lane introduced a bill entitled "An act to amend articles 684 and 669 of the Penal Code, passed February 21, 1879."

Read by caption and referred to judiciary committee No. 1.

Senator Buchanan introduced a bill entitled "An act to amend article 1174 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Read by caption and referred to judiciary committee No. 1.

Senator Swain, chairman of committee on penitentiary, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on penitentiary, to whom was referred Senate bill No. 36, "An act providing for the transportation of convicts under contract from the counties in which they are convicted to the penitentiary," have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass.

SWAIN, *Chairman.*

(Senator Shannon in the chair.)

Senator Ford, chairman of committee on Indian affairs and frontier protection, and in connection with military affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

The committees on military and on Indian affairs and frontier protection, to whom was referred a resolution concerning the frontier battalion, have had the same under consideration, and a majority of said committees have instructed me to submit the following report :

The appropriation for maintaining the frontier battalion in the field was \$200,000, (\$150,000 and \$50,000). It covered the period from September 1, 1877, to December 31, 1878, or one year and four months.

From said amount should be deducted the value of public property, ordnance and ordnance stores, camp and garrison equipage, etc., paid for out of said appropriation, now on hand, amounting to \$18,728 50.

Forage and subsistence paid for (sufficient to last to March 1,

1879, say three months), on hand December 31, 1878...	\$6,500 00
Balance of said appropriation on hand, unexpended	16,000 00

Total.....	\$41,228 50
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Deducting this amount from the aforesaid appropriation of \$200,000, we have for the amount actually expended for frontier defense and in the suppression of lawlessness and crime, by the frontier battalion, from September 1, 1877, to December 31, 1878—one year and four months—the sum of \$158,771 50. Now to obtain the actual amount for the fiscal year, beginning September 1, 1877, and ending August 31, 1878, we subtract one-fourth of said amount, say \$39,692 87, leaving as actual cost for fiscal year, \$119,078 63.

The average force kept in the field for the fiscal year, beginning September 1, 1877, and ending August 31, 1878, numbered one hundred and sixty-four men. The sums expended for their support, and all other expenses for that time we have seen, amounted to \$119,078 63. Dividing this amount by the number of men, we find that each man in the said battalion cost the state \$726 09 per annum.

It must be borne in mind that this sum includes a large amount expended in the purchase of supplies to subsist prisoners, to pay expenses incurred in sending detachments to convey prisoners to different counties, incidental expenses incurred in scouting, and the expense of sending small detachments off on long distances; all of which were paid out of said appropriation. To further elucidate the question of cost, we will remark that the average amount paid for service per month to each man in the state service, including officers, non-commissioned officers and privates, is forty-two dollars and eighty-six cents per month, or nearly one dollar and forty-three cents per day, making a total of five hundred and fourteen dollars and thirty-two cents per year. By deducting this sum from seven hundred and twenty-six dollars and nine cents, we have two hundred and eleven dollars and seventy-seven cents per year, or fifty-eight cents per day as the average cost of subsisting each man, and for foraging his horse; also, for finding prisoners, paying extraordinary expenses incurred by scouts, detachments making long marches, medicines, and all other expenses, direct or incidental.

The matter of supplying state troops by permitting company commanders to purchase, was tried under Governor Davis' administration, and was found to work badly. The prices paid were exorbitant. We copy from accounts approved by an auditorial board and paid by the comptroller, namely: Corn, three dollars per bushel; hay, forty dollars per ton; flour, ten cents per pound; sugar, thirty-three and one-half to forty cents per pound; beef, ten cents per pound; beans, twenty-five cents per pound; rice, from twenty-five to thirty-three and one-third cents per pound; salt, seven and one-half cents per pound, and other articles in proportion.

When the frontier battalion first went into service, the quartermaster and commissary of subsistence procured supplies by letting contracts to the lowest bidder to furnish them. The prices paid were, per pound: Flour, eight cents; bacon, nineteen and one-half cents; beef, four and one-half cents; coffee, thirty-three to thirty-five cents; sugar, fifteen to seventeen cents; beans, fifteen cents; rice, fourteen cents; salt, five cents; corn, two dollars per bushel; and in proportion for other articles.

These articles were for troops stationed in Jack and adjacent counties, occupying the same territory as those for whom the first mentioned articles were purchased.

The quartermaster resigned in February, 1875, and the commander of the battalion was ordered to perform the duties of quartermaster and

commissary. He adopted the plan of purchasing supplies from first-class merchants in large markets, and at wholesale prices; and forage from farmers, not permitting any middle man to derive a profit at the expense of the state. In June, 1875, he made purchases and paid as follows for men stationed in Jack and adjacent counties: Flour, four and a half cents per pound; bacon, sixteen cents per pound; coffee, twenty-five cents per pound; sugar, eleven and a half cents per pound; beans, seven and a half cents per pound; rice, ten and a half cents per pound; salt, three and a half cents per pound; beef, three and a half cents per pound; and for corn, one dollar and forty cents per bushel. This plan of supplying the frontier battalion has been continued up to the present time. Orders for the supplies and vouchers, showing the prices paid during the last four years, have been examined by the committee, and they show a gradual decrease in the cost of supplies as the prices of the articles have declined in the markets; and the bills for supplies, purchased in the month of December last and delivered in camp, show that the following prices were paid, viz: Flour, three and a quarter cents per pound; bacon, nine and a quarter cents per pound; coffee, nineteen and a quarter cents per pound; sugar, eleven cents per pound; rice, ten cents per pound; beans, five and three quarters cents per pound; salt, one and three quarters cents per pound; and corn at from seventy cents to one dollar per bushel, according to the distance which it had to be hauled.

This plan of purchasing directly from large dealers, adopted by the commander of the frontier battalion, instead of having them furnished by contractors, as had been done before, has resulted in a saving to the state of about twenty-five per cent. in the cost of supplies; and the late adjutant general estimates the total amount thus saved during the last four years at forty-eight thousand dollars.

The committee has examined vouchers covering the whole time, from February, 1875, to December 31, 1878, and glean the above facts from them. They have also examined the orders made for these supplies, and the correspondence in relation thereto, and find that the supplies were purchased by the commander of the frontier battalion, the vouchers approved by him and sent to the adjutant general, and the payments made directly to the parties from whom the supplies were purchased.

Under this system of management, as shown above, the average cost per man of the frontier battalion has been seven hundred and twenty-six dollars per annum. The average cost per man in the United States army is eleven hundred dollars per annum, or fifty per cent. more than the men of the frontier battalion have cost the State of Texas.

When the following battalion was organized in May, 1874, the counties of Wise, Jack, Palo Pinto, Erath, Comanche, Brown, San Saba and Mason were sparsely populated frontier counties, subject to frequent incursions from Indians, who, sometimes, penetrated as far interior as Denton, Parker, Bosque, Burnet and Blanco counties. No new counties had been organized for twelve years previously, but, on the contrary, the counties of Young and Stephens, which once had organized governments, had been entirely depopulated, and very few people were left in Jack, Palo Pinto, and other counties, their inhabitants having been driven into the interior by the Indians.

Since this force has been in the field, and as a result of their operations, the people out there say the frontier has advanced in some directions one hundred and fifty miles. The country behind is filling up with industri

ous inhabitants, adding much to the wealth of the state, as the following comparison of taxable property will show:

The assessment rolls returned to the comptroller in 1874 of the then frontier counties of Bandera, Burnet, Clay, Comanche, Eastland, Frio, Gillespie, Hamilton, Jack, Kerr, Kinney, Lampasas, Llano, Mason, Maverick, Menard, Montague, Palo Pinto, Parker, San Saba, Wise and Young, only show taxable property for the amount of ten million four hundred and twenty-six thousand four hundred and twenty-three dollars (\$10,426,423). Those of 1878, for the same counties, amount to twenty-one million nine hundred and ten thousand two hundred and forty-five dollars (\$21,910,245), the increase in four years being eleven million four hundred and eighty-three thousand eight hundred and twenty-two dollars (\$11,483,822).

The first assessment made by the counties of Coleman, Pecos and Shackelford was in 1875, amounting to two hundred and twenty thousand one hundred and ninety-four dollars (\$220,194). That for 1878 is one million four hundred and forty-five thousand one hundred and fifty-seven dollars (\$1,445,157); an increase in less than three years of one million two hundred and twenty-four thousand nine hundred and sixty-three dollars (1,224,963).

The first assessment for the counties of Callahan, Tom Green and Presidio was returned in 1877 for one million six hundred and twenty-eight thousand and sixty-eight dollars (\$1,628,068). The following year the rolls showed two million twenty-one thousand one hundred and four dollars (\$2,021,104), taxable property.

The above comparison is made on the same basis as the assessments for 1874, and does not include a large amount of unrendered property which is returned by the assessors to the comptroller; still it shows an increase of taxable property on the frontier since 1874, of thirteen million one hundred and one thousand eight hundred and twenty-one dollars (\$13,101,821), that may be attributed to the service of the frontier battalion.

The counties of Young, Clay, Shackelford, Eastland, Coleman, Kimble, Tom Green, McCulloch, Presidio, Pecos, Taylor, Stephens, McMullen and Callahan have been settled and organized since the frontier battalion was called out in the spring of 1874; and those of Edwards, Runnels, Concho, Throckmorton, Donley, Wheeler and Archer have population enough for that purpose. The settlements have extended as far west as Wichita, Wilbarger, Knox, Baylor, Haskell, Stonewall, Fisher, Jones, Nolan, Mitchell, Scurry and Kent, which will soon become organized if properly protected.

There was a fight with Indians in Burnet, or Blanco county, only fifty miles from Austin, just before the frontier battalion went into service. As another result of the protection given along the line of operations, the grounds on which Indians were met and fought in 1875 by our rangers, is now inside the frontier lines many miles; and a thriving people are repaying in taxes the expenditures made to enable them to settle on the rich lands without the fear of depredations by Indians. Like causes are still in operation; the frontier is still pushing out further, and if protection is continued to the border settler, not many years will elapse before we will have no frontier but a foreign one.

The field of operations covered by the frontier battalion has been the organized counties of Cook, Montague, Clay, Denton, Dallas, Wise, Jack, Shackelford, Stephens, Palo Pinto, Erath, Eastland, Callahan,

Taylor, Tom Green, Coleman, Brown, Comanche, Hamilton, Lampasas, San Saba, McCulloch, Menard, Mason, Llano, Burnet, Williamson, Travis, Blanco, Gillespie, Kimble, Kerr, Kendall, Frio, Bandera, Medina, Uvalde, Kinney, Maverick, Atascosa, McMullen, La Salle, Webb, Zapata, Starr and El Paso, and the territory covered by twenty-five unorganized counties extending as far north as Wheeler, in the Pan Handle; as far south as Starr county, on the Rio Grande; and as far west as the Pecos river, and the head waters of the Colorado and Brazos rivers. Detachments of the command have attended the courts at the request of the district judges, district attorneys, county officials and leading citizens, in thirty of these counties, besides making many scouts in small detachments in pursuit of fugitives from justice, and escorting prisoners and guarding jails as far east as Tyler and Huntsville.

The better to enable the Legislature and the people to form an estimate of the activity of the frontier battalion, we present the following :

Twenty-three Indian fights; twenty-eight Indians killed; fifteen Indians known to be wounded; two Indians captured—one died the day following—the other died at Huntsville; twenty-two Indian trails followed; one captive rescued from the Indians and returned to his family; three Indian horses killed; seven rangers killed; eight rangers wounded; fourteen rangers' horses killed; six rangers' horses wounded; two thousand nine hundred and sixty-nine horses, mules and cattle recovered and returned to owners; nine hundred and thirty five criminals arrested; seven hundred and five unsuccessful attempts to arrest criminals; twenty-four criminals killed and wounded resisting arrest; two Mexicans killed and wounded resisting arrest; eight hundred and forty-six scouting expeditions; one hundred and ninety-five escorts, guarding prisoners, etc.; assisted civil authorities on one hundred and eighty-eight occasions; forty-six jails guarded.

The present condition of our Mexican frontier is unsettled in the extreme. The refuge and protection tacitly vouchsafed to criminals fleeing from Texas into Mexico not only induces citizens of that republic to fearlessly make marauding expeditions into our territory, but it also moves many of our own lawless spirits on that border to commit crimes, and, by an easy flight to that asylum, cheat justice of its dues.

The sad state of the country between the Nueces and the Rio Grande, contrasted with its former prosperity, too well attests the necessity of some remedy for the wholesale robbery and murder by Mexican citizens and our own outlaws that have for more than a generation ran riot in that favored section. From Brownsville to El Paso, a distance of nearly one thousand miles, the Rio Grande is easily forded, and as a barrier to the passage of bands of predatory Indians, Mexicans and outlaws, it avails nothing. Above Eagle Pass, until El Paso county is reached, there are, with but few exceptions, no settlements on the Texas side of the river, and, consequently, there is afforded but little inducement to the freebooter in the way of plunder; but the counties of Crockett, Pecos and Presidio, now in course of settlement, will soon afford a new field for robbers and murderers from the Mexican side, even as they now do to the Mescalera and other Mexican Indians who prey upon that part of our great state. In El Paso county the parties engaged in the riots of 1877, which culminated in the death of Howard, Atkinson and others, have not been punished, and the reports received from the officer commanding the handful of rangers stationed there show a disposition

on the part of these indicted criminals, over one hundred in number, to set the law still further at defiance.

To arrest and punish them, it will be absolutely necessary to increase the present command there to such a number as will insure the supremacy of the law. The attempt to do so with the present force will not only cause resistance on their part, but it will bring to their rescue a very large number of their Mexican allies, who are equally guilty with them.

In this county (El Paso), as well as the counties of Presidio, Pecos and Tom Green, there has been, since the promulgation of the proclamation of the president of the United States concerning them, a large influx from New Mexico of the marauders, thieves and other outlaws, who, since their arrival in this state, have not forgotten their calling. From each and all of the counties named come tidings of these outlaws. In El Paso county the civil authorities are set at naught by them, and have had to call on the squad of rangers for assistance. Becoming emboldened, some of these desperadoes fired into the quarters of the rangers, who then followed them even into Mexico and killed two of them while resisting arrest. In Pecos county fiendish murders have been committed by them, and the peaceful inhabitants of that county have appealed for state protection from these outrages. In the same county and Tom Green county they have stolen large numbers of cattle and are herding them on the Pecos river. Camping in numbers and being well armed, they bid defiance to the civil authorities, who are powerless to arrest them.

The United States forces, under late orders, will not arrest any offenders against the laws of this state; hence the strong arm which drove them out of the territory of New Mexico into the State of Texas is not available to rid our soil from the presence of these scoundrels. If they are not expelled (and how else can it be done than by the frontier battalion?) then indeed will the growing prosperity of that extensive region receive a check from which it will not soon recover.

By reason of its great extent, the paucity of civil officers, and the facility with which these few can be avoided, the frontier affords a refuge which not only our own but the criminals of all other states seek. So numerous had they become that there was literally no law on our border until the advent of the rangers. The assistance rendered by them to the civil officers in arresting fugitives from justice compelled those so fortunate as to escape arrest to seek hiding places more remote, from which they will speedily emerge once more to prey upon our frontier settlements in the absence of the protection now afforded them.

The activity displayed by the frontier battalion in hunting these fugitives caused many of them to seek refuge in the older organized counties, and, as a consequence, lawlessness increased in these. This fact, with the existence of feuds in various counties between parties of citizens, often threatening, and frequently producing deadly conflict, has necessitated the calling to their assistance, by the civil authorities, of the state military forces.

It is, perhaps, useless to call to mind the series of robberies of railway trains and stages which have within the past year brought obloquy upon the good name of our state, or to recite, in that connection, the services of the frontier battalion. The punishment by its efforts meted out to the chief actors in those robberies will long be remembered, and, while that force remains in existence, will restrain many others willing to emulate

the fame of the dead Sam Bass, but not daring to do so in the face of such swift retribution.

The value of the services of this command cannot be measured by computing the number of arrests it has made, the miles marched, the scouts performed, or by the number of Indians it has killed; but the true measure of its worth is the confidence it has inspired in the breast of the law-abiding citizen, not only on the frontier, but in the older counties, that the offender against the laws cannot escape as he has heretofore done; the cessation of Indian raids with their accompanying robberies, murders and crimes too hideous to name, perpetrated upon innocent girls and women, and the feeling of security that it has instilled into the brave, hardy pioneer, who, emboldened by its presence, is willing to settle, not only in his immediate neighborhood, but even to go beyond it.

Particular attention is directed to the last report of the late adjutant general, August 31, 1878, pages 31 to 48, both inclusive. From the communications there found from district and county judges, state's attorneys, county officials, grand juries and many prominent citizens, reasons will be deduced for the retention in service of the frontier forces that are cogent and unanswerable. Since the date of that report, and notably since the beginning of the present year, communications are daily received of the same, and even of a more pressing nature, which we have seen, and, but for the length of this paper, would be here inserted.

In the months of December and January just passed, large bodies of Indians, numbering over one thousand warriors, have come into the Pan Handle and the counties south of it. These Indians are from the Fort Sill reservation in the Indian territory, and claim to have come into this state by permission of the commander at that post, which assertion facts do not substantiate. The Indians themselves, in Donley and other counties, state that they were followed by colored troops, whom they compelled to return to Fort Sill, and then, unmolested, they came into Texas where they now are.

They openly and boldly say that they will hunt in Texas if they have to fight for it. The character of their hunting may be judged from their having taken possession of Paladora Canon, in which Captain Charles Goodnight has a stock ranch of about thirteen thousand head of cattle, which they are killing for food. The Indians, meeting with no resistance, become emboldened and insult and maltreat the scattered settlers found there, who are powerless to resist them. This cannot last; murder will follow robbery. The mutterings of the thunder that precedes the storm are now heard in that section, and so soon as spring, now near at hand, shall cause the grass to grow, we may well fear a repetition of the scenes that were enacted by those red devils in 1874 and 1875.

From Fort Concho to Red river, a distance of over three hundred miles, there is, with the exception of a small guard (less than half a company), at Fort Griffin, not a single United States soldier, and on this line, unprotected save by a few rangers, the Indians are now making their way to the interior. They have been seen on the Brazos, within sixty miles of Fort Griffin; and, even now, the news may be on the way of some frightful crime that they may have committed—a crime that will horrify the peaceful inhabitants of our older counties, and cause those, who, in their endeavor to reclaim the rich lands of our frontier counties, have periled their lives, and that which is dearer to them than life itself, to fly from their homes.

With these reasons for retaining the frontier forces in the field, your committee respectfully recommend that an appropriation of one hundred and fifty thousand dollars per annum be made for frontier defense, and for the suppression of lawlessness and crime.

We make this recommendation in the firm belief that the facts given above, and based upon official reports, justify it; that the increase of population and of taxable values which will ensue in the near future, will vindicate the wisdom of the appropriation as a measure of economy. We urge it as an act of justice to the frontier settlers who are entitled to protection to the same degree and extent as the inhabitants of our cities. We ask it in the name of humanity, and as a measure sure to enlarge the area of civilization and christianity.

JOHN H. FORD, *Chairman.*

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was referred Senate bill No. 131, entitled "An act to provide for ascertaining the amount due supervisors, inspectors and teachers of common free schools in the State of Texas from the 1st day of September, 1872, to the 31st day of August, 1876, and to appropriate money to pay the same," have carefully considered the same, and I am instructed by a majority of the committee present to report the bill back to the Senate with the recommendation that it do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 123, entitled "An act to amend section 12 of an act entitled 'an act to enforce the collection of delinquent taxes on lands assessed since January, 1870,'" approved August 19, 1876, have carefully considered the same, and I am instructed by a majority of the committee present to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred the petition of the commissioners' court of Frio county, praying that their county be relieved from the payment of the state taxes for the years 1879 and 1880 in consequence of great public calamities, and that power be extended to them to levy a special ad valorem tax to meet the expense of building new court house and jail buildings, have given the same careful attention, and while your committee deeply sympathize with the citizens of Frio county in their grievances and great financial distress, it is believed to be an unwise policy to grant the relief prayed for under the state's present financial condition. Your committee are also of the opinion that under section 57, article 3 of the constitution no such relief can be granted without due publication of the intention to apply for relief. No such publication seems to have been made in this case. Your committee therefore recommend that relief to the citizens of Frio county, in the manner prayed for, be not granted.

Your committee are of the opinion that there is ample provision in existing laws under which the citizens of Frio county, or any other county in this state, may be taxed in such an annual ad valorem tax as

may be necessary to pay for court house and jail buildings in their respective counties without additional legislation in that direction.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 18, entitled "An act for the relief of persons whose lands have been sold for taxes and purchased by the state," have duly considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 168, entitled "An act to amend section 18 of an act entitled 'an act regulating elections,' approved August 23, 1876, and to repeal section 22 thereof," have duly considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Senator Storey, from the committee on constitutional amendments, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, after reference made, have considered House joint resolution No. 2, and in conjunction therewith Senate joint resolution No. 29, and a majority of the committee, after duly considering the same, have instructed me to report the resolutions back with amendments to the Senate resolution, and to recommend the passage of said Senate resolution as amended.

STOREY, *for Committee.*

Amendment of committee:

Add to second subdivision of section 1 the words "not to exceed in value two hundred and fifty dollars;" in first subdivision strike out "five hundred dollars" and insert "two hundred and fifty dollars."

The undersigned senators submitted the following minority report:

Hon. J. D. Sayers, President of the Senate:

The undersigned respectfully dissent from the views of the majority of your committee on constitutional amendments, as expressed in their action reporting a substitute for the joint resolution passed by the House of Representatives proposing an amendment to the constitution by which all farm products of the soil in the hands of the producer shall be exempt from taxation.

The undersigned recommend that the language of the resolution be so changed that the proposed amendment will read "all farm products, including wool, in the hands of the producer," etc., and that with this modification of its language, the resolution as it passed the House of Representatives should be passed in the Senate, and adequate provision be made for submitting it to the people.

We join no issue with those who hold that the constitution, as it is, requires such products to be taxed, but because it does, if it does, or because it is doubtful, if it is even doubtful, we should propose the amendment that will clearly relieve the farming interest from this unequal, impolitic and unjust burden.

It is not believed to have been in the minds of members of the convention framing the constitution that the instrument thus proposed to the

people required such products to be taxed. Certainly the universal and indignant surprise manifested all over the state when the assessment of such products began, clearly establishes the fact that it was not in the minds of the people when they adopted the constitution that its provisions required such products to be assessed. In the first state political convention which met after such assessments had brought the question directly to the attention of the people, a convention representing fully two-thirds of the whole citizenship of Texas, the voice of the people was distinctly uttered in favor of the amendment proposed by the House of Representatives. It is right and just in principle and required by a sound public policy. In every country the ultimate basis of permanent prosperity, and of continuing free institutions, is the productions of its soil and the virtue of its toiling husbandmen. These products of the farm are the reward, often in very meagre measure and never in very large measure, which the farmer reaps from unremitting toil and incessant exposure to all stages of the weather, however sudden or severe its changes or however long its inclemency may continue.

To these irksome and continued labors, and slow, uncertain and small returns, cannot be added the burdens of unequal, if not double, taxation without unduly discouraging such pursuits.

Such taxation is unequal in a striking degree. The wealth of the farmer is his farm, his land, draught animals and implements of husbandry, which being used from year to year and always in hand and in sight, and of easily ascertainable value, are more generally and fully assessed than other property in the state. The products of his farm in gross do not in any just sense constitute a part of the farmer's wealth; they are his gross income, and the farmer really owns in them only so much, if any, as shall be left after the cost of their production, including the support of himself and family for the year has been taken out, and this cannot be taken out while the products remain, unconverted, in the hands of the producer. To tax these products is in fact to levy an income tax on the gross earnings of farmers, while the incomes of all other citizens are free from taxation until its net result finds investment in some taxable commodity.

McCORMICK,
BUCHANAN,
EDWARDS,
GOOCH,
HOUSTON,
SHANNON.

Senator Buchanan (by leave) introduced a bill entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Read by caption and referred to judiciary committee No. 1.

On motion of Senator Houston, the unfinished business was postponed five minutes, rules suspended and Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a code of criminal procedure for the State of Texas,'" was taken up and read first time.

On motion of Senator Burnett, the unfinished business was postponed twenty minutes, rules suspended and Senate bill No. 160, entitled "An act for the relief of Miles N. Taylor, of Grimes county," was taken up and read first time.

Also, the rules were suspended and Senate bill No. 164, entitled "An

act for the relief of James A. Barker, of Brazos county," was taken up and read first time.

(President in the chair.)

On motion of Senator Houston, the rules were suspended and Senate bill No. 87, entitled "An act regulating juries in capital cases," was taken up and read first time.

The president, after reading its caption in open senate, signed Senate bill No. 20, entitled "An act to establish a penal code and code of criminal procedure for the State of Texas."

On motion of Senator Shannon, the rules were suspended and Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate was taken up, read third time and passed.

Senator Shannon moved to suspend the rules, postpone the unfinished business and take up Senate bill No. 231, entitled "An act amendatory of and supplemental to an act entitled 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the times of holding the courts therein, and providing for the appointment of district judges of the twenty-eighth, twenty-ninth and thirtieth judicial districts,'" approved 1879.

Carried, and said bill taken up and read first time.

On motion of Senator Davenport, the rules were further suspended to place the bill upon its second reading by the following vote:

YEAS.

Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Lair,	Shannon,
Davenport,	Martin,	Storey,
Duncan,	McCormick,	Swain,
Gooch,	McCulloch,	Tilson---22.
Guy,		

NAYS—none.

Not voting—Edwards, Ford, Grace, Hobby, Ledbetter, Moore, Terrell.
Bill read second time and ordered engrossed.

Senator Davenport moved to still further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,	Gooch,	McCulloch,
Buchanan,	Guy,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	McCormick,	Tilson—21.

NAYS—none.

Not voting—Ford, Grace, Hobby, Ledbetter, Martin, Moore, Swain, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Duncan,	Houston,
Buchanan,	Edwards,	Lane,
Burnett,	Gooch,	Lair,
Burton,	Guy,	McCormick,
Davenport,	Homan,	McCulloch,

Motley,
Patton,
Ripetoe,

Shannon,
Storey,
Swain,

Terrell,
Tilson—23.

NAYS—none.

Not voting—Ford, Grace, Hobby, Ledbetter, Martin, Moore.

The president, after reading its caption, signed House bill No. 151, entitled "An act to create the thirty-first judicial district of the State of Texas, and to organize the same."

On motion of Senator Gooch, the unfinished business was postponed five minutes, rules suspended and substitute for Senate bill No. 12, entitled "An act to regulate railroad companies and dealers with them, and to provide a remedy for persons injured thereby, and to provide a punishment for violations of the provisions of this act," was taken up and read first time.

A message was received from the House announcing the adoption by that body of the following concurrent resolution, which originated in and was adopted by the Senate as a joint resolution, but changed in the House to a concurrent resolution.

Be it resolved, by the House of Representatives, the Senate concurring, that a joint committee of three on the part of the House, and two from the Senate, be appointed by the presiding officers of each branch of the Legislature, whose duty it shall be to visit, at an early day, the Agricultural and Mechanical College of Texas, and the Agricultural and Mechanical College (for colored youths) near Hempstead, and carefully examine their present condition—and the manner in which they are conducted, and report to their respective branches of the Legislature, making such suggestions as they may deem necessary, and proposing such action as in their opinion is requisite by this Legislature to make it truly what their names import—agricultural and mechanical colleges; and that Messrs. Taylor, of Marion, Henderson, of Smith, and Douglass were appointed as a committee upon the part of the House under the requirements of the resolution.

On motion of Senator Moore, the concurrent resolution just reported from the House was adopted, and the president appointed, under the provisions of said resolution as a committee on the part of the Senate, Senators Moore and McCormick.

Senator Homan moved to postpone the unfinished business one-half hour, suspend the rules and take up Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a code of criminal procedure for the State of Texas,'" and place it on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Lane,
Lair,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson—23.

NAYS—none.

Not voting—Davenport, Grace, Houston, Ledbetter, Martin, Terrell.
Bill read second time.

Senator Homan offered the following amendment:

“SECTION The fact that no law exists giving the judges of courts trying criminal causes any discretion in acting upon applications for continuances, creates an imperative public necessity and emergency that this act pass and take effect at once; and it is therefore enacted that the rules requiring this act to be read on three several days be suspended, and that this act take effect and be in force from its passage.”

Adopted.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills, have carefully examined Senate bill No. 20, entitled “An act to adopt and establish a penal code and a code of criminal procedure for the State of Texas,” and find the same correctly enrolled as directed by joint resolution of both houses of this Legislature, relating to the enrollment of the codes. That said bill is properly signed and was at 10:5 o’clock A. M., this day, presented to the governor for his approval.

GRACE, *Chairman.*

The time for which the unfinished business was postponed having expired, on motion of Senator Homan the said business was postponed half an hour for the further consideration of the pending bill.

Senator Edwards moved to adopt the minority report on the pending bill, which was adverse to its passage.

(Senator Ledbetter in the chair.)

Pending the discussion, the time for which the unfinished business was postponed having expired, on motion of Senator Swain said business was postponed until 3 o’clock P. M.

(President in the chair.)

The motion of Senator Edwards to adopt the minority report was then lost by the following vote:

YEAS.

Burton,
Davenport,
Edwards,
Ford,

Grace,
Lane,
Ledbetter,
McCormick,

Patton,
Shannon,
Storey,
Tilson—12.

NAYS.

Brown,
Burnett,
Duncan,
Gooch,
Hobby,

Homan,
Houston,
Lair,
Martin,

Moore,
Ripetoe,
Swain,
Terrell—13.

Not voting—Buchanan, Guy, McCulloch, Motley.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed the following bills, viz: Senate bill No. 23, entitled “An act to diminish the civil and criminal jurisdiction of the county court of Polk county, and conform the jurisdiction of the district court of said county to such change;” Senate bill No. 125, entitled “An act to ratify and declare valid a compromise by the commissioners’ court of Brazoria county and the issuance of county bonds and levy of tax therefor, in settlement of bonds of said county issued under an act of the Legisla-

ture, passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for purposes of internal improvements and the judgments in the federal court recovered thereon;' Senate bill No. 183, entitled "An act to amend an act entitled 'an act to better protect the papers, records and files in the general land office,'" approved June 2, 1873.

BROWN, *Chairman.*

Senator Edwards moved to reconsider the vote adopting the emergency clause in the pending bill.

Senator Duncan moved a call of the house.

Senator Storey moved to take recess until 3 o'clock P. M.

Carried, and the Senate took recess accordingly.

AFTERNOON SESSION.

Recess expired and Senate reconvened; president *pro tempore* in the chair. Roll called; a quorum not present.

On motion of Senator Davenport, the Senate adjourned until to-morrow morning at 10 o'clock.

FORTIETH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 28, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present; prayer by the chaplain.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Lair presented a memorial from the taxpayers of Collin county in the form of resolutions adopted in public meeting at McKinney on Saturday, the twenty-second instant, "asking our Legislature to curtail all the expenditures of the state government, that the number of the officers and employes of the state government be reduced, and their salaries be curtailed and placed at the lowest living rates. That a law be passed to regulate freight and fare on railroads, with suitable penalties for its violation." They also state that the annual deficiencies and increasing public debt, with a prospect of increasing taxation, are alarming, and call for the most stringent measures. They also enumerate the increased burdens of government within the last eight or ten years, stating that these matters are increased in consequence of the unprecedented depreciation of all products and commodities in valuation, while taxation is four fold what it was in ante-bellum days, giving many facts and figures.

Referred to committee on finance.

Senator Guy presented the petition of the city council of Dallas, asking a change in the law with regard to the payment of the railroad tax to the state treasurer for the redemption of bonds issued by cities in aid of the construction of railroads, so as to enable such cities to control all such taxes and pay their own interest (particularly the city of Dallas).

Referred to the committee on finance.

Senator Ford presented the petition of Messrs. Eggleston & Bro.,

“for the payment of an account of \$475 55 for medicines and other supplies furnished Capt. Hall’s command of state troops in 1878 by Mr. N. Gussett, of Corpus Christi, Texas.”

Referred to the committee on claims and accounts.

Senator Terrell from the committee on constitutional amendments, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, have had under consideration the accompanying joint resolution proposing an amendment to the constitution.

The joint resolution, while it substantially incorporates the first section of article six of the present constitution in regard to suffrage, adds thereto a provision regarding the payment of a poll tax which the committee deem important. The third sub-division of the article, as it now stands in the constitution, disqualifies from voting all who are supported by any county; it will be seen that the joint resolution exempts from the operation of that article all persons who aided in achieving the independence of Texas, or who have been disabled in the service of the state.

The provision which your committee recommend shall be added to said article of the constitution, excludes from the privilege of voting every person who shall fail to exhibit to the judges holding an election a receipt or certificate of the collector of taxes for the county in which he resides, showing that he has paid, prior to a period specified in the bill, before he offers to vote, all poll taxes due from him to the state.

The entire poll tax assessed for the state, for the year 1877, was \$464,808, and for the counties \$232,404; of this amount, it is estimated by the comptroller that the state failed to collect \$160,000, and the counties \$80,000—in all a loss of \$240,000, on account of poll tax not collected.

The laws afford the means of collecting taxes from those who have property, but none for the collection of poll tax from those who have no property. The latter class, it is believed, can only be compelled to pay some tax, when they understand that a deprivation of privilege will follow their failure or refusal.

The laws on this subject in several of the states are more rigid than the proposed amendment.

In Georgia and Pennsylvania the entire tax due the state must be paid before the citizen can vote. Connecticut and Delaware require the payment of a tax, and the former state good moral character, while Rhode Island and Massachusetts require all voters to own real estate. Virginia and Tennessee require the payment of a poll-tax before any citizen is entitled to aid by his vote in controlling the government.

Your committee cannot subscribe to the doctrine that the possession of property should be necessary to enable the citizen to vote; and while they believe in manhood suffrage, it is in that sort of manhood which makes a man willing to help support his government by paying the small poll-tax required of him by law. Your committee do not believe that it is consistent with the interest of the state to make the ballot-box a prey to those who, while enjoying the protection of government and shaping its laws, are unwilling to contribute anything to its support.

I am therefore instructed to report the joint resolution back with accompanying amendments, and recommend its passage.

TERRELL, *for Committee.*

The following amendments are recommended by the committee, viz: Strike out the word "ten," in line eighteen, in sixth subdivision, and insert "ninety."

In line sixteen, after word "receipt," insert the words "or certificate."

In line twenty, strike out all of the same, and insert in lieu thereof the words "may have been levied upon him for two years before he offers to vote."

On motion of Senator Terrell, fifty copies of the report were ordered printed.

Senator Ledbetter, chairman of committee on education, submitted the following reports :

Hon. J. D. Sayers, President of the Senate :

Your committee on educational affairs, to whom was referred Senate bill No. 119, "An act to give to each of the unorganized counties of the state four leagues of land, and providing for the location and surveying thereof," have had the same under consideration, and I am instructed by said committee to report the same back to the Senate and recommend that the same do not pass.

LEDBETTER, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on educational affairs, to whom was referred Senate bill No. 219, entitled "An act to ascertain the amount due by the State of Texas for land purchased by the state under act approved August 13, 1870, for use of public free schools, and for labor and material furnished prior to July 1, 1873, and to provide for the payment of same," have had the same under consideration and I am instructed to report the bill back to the Senate with the recommendation that the bill do not pass.

LEDBETTER, *Chairman.*

Senator Guy, chairman of committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on private land claims, to whom was referred Senate bill No. 198, entitled "An act for the relief of the heirs of Lieut. Samuel Wilson, who fell at Fannin's massacre, in the year 1836," have had the same under consideration and find that due notice of same by publication has been made; and after having examined the proof accompanying said bill, a majority of your committee instruct me to report said bill back to the Senate and recommend its passage.

GUY, *Chairman.*

Senator Shannon, chairman of committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on judicial districts have had under consideration Senate bill No. 210, entitled "An act to reorganize the third judicial district and prescribe the times of holding the courts in said district," and instruct me to report the accompanying substitute and recommend that it do pass.

SHANNON, *Chairman.*

Senator Shannon (by leave) presented the memorial of the county court of Clay county, "stating that their county is involved in debt; that the levy of one-fourth per cent. allowed by law for county purposes is barely sufficient to pay ordinary county expenses; that one-fourth of the lands of their county is state or county school lands, and that their ter-

ritory is sparsely populated, and therefore they ask the passage of a special or general law empowering their county, or all counties similarly situated, to levy a sufficient tax to liquidate all their county indebtedness."

Referred to committee on finance.

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred the petition of citizens of Bowie county to grant pensions to the old soldiers of Texas, who served in the war of 1836 and the Indian campaign of 1841, have given the same careful attention, and your committee submit, they return the greatest gratitude to the old soldiers of Texas for their services in 1836 and 1841; they fully appreciate the heroic deeds of their lives and their claims upon posterity for gratitude and maintenance now that old age and infirmity has come upon them, yet a sacred trust reposed by the people to guard well the interests of the whole state, and a faithful adherence to that legislative discretion that looks to a line of policy calculated to lighten the burdens of an overtaxed people, compels them to urge no further legislation beyond the provisions of the pension laws now in force. Wherefore, your committee recommend that the relief prayed for be not granted.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 108, entitled "An act to ascertain the amount due teachers for services rendered in the public free schools from September 1, 1873, to August 31, 1876, and to provide for the payment of the same," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with accompanying substitute, and to recommend the passage of the substitute.

STOREY, *Chairman.*

The concurrent resolution previously reported from the House "with regard to the election of directors of the Agricultural and Mechanical College," was taken up, read and adopted.

Senator Burton's resolution requiring two sessions of the Senate per day, etc., was taken up for consideration.

Senator Storey moved to strike out "12 M." for the time of adjournment of the morning session and insert in lieu thereof "1 o'clock P. M."

Accepted by Senator Burton.

Senator Hobby moved to strike out "alphabetically" in the terms of the resolution with regard to calling up business in the evening session and insert in lieu thereof "by senatorial districts" (as his was the first district).

Withdrawn by Senator Hobby.

Senator Davenport moved to strike out of the resolution all after the words "1 o'clock P. M."

Senator Shannon moved to amend the resolution by requiring that when the names of senators are called alphabetically that the secretary shall begin at the bottom of the roll and call it in inverse order, as his name was near the conclusion of same.

Withdrawn by the senator.

Senator Homan offered the following substitute for the pending resolution:

Resolved, That in order to facilitate the dispatch of business the names

of senators shall hereafter, at each daily session, be called alphabetically, when each senator, as his name is called, shall have the right to call up any bill he desires; *provided*, that this resolution shall not interfere with the immediate consideration of the pending proposed constitutional amendments.

Senator Davenport's amendment was lost.

Senator Swain moved to lay the original resolution and substitute on the table.

Lost by the following vote.

YEAS.		
Buchanan, Davenport, Gooch, Hobby,	Houston, Ledbetter, Martin, Motley,	Patton, Swain, Terrell, Tilson—12.
NAYS.		
Brown, Burnett, Burton, Duncan, Edwards,	Ford, Guy, Homan, Lane, Lair,	Moore, Ripetoe, Shannon, Storey—14.

Absent, not voting—Grace, McCormick, McCulloch.

Senator Homan's substitute was lost by the following vote:

YEAS.		
Brown, Davenport, Duncan, Ford,	Guy, Homan, Ledbetter,	Motley, Storey, Tilson—10.
NAYS.		
Buchanan, Burnett, Burton, Edwards, Gooch, Hobby,	Houston, Lane, Lair, Martin, Moore,	Patton, Ripetoe, Shannon, Swain, Terrell—16.

Not voting—Grace, McCormick, McCulloch.

The resolution of Senator Burton was then lost by the following vote:

YEAS.		
Brown, Burnett, Burton, Duncan,	Edwards, Homan, Lane, Lair,	Moore, Ripetoe, Storey—11.
NAYS.		
Buchanan, Davenport, Ford, Gooch, Guy,	Hobby, Houston, Ledbetter, Martin, Motley,	Patton, Shannon, Swain, Terrell, Tilson—15.

Not voting—Grace, McCormick, McCulloch.

Senator Burnett, by leave, introduced a bill entitled "An act to establish a state normal school, to be known as the 'Sam Houston Institute,' and located at Huntsville, Texas."

Read by caption and referred to the committee on education.

Senator Buchanan, by leave, introduced a bill entitled "An act to amend article 787 of section 2 of an act to adopt and establish a penal code and code of criminal procedure for the State of Texas."

Read by caption and referred to judiciary committee No. 1.

Senator Patton, by leave, introduced a bill entitled "An act to amend an act entitled an act to provide for the judicial forfeiture of charters, and prescribing the duties of the attorney general in relation thereto, approved August 21, 1876, by providing a mode for enforcing its provisions."

Read by caption and referred to judiciary committee No. 1.

Senator Motley introduced a bill entitled "An act for the relief of the heirs of James Bell (deceased), who was a soldier in the Texas revolution."

Read by caption and referred to the committee on private land claims.

Senator Edwards, chairman of committee on insurance, statistics and and history, submitted the following reports :

Hon. J. D. Sayers, President of the Senate :

Your committee on insurance, statistics and history, having had under consideration Senate bill No. 208, "An act to provide for the state library and supreme court library," instruct me to report the same back with the recommendation that it do pass.

EDWARDS, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on insurance, statistics and history, having had under consideration Senate bill No. 161, "An act to create the office of state librarian," instruct me to report that the matter in said bill has been fully provided for in Senate bill No. 208, "An act to provide for the state library and supreme court library," and to recommend that said bill No. 161 do not pass.

EDWARDS, *Chairman.*

On motion of Senator Hobby, the unfinished business was postponed fifteen minutes, rules suspended and Senate bill No. 153, entitled "An act to provide for building a new state capitol," was taken up and read first time.

Senator Hobby moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson--27.

NAYS—none.

Bill read second time.

Senator Hobby offered the following amendments:

Amend by changing section 20 to 21, and in lieu of section 20, as it now reads, have section 20 to hereafter read as follows, viz:

SECTION 20. Should the governor and heads of departments determine to construct the new state house on the ground occupied by the present capitol, they may cause all the material in the present building to be disposed of by sale or otherwise as may be most economical and beneficial to the state, when the contract for building the new capitol is made; and they shall make necessary arrangements for storing in other public buildings the state property, while the house is being built, and

during its construction provide necessary offices for the present state officials occupying the capitol.

Adopted.

Senator Terrell offered the following amendment:

Amend section 5 by adding thereto the following: "Which money when realized is hereby appropriated to build said capitol."

Adopted.

Senator Hobby offered the following amendment:

After the word "creates," in line seven, page 7, insert "an imperative public necessity which justifies the suspension of the rules requiring this bill to be read on three several days, and it is so suspended."

Adopted and bill ordered engrossed.

On motion of Senator Hobby, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCormick,

Moore,
Motley,
Patten,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Not voting—Ledbetter.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—28.

NAYS—none.

Senator Ledbetter, chairman of the committee on education, (by leave) submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on educational affairs, to whom was referred Senate bill No. 232, entitled "An act to amend chapter 3, title 78, Revised Statutes," have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that the bill pass.

LEDBETTER, *Chairman.*

On motion of Senator Burnett, the rules were suspended, the unfinished business postponed and Senate bill No. 160, entitled "An act for the relief of Miles N. Taylor, of Grimes county," was taken up and read a second time.

Senator Burnett offered the following amendment:

"SECTION 2. That the fact that a large number of locations on the most valuable portion of the public domain are now being made by vir-

tue of certificates heretofore issued, and that the present session of the Legislature is drawing to a close with many bills of a public nature pending, creates an emergency and imperative public necessity which justifies that this act take effect immediately, and the rules requiring bills to be read on three several days be suspended; and it is therefore enacted that said rules be suspended, and that this act take effect from its passage."

Adopted and bill ordered engrossed.

Senator Burnett moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Patton,
Davenport,	Houston,	Ripetoe,
Duncan,	Lane,	Shannon,
Edwards,	Lair,	Storey,
Ford.	Ledbetter,	Terrell,
Gooch,	Martin,	Tilson—23.
Guy,	McCormick,	

NAYS—none.

Not voting—Brown, Burton, Grace, Motley, Swain.

Bill read third time and passed by the following vote:

YEAS.		
Buchanan,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Dayenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Guy,	McCormick,	Tilson—23.
Hobby,	Moore,	

NAYS—none.

Not voting—Brown, Burton, Gooch, Grace, Motley.

On motion of Senator Burnett, the rules were suspended and Senate bill No. 164, entitled "An act for the relief of James A. Barker, of Brazos county," was taken up and read second time.

Senator Burnett offered the following amendment:

"SEC. 2. The fact that a large number of locations on the most valuable portion of the public domain are now being made by virtue of certificates heretofore issued, and that the present session of the Legislature is drawing to a close with many bills of a public nature pending, creates an emergency and imperative public necessity which justifies that this act take effect immediately, and the rules requiring bills to be read on three several days be suspended; and it is therefore enacted that said rules be suspended and that this act take effect from its passage."

Adopted, and bill ordered engrossed.

On motion of Senator Burnett, the rules were suspended and the bill placed on its third reading, by the following vote:

YEAS.		
Buchanan,	Edwards,	Homan,
Burnett,	Ford,	Houston,
Burton,	Gooch,	Lane,
Davenport,	Guy,	Lair,
Duncan,	Hobby,	Martin,

McCormick,
Motley,
Moore,

Shannon,
Storey,
Swain,

Terrell,
Tilson—23.

NAYS—none.

Not voting—Brown, Grace, Ledbetter, Patton, Ripetoe.

Bill read third time, and passed by the following vote :

YEAS.

Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCormick,
Moore,

Motley,
Patton,
Ripetoe.
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Brown, Grace, Ledbetter.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared, and find correctly enrolled and properly signed, the following Senate bills, to wit: No 60, "An act to amend an act entitled an act to fix the times for holding the terms of the district courts in the seventeenth judicial district, including the county of McCulloch;" No. 149, "An act to provide for the change of location of the court house of Marion county;" No. 143, "An act to attach certain counties therein named to the twenty-fifth judicial district;" No. 59, "An act to reorganize the seventeenth judicial district of the State of Texas;" No. 184, "An act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas," and have presented the same to the governor for his approval this day at 11 o'clock A. M.

GRACE, *Chairman.*

On motion of Senator Swain, the unfinished business was postponed thirty minutes, rules suspended and substitute for House joint resolution No. 2, with Senate joint resolution No. 29, "proposing an amendment to the constitution of the State of Texas," (repealing smoke-house tax, etc.), taken up and read first time, with majority and minority reports.

Senator Swain moved that the minority report be adopted (which was adverse to the adoption of Senate joint resolution No. 29, as a substitute for House joint resolution No. 2, as recommended by the majority report)

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,

Guy,
Homan,
Houston,
Lane,
Martin,
McCormick,

Moore,
Motley,
Ripetoe,
Shannon,
Swain,
Tilson—18.

NAYS.

Davenport,
Duncan,
Grace,

Lair,
Ledbetter,
Patton,

Storey,
Terrell—8.

Not voting—Brown, Hobby.

Senator Terrell presented the following reason for his vote on the one just taken, to be entered on the journals:

On the vote to adopt the minority report on the smoke-house tax bill, Senator Terrell said: I vote no—

1. Because, while I wish to exempt enough farm products in the hands of the producer from taxation to meet the wants of home and the farm, and introduced the original joint resolution to amend the constitution for that purpose, I can see no reason why all the farm products of this state, including wool and cotton, amounting in value to over fifty millions of dollars a year, should pay no taxes in this state.

2. Because, an exemption of five hundred dollars for each citizen on hand on the first day of January, would cover home supplies for nine-tenths of the people, and this I favor; but the exemption of all farm products excuses from taxation the thousand hogsheads of sugar of the sugar planter, the thousand bales of cotton of the cotton planter, and the wheat raiser with his ten thousand bushels of wheat.

3. Because, if, as the minority report proposes, all the wool clipped during the year is to be exempt from taxes for the shepherd's benefit, I can see no reason why all the calves, which increase for the year the herds of the stockraiser, should not also be exempt, and every other increase of value for the past year on hand as well.

4. Because while the comprehensive exemption of the minority report, does but little good to the ordinary farmer, since enough taxes must be raised from some source to carry on the government, all the exemption which the minority report affords to large farmers and sheep owners must be compensated for by increased taxes on all the other property of the small farmers and the poor.

I concur in the above for the reasons stated,

A. W. TERRELL.

I also concur in the above for the reasons stated,

WM. D. LAIR.

CHAS. D. GRACE.

Senator Patton moved that 100 copies of the report, with resolution and amendments recommended by the committee, be printed.

Lost.

The president, after publicly reading their captions, signed the following bills, viz:

Senate bill No. 149, entitled "An act to provide for the change of location of the court house of Marion county."

Senate bill No. 60, entitled "An act to amend an act entitled 'an act to fix the times for holding the terms of the district courts for the seventeenth judicial district, including the county of McCulloch.'"

Senate bill No. 59, entitled "An act to reorganize the seventeenth judicial district of the State of Texas."

Senate bill No. 184, entitled "An act to fix the time of holding the district courts of the twenty-fifth judicial district of the State of Texas."

Senate bill No. 143, entitled "An act to attach certain counties therein named to the twenty-fifth judicial district."

Senate bill No. 54, entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas."

On motion of Senator Duncan the unfinished business was postponed thirty minutes, rules suspended and Senate bill No. 196, entitled "An act to regulate the practice of medicine, surgery and pharmacy, and to repeal an act to regulate the practice of medicine," approved August 31, 1876, and all other laws in conflict herewith, was taken up and read first time.

(Senator Gooch in the chair.)

On motion of Senator Tilson the rules were suspended and substitute for Senate bill No. 190, entitled "An act to amend chapter 17, title 17 of the Penal Code adopted at this session of the Legislature, relating to swindling and fraudulent disposition of mortgaged property by adding thereto article 997a," was taken up, read second time and ordered engrossed.

On motion of Senator Shannon, the rules were suspended and substitute for Senate bill No. 12, entitled "An act to regulate railroad companies and dealers with them, etc.," was taken up, read second time and ordered engrossed.

On motion of Senator Storey, the rules were suspended and substitute for Senate bill No. 108, entitled "An act to ascertain the amount due teachers of public free schools for services rendered from the first day of September, 1873, to the first day of July, 1876, and to provide for the payment of such claims," was taken up and read first time.

On motion of Senator Storey, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYES—none.

Not voting—Grace, Hobby, McCormick, Tilson.

Substitute read second time.

Senator Storey offered the following amendment:

Amend the bill and caption so as to strike out "July 1," where it occurs, and insert "August 31."

Adopted and bill ordered engrossed.

Senator Storey moved a further suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Hobby, Martin, McCormick.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,

Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,

Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Hobby, Martin, McCormick.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared Senate bill No. 54, entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas," and find the same correctly enrolled, as directed by joint resolution of both houses of this Legislature relating to the enrollment of the codes; that said bill is properly signed and was at 11:40 o'clock A. M. this day presented to the governor for his approval.

GRACE, *Chairman.*

On motion of Senator Houston, the unfinished business was postponed ten minutes, rules suspended, and Senate bill No. 87, entitled "An act regulating juries in capital cases," was taken up and read a second time.

Senator Houston offered the following amendment:

Amend by adding the following to section 2: "*Provided*, that the judge may, during the term at which the jury is drawn, set a day in the next term for taking up any capital case, and order that the special venire herein provided for, shall be summoned to appear on the day so fixed, instead of on the first day of the term."

Adopted and bill ordered engrossed.

(President in the chair.)

On motion of Senator Motley, the rules were suspended and Senate bill No. 113, entitled "An act for the preservation of fish and to build fish-ways and fish-ladders," was taken up and read a second time.

Senator Motley offered the following amendment:

Amend by adding at the end of section 4, the following: "The governor is hereby authorized to appoint a fish commissioner who shall serve without compensation, whose duty it shall be to see that the provisions of this act are complied with."

Adopted and bill ordered engrossed.

On motion of Senator Lane, the unfinished business was postponed twenty minutes; rules suspended, and Senate bill No. 117, entitled "An act to provide for the sale of the public domain and to apply the proceeds from the sale thereof to the public school fund, and for the payment of the public debt," was taken up and read first time.

On motion of Senator Lane, the rules were suspended and Senate bill No. 69, entitled "An act requiring the owners of land to pay the taxes due thereon before recording their titles thereto," was taken up, read a third time and passed.

On motion of Senator Gooch, the rules were suspended and Senate bill No. 183, entitled "An act to amend an act entitled 'an act to better protect the papers, records and files in the general land office,' approved June 2, 1873," was taken up, read third time and passed.

On motion of Senator Duncan, the unfinished business was postponed ten minutes, rules suspended and Senate bill No. 28, entitled "An act to

give forfeitures *nisi* on bail bonds and recognizances in criminal cases the force and effect of judgments," was taken up and read second time.

The following messages were received from his excellency the governor:

AUSTIN, February 28, 1879.

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments, to wit:

Joseph Abbott, of Hill county, to be the district judge of the twenty-eighth district.

John M. Moore to be district attorney for the twelfth judicial district.

O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public for Harrison county:

R. P. Littlejohn, A. T. Smith, C. H. McGill, I. M. Case, J. M. Curtes, A. R. Woodall, H. C. Gray, W. A. Smith.

Respectfully, O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public for counties of the thirtieth senatorial district:

A. Krankaner, J. L. McCarty, El Paso county.

R. C. Daly, Bernard Brady, Presidio county.

H. M. Holmes, G. W. Todd, Calvin Thaxton, Mason county.

Julias Schuchard, Gillespie county.

E. K. Kountz, W. A. Williamson, Kimble county.

W. J. Hamilton, Bandera county.

M. F. Corbett, Pecos county.

Max Nenendorff, Edward Miles, James L. Trueheart, John Eckford, J. H. McLeary, Geo. W. Caldwell, J. B. Loyd, J. F. Lockwood, F. C. Goltarri, John A. Traser, Elias Edmonds, P. H. Ward, Jno. J. Stevens, George Paschal, W. G. M. Samuel, S. G. Newton, John Rosenheimer, W. H. Young, H. Klocke, W. W. Herron, Bexar county.

F. Hampe, C. A. Groos, Comal county.

W. K. Jones, F. W. Schweppe, Theodore Wedenfeldt, Kendall county.

N. A. Ansmer, O. Dorherty, J. G. Prensier, A. P. Baze, Hiram Lightner, Tom Green county.

W. D. Drown, Wm. Hughes, Kerr county.

Respectfully, O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, }
AUSTIN, February 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments in the counties composing the twenty-fourth senatorial district, to wit:

T. R. Hill, C. U. Connelle, to be notaries public in Eastland county.
T. B. Wheeler, J. W. Posey, Wm. G. Veal, William Schemerhorne, to be notaries public in Stephens county.

C. R. Stribling, Robert A. Jeffries, to be notaries public in Shackelford county.

E. D. McCoy, J. J. Farr, Wilson H. Barker, to be notaries public in Sommervell county.

S. P. Ford, F. M. Browning, to be notaries public in Bosque county.

J. C. Gouldy, W. D. Thomason, to be notaries public in Coryell county.

J. K. Saddler, P. R. Hobell, I. A. Lee, H. N. Atkinson, Geo. A. Strickland, Richard M. Cole, W. L. Jones, to be notaries public in Coryell county.

J. A. Eidson, M. S. Brunk, S. D. Terry, L. K. Billingsly, to be notaries public in Hamilton county.

W. L. George, E. L. Gillett, J. N. Graesbuck, to be notaries public in Erath county.

John Y. Rankin, P. A. Booker, Henry H. Lockett, T. A. Booker, B. Gandy, Henry C. Lockett, to be notaries public in Brown county.

Robt. T. Childs, J. M. Gaiser, John Roach, N. Yarbrough, C. B. Mason, E. L. Shropshire, T. O. Moore, to be notaries public in Comanche county.

Samuel L. Chalk to be notary public in Callahan county.

T. J. Duke, F. E. Garland, Harvey Pinson, James Drew, R. E. McCamant, A. T. Howell, W. H. Scott, to be notaries public in Hood county.

C. W. Massie, J. D. Bailey, John S. Stranghan, J. K. P. Shirley, to be notaries public in Palo Pinto county.

J. C. Shurtliff, G. A. Kirkland, to be notaries public in Taylor county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments in the counties composing the tenth senatorial district, to wit:

S. R. Etter, H. E. Jones, S. D. Stinson, N. W. Wood, H. L. Kinber, A. H. Hefner, J. P. Watson, Geo. W. Tatum, D. W. Yeager, T. J. Tilson, Ben Wilson, W. R. Lane, J. H. Jernigan, T. G. Smith, J. O. Wilkerson, Nat. Parker, J. A. Money, J. B. Rounsaville, A. R. Cushman, to be notaries public in Hunt county.

W. L. Huff, V. W. Grubbs, S. W. Wallace, R. A. Terrell, F. A. Waters, H. W. Kyser, H. B. Williams, J. D. Cunningham, John H. Reirson, W. H. Strain, J. T. Ayers, W. O. Johnson, E. M. Gass, James F. Smith, Alfred J. Wilson, to be notaries public in Kaufman county.

W. B. Wynne, V. T. McChesney, Clayton Williams, J. C. Wright, J. G. Kearby, J. H. Palmer, T. J. Towls, A. J. Harper, Wm. Bracher, Jno. T. McWilliams, D. W. N. McPhail, to be notaries public in Van Zandt county.

L. Z. Wright, I. E. Ward, S. H. Hart, William Pearson, A. L. Adams, James A. Stinson, Wm. M. Giles, B. N. McBride, to be notaries public in Wood county.

John R. McMahan, C. H. Yoakum, John Hooker, to be notaries public in Rains county.

T. L. Stanfield, B. F. Chisholm, J. W. Crayton, to be notaries public in Rockwall county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public for counties of the eighth senatorial district:

Edwin Richardson, Jno. W. Jennings, Jno. Reynolds, J. B. Wofford, R. F. Ghore, R. J. Jennings, C. B. Williams, S. M. Bradford, J. W. Carver, D. A. Owens, W. F. Mitcham, in Henderson county.

F. W. Bonner, E. L. Gregg, E. C. Dickerson, W. C. Frederiok, Asa Brown, A. J. Chessher, Hosea Jones, T. J. Roach, Drury Barker, J. P. Smith, A. E. McCarty, in Cherokee county.

J. W. Cartwright, A. W. Gregg, Ben Parker, A. G. DuPuy, W. A. Millett, W. L. Derden, W. J. Hamlett, Jr., Geo. W. Angle, Jno. Young, Jr., Marsh Glenn, Robert Calhoun, in Anderson county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN: I respectfully ask your advice and consent to the following appointments in the counties composing the sixteenth senatorial district, to wit:

W. D. Shaw, J. P. Stephenson, J. P. Barnes, John W. Hamilton, Y. W. Randolph, T. D. Stanford, David Hamilton, W. M. Freeman, W. D. Shaw, R. A. Herndon, to be notaries public in Trinity county.

S. T. Burrees, Sr., Albert Tucker, J. A. White, Samuel Petree, E. L. Angier, J. S. Besser, H. J. Brown, D. D. Holland, F. C. Dunlap, to be notaries public in Walker county.

E. K. Goree, Rie. Mahorner, I. M. Bennick, John Vernon, J. A. Collins, R. A. Rhodes, to be notaries public in Madison county.

B. M. B. Tucker, Jno. R. Kennard, John H. Wilson, W. J. Callaway, J. E. Teague, O. B. Caldwell, P. C. McKee, George E. White, W. W. Meachum, Jas. H. Freeman, Ferdinand Miller, Lock McDaniel, Adrian Garvin, J. T. Whitesides, James N. Gerren, R. H. Gray, T. D. Cobbs, to be notaries public in Grimes county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, }
AUSTIN, February 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN:—I respectfully ask your advice and consent to the following appointments in the counties composing the twentieth senatorial district, to wit:

Rudolph King, J. C. Barnett, C. C. Garrett, T. J. Newman, D. R. Ponce, Thomas H. Lipscomb, A. Jeffries, J. C. Morris, H. E. Williams, to be notaries public in Washington county.

Charles Korff, J. M. Krancher, George D. Neal, S. B. Pier, E. J.

Geeters, John W. Lott, Charles Ernst, to be notaries public in Austin county.

Isaac N. Jackson, N. M. Thornton, Thomas C. Thomson, to be notaries public in Burleson county.

Respectfully,

O. M. ROBERTS, *Governor.*

Senator Grace moved that the Senate go into executive session to-morrow, just after the morning call, to consider the nominations of his excellency the governor, as contained in his special messages of to-day.

Senator Storey (by leave) introduced a bill entitled, "An act to authorize the commission of the general land office to contract for the lithographic printing of maps of the various counties of the state, and to provide for the sale of the same, and to make an appropriation to carry this act into effect.

Read by caption and referred to the committee on finance.

On motion of Senator Storey, Senator Buchanan was added to the committee on finance.

On motion of Senator, Senator McCulloch was excused until Monday next.

On motion of Senator Burton, the Senate took recess until 3 o'clock P. M.

AFTERNOON SESSION.

Recess expired; Senate reconvened; president *pro tempore* in the chair. Roll called; quorum present.

On motion of Senator Houston, the unfinished business was postponed fifteen minutes, rules suspended and Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a code of criminal procedure for the State of Texas,'" was taken up and considered.

Senator Homan offered the following amendment:

Strike out the caption and insert as follows: "An act to amend articles 560 and 561 of 'an act to adopt and establish a code of criminal procedure for the State of Texas,' as adopted by the Sixteenth Legislature."

Senator Ledbetter moved a call of the house on the amendment.

Call sustained.

Roll called.

Absent—Senators Edwards, Ford, Grace, Lane and Terrell.

The sergeant-at-arms was dispatched for absentees.

Pending the call, the business under consideration was laid on the table.

The unfinished business being substitute for resolutions Nos. 5 and 102, proposing amendments to article 5 of the constitution, was taken up.

Pending on adjournment, Senator Ledbetter's amendment to section 13 of said substitute, which was then considered.

Senator McCormick moved to postpone said business.

Carried.

On motion of Senator McCormick, the rules were suspended and Senate bill No. 32, entitled "An act supplemental to and amendatory of an act entitled 'an act concerning factors and commission merchants,' approved February 11, 1860, which took effect tenth of April, 1860," was taken up and read second time.

The amendments of the committee were adopted.

The bill was then ordered engrossed by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Hobby,
Homan,
Houston,
Lane,

McCormick,
Moore,
Patton,
Swain,
Terrell—16.

NAYS.

Burnett,
Burton,
Grace,
Guy,

Lair,
Ledbetter,
Martin,
Motley,

Ripetoe,
Shannon,
Storey,
Tilson—12.

The absent senators appearing, the call of the house on Senator Homan's amendment to Senate bill No. 88 was suspended, and the consideration of said amendment resumed.

Senator Edwards called up his motion made on yesterday "to reconsider the vote adopting the emergency clause in Senate bill No. 88," offered on yesterday by Senator Homan.

Senator Brown moved to postpone the further consideration of this bill, with pending amendment and motion to reconsider, until Wednesday next just after the morning call, and make it the special order at that time and from day to day until disposed of.

Carried by the following vote:

YEAS.

Brown,
Burton,
Davenport,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Lane,
Ledbetter,
McCormick,

Motley,
Patton,
Shannon,
Storey,
Tilson—16.

NAYS.

Buchanan,
Burnett,
Duncan,
Gooch,

Homan,
Houston,
Lair,
Martin,

Moore,
Swain,
Terrell—11.

Not voting—Ripetoe.

(President in the chair.)

Senator Storey, chairman of the committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 245, entitled "An act to authorize the commissioner of the general land office to contract for lithographic printing of maps of the various counties of the state, and to provide for the sale of the same, and to make an appropriation to carry this act into effect," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Senator Storey, from judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred a resolution calling for a construction of section 2, article 8 of the constitution, so far as the same relates to boarding schools, have duly considered the

same, and I am instructed by the committee to report the accompanying bill entitled "An act to define what property used for school purposes is exempt from taxation under section 2, article 8 of the constitution," and to recommend its passage.

STOREY, *for the Committee.*

Senator Swain, chairman of committee on penitentiary (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiary, to whom was referred Senate bill No. 2, "An act to prevent the hiring or operating of convicts outside of the prison walls," have had the same under consideration, and instruct me to return the same to the Senate and say that your committee do not deem it practicable at present to confine the convicts in the walls of the penitentiary, and therefore recommend that the bill do not pass.

SWAIN, *Chairman.*

Senator Homan, from judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 238, entitled "An act to prevent attorneys who may have represented the state in any proceeding from afterward appearing as counsel adversely to the state in the same or in any other proceeding involving the same subject matter," have considered the same, and a majority of said committee instruct me to report said bill back and recommend its passage.

HOMAN, *for Committee.*

The consideration of the unfinished business, being substitute for Senate joint resolutions Nos. 5 and 102, "proposing amendments to article 5 of the constitution," was resumed.

Pending Senator Ledbetter's amendment to section 13, Senator Buchanan offered the following substitute for the amendment of Senator Ledbetter:

Strike out the words, "by the governor, for cause assigned by him," as they occur in fourth line of section 13, and insert in place thereof the following language: "in such manner as may be provided by law."

Adopted.

Senator Homan moved to adjourn till 10 o'clock to-morrow morning. Lost by the following vote:

YEAS.

Brown,
Burton,
Davenport,
Grace,

Guy,
Houston,
Motley,

Patton,
Storey,
Swain—10.

NAYS.

Buchanan,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
Moore,
Ripetoe,
Shannon,
Terrell,
Tilson---18.

Senator Ledbetter moved the previous question on the pending amendment.

Motion seconded and the main question ordered.

The substitute of Senator Buchanan, for the amendment of Senator Ledbetter, was then adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,

Ford,
Guy,
Homan,
Ledbetter,
Martin,

Motley,
Ripetoe,
Shannon,
Storey,
Tilson--15.

NAYS.

Davenport,
Edwards,
Gooch,
Grace,
Hobby,

Houston,
Lane,
Lair,
McCormick,

Moore,
Patton,
Swain,
Terrell--13.

Senator Martin offered the following amendment:

Strike out all in line ten to the word "which," and insert therein "shall receive for their services a compensation which shall be fixed by law."

Pending on adjournment.

On motion of Senator Grace, the Senate adjourned until 10 o'clock A. M. to-morrow.

FORTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 1, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Moore, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Houston presented the petition of the members of the bar of San Antonio asking that the terms of the district court of Bexar county shall remain as they now are, unless the county of Bexar shall be made a judicial district within itself, when in that case they ask that there be two months vacation in the months of July and August, and that court be held the rest of the year.

Referred to committee on judicial districts.

Senator Ledbetter, chairman of the committee on education, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on educational affairs, to whom was referred Senate bill No. 154, entitled "An act to provide for the payment of claims for purchase of books, apparatus and furniture for public schools, made by boards of school directors under the authority of 'An act to establish a system of public free schools for the State of Texas,' approved August 13, 1870, and under an act entitled 'An act to organize and maintain a system of public free schools for the State of Texas,'" approved April 24, 1871, have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do not pass. LEDBETTER, *Chairman.*

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have carefully considered Senate bill No. 140, to be entitled "An act to regulate the proceedings in the several

courts of the State of Texas, and define the duties thereof," and instruct me to report it back with the recommendation that it do not pass.

TERRELL, *Chairman.*

Senator Patton, chairman of the committee on public claims and accounts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have duly considered the memorial of Chas. Johnson, "Asking the sum of \$196 15 for trees and time which he claims to have furnished the state through Capt. Voight, superintendent of public buildings and grounds," and they direct me to report that they do not find the same a valid claim against the state, and they recommend that memorialist's prayer be not granted.

PATTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have considered the memorial of the "Jordan Horticultural Company," "Asking of the State of Texas the sum of \$122 50 as compensation for a bill of trees, shrubs and flowers (to memorial attached), sold and delivered by said company to Capt. Fred. Voight, superintendent of public buildings and grounds, for the state, in November, A. D. 1875," and direct me to recommend that the said claim be paid.

PATTON, *Chairman.*

Senator Guy introduced a bill entitled "An act to amend article 988 of the Code of Criminal Procedure, passed by the Sixteenth Legislature."

Read by caption and referred to judiciary committee No. 2.

Senator Houston introduced a bill to be entitled "An act to amend chapter 1 of title 16 in the Code of Criminal Procedure of an act entitled 'an act to adopt and establish a penal code and code of criminal procedure for the State of Texas.'"

Read by caption and referred to judiciary committee No. 2.

Also, a bill, entitled "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of 'an act to adopt and establish the Revised Statutes of the State of Texas.'"

Read by caption and referred to judiciary committee No. 2.

Senator Homan introduced a bill, entitled "An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district."

Read by caption and referred to committee on judicial districts.

Senator Tilson introduced a bill entitled "An act to authorize the attorney general of the State of Texas to compromise and settle a certain suit pending in the district court of Bowie county, wherein the State of Texas is plaintiff, and R. M. Johnson, former sheriff of said county, as principal, and W. A. Ryan, T. A. Morrow, R. N. Woodard and J. B. Hoots, are sureties and defendants, have been sued by reason of alleged default of said sheriff."

Read by caption and referred to judiciary committee No. 1.

Senator Lane introduced a bill entitled "An act to provide for the erection of a marble shaft on Fannin's battle ground."

Read by caption and referred to judiciary committee No. 1.

Senator Patton (by request) offered the following resolution.

Resolved, That the committee on claims and accounts, are hereby authorized to ascertain whether under the act of the Republic of Texas,

approved June 7, 1837, providing for the funding of the public debt of Texas, there is any balance due Gen. Leslie Combs, and that said committee shall report accordingly by bill or otherwise.

Read and referred to the committee on public claims and accounts.

Senator Brown, chairman of committee on engrossed bills, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have duly examined the following bills, viz: Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts, when and where the same may be necessary;" also, Senate bill No. 231, entitled "An act amendatory of and supplemental to an act, entitled 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the times of holding the courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,'" approved 1879, and find them correctly engrossed.

BROWN, *Chairman.*

A message was received from the House, announcing the passage by that body of House bill No. 187, entitled "An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect.

(Senator Ledbetter in the chair.)

On motion of Senator Davenport, the Senate went into executive session to consider the appointments sent in by his excellency in his special messages of yesterday.

IN SENATE.—On motion of Senator Houston, the secretary of the Senate was instructed to inform his excellency the governor that the Senate does vise and consent to all his appointments sent to the Senate on yesterday by special messages, except the following names as notaries public which were withdrawn for correction and not acted on, to wit: J. P. Smith, of Cherokee county; A. G. Duprey and W. A. Miller, of Anderson county; H. L. Kimber, of Hunt county; E. M. Gass, of Kaufman county; A. Krankaner, of El Paso county; F. C. Gottarri and John A. Traser, of Bexar county; and N. A. Ausmer, of Tom Green county.

(President in the chair.)

On motion of Senator Homan, the unfinished and pending business was postponed, rules suspended and Senate bill No. 181, entitled "An act to organize the sixteenth judicial district and to provide for the time of holding courts therein," was taken up, read second time and ordered engrossed.

Senator Homan moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—28.
Grace,		

NAYS—none.

The unfinished business being substituted for Senate joint resolutions Nos. 5 and 102, "Proposing amendments to article 5 of the constitution," was then taken up for consideration.

The amendment of Senator Martin, pending on adjournment yesterday, was considered and adopted.

Section 13 of the pending joint resolution was then adopted.

Section 14 was then adopted.

Senator Motley offered the following amendment:

Strike out all after the word "governor" in section 15.

Lost by the following vote:

YEAS.

Burnett,	Lane,	Motley,
Burton,	Lair,	Patton,
Gooch,	Ledbetter,	Ripetoe,
Guy,	Martin,	Swain—12.

NAYS.

Brown,	Grace,	Shannon,
Buchanan,	Hobby,	Storey,
Duncan,	Homan,	Terrell,
Edwards,	Houston,	Tilson--14.
Ford,	McCormick,	

Senator Grace offered the following amendment:

Add after the word "law" in section 20, line fifteen, "but never to exceed one hundred dollars in civil cases, nor in criminal cases where the penalty exceeds one hundred dollars."

Lost.

Senator Martin offered the following amendment:

Insert after the word "peace," in line nineteen, "not to exceed eight in any one county."

Lost.

Section 15 was then adopted.

Section 16 was adopted.

On motion of Senator McCormick, the pending business was postponed ten minutes, the rules suspended and Senate bill No. 32, entitled "An act supplemental to and amendatory of an act entitled 'an act concerning factors and commission merchants,' approved February 11, 1860," etc., was taken up, read third time and passed by the following vote:

YEAS.

Brown,	Grace,	McCormick,
Buchanan,	Hobby,	Patton,
Davenport,	Homan,	Storey,
Duncan,	Houston,	Terrell,
Edwards,	Lane,	Tilson—17.
Ford,	Lair,	

NAYS.

Burnett,
Gooch,
Guy,

Ledbetter,
Motley,

Martin,
Shannon—7.

Not voting—Burton, Moore, Ripetoe, Swain.

The consideration of the pending business, being substitute for joint resolutions Nos. 5 and 102, "Proposing amendments to article 5 of the constitution," was resumed.

Senator Lane offered the following amendment:

"Nor shall any judge of the supreme court sit in any case when he shall have presided as judge upon the trial of the same in the court below, or have rendered an opinion thereon."

Amend line one, section 17, page 8, by inserting between the words "case" and "when" the above.

Senator Houston offered the following amendment to the amendment of Senator Lane.

Amend by adding after "therein" "in the court below."

Accepted by Senator Lane.

The amendment of Senator Lane, as amended, was then adopted.

Senator Edwards offered the following amendment:

Change the word "remedial" to "remedied," line 11, page 8.

Adopted.

Also the following:

Strike out of the amendment of Senator Lane the words "in the court below" first time (used).

Adopted.

Section 17 was then adopted.

Section 18 was adopted.

Senator Houston moved to amend section 19 by striking out the word "either," in line twenty-nine, and inserting the word "other" in lieu thereof.

Adopted; and section 19, as amended, was then adopted.

Section 20 was adopted.

Section 21 was adopted.

Senator Homan offered the following amendmendmet:

Add in section 22, after "limitation," in sixteenth line, the following: "And except in actions on bail bonds and recognizances."

Adopted.

Section 22, as amended, was then adopted.

Section 23 was adopted.

Section 24 was adopted.

Senator Ledbetter offered the following amendment to section 25:

Add to section 25 the word "men."

Adopted; and section 25, as amended, was then adopted.

Senator Edwards offered the following amendment to section 26:

Section 26: Strike out lines eight and nine, down to the word "until," and insert the words: "First. That the county courts and other inferior tribunals, as they now exist, shall continue with the same powers and jurisdiction concurrent with or exclusive of the district or any other court."

Adopted.

Senator Homan offered the following amendment:

In third subdivision, in line twenty-four, add the letter "s" to the word "attorney," so as to read "attorneys."

Adopted.

Senator Edwards offered the following amendment to section 26:

Amend section 26, subdivision 4, line twenty-nine: Strike out the words "as provided in the foregoing article without fees of office," and insert "of twenty-five hundred dollars without fees of office, until otherwise provided by law."

Senator Burnett offered the following amendment to the amendment of Senator Edwards:

Amend the amendment by striking out "twenty-five hundred dollars" and inserting instead "eighteen hundred dollars."

Senator Homan offered the following as a substitute for both of the pending amendments:

Strike out all of subdivision 4, section 26, after the word "receive," in line twenty-eight, and insert as follows: "Such compensation as is now provided by law."

Senator Homan withdrew his substitute.

The amendment of Senator Burnett was lost, and that of Senator Edwards adopted.

Senator Edwards offered the following amendment:

"Seventh. District judges in office at the time of the adoption of this article shall continue to hold their offices for the full time for which they were elected or appointed."

Withdrawn by the senator.

Senator Lane offered the following amendment:

Amend by adding subdivision 7 to section 26, as follows, to wit:

"The district judges in office at the time this article takes effect shall continue in office until the expiration of the terms of office for which they have been elected or appointed. The reporter of the court of appeals shall continue to report the criminal causes decided in the supreme court, as now published in separate volume, until otherwise provided by law. The supreme court shall hold its sessions as is now or may hereafter be provided by law."

Senator Edwards called for a division of the question.

Senator Storey moved a call of the Senate upon the amendment of Senator Lane.

Call sustained.

Roll called.

Absent—Ford, Martin, Terrell.

Pending business went to the table.

Senator Grace was granted permission to change his vote on Senate bill No. 32, entitled "An act supplemental to and amendatory of an act entitled 'An act concerning factors and commission merchants,' approved February 11, 1860."

On motion of Senator Storey, the rules were suspended and Senate bill No. 245, entitled "An act to authorize the commissioner of the general land office to contract for the lithographic printing of maps of the various counties of the state, and to provide for the sale of the same, and to make an appropriation to carry this act into effect," was taken up and read first time.

Senator Storey moved to further suspend the rules and place the bill upon its second reading.

Carried by the following vote:

YEAS.		
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burton,	Homan,	Ripetoe,
Davenport,	Houston,	Shannon,
Duncan,	Lane,	Storey,
Edwards,	Lair,	Swain,
Ford,	Ledbetter,	Terrell,
Gooch,	Martin,	Tilson—26.
Grace,	McCormick,	

NAYS—none.

Not voting—Burnett, Patton.

Bill read second time and ordered engrossed.

Senator Homan offered the following amendment:

Strike out the words "not less than fifty cents nor more than one dollar," where they occur in the bill, and insert "not less than one nor more than three dollars."

Withdrawn.

On motion of Senator Storey, the rules were still further suspended and the bill placed on its third reading by the following vote:

YEAS.		
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe.
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—26.
Guy,	Moore,	

NAYS—none.

Not voting—Brown, Grace.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe.
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—28.
Grace,		

NAYS—none.

The absent Senators appearing, the call of the Senate was suspended, and the pending business being substitute for joint resolutions Nos. 5 and 102, proposing amendments to article 5 of the constitution, was resumed.

Senator Edwards offered the following as a substitute for the third division of the amendment of Senator Lane:

"Eighth. The supreme court shall continue to hold its sessions at the times and places as now provided by law, unless otherwise provided by constitutional amendment."

The first and second divisions of Senator Lane's amendment were adopted.

Senator Burnett moved to lay the substitute of Senator Edwards, for the third division of Senator Lewis' amendment, on the table.

Carried by the following vote:

YEAS.		
Brown,	Homan,	Ripetoe,
Burnett,	Houston,	Stewart,
Burton,	Ledbetter,	Shannon,
Gooch,	Martin,	Storey,
Grace,	Moore,	Swain—17.
Guy,	Patton,	
NAYS.		
Buchanan,	Hobby,	McCormick,
Davenport,	Lane,	Motley,
Duncan,	Lair,	Terrell—10.
Edwards,		

Not voting—Ford.

Senator Gooch offered the following as a substitute for the third division of the amendment of Senator Lane:

Add to last word "but in no event at more than three places."

Adopted.

The third division of Senator Lane's amendment, as amended, was then adopted.

Senator Edwards offered the following amendment:

"SECTION —. The fact that the session is much advanced and the accumulation of business creates an imperative necessity that the rules be suspended requiring that this resolution be read on three several days, and it is so ordered."

Adopted.

On motion of Senator Edwards, the vote just taken was reconsidered, when the senator withdrew his amendment.

Senator Houston offered the following amendment:

Line twenty, page 11, at the beginning of line, by inserting "section 27."

Adopted, and the substitute for Senate joint resolutions Nos. 5 and 102, under consideration, was then ordered engrossed.

On motion of Senator Storey, the rules were suspended and the report of the finance committee on the claim of Mrs. C. Toby was taken up.

The following messages were received from his excellency the governor, which were taken up and read.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public from counties of the ninth senatorial district:

F. M. McWhirter, J. M. Brown, Jr., Delta county.

A. R. Ryan, B. N. Woodson, F. M. German, W. W. Saunders, A. B. Scarbrough, S. J. Gailbraith, T. C. Bean, J. M. Hoard, N. B. Smith, P. C. Thurmond, Chas. Doss, Jas. C. Evans, A. G. Stobough, Thos. D. Kennedy, H. L. Parmelee, T. W. Ragsdale, R. M. Lusk, A. P. Bagby, S. S. Lyday, S. J. McKnight, Fannin county.

William F. Gill, J. E. Roberts, J. P. Graham, Wm. A. Bramlett, E. G. Bennett, B. J. Baldwin, J. C. Otis, John B. Stephens, A. Dowlen, W. S. Griffin, M. W. Moody, Robt. P. Mayo, T. A. Gerron, R. J. Patton,

Ed. Collins, Ben F. Fuller, Henry Moore, W. J. McGowan, John C. Easton, P. D. Wilkins, Lamar county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties composing the twenty-first senatorial district, to wit:

H. H. Parker, J. Crawford Roberts, Geo. J. Butler, Geo. W. Tyler, B. B. Seat, Ed. T. Rucker, John M. Freeman, J. H. Scales, H. E. Bradford, Geo. C. Pendleton, S. J. Brown, J. F. Beach, J. W. Jimmuman, W. C. Mathewa, H. Williams, W. E. Roseborough, R. H. Taylor, J. L. Lee, Randolph Robertson, M. A. Spouts, Bell county.

John C. Crunk, Wm. M. Baines, W. D. Hill, Thomas H. Brennan, W. E. Easterwood, Guy C. Hinman, W. E. Roseman, J. S. Perry, Albert Horne, T. M. Freeman, Milam county.

Geo. A. Hodges, J. R. McDonald, J. T. Somerville, J. N. Wharton, W. J. Finks, M. A. Westcott, Frank Osborne, J. M. Warner, C. H. Pidcocke, Ed. McCulloch, Mat. Jones, A. Peyton, Falls county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public from counties of the second senatorial district:

I. N. Buckner, L. T. Barrett, J. A. Pirtle, O. P. Fears, Henry Brewer, John P. Henderson, Jesse J. Watkins, Clifton Wells, Nacogdoches county.

Joseph Chesnutt, Jas. G. McKnight, J. F. Davis, Amos Spear, Angelina county.

A. C. Holmes, F. W. Saunders, H. H. Johnson, J. S. Doughtie, San Augustine county.

William W. Weatherred, James G. Cook, J. M. Borders, John F. Hankla, John McElroy, R. P. Sibley and S. D. Harp, Sabine county.

James E. Downs, W. J. Chaffin, B. F. Durren, Thomas W. Craddock, Dan. Egbert, John H. Downes, C. M. Monday, W. J. Murchison, W. P. McCurry, John J. Burton, Houston county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public for counties of the twelfth senatorial district:

Joseph Wilson, J. W. Franklin, H. C. Overacker, C. C. Dewy, Charles T. Morris, John C. White, J. D. Naylor, James A. Aston, J. J. Wamble, T. E. Shirley, Thomas H. Emerson, McCord Harper, Alex. Berry, John Church, Collin county.

W. J. Austin, John Collier, Thomas M. Yates, John Bacon, J. W. Jagoe, James Eades, S. B. McQuin, A. J. Nance, T. E. Hogg, F. E. Piner, John C. Wright, Alvin C. Ousley, P. C. Sams, E. F. Bates, Denton county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties composing the twenty-sixth senatorial district, to wit:

Seth W. Biggs, W. A. Highsmith, Robt. P. Jones, F. A. Orgain, John W. Kennedy, Murray Burleson, John C. Yerger, W. B. Patton, J. B. Adair, to be notaries public in Bastrop county.

E. C. Phelps, A. Haidusek, August Mensing, A. F. Dornwell, Charles Bruner, W. S. Chunn, Charles Amberg, C. W. Meyer, Stefan Kubald, Joseph Ehlinger, A. L. Pelters, Adolph Groos, G. G. Moore, C. E. Bauer, Herman Roeder, Charles Luck, H. L. Lewis, Neil Robinson, J. I. Campbell, A. Henderson, to be notaries public in Fayette county.

Wm. Burns, Robt. Hodges, C. G. Jungmichael, F. S. Wade, C. M. Seala, E. R. Sinks, to be notaries public in Lee county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties composing the fourteenth senatorial district, to wit:

Robt. Compton, P. R. McSwain, J. F. Steward, A. B. Carley, F. G. Gullett, W. M. Seely, Willis M. Griffith, Freestone county.

Thos. J. Gibson, W. H. Frisbie, W. P. Brown, H. W. Morgan, N. L. Waller, Jas. A. Wright, W. D. Donalson, A. C. Pendergast, R. H. Fowler, I. J. Pringle, Meredith N. Miller, J. C. Morton, Limestone county.

Bryan T. Barry, H. A. Halbert, J. M. Bloding, John M. Rice, W. H. Wagley, David Maggard, A. S. Gill, James Robinson, J. C. Mathews, O. W. Stone, G. W. Warren, L. B. Hanie, J. D. Carroll, T. A. Hayes, Matt Badgett, J. M. Doolen, E. H. Foreman, T. V. Horsely, Jas. E. Bright, J. R. Ransom, Navarro county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public from the counties of the nineteenth senatorial district:

James M. Claiborn, J. Stewart Cleveland, S. T. Hanscombe, John J. Harcourt, A. S. John, I. Lovenberg, John C. Walker, John S. Shields, Jno. Adriance, B. R. A. Scott, R. T. Byrne, C. G. Hatch, Chas. M. Mason, C. B. Gardner, Hugo Brosig, Oscar E. Finlay, Harris Masterson, D. M. Baker, Samuel Boyer Davis, for Galveston county.

W. C. Braman, J. L. Croom, H. W. Chinn, Edgar Hawkins, Hamlin Rugely, R. G. Chapman, for Matagorda county.

W. F. Smith, A. Metcalf, B. F. Holt, J. S. Rogers, J. J. Thurman, J. H. Shepard, J. P. Bryan, for Brazoria county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas :

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties composing the sixth senatorial district :

D. W. Cheatham, Eugene Easton, J. C. Brown, C. A. Worley, J. A. Franklin, F. M. Smith, S. H. Ward, N. B. Winston, John H. Beaty, J. H. Johnston, R. C. Graves, C. S. Moorman, E. S. Chambers, A. M. Taylor, V. M. Montgomery, Red River county.

A. A. Henderson, R. S. Blythe, Isham Russell, John Askew, J. C. Moore, H. Strother, H. C. Barker, Hopkins county.

W. T. Gregor, F. W. Templeton, Franklin county.

D. Z. Reynolds, Titus county.

Respectfully,

O. M. ROBERTS, *Governor.*

On motion of Senator Motley, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

The pending business being the report of the finance committee on the claim of Mrs. C. Toby for relief (allowing the sum of \$45,000 as a full and final settlement of said claim), the motion of Senator Storey to adopt the report of the committee was then considered.

(President *pro tempore* in the chair.)

The motion to adopt the report of the finance committee on the claim of Mrs. C. Toby was voted on and lost by the following vote:

YEAS.

Brown,
Duncan,
Ford,
Grace,

Guy,
Hobby,
Lane,

McCormick,
Storey,
Swain—10.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,

Homan,
Houston,
Lair,
Ledbetter,
Martin,

Moore,
Ripetoe,
Shannon,
Terrell,
Tilson—16.

Not voting—Motley, Patton.

The undersigned senators presented the following as their reasons for voting against the adoption of the report just voted on and lost:

We vote no because we will not vote to allow a claim for \$45,000, now over forty years old, when it has more than once been presented in years past to those who preceded us here and knew more of the merits of the

claim than the present generation can. If we are to organize ourselves into an auditorial board to pass again on revolutionary claims, we can see no limit to our future public debt.

TERRELL,
HOMAN,
GOOCH.

Senator Ledbetter presented the following as his reasons for voting no on the question just voted on:

I vote no on the resolution proposing to pay the heirs of Toby \$45,000 for the reason that I believe after the lapse of more than forty years, and preceding legislatures having failed or refused to pay the claims, is at least conclusive to my mind that the claim ought not, at this late day, to be paid by the State of Texas. Whilst I do not think the State of Texas should plead the statute of limitations to any claim against her, yet this claim I deem a state demand, now presented after the evidence of its satisfaction, and payment may have been destroyed.

LEDBETTER.

Senator Storey said:

MR. PRESIDENT—Conscious that I am in the minority upon this question, and, as it seems fashionable of late to explain the reason for the faith within us, I beg to say that, after a careful investigation into the merits of this claim, I believe it to be just. We found from the correspondence between Gen. Sam Houston and Thos. Toby, and the records of the state department, and the treasurer's and comptroller's offices of the state, and from the evidence of such old Texans as Gov. E. M. Pease, Col. James B. Shaw, Col. John M. Swisher and Col. Brewster, all of which evidence shows beyond a reasonable doubt that the claim is just, due and unpaid. Not one syllable of evidence has been offered by the opponents of the claim to throw the least suspicion on it except age, and the evidence before the committee was ample to justify the conclusion that it was not the fault of Thos. Toby, or his heirs, that this claim should have been so long neglected. I cannot afford to vote against a bill like this. I believe the supplies for which payments is claimed furnished the very life blood of the republic. Thos. Toby was almost the only friend to whom Texas could look outside of her borders for provisions, munitions of war, etc. He responded nobly to the prayers of her struggling people, and soon thereafter departed this life. Texas has never discharged the debt, and we should at least recognize the claim as a valid and subsisting debt in favor of his heirs, because, I believe it to be right. I vote yea.

The undersigned senators presented the following as their reasons for their votes on the Toby claim:

SENATE CHAMBER,
AUSTIN, TEXAS, March 2, 1879. }

The undersigned members of the Senate avail themselves of the privilege of spreading upon the journals their reasons for voting for the report of the committee on finance, which recognized the fact that the State of Texas is indebted to the late Thomas Toby, and proposing to pay the representatives of said Toby the sum of \$45,000, in satisfaction for all demands against the state.

The claim of Thomas Toby originated during the struggle between Texas and Mexico. Mr. Toby was distinguished at an early period of the contest as the friend of Texas and constitutional freedom. He was made the agent of Texas and intrusted with the sale of land scrip to the

quantity of five hundred thousand acres. President Burnet indorsed him officially as such in May, 1836, and continued to do so until the end of his term. Soon after being inaugurated, President Houston addressed Thomas Toby and brother officially as the agents of the Republic of Texas. His first communication was dated November 8, 1836, and the correspondence extended to about two-thirds of President Houston's term of office.

The official correspondence establishes the following facts:

1. The Mexican government was straining every nerve to make another formidable invasion of Texas during the summer of 1836.

2. Texas had few men in the field and called for volunteers.

3. Thomas Toby advanced money, arms, ammunition, clothing and provisions. He made advances to fit out war vessels, and to forward volunteers to Texas. In short, he furnished Texas the sinews of war.

4. If he had not done so the army of Texas would have been compelled to disband, and the people would have been driven out or butchered.

5. In February, 1837, President Houston forwarded requisitions to Thomas Toby, and said: * * * * "I hope to God you will have them filled; it is important to us. If our army is not supplied all our blood has been shed in vain." He repeated that declaration substantially on other occasions.

6. President Houston promised to repay Thomas Toby for advances.

7. This debt was incurred to maintain the independence of Texas. The Texas army, supplied by Thomas Toby, prevented a Mexican invasion, and the consequences resulting from the war of extermination declared and waged against Texas.

8. Thomas Toby accounted for every acre of land and scrip placed in his hands, and presented vouchers for moneys expended for the Republic of Texas. They are on record in the comptroller's office. In accordance with a legislative resolution the comptroller and treasurer of this state made a statement of the Thomas Toby claim, and reported the sum of over \$45,000 due Thomas Toby as per vouchers on file.

9. Ex-Governor Pease, ex-Comptroller Shaw, ex-Auditor Swisher and Col. Brewster testify to the justice of Thomas Toby's claim, and that it never has been paid.

10. There is no evidence in any department of this government known to us of any payment of Thomas Toby's claim.

11. We believe said claim was made under circumstances which constitute it almost sacred; that equity, gratitude and a proper regard for the reputation of our state demand its recognition and liquidation.

We cannot subscribe to the doctrine that length of time lessens and discharges our obligations to pay a claim which has been presented eight times before even a statement thereof was made by the authorized agents of the state. We feel that in voting to recognize the claim of Thomas Toby, we were shielding Texas from the charge of repudiating a claim she is morally bound to pay as an act of gratitude and justice to a noble man who was her friend and benefactor in the dark days of danger and peril.

JOHN S. FORD,
A. P. McCORMICK,
CHAS. D. GRACE,
JNO. M. DUNCAN.

House bill No. 187 (the bell-punch bill) was taken up and referred to committee on finance.

Senator Shannon (by leave) presented a memorial from the citizens of Baylor county, "asking a special act of organization and that the unorganized counties north and west of them, as the counties of Bailey, Lamb, Hall, Motley, Cottle, Floyd, Briscoe, Swisher, Castro, etc., be attached to their county for judicial, surveying and land purposes, and such other legislation as may be necessary."

Referred to committee on state affairs.

Senator Shannon, chairman of committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 250, entitled "An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district," have considered the same, and I am instructed to report the same back and recommend its passage.

SHANNON, *Chairman.*

Senator Ledbetter moved to suspend the rules and take up Senate bill No. 130 (the general appropriation bill).

Lost by the following vote:

YEAS.

Brown,
Burnett,
Lane,
Ledbetter.

Martin,
McCormick,
Moore,
Motley,

Ripetoe,
Shannon,
Storey,
Swain—12.

NAYS.

Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,
Hobby,
Homan,

Houston,
Lair,
Patton,
Terrell,
Tilson—16.

Senator Swain, chairman of committee on penitentiaries (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiaries have had under consideration Senate bill No. 222, entitled "An act to provide for furnishing and utilizing the East Texas penitentiary, and to make an appropriation therefor," and instruct me to report the accompanying substitute and recommend that the substitute do pass.

SWAIN, *Chairman.*

On motion of Senator Swain, 50 copies of the substitute recommended by the committee and the report, were ordered printed.

Senate bill No. 3, entitled "An act to provide for and regulate judgment liens on land," being business on the president's table, was taken up, read third time and passed.

On motion of Senator Edwards, the rules were suspended and Senate bill No. 194, entitled "An act to regulate taxation and fix the rate of the same," passed August 21, 1876, was taken up and read first time.

Senator Edwards moved to suspend the rules and place the bill on its second reading.

Lost by the following vote:

YEAS.

Brown,
Davenport,

Edwards,
Ford,

Gooch,
Hobby,

Houston,
Lane,
Ledbetter,
Martin,

McCormick,
Moore,
Motley,
Storey,

Swain,
Terrell,
Tilson—17.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,

Grace,
Guy,
Homan,
Lair,

Patton,
Ripetoe,
Shannon—11.

Senator Edwards moved to suspend the rules and take up Senate bill No. 116.

Lost by the following vote:

YEAS.

Brown,
Davenport,
Edwards,
Ford,
Gooch,
Hobby,

Houston,
Lane,
McCormick,
Moore,
Motley,

Shannon,
Storey,
Swain,
Terrell,
Tilson—16.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,

Grace,
Guy,
Homan,
Lair,

Ledbetter,
Patton,
Ripetoe—11.

Not voting—Martin.

Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or to complete, or to complete payment for court houses and jails," was taken up as business on the president's table, read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS.

Edwards,

McCormick—2.

Not voting—Ford, Grace.

Senator Gooch moved to suspend the rules and take up Senate bill No. 179, entitled "An act to define in what civil cases disposition of witnesses may be taken."

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lair,
Martin,
McCormick,

Moore,
Motley,
Patton,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.

Lane,

Ledbetter,

Ripetoe--3.

The bill was then taken up and read first time.

Senator Duncan moved to suspend the rules and take up Senate bill No. 162 (the tramp bill).

The Senate refused to suspend the rules.

On motion of Senator Martin, the rules were suspended and the pending business postponed five minutes to enable him to make the following motion:

Senator Martin moved that the Senate go into executive session just after the morning call on Monday next, in the consideration of the appointments of his excellency sent to the Senate to-day.

Carried.

Senator Martin entered a motion to reconsider the vote by which the Senate refused to adopt the report of the committee on finance on the claim of Mrs. C. Toby.

Senate joint resolution No. 35, "Granting leave of absence from the state to Walter Acker, district attorney," was taken up as business on the president's table, read third time and passed.

Senator Ripetoe moved to suspend the rules and take up the Senate resolution with regard to the adjournment of the Legislature *sine die*.

The Senate refused to suspend the rules.

Senate bill No. 121, entitled "An act supplemental to and amendatory of an act to enable part owners of land to obtain partition thereof, and for other purposes," was taken up as business on the president's table, read third time and passed.

Senate bill No. 180, entitled "An act to amend article 358, chapter 30 of the Penal Code," was taken up as business on the president's table.

Senator Edwards called up his motion to reconsider the vote ordering the grossment of the bill now under consideration.

The motion to reconsider was lost by the following vote:

YEAS.

Brown,
Burton,
Edwards,Hobby,
Lane,Ledbetter,
Terrell--7.

NAYS.

Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Grace,Guy,
Homan,
Lair,
Martin,
McCormick,
Moore,Motley,
Patton,
Ripetoe,
Shannon,
Swain,
Tilson--18.

Not voting--Ford, Houston, Storey.

Bill read third time and passed by the following vote:

YEAS.

Buchanan
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,Guy,
Hobby,
Homan,
Lair,
Martin,
McCormick,
Moore,Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson--21.

NAYS.

Brown,
Edwards,
Not voting--Ford.Houston,
Lane,Ledbetter,
Terrell--6.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 181, entitled "An act to reorganize the sixteenth judicial district of the State of Texas, and to provide for the times of holding court therein;" Senate bill No. 32, entitled "An act supplemental to and amendatory of an act entitled 'an act concerning factors and commission merchants, approved February 11, 1860, and which took effect April 10, 1860;'" Senate bill No. 87, entitled "An act relating to juries in capital cases;" substitute for Senate bill No. 12, entitled "An act to regulate railroad companies and dealers with them; to provide a remedy for persons injured thereby, and to provide punishment for violation of the provisions of this act," and report them all correctly engrossed.

BROWN, *Chairman.*

House bill No. 217 pending, being the business on the president's table, was taken up, when, on motion of Senator Swain, the pending business was postponed, the rules were suspended and House joint resolution No. 2, "Repealing the smoke-house tax, etc.," was taken up and read second time.

Senator Houston offered the following amendment:

Amend the resolution so as to read:

"SECTION 19. All farm products, including wool in the hands of the producer, and all family supplies for family use, shall be and are exempt from taxation."

Senator Edwards offered the following as a substitute for the amendment of Senator Houston:

After the word "soil," insert the words "and wool."

Accepted by Senator Houston.

Senator Patton offered the following substitute for the pending joint resolution:

"SECTION 1. *Be it resolved by the Legislature of the State of Texas,* That article 8 of the constitution of the State of Texas be amended by adding a new section to be styled section 19, to read as follows:

"SECTION 19. Farm products of the soil, in the hands of the producer and necessary for home consumption, and all family supplies for family use, shall be and are exempt from taxation."

Senator Terrell offered the following amendment to Senator Edwards' substitute:

Amend by adding after the word "taxation," the following, viz: "also all calves which increase the herds of the stock-owners for the preceding year, and all colts foaled during the year; and all other gains or increase of property on hand."

Lost by the following vote:

YEAS.

Brown,
Davenport,

Grace,
Martin.

Terrell,
Tilson—6.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Lair,
Ledbetter,
McCormick,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain—19.

Not voting—Ford, Houston, Lane.

The substitute of Senator Edwards for the amendment of Senator Houston was then adopted by the following vote :

YEAS.

Brown,
Burnett,
Edwards,
Gooch,
Homan,

Houston,
Lane,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Ripetoe,
Shannon,
Storey—15.

NAYS.

Buchanan,
Davenport,
Duncan,
Guy,

Hobby,
Lair,
Patton,

Swain,
Terrell,
Tilson—10.

Not voting—Burton, Ford, Grace.

Senator Grace moved to adjourn until Monday morning, at 10 o'clock. Lost by the following vote :

YEAS.

Burton,
Grace,

Guy,

Motley—4.

NAYS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

Senator Duncan offered the following amendment :

Amend the substitute by inserting after "family supplies for home consumption," these words, "not to exceed in value three hundred dollars."

Senator Swain moved the previous question upon the pending House joint resolution, substitute and amendments.

The motion was seconded and the main question ordered.

Senator Grace moved to adjourn until Monday morning, at 10 o'clock.

Ruled out of order, pending the operation of the previous question.

Senator Duncan's amendment was lost by the following vote :

YEAS.

Brown,
Davenport,
Duncan,
Grace,

Guy,
Hobby,
Lane,
Lair,

Ledbetter,
Shannon,
Storey,
Terrell—12.

NAYS.

Buchanan,
Burnett,
Burton,
Edwards,
Gooch,

Homan,
Houston,
Martin,
McCormick,
Moore,

Motley,
Ripetoe,
Swain,
Tilson—14.

Not voting—Ford, Patton.

Senator Patton's substitute was adopted by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,

Grace,
Guy,
Hobby,

Lane,
Lair,
Ledbetter,

Motley,
Patton,
Ripetoe,

Shannon,
Storey,

Terrell,
Tilson—16.

NAYS.

Burnett,
Burton,
Edwards,
Ford,

Gooch,
Homan,
Houston,
Martin,

McCormick,
Moore,
Swain—11.

Not voting—Brown.

Joint resolution was then ordered engrossed by the following vote:

YEAS.

Brown,
Davenport,
Duncan,
Gooch,
Grace,
Guy,
Hobby,
Homan,

Houston,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,
Motley.

Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS.

Buchanan,
Burnett.

Burton,
Edwards,

Martin---5.

Not voting—Ford, Patton.

Senator Homan entered a motion to reconsider the vote just taken.

Senator Edwards presented the following reasons for his vote on the joint resolution just ordered engrossed:

I vote no because I was in favor of the House resolution exempting all farm products of the soil in the hands of the producers, and do not accept the substitute as a compromise as just to the farmer or based upon sound policy.

EDWARDS.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined the following bills, viz: Senate bill No. 160, entitled "An act for the relief of Miles N. Taylor, of Grimes county;" Senate bill No. 164, entitled "An act for the relief of James A. Barker, of Brazoria county," and report them correctly engrossed.

BROWN, Chairman.

On motion of Senator Burton, the Senate adjourned until 10 o'clock Monday morning.

FORTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 3, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of Saturday was dispensed with and same adopted.

Senator Burnett presented a communication from Messrs. T. W. Markham, Sanford Gibbs, L. A. Abercrombie, D. D. Alston, G. W. Grant, Samuel McKinney, Benton Randolph, A. T. McKinney, J. M. Roundtree and fifty-six other citizens of Huntsville and vicinity, offering

to donate to the state the building formerly known as the "Austin College," and grounds belonging to the same, for the purpose of establishing "a state normal school."

Read and referred to committee on educational affairs.

Senator Davenport presented the petition of many citizens of Shackelford county, asking the continuance of the frontier protection, particularly that the frontier battalion be continued, eulogizing its services in their section of the state, and giving a statement of many facts which make it necessary to the very existence of many of the frontier counties that a state force be kept in the field on the frontier.

Read and referred to the committee on Indian affairs and frontier protection.

Senator Burnett, from judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, having considered Senate bill No. 225, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court of said county to said change," and find that the required notice and publication for the passage of the act have been duly made, and I am instructed by the committee to return said bill and recommend that it pass.

J. R. BURNETT, *for Committee.*

Senator Shannon, chairman of the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 239, entitled "An act prescribing the times of holding the district courts in the twenty-second judicial district," have had the same under consideration, and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Shannon, chairman of the committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred House bill No. 258, entitled "An act to amend section 17 of 'an act incorporating the Gulf, Colorado and Santa Fe railroad company, and to grant land in aid of the construction of the same,'" passed May 28, 1873, have carefully considered the same and are of opinion that the relief asked for should be granted; they have therefore instructed me to report said bill back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Patton offered the following resolution:

Resolved, That the Senate take up on to-morrow the House bills now on the president's table, and that said bills, in their regular order among themselves, shall continue to be the pending business before the Senate during the evening session for three days thereafter, or until they are disposed of.

Lies over under the rules.

Senator Burton introduced a joint resolution "To establish the fees allowed in the general laws of 1876 as the fees of county officers."

Read and referred to judiciary committee No. 2.

Senator Tilson introduced a joint resolution "Granting leave of absence from the state to Hon. B. T. Estes, judge of the fifth judicial district of the State of Texas."

Read by caption and referred to committee on state affairs.

Senator Ripetoe introduced a joint resolution "Proposing amendments to sections 4 and 5 of article 4 of the state constitution."

Read by caption and referred to the committee on constitutional amendments.

Senator Homan introduced a bill entitled "An act amending articles 1664, 1696 and 1706 of the Revised Statutes, passed at the first session of the Sixteenth Legislature, entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Read by caption and referred to judiciary committee No. 2.

Senator Burnett introduced a bill entitled "An act to secure the early determination of appeals in the supreme court, in causes involving the right of office."

Read by caption and referred to judiciary committee No. 2.

Also a bill entitled "An act requiring the proceeds arising from the leasing or renting of county school lands, and from sales of timber thereon, to be applied exclusively to educational purposes."

Read by caption and referred to the committee on education.

Senator Edwards introduced a joint resolution, "relating to medals for Texas veterans."

Referred to the committee on state affairs.

Senator Hobby introduced a bill entitled "An act to grant to Jackson Doyle, a headright of six hundred and forty acres of land."

Read by caption and referred to committee on private land claims.

A message was received from his excellency the governor.

On motion of Senator Swain Mr. J. P. C. Whitehead was sworn in as acting assistant secretary of the Senate.

(Senator Ledbetter in the chair.)

On motion of Senator Davenport the Senate went into executive session to consider the appointments of his excellency the governor, sent to the Senate by special messages on Saturday last.

IN SENATE.—The secretary of the Senate was instructed to enter upon the journals that the Senate does advise and consent to the nominations by the governor of notaries public for the second, sixth, fourteenth, twenty-first and twenty-sixth senatorial districts.

(President in the chair.)

On motion of Senator Edwards the message from the governor just received was taken up and read.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 3, 1879: }

To the honorable the Senate and House of Representatives, in Legislature assembled:

I desire to call your attention briefly to a number of subjects which, though small in themselves compared to others, are deemed very important to be considered. I respectfully recommend that an appropriation be made expressly for rewards for the arrest of criminals, under such regulations and to such an amount as the Legislature may deem proper. Under the power given to and duty required of the governor to see that the laws are executed and under appropriations made for that purpose it

has been the practice in this as well as in other states to offer rewards for the arrest of criminals, and a large discretion is confided to the governor in determining when this power should be exercised as a means of performing his duty in the execution of the laws. It rests with the Legislature as the controlling power of government to determine how much money shall be furnished by appropriation to be used by the governor for that purpose. Upon my inauguration, I found that the annual appropriation of \$15,000 had been exhausted, and a large number of claims for rewards were outstanding, for the payment of which there was no appropriation. Afterward applications for rewards, and for the employment of detectives, and letters inquiring about rewards came, and have been coming, into the executive office almost daily. Upon examination also it was found that the rewards already offered amounted to a large sum, in the aggregate estimated at nearly \$100,000. Under the present state of our finances, I deemed it proper to issue a proclamation, revoking all of the offers of reward, and to forbear from offering rewards for the present, that the Legislature might be free to exercise their constitutional power at the outset of my administration, of indicating in advance, by their appropriation for that purpose, how much of the people's money they might determine should be spent in offering rewards, as one of the means of executing the criminal laws of the state.

It may sometimes be very important to offer and pay the rewards for the arrest of criminals, especially when they have escaped beyond the limits of the state, and consequently beyond the reach of our sheriffs. If sheriffs should pursue them beyond the limits of the state, it must be under a requisition as it is done by any other person, and they are not entitled as sheriffs to have their accounts for transporting such prisoners approved by the district judge, before whom the case is tried as prescribed by law. (See Paschal's Digest, p. 554, article 3386; and for fees to be thus approved see General Laws of 1876, p. 289, section 11.)

Therefore one who conveys a criminal from another state under a requisition from the governor, that being the only legal mode, must be compensated either by a reward offered and paid to him, or by an allowance of reasonable expenses, approved by the governor under the statute of this state in Paschal's Digest, article 3345. Under the construction and general practice of the executive officers, the reward, when paid, is considered as covering the reasonable expenses thus provided for. To enable the governor to make a requisition under this statute just quoted, he must have a copy of the indictment, or of a charge under oath before some competent authority, and must know of some person who is willing to convey the prisoner to this state, he having no power to send any one, and the means should be provided for in advance by an appropriation to pay either the reward offered or the reasonable expenses, so that the person who voluntarily renders the service, often a laborious and hazardous one, may get his pay, or at least a warrant for it.

The governor may also offer a reward for the arrest of a prisoner whether he is out of the state or not, and if he is arrested within the state, the person arresting him or causing his arrest, though a sheriff, may get the reward by applying to the governor under the usual practice. In such a case the construction of the executive officers is, that the reward covers the fees of the sheriff for arresting and conveying the prisoner, and no allowance should be made by the district judge upon trying the cause under the law in article 3386, p. 554.

It may happen, as it has happened, that a reward would be paid on the approval of the governor, and the fees also be allowed by the comptroller to the sheriff, upon the certificate of the district judge, because he would not know, or have the means of knowing, anything about the reward or its payment when he tried the case and approved the sheriff's account for the fees.

This suggests the propriety of a law requiring that whenever a reward is offered, the secretary of state should forward a notice of it officially to the clerk of the district court, in the county in which the offense was committed, to be filed with the papers in the cause, in order to give the district judge the necessary information, and also a similar notice should be sent from the executive office, when the claim for the reward is approved.

I respectfully recommend also that a law be passed requiring the accounts of sheriffs, of clerks and of county and district attorneys, that are approved by the judge trying the case and paid out of the treasury of the state, to be approved in open court, after being specifically stated in each case separately, and after full examination of each case in a separate account. An examination of these accounts in the comptroller's office will exhibit the necessity of such a law, in order to protect the interest of the state much more forcibly than it can be done in a message.

The congress of the United States passed such a law for the federal courts, which may be found in Laws of United States, page 333.

I respectfully recommend that an appropriation be made for the employment of detectives to ferret out offenses and that their employment be legalized. Occasionally such employment may be very useful and proper, as has been exhibited in the land fraud cases that have already been reported to the Legislature. I also respectfully recommend that an appropriation be made for a general contingent fund and that the governor be required to report to the Legislature, minutely and specifically, how it shall have been expended. The occasion for the use of such a contingent fund cannot be foreseen, but past experience clearly demonstrates its necessity in the proper administration of the government. As evidence of this, I need only refer to the employment of the attorneys, Messrs. Sneed & Sheeks, in the land frauds and their valuable services in the past, and which should be continued. I may also refer to the penitentiary at Rusk, which has been received for the state, and the governor is not authorized to take any control of it by an agent or otherwise, or spend a dollar for its protection. It not only needs to be taken care of, but it is in danger of being injured by neglect in having some work done for its preservation. I may refer also to the college for the education of colored youths, which is valuable property, without any one to take care of it, or any means to have it done. So if lightning were to strike one of the public buildings, or if its roof should be blown off in a storm, or any other natural damage be done to it by any unforeseen accident, after the adjournment of the Legislature, no one would be justified in having the necessary repairs made without a law authorizing it, under the restrictions of the present constitution.

I respectfully recommend that an appropriation of at least \$20,000 be made to be used, if necessary, in taking charge of the penitentiary, which might have to be done suddenly by the death of the lessees or by their surrender of it, or by other unforeseen cause.

I respectfully recommend that a law be passed setting apart the room

in the third story of the capitol as a state library and prescribing how and by whom the books and geological specimens shall be taken care of and the room controlled; also, that the rooms for each department be designated in the capitol and that it be expressly declared under whose control the balance of the capitol building and the public grounds and improvements within and surrounding them shall be placed.

I respectfully recommend that the arms and army stores in charge of the adjutant general that are not in use and not likely to be used be required to be sold by him and the proceeds thereof be placed in the treasury, and that he be authorized to rent a house to store such arms and army stores in so long as any remain on hand, there being no public building for that purpose.

I respectfully recommend that an appropriation of \$1000 be made to be applied during the ensuing two years by the supreme court, in the purchase of necessary books for the supreme court libraries, that are now much needed for the use of said court, and of the court of appeals.

I respectfully suggest that, if the making of maps in the general land office by photography be authorized by law, it will not only be a saving of expense in clerks' hire, but will also be an additional source of profit, while it will furnish maps cheaply to those who desire them.

A most important matter for the protection of the rights of our citizens is that some means should be provided to prevent their land titles from being lost, by the frequent burning of court houses, private dwellings, store houses and law offices. For the purpose of inaugurating something of the kind, I respectfully suggest that one of the safest rooms in the general land office building might be set apart and a clerk of said office be assigned, when necessary, to the duty of recording all instruments that are lawfully admitted to record, after they shall have been duly admitted to record in the proper counties, at the option of those presenting them; and also to receive and file certified copies of such instruments for safe-keeping when it is not desired to have the originals recorded by said clerk. This would furnish the people a safe repository for their land titles at the present, and when the public buildings are erected that are in contemplation, a thoroughly fireproof building should be erected by the state at the capital for this purpose, as well as for preserving valuable papers belonging to the state. The small fees charged, as authorized by a law, for thus preserving the muniments of title of land would not only pay expenses, but when it became generally known might reasonably be expected to bring in a considerable profit.

I respectfully beg leave to call to your favorable attention the recommendations of the late attorney general in his report in relation to the propriety of providing for the bringing of certain suits, in which the state is interested, and certain prosecutions for offenses in the district court of Travis county. To enable said court to dispatch that business promptly, and to attend also to the business arising otherwise in the county, it might be well to constitute Travis county a separate judicial district.

O. M. ROBERTS.

On motion of Senator Hobby, the message of the governor was referred to the committee on finance.

Senator Edwards moved to print 100 copies of the message for the use of the Senate.

Senator Ledbetter moved to amend by inserting "300 copies" in lieu of "100."

Accepted by Senator Edwards, and the motion as amended was adopted.

On motion of Senator Houston, the pending business was postponed, rules suspended and Senate bill No. 130 (the general appropriation bill) was taken up.

On motion of Senator Houston, the bill was postponed until Wednesday next, after the disposition of Senate bill No. 88, already made a special order for that day, and that the pending bill be made the special order for that time, and from day to day until disposed of.

On motion of Senator Brown, the pending business was postponed half an hour, rules suspended, and House bill No. 258, entitled "An act to amend section 17 of an act to incorporate the Gulf, Colorado and Santa Fe railway company, and to grant land in aid of the construction of the same, passed May 28, 1873," was taken up and read first time.

On motion of Senator Houston, the rules were suspended and Senate bill No. 87, entitled "An act regulating juries in capital cases," was taken up, read third time and passed.

On motion of Senator Lane, the rules were suspended and Senate bill No. 117, entitled "An act to provide for the sale of the public domain, and to apply the proceeds from the sale thereof to the public school fund and to the payment of the public debt," was taken up and read second time.

Senator Duncan offered the following amendment:

Amend line twenty-eight, page 3, by striking out "twenty-five cents" and inserting "seventy-five cents."

Lost by the following vote:

	YEAS.	
Buchanan,	Homan,	Ripetoe,
Duncan,	McCulloch,	Shannon,
Gooch,	Patton,	Tilson -9.
	NAYS.	
Burnett,	Houston,	Martin,
Edwards,	Lane,	Storey,
Ford,	Ledbetter,	Swain---10.
Guy,		

Not voting—Brown, Burton, Davenport, Hobby.

(Senator Homan in the chair.)

A quorum not voting on the amendment of Senator Duncan, Senator Edwards moved a call of the house.

Call sustained.

Roll called. Absent—Brown, Burton. Senators Grace, Lair, Moore, Motley and Terrell were absent on the asylum committee and were considered as excused.

(President in the chair.)

On motion of Senator Lane, the call was suspended.

On motion of Senator Lane, the pending business was postponed and made the special order for 3 o'clock p. m., and from day to day until disposed of.

On motion of Senator Shannon, the rules were suspended and Senate bill No. 12, entitled "An act to regulate railroad companies and dealers with them, and to provide a remedy for persons injured thereby, and to

provide a punishment for violation of the provisions of this act," was taken up, read third time and passed.

On motion of Senator Burnett, the rules were suspended and Senate bill No. 225, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court to such change," was taken up and read first time.

A message was received from the House announcing the passage by that body of House bill No. 138 entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act approved August 30, 1856;" House bill No. 125, entitled "An act providing for the issuance of bonds for the investment of the proceeds arising from the sales of county school lands, and to direct how the money so obtained shall be used;" House bill No 160, entitled "An act to repeal an act to provide annual pensions for the surviving soldiers of the Texan revolution, and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers," approved February 28, 1876; House bill No. 266, entitled "An act to authorize the county of Galveston to sell the shares of the capital stock of the Gulf, Colorado and Santa Fe railway company, owned by said company;" and House bill No. 70, entitled "An act to amend section 2 of the act to define the eighth judicial district, and to fix the times of holding the courts therein," approved August 11, 1876.

The bills just reported from the House were taken up for reference to appropriate committees and were referred as follows:

House bill No. 138—to committee on general land office.

House bill No. 125—to committee on finance.

House bill No. 160—to committee on retrenchment and reform.

House bill No. 266—to committee on internal improvements.

House bill No. 70—to committee on judicial districts.

On motion of Senator Homan, the rules were suspended and Senate bill No. 250, entitled "An act to create the thirty-second judicial district" was taken up and read first time.

Senator Homan moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin.

McCulloch,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson---23.

NAYS—none.

Bill read second time and ordered engrossed.

On motion of Senator Homan, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,

Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,

Houston,
Lane.
Ledbetter,
Martin,

McCulloch,
Patton,
Ripetoe,

Shannon,
Storey,
Tilson—22.

NAYS--Swain.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton.
Davenport,
Duncan.
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,

McCulloch,
Patton,
Ripetoe.
Shannon,
Storey,
Swain.
Tilson—22.

NAYS—Swain.

On motion of Senator Guy, Capt. Swindells, the calendar clerk, was excused for the day on account of sickness.

House bill No. 217, being the pending business, was postponed, and on motion of Senator Duncan memorial No. 5, of Tejada, "for translating certain Spanish documents in the office of the secretary of state," was taken up, with majority and minority reports, read and considered.

A message from his excellency the governor was received.

On motion of Senator McCulloch the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum not present.

A quorum soon appearing the Senate proceeded to business.

The pending business being Senate bill No. 117, entitled "An act to provide for the sale of the public domain, and to apply the proceeds from the sale thereof to the public school fund and to the payment of the public debt," was taken up, and the amendment of Senator Duncan, pending on adjournment, was then considered.

Senator Terrell moved a call of the Senate.

Call sustained.

Roll called, and the Senate being full, the call was suspended.

A message was received from the House announcing the passage of the following concurrent resolution:

Resolved by the House of Representatives, the Senate concurring, That the committee appointed on land frauds shall have the right to examine any papers or files now in the general land office, without the presence of a clerk of the office.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called; absent, Senator Burton.

The concurrent resolution just reported from the House, on motion of Senator Martin, was taken up and read first time.

Senator Martin moved to suspend the rules and place the concurrent resolution on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson—25.

NAYS—none.

Not voting—Burton, Terrell.

Resolution read second time.

On motion of Senator Martin a further suspension of the rules was had to place the resolution on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Burton, Moore.

Resolution read third time and passed by the following vote:

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Burton.

Senator Storey, chairman of the committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration House bill No. 187 entitled "An act to provide for the levy and collection of an occupation tax, on the sale of spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect," and Senate bill No. 136, entitled "An act for the relief of tax payers," and I am instructed by the committee to report said bills back to the Senate with the recommendation that fifty copies of each be printed for the use of the committee and the Senate.

STOREY, *Chairman.*

On motion of Senator Storey, the report of the committee on finance, just presented, was read and adopted, and fifty copies of each of the bills referred were ordered printed.

(President in the chair.)

The amendment of Senator Duncan was then lost by the following vote :

YEAS.		
Buchanan, Burnett, Duncan,	Homan, Patton,	Swain, Tilson—7.
NAYS.		
Brown, Burton, Davenport, Edwards, Ford, Gooch, Guy,	Hobby, Houston, Lane, Lair, Ledbetter, Martin,	McCulloch, Motley, Ripetoe, Shannon, Storey, Terrell—19.

Not voting—Grace.

Senator Duncan offered the following amendment :

Amend line twenty-seven, page three, by striking out “fifty cents,” and inserting “one dollar and twenty-five cents.”

Lost by the following vote :

YEAS.		
Buchanan, Burnett, Burton,	Duncan, Homan, Patton,	Storey, Swain, Tilson—9.
NAYS.		
Brown, Davenport, Edwards, Ford, Gooch, Guy,	Hobby, Houston, Lane, Lair, Ledbetter, Martin,	McCulloch, Motley, Ripetoe, Shannon, Terrell—17.

Not voting—Grace.

Senator Lane offered the following amendment:

Amend by inserting between the words “tracts” and “where,” in third line of section 2, the words “and no one survey to have a water front to exceed eight hundred varas.”

Adopted.

Also the following amendment:

Amend by striking out lines fourth and fifth of section 1.

Adopted, and bill ordered engrossed.

On motion of Senator Ford, the rules were suspended and Senate bill No. 109, entitled “An act to provide for painting the portraits of the presidents of the Republic of Texas, and of the former governors of the state,” was taken up and read first time.

On motion of Senator Ford, the rules were further suspended and the bill placed on its second reading by the following vote:

YEAS.		
Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Edwards, Ford, Gooch,	Guy, Hobby, Homan, Houston, Lane, Lair, Ledbetter, Martin, McCulloch,	Motley, Patton, Ripetoe, Shannon, Storey, Swain, Terrell, Tilson—26.
NAYS—Grace.		

Bill read second time.

The amendment recommended by the committee was then adopted.

Senator Houston moved the previous question on the engrossment of the bill.

Motion seconded and main question ordered.

The bill was then ordered engrossed by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Ford,

Guy,
Hobby,
Homan,
Houston,
Lane,
Ledbetter,

Martin,
McCulloch,
Motley,
Shannon,
Storey,
Terrell—18.

NAYS.

Burnett,
Edwards,

Gooch,
Grace,

Lair,
Tilson—6.

Not voting—Patton, Ripetoe, Swain.

Senator Storey moved a further suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.

Mr. President,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,

McCulloch,
Motley,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.

Grace,

Lair—2.

Not voting—Patton.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Ford,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,

McCulloch,
Motley,
Ripetoe,
Shannon,
Storey,
Terrell—19.

NAYS.

Burnett,
Edwards,
Gooch,

Grace,
Lair,

Swain,
Tilson—7.

Not voting—Patton.

The undersigned senators presented the following as their reasons for voting no on the passage of Senate bill No. 109, "To paint the portraits of the Texas presidents and governors:"

We vote no not because we are opposed to the object of the bill. On the contrary, we admire the spirit that desires to perpetuate the likeness and honor the names of the statesmen and heroes who served the country in the hour of peril—who drew the sword in her defence, emptied their purses for her support, and sat in her counsels. Yet, this end could have been secured and the portraits painted for a small land grant, and we

think it unwise to grant money for a purpose which can be accomplished without.

GOOCH,
TILSON.

A message was received from the House announcing the passage by that body of substitute for House bill No. 346, entitled "An act incorporating the New Braunfels Academy," passed February 5, 1858.

Senator Duncan moved to suspend the rules and take up Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases."

Lost by the following vote (a quorum not voting):

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Gooch,

YEAS.
Guy,
Homan,
Houston,
Lair,
Martin,
McCulloch,

Motley,
Ripetoe,
Shannon,
Storey,
Tilson--17.

NAYS—Grace.

Not voting—Davenport, Edwards, Ford, Hobby, Lane, Ledbetter, Patton, Swain, Terrell.

Senator Gooch (by leave) introduced a bill, entitled "An act to grant James McDonhit, a citizen of Anderson county, a certificate for six hundred and forty acres of land."

Read by caption and referred to committee on private land claims.

Senator Storey (by leave) introduced a bill entitled "An act authorizing any person being a citizen of the State of Texas who may have been entitled to land for military services in the army of the late Republic of Texas under any law in force at that or a subsequent date, and who may have failed to obtain the same, to bring his action in the district court of the county of his residence for a decree of said court, authorizing the commissioner of the general land office to issue a certificate therefor."

Read by caption and referred to judiciary committee No. 1.

The following messages, which were received from his excellency the governor on this morning, were ordered to be entered on the journals:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 3, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties composing the first senatorial district, to wit:

W. W. Blake, Jasper county.
Mark Weiss, Peter D. Stockholam, F. C. McReynolds, Jefferson county.
E. A. Cheatham, C. H. Nemits, T. S. McFarland, John Wright, T. J. Ramsey, Newton county.
R. W. Hubert, M. T. Hickman, B. W. Manry, Polk county.
Joseph E. de Blanc, Liberty county.
E. M. Chance, Hardin county.

Respectfully,

O. M. ROBERTS, Governor.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 3, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the follow-

ing appointments of notaries public in counties of the fifth senatorial district:

J. L. Patterson, Thos. H. Cheatham, J. L. Jeter and James Coffrey, for Morris county.

A. Mills, E. Allday, C. R. Cartwright, J. C. Hutchison, Reese Hughes, jr., Can Thigpen and Robert Cocke, for Cass county.

W. H. Mabry, George R. Beard, John W. Hooper, C. F. Gribble, J. S. D. Weatherall, W. H. Cook, John H. Parsons, Lewis B. Todd, Wm. E. Estes, Albert B. Smith, Jason Jackson, J. B. Littlejohn, J. D. Kitchen, and F. M. Burroughs, for Marion county.

Chas. L. Pitcher, H. J. H. Brenising, C. M. Aiken, J. H. Shaelson, L. C. DeMorse, John King, H. N. Samstag, S. R. Burry, Silas McCrary, W. W. Dillard, T. W. Hook, for Bowie county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 3, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties composing the twenty-third senatorial district, to wit:

James R. Robinson, F. G. Bransford, J. H. Steel, J. W. Simpson, Wm. Scott, W. S. Moss, C. Hood, H. B. Verner, of Jack county.

E. T. Hilliard, Geo. Spiller, Wm. Mosely, Joseph Benedict, Loyd Kelly, M. A. Wilson, James G. Tackett, D. C. Brooks, L. E. Brannin, of Young county.

W. H. Grigsby, A. L. Shoemaker, J. H. Boggess, John H. Stephens, W. S. Jameson, J. S. Love, Wade Atkins, J. R. Fortson, of Montgomery county.

H. C. Ferguson, Theodore Merriman, H. H. Embry, L. A. Crane, J. M. O'Neil, B. F. Bank, Lee Newton, H. D. Donald, J. L. Randall, W. M. James, J. B. Ford, W. H. Bullock, B. D. Davidson, of Wise county.

Henry W. Spivey, J. R. Martin, R. S. Cook, A. B. Kindle, H. S. Morgan, C. L. Hefferon, Geo. McCall, D. G. Frost, P. F. Brannan, Samuel Peacock and J. W. Burch, for Parker county.

J. K. Allen, J. T. Morehead, T. A. Neace, R. W. Tannahill, J. P. Booth, J. S. Morris, Thos. Bratton, J. T. Krinkle, John W. Williams, W. H. Baldrige, Geo. W. Finger, John R. Hotyr, Geo. Mulkey, Zane Citta, J. C. Scott, Walter E. Knuland, C. C. Cummings, G. W. Jopling, J. O. StClair and Cyrus Lambron, for Tarrant county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 3, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties of the twenty-seventh senatorial district, to wit:

C. D. Barnett, J. C. Kindred, Friench Simpson, J. F. Lyendecker, H. C. Everett, Wm. Dunovant, Colorado county.

John Woods, Jesse Green, E. P. Noble, H. K. Judd, C. C. Haynes, M. C. Levy, Lavacca county.

W. S. Fly, James C. Gillespie, S. F. Winston, W. B. Frederick, S. J.

Thomas, Thomas B. Littell, Edmond Haltom, N. W. Nance, Wilber F. King, Dan. R. Jacks, Gonzales county.

Respectfully, O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 3, 1879.

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in counties of the twenty-ninth senatorial district:

Thomas O'Callagan, San Patricio county.

Dan T. Price, Frio county.

William Cassin, William Kuykendall, McMullen county.

P. F. Murphy, Live Oak county.

James Paul, Charles Demontel, Medina county.

E. F. Hall, Jose Ma. Rodriguez, Juan V. Benavides, Lazaro De La Garza, Webb county.

J. Williamson Moses, John J. Dix, Edward R. Gray, H. S. Lang, Duval county.

F. M. Dubose, Francis E. McManus, E. Atlee McCampbell, Stanley Welch, J. W. Ward, M. F. Gaffney, W. N. Ball, W. H. Robinson, L. D. Brewster, Nueces county.

A. C. Howell, Geo. G. Davis, Jesse Dennett, Emilio C. Forto, Henry L. Howlett, Francis M. Campbell, Wm. E. Cummings, F. E. Starck, Cameron county.

W. W. Lambert, C. A. Winders, James F. Perry, Isaiah L. Martin, Lawrence N. Quintle, Kinney county.

Respectfully, O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 3, 1879.

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in counties of thirty-first senatorial district:

H. S. Hastings, S. L. McCulloch, E. L. Batte, Guadalupe county.

O. T. Brown, H. B. Coffield, Sterling Fisher, F. R. Malone, Hays county.

A. W. Moursund, Blanco county.

G. B. Cooke, Joe F. Brown, San Saba county.

Tom O. Bryan, McCulloch county.

Jno. W. Campbell, C. B. Collins, William B. Walker, A. Reed, H. McLester, Jas. A. Wiley, Samuel L. French, J. C. Lamb, Caldwell county.

Respectfully, O. M. ROBERTS, *Governor*.

On motion of Senator Houston, it was ordered that the Senate go into executive session, on the nominations for notaries public sent to the Senate this morning by his excellency the governor, to-morrow morning just after the morning call.

On motion of Senator Houston, the Senate adjourned until to-morrow at 10 o'clock A. M.

FORTY-THIRD DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, March 4, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Hobby, Senator Buchanan was excused for a few moments.

On motion of Senator Houston, Senator Homan was excused for three days.

Senator McCulloch presented the petition of the county officers of Robertson county "Asking that the fees of county officials as established by the fee bill of 1876 be not reduced, as the present fees are scarcely sufficient to give the incumbents of county positions a respectable support, and if reduced many will have to resign and their places will be filled by incompetent parties."

Referred to the committee on finance.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports :

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 255, to be entitled "An act to provide for the erection of a marble shaft on Fannin's battle-ground," and instruct me to report it back and recommend its passage.

A. W. TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 216, to be entitled "An act specifying fees for collectors of taxes for sale of real estate for delinquent taxes," and instruct me to report it back with the recommendation that it pass.

A. W. TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 111, to be entitled "An act to regulate the pay of grand and petit jurors in the several courts of this state," and instruct me to report it back with the accompanying amendment, and recommend that, as amended, the bill do pass.

A. W. TERRELL, *Chairman.*

Amendment: At the end of section 1 strike out all after the word "exceed," and add "two dollars per day, or fraction of a day, for each juror."

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 242, to be entitled "An act to amend article 1179 of 'an act to adopt and establish the Revised Civil Statutes of the States of Texas,'" and instruct me to report it back with the recommendation that the bill do pass.

A. W. TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 243, to be entitled "An act to amend articles 1289 of 'an act to adopt and

establish the Revised Civil Statutes of the State of Texas," and instruct me to report it back and recommend its passage.

A. W. TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered Senate bill No. 241, to be entitled "An act to amend articles 684 and 669 of the Penal Code, passed February 21, 1879," and instruct me to report it back with the recommendation that the bill pass.

A. W. TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered Senate bill No. 224, to be entitled "An act to amend article 539 of section 2 of an act entitled 'an act to adopt and establish a penal code and code of criminal procedure for the State of Texas,'" and instruct me to report it back with the accompanying amendment and recommend that as amended the bill do pass.

A. W. TERRELL, *Chairman.*

Amendment: Add to end of section 1 the words "and not thereafter."

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered Senate bill No. 265, to be entitled "An act authorizing any person being a citizen of the State of Texas, who may have been entitled to land for military services in the army of the late Republic of Texas, under any law in force at that or a subsequent date, and who may have failed to obtain the same, to bring his action in the district court of the county of his residence for a decree of said court authorizing the commissioner of the general land office to issue a certificate therefor," and instruct me to report it back with accompanying amendments, and recommend that, as amended, the bill pass.

A. W. TERRELL, *Chairman.*

Amendments: In fifth line of caption and sixth line of section 1 strike out the words "the county of his residence," and insert in lieu thereof "of Travis county."

Senator Guy, chairman of committee on general land office, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on general land office, to whom was referred Senate bill No. 139, a bill to be entitled "An act for the relief of the heirs of Catlett Burnett, deceased," have had the same under consideration, and find that said bill, being a bill for private relief, was improperly referred to your committee, the same being done probably through mistake as the petition and accompanying papers in said case were all referred to your committee on private land claims. A majority, therefore, of your committee instruct me to report said bill back to the Senate and to ask that the same be referred to committee on private land claims.

GUY, *Chairman.*

The report of the committee was adopted and bill referred as requested.

Senator Guy, chairman of the committee on private land claims, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 248, entitled "A bill to be entitled 'an act for the relief of the heirs of James Bell, a soldier of the Texas revolution,'" have con-

sidered the same, and I am instructed by said committee to report the same back to the Senate with the statement that they believe the said claim is a just and meritorious one; but finding that no notice by publication of same has been given as required by law, they instruct me further to recommend that said bill do not pass. GUY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 223, entitled "An act to validate bounty certificate of Joseph Hawkins," have had the same under consideration, and find that due notice by publication of same has been given, and a majority of your committee, having examined the proofs accompanying said bill, instruct me to report the same back to the Senate and recommend its passage.

GUY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 53, entitled "An act for the relief of the heirs of Capt. Silas Dinsmore, deceased," have considered the same, and find that due notice by publication of same has been made, and a majority of your committee, having examined the proofs accompanying said bill, instruct me to report the same back to the Senate and to recommend that said bill do pass.

GUY, *Chairman.*

Senator Ledbetter, chairman of committee on education, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on education, to whom was referred Senate bill No. 233, "An act to provide for the payment of claims due county school superintendents and directors for services rendered prior to the year ending August 31, 1876," have had the same under consideration, and I am instructed by the committee to report the accompanying bill as a substitute therefor, and to recommend that the substitute do pass.

LEDBETTER, *Chairman.*

Senator Shannon, chairman of the committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred House bill No. 266, entitled "An act to authorize the county of Galveston to sell the shares of the capital stock of the Gulf, Colorado and Santa Fe railway company owned by said county," have considered the same, and I am instructed by the committee to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Patton introduced a bill entitled "An act to amend chapter 4 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' by adding another article to be numbered 476a, providing for the payment of certified state warrants by the collectors of taxes."

Read by caption and referred to judiciary committee No. 2.

Also a bill entitled "An act to amend article 2767 of chapter 3 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Read by caption and referred to judiciary committee No. 2.

Senator Lair introduced a bill entitled "An act to amend 'an act to

establish and provide for the support and maintenance of an efficient system of public free schools.'”

Read by caption and referred to committee on education.

A message was received from the House announcing the passage by that body of House bill No. 347, entitled “An act to amend section 2 of the charter of the corporation of Victoria, and to provide for certain changes caused thereby.”

Substitute for House bill No. 346, entitled “An act incorporating the New Braunfels Academy, passed February 5, 1858,” was taken up and referred to the committee on state affairs.

On motion of Senator Terrell, the resolution of Senator Patton, offered on yesterday, with regard to the Senate’s action on House bills, was taken up for consideration.

Senator Terrell offered the following amendment :

Substitute “evening sessions” for “morning sessions.”

Amendment accepted by Senator Patton, and the resolution, as amended, was then adopted.

On motion of Senator Duncan, the Senate went into executive session.

(Senator Duncan in the chair.)

IN SENATE.—On motion of Senator Grace, Senator Brown was excused to attend to necessary committee duty.

On motion of Senator Gooch, the action of the Senate in executive session on the nominations for notaries public, sent to the Senate on yesterday and the day previous by his excellency the governor, was ordered to be entered on the journals.

In obedience to the motion of Senator Gooch just adopted, it is here stated that the Senate does advise and consent to the nominations made by his excellency the governor for notaries public in the first, fifth, ninth, twelfth, twenty-third, twenty-seventh, twenty-ninth and thirty-first senatorial districts of the state.

(The president in the chair.)

On motion of Senator Gooch, the rules were suspended and Senate bill No. 210, entitled “An act to reorganize the third judicial district and prescribe the times of holding the courts in said district,” was taken up and read first time.

Senator Gooch moved to further suspend the rules and place the bill on its second reading.

Carried by the following vote:

	YEAS.	
Buchanan,	Guy,	Motley,
Burnett,	Hobby,	Patton,
Davenport,	Houston,	Ripetoe,
Duncan,	Lane,	Stewart,
Edwards,	Lair,	Shannon,
Ford,	Ledbetter,	Storey,
Gooch,	Martin,	Terrell,
Grace,	McCulloch,	Tilson—24.
	NAYS—Swain.	

Not voting—Burton.

Bill read second time.

On motion of Senator Gooch, the substitute of the committee was adopted.

Senator Gooch offered the following amendment:

Strike out "Henderson" in section 1.

Adopted.

Also the following:

Amend by striking out "caption" and inserting in lieu thereof the following:

"An act to reorganize the third (3) judicial district and prescribe the times of holding the district courts in the third and seventh judicial districts.

Adopted.

Also the following amendment:

Amend by inserting after section 3 the following:

SECTION 4. *Be it further enacted by the Legislature of the State of Texas,* That from and after the first day of August, A. D. 1879, the spring terms of the district courts of the seventh judicial district of the State of Texas shall be holden at the times hereinafter specified, to wit:

In the county of Smith, on the last Monday in February, and may continue in session six weeks; in the county of Henderson, on the sixth Monday after the last Monday in February, and may continue in session two weeks; in the county of Van Zandt, on the eighth Monday after the last Monday in February, and may continue in session three weeks; in the county of Wood, on the twelfth Monday after the last Monday in February, and may continue in session three weeks; in the county of Upshur, on the sixteenth Monday after the last Monday in February, and may continue in session two weeks; in the county of Gregg, on the eighteenth Monday after the last Monday in February, and may continue in session three weeks.

That the fall terms of said courts shall be holden at the times hereinafter specified, to wit:

In the county of Smith, on the last Monday in August, and may continue in session six weeks; in the county of Henderson, on the sixth Monday after the last Monday in August, and may continue in session two weeks; in the county of Van Zandt, on the eighth Monday after the last Monday in August, and may continue in session three weeks; in the county of Wood, on the twelfth Monday after the last Monday in August, and may continue in session three weeks; in the county of Upshur, on the fourteenth Monday after the last Monday in August, and may continue in session two weeks; in the county of Gregg, on the second Monday in January, and may continue in session until the business is disposed of.

SEC. 5. All writs and process issued before this act takes effect in the several counties, and made returnable to the courts at a different time than that herein specified, shall be returnable to the courts as herein specified, and shall have the same force and effect as if they had specified the return day, as provided by this act.

Adopted and bill ordered engrossed.

On motion of Senator Gooch the rules were suspended and the bill placed upon its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,
Hobby,
Houston,
Lane,

Lair,
Ledbetter,
Martin,
McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,

Storey,
Swain,

Terrell,
Tilson—25.

NAYS—none.

Not voting—Burton.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Motley,
Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell—23.

NAYS—none.

Not voting—Burton, Shannon, Tilson.

A message was received from the House announcing the passage by that body of the following concurrent resolution:

WHEREAS, The two houses of the Legislature have appointed a joint committee to examine the condition, etc., of the Agricultural and Mechanical College at Bryan, Texas, and also the college for the colored population at or near Hempstead; and

Whereas, the said committee is now absent on that duty and are expected to return and report this week; and

Whereas, the said report may be important to the Legislature in making suitable selections of directors for said institution; therefore be it

Resolved by the House of Representatives, the Senate concurring, That the election of directors for the Agricultural and Mechanical College be postponed until Monday, the 10th inst., at 11 o'clock A. M.

The resolution was taken up, read and adopted.

On motion of Senator Houston, the rules were suspended and Senate bill No. 239, entitled "An act prescribing the times of holding the district courts in the twenty-second judicial district," was taken up and read first time.

Senator Houston moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Burton, Grace.

Bill read second time and ordered engrossed.

On motion of Senator Houston, the rules were still further suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,

Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,

Hobby,
Houston,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Tilson—22.

NAYS—none.

Not voting—Burton, Lane, Swain, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25

NAYS—none.

Not voting—Burton.

On motion of Senator Burnett the rules were suspended and Senate bill No. 225, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court of said county to said change," was taken up, read second time and ordered engrossed.

Senator Burnett moved a further suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Ledbetter,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Lair, Martin.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Lair, Patton.

On motion of Senator Lane the rules were suspended and Senate bill No. 117, entitled "An act to provide for the sale of the public domain, and to apply the proceeds from the sale thereof to the public school fund, and to the payment of the public debt," was taken up, read third time and passed by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell—21.

NAYS.

Buchanan,
Duncan,

Stewart,
Swain,

Tilson—5.

Senator Duncan presented the following as his reasons for voting against the passage of the bill just passed in the Senate, to be placed on the journals of the same.

PROTEST.

I vote no upon the passage of this bill, and also consider it my duty to record a solemn deprecation of the recklessness of this and like measures for depriving the state of her splendid domain; my reasons are—

1. In addition to this bill other bills have passed this Senate at this session authorizing, together with this measure, the forcing on this market 41,000,000 acres of our state land at ruinous prices.

2. The minimum price (25 cents) is too low, and all the land will sell at the minimum.

3. It is to be sold in quantities to suit purchasers, and consequently will go into the hands of capitalists and monopolists who will do more than the Apache or Comanche has ever done to keep back settlement, harrass the small landholders, discourage agriculture, and to bar enlightened progress westward. This is not theory, but the history of the United States land policy, which is now in ruinous fruition, after the operation of just such measures as this, prompted by the same squandering desire.

4. This will leave our homestead law a nullity, for it leaves for pre-emption only a few thousand acres of arid rock and barren sand which are not worth the surveying, thus our boasted encouragements to immigration and to agriculture are no longer to exist, but we shall stand traitors to our past policy and the condemned of future sufferers by our folly.

DUNCAN.

Senator Ford (by leave) introduced a bill entitled "An act granting further time to the Corpus Christi, San Diego and Narrow Gauge railroad company."

Read by caption and referred to the committee on internal improvements.

On motion of Senator Tilson, the rules were suspended and Senate bill No. 186, entitled "An act requiring railway companies to stop their trains at the boundary line of the state for a certain length of time," was taken up and read first time.

Senator Tilson moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,

Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,

Swain,
Terrell,
Tilson—26.

NAYS—none.

Bill read a second time and ordered engrossed.

On motion of Senator Tilson, the rules were further suspended, and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Edwards, Guy, Motley.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,

Hobby,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Patton,

Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—20.

NAYS.

Burnett,

Guy,

Storey—3.

Not voting—Edwards, Lane, Motley.

On motion of Senator Storey, the rules were suspended and Senate bill No. 167, entitled "An act to amend 'an act creating the office of public weigher, and regulating the appointment and defining the duties and liabilities thereof,'" was taken up and read second time.

Senator Brown offered the following amendment:

Amend section 1 as follows—

1st. Strike out the word "incorporated" before the words "cities and towns" in section 1.

Lost.

Also the following:

2d. Amend section 1 by added the following—

"Provided, that in cities or towns receiving for sale or shipment less than twenty-five thousand bales of cotton, or sacks of wool, per annum, not more than two public weighers shall be appointed."

Adopted.

The amendments of the committee were then read, adopted and bill ordered engrossed.

On motion of Senator Duncan, the rules were suspended and Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases, was taken up by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,

Edwards,
Ford,
Gooch,
Guy,

Hobby,
Houston,
Lane,
Lair,

Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,

Shannon,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Burnett, Burton, Grace, Storey, Swain.

Bill read first time.

Senator Terrell, chairman of judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have instructed me to report the accompanying bill, to be entitled "An act to amend an act to adopt and establish the Revised Civil Statutes of the State of Texas." The object of the amendment is to prevent any one from availing himself of the benefit of the statute of five years limitation who, in the absence of the statute, would deraign title through a forged deed. Your committee are informed that there is reason to believe that there are forgers of land titles, now in the penitentiary, who, after serving their five years there, will emerge to freedom as rich men under the operation of the statute as it now is. Some of the operations of these men were extensive, and their tenants are, doubtless, on many valuable tracts of land belonging to non-residents—quietly perfecting their titles by limitation. The operations of the Chicago ring of forgers, who dealt so extensively in forged titles, usually involved the execution of several deeds before their work was regarded as complete. The importance of the legislation proposed, and the lateness of the session, induces your committee to ask present action on the bill.

TERRELL, *Chairman.*

On motion of Senator Terrell, the rules were suspended and the bill just reported was taken up and read first time.

Senator Terrell moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Ford,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson---24.

NAYS---none.

Not voting—Duncan, Edwards, Gooch.

The bill was read the second time and ordered engrossed.

On motion of Senator Terrell, the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Barton,
Davenport,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Duncan, Gooch.

The bill was read the third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Daxenport,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Duncan, Gooch, Martin.

Senator Shannon, chairman of committee on judicial districts (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred House bill No. 70, entitled "An act to amend section 2 of an act to define the eighth judicial district, and to fix the times of holding the courts therein," approved August 11, 1876, have considered the same and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 153, entitled "An act to provide for building a new state capitol;" Senate bill No. 250, entitled "An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein and providing for the appointment of a district judge for said district;" Senate joint resolution, being a substitute for Senate bill No. 29 and House bill No. 2, "amending the constitution of the State of Texas by adding a new section, to be styled section 19;" Senate bill No. 108, entitled "An act to ascertain the amount due teachers of public free schools for services rendered from September 1, 1873, to August 31, 1876, and to provide for the payment of such teachers' claims;" joint resolution being substituted for Senate bills No. 5 and 102, proposing "an amendment to article 5 of the constitution of the State of Texas," and report all of them correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Motley, Senator Edwards was added to the committee on asylums.

By leave, Senator Houston, chairman of committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered Senate joint resolution No. 257, granting leave of absence to Hon. B. T. Estes, judge of the fifth judicial district, and I am instructed to report same back to the Senate and recommend its passage.

HOUSTON, *Chairman.*

On motion of Senator Edwards the rules were suspended and substitute for Senate joint resolutions Nos. 5 and 102 "proposing amendments

to article 5 of the state constitution," was taken up, read third time and passed by the following vote:

YEAS.		
Brown,	Hobby,	Patton,
Buchanan,	Houston,	Ripetoe,
Burton,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	McCulloch,	Swain,
Guy,	Motley,	Tilson—21.

NAYS.

Burnett, Martin—2.

Not voting—Duncan, Gooch, Grace, Terrell.

On motion of Senator Houston, the rules were suspended and Senate bill No. 142, entitled "An act to regulate the admission and practice of attorneys and counselors-at-law," was taken up and read first time.

On motion of Senator Houston, the rules were suspended and Senate bill No. 151, entitled "An act to encourage the construction of artesian wells," was taken up and read first time.

On motion of Senator Ripetoe, the rules were suspended and Senate bill No. 211, entitled "An act to amend chapter 6 of title 15 of the new Penal Code, by further defining and punishing the offense of kidnapping," was taken up, read second time and ordered engrossed.

(Senator Edwards in the chair.)

On motion of Senator Gooch, the rules were suspended and Senate bill No. 179, entitled "An act to define in what civil cases deposition of witnesses may be taken," was taken up and read a second time.

The amendment of the committee was adopted and bill ordered engrossed.

Senator Gooch moved a further suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.		
Brown,	Grace,	Motley,
Buchanan,	Guy,	Patton,
Burnett,	Hobby,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Terrell,
Ford,	Martin,	Tilson—26.
Gooch,	McCulloch,	

NAYS—none.

Not voting—Swain.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Hobby,	Motley,
Buchanan,	Lane,	Patton,
Duncan,	Lair,	Ripetoe,
Edwards,	Ledbetter,	Stewart,
Ford,	McCulloch,	Tilson—16.
Gooch,		

NAYS.

Burnett,	Grace,	Shannon,
Burton,	Guy,	Storey,
Davenport,	Houston,	Swain—9.

Not voting—Martin, Terrell.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 245, entitled "An act to authorize the commissioner of the general land office to contract for the lithographic printing of maps of the various counties of the state and to provide for the sale of the same, and make an appropriation to carry this act into effect;" Senate bill No. 113, entitled "An act for the preservation of fish and to build fish-ways and fish-ladders;" substitute Senate bill No. 190, entitled "An act to amend chapter 17, title 17 of the Penal Code, adopted at this session of the Legislature, relating to swindling and fraudulent disposition of mortgaged property, by adding thereto article 997a;" Senate bill No. 109, entitled "An act to provide for painting the portraits of the presidents of the Republic of Texas and the former governors of Texas," and find them correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Burnett, the rules were suspended and joint resolution No. 99, "giving consent of the state for certain lessees of the penitentiary to sue the state," was taken up and read first time.

On motion of Senator Motley, the rules were suspended and Senate bill No. 113, entitled "An act for the preservation of fish," etc., was taken up, read third time and passed.

On motion of Senator Ledbetter, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

The sergeant-at-arms was dispatched for absentees.

The absent senators soon appearing, a quorum was announced, and the Senate proceeded to business.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House joint resolution No. 24, in regard to Pelican island, and I am instructed to report it back to the Senate with the recommendation that it do pass.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had before them by reference "An act to revive 'an act incorporating the New Braunfels Academy,' passed February 5, 1858," and they find that due notice has been given such as is required for the passage of special acts, and approving the bill on its merits, have instructed me to report it back and recommend its passage.

HOUSTON, *Chairman.*

(President *pro tempore* in the chair.)

A message was received from the House announcing the passage by that body of Senate bill No. 42, "An act to provide for the care and protection of the East Texas Penitentiary."

House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar in this state from the payment of taxes assessed and now due for the year 1878 in consequence of a great public calamity," was taken up as business on the president's table, and read third time.

The report of the committee was read and the Senate refused to adopt the report by the following vote:

YEAS.		
Brown, Burton, Gooch, Ledbetter,	Martin, McCulloch, Motley,	Patton, Storey, Terrell—10.

NAYS.		
Buchanan, Burnett, Davenport, Duncan, Edwards, Ford,	Grace, Guy, Houston, Lane, Lair,	Ripetoe, Stewart, Shannon, Swain, Tilson---16.

Senator Storey offered the following amendment:

Amend section by adding the following: "Also all the citizens of Comal and Caldwell counties who had their houses blown down during the storm in February, 1879, the names and numbers to be ascertained by the county commissioners' court of said counties."

Senator Grace moved to lay Senator Storey's amendment on the table. Lost by the following vote:

YEAS.		
Burnett,	Duncan,	Grace--3.
NAYS.		
Brown, Buchanan, Burton, Davenport, Edwards, Gooch, Guy,	Hobby, Lane, Lair, Ledbetter, Martin, McCulloch, Motley,	Patton, Ripetoe, Stewart, Storey, Swain, Terrell, Tilson—21.

Not voting—Ford, Houston, Shannon.

Senator Duncan made the point of order that the constitutional requirement of publication has not been made in the case of the public calamity in Caldwell county, and it is therefore out of order.

Overruled by the chair.

The amendment was then lost by the following vote, it requiring a two-thirds vote to adopt:

YEAS.		
Brown, Buchanan, Burton, Davenport, Edwards,	Ford, Gooch, Ledbetter, Martin, McCulloch,	Motley, Ripetoe, Stewart, Storey—14.

NAYS.		
Burnett, Duncan, Grace, Guy,	Hobby, Lane, Lair,	Swain, Terrell, Tilson—10.

Not voting—Houston, Patton, Shannon.

Senator Burton offered the following amendment:

Amend section _____ by adding the counties of Wharton, Fort Bend and Colorado.

Lost.

The bill was then lost by the following vote:

YEAS.		
Burnett,	Houston,	Stewart,
Duncan,	Lane,	Shannon,
Ford,	Lair,	Swain,
Grace,	Ripetoe,	Terrell—13.
Guy,		

NAYS.		
Brown,	Gooch,	Motley,
Buchanan,	Hobby,	Patton,
Burton,	Ledbetter,	Storey,
Davenport,	Martin,	Tilson—14.
Edwards,	McCulloch,	

House bill No. 258, entitled "An act to amend section 17 of 'an act to incorporate the Gulf, Colorado and Santa Fe railway company, and to grant land in aid of the construction of the same, passed May 28, 1873,'" was taken from the president's table and read second time.

Substitute for House bill No. 8, entitled "An act for the preservation of oysters and oyster beds, and protecting the rights of persons to the same," was taken up and read first time.

A message was received from his excellency the governor.

House joint resolution No. 26, "Instructing our senators and requesting our representatives in congress to take the necessary steps at once, by bill or otherwise, to secure the appointment of United States commissioners to act with like commissioners on behalf of Texas to settle and definitely adjust the controversy as to boundary between the United States and Texas, involving the territory lying between the north and south forks of Red river, known as the county of Greer," was taken up and read first time.

On motion of Senator Shannon, the rules were suspended and resolution placed on its second reading by the following vote:

YEAS.		
Brown,	Hobby,	Patton,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCulloch,	Terrell,
Gooch,	Motley,	Tilson—25.
Guy,		

NAYS—none.

Not voting—Davenport, Grace.

Resolution read second time.

Senator Shannon moved to suspend the rules and place the resolution on its third reading.

Carried by the following vote:

YEAS.		
Brown,	Edwards,	Houston,
Buchanan,	Ford,	Lane,
Burnett,	Gooch,	Lair,
Burton,	Guy,	Ledbetter,
Duncan,	Hobby,	Martin,

McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
NAYS—Swain.

Storey,
Terrell,
Tilson—24.

Not voting—Davenport, Grace.

Resolution read third time and lost by the following vote:

YEAS—none.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

Senator Ledbetter entered a motion to reconsider the vote by which House bill No. 217 was defeated on this evening.

House joint resolution No. 27, "Instructing our senators and requesting our representatives in congress to ask of the U. S. government payment of all sums expended by Texas for frontier defense, etc.," was taken up and read first time.

On motion of Senator Shannon, the Senate went into executive session.

IN SENATE.—Senator Houston (by leave), as chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered Senate bill No. 133, entitled "An act to endow Henderson College, in Rusk county, with a land grant," and I am instructed by a majority of said committee to report this bill back to the Senate recommending its passage, and that fifty copies of the same be printed for the use of the Senate.

HOUSTON, *Chairman.*

On motion of Senator Houston, fifty copies of the bill and report were ordered printed.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 167, entitled "An act to amend an act entitled 'an act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof,'" and find it correctly engrossed.

BROWN, *Chairman.*

(President in the chair).

The president, after reading its caption, signed Senate bill No. 42, entitled "An act to provide for the care and protection of the East Texas penitentiary."

On motion of Senator Ford, the rules were suspended and Senate bill No. 208, entitled "An act to provide for the state library and supreme court library," was taken up and read first time.

Senator Ford moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Tilson—22.

NAYS—none.

Absent, not voting—Duncan, Grace, Patton, Swain, Terrell.
Bill read a second time.

Senator Edwards offered the following amendment:

“Amend section 2 by adding ‘That the room in northwest corner of the third story of capitol building shall be and is hereby set apart for the state library.’

Adopted.

Also the following amendment:

Add a new section: “That the accumulation of business and lateness of the session creates an emergency and imperative public necessity that the rules be suspended and this bill put upon its immediate passage.”

Adopted and bill ordered engrossed.

On motion of Senator Ford, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Houston,
Lane,
Ledbetter,
Martin,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—21.

NAYS.

Davenport,
Lair,

McCulloch,

Patton—4.

Not voting—Grace, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,
Hobby,
Houston,
Lane,
Ledbetter,

Martin,
Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain—10.

NAYS.

Lair,
McCulloch,

Patton,

Tilson—4.

Not voting—Terrell.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate bill No. 42, “An act to pro-

vide for the care and protection of the East Texas penitentiary," and at 4:37 o'clock P. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

On motion of Senator Brown the Senate adjourned until 10 o'clock A. M. to-morrow.

FORTY-FOURTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, March 5, 1879. }

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Burton, Senator Ripetoe was excused until Monday next.

The following special message received on yesterday from his excellency the governor was taken up, read and ordered placed upon the journals:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 4, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in lieu of names previously sent in, and in which mistakes were made in spelling or in the initials of their names, and who in fact are the parties intended to have been appointed:

- A. Keakaner, El Paso county.
- F. C. Gotari, John A. Fraser, Bexar county.
- N. A. Osmer, Tom Green county.
- D. Y. Gammage, T. A. Cadenhead, H. Tyke, Panola county.
- J. M. Dixon, Ellis county.
- A. G. Dupuy, W. A. Miller, Anderson county.
- J. P. Smith, Cherokee county.
- John F. Witherspoon, Gregg county.
- J. C. Rugel, Dallas county.

Respectfully,

O. M. ROBERTS, *Governor.*

Senator Stewart presented several memorials of numerous citizens of Harris county "asking that the criminal district court of Harris county be abolished."

Referred to the committee on judicial districts.

Senator Guy, chairman of the committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 137, entitled a bill to be entitled "An act for the relief of the heirs of Catlett Burnett, deceased," have considered the same, and find that due notice by publication of same has been given; and a majority of your committee, after having examined the proofs in this cause, instruct me to report said bill back to the Senate and to recommend its passage.

GUY, *Chairman.*

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 157, and a majority of said committee instruct me to report the accompanying substitute, and to recommend that the substitute do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have duly considered Senate bill No. 120, entitled "An act requiring holders of recorded mortgages and other recorded liens, to enter satisfaction thereof on receiving payment;" and also Senate bill No. 259, entitled "An act amending articles 1664, 1696 and 1706 of the new Revised Statutes," and a majority of said committee instruct me to return said bills with the recommendation that they do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 having duly considered Senate bill No. 260, entitled "An act to secure the early determination of appeals in the supreme court in causes involving the right to office," I am instructed by the committee to return said bill and recommend its passage.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 201, and instruct me to recommend that said bill be amended by inserting between the words "shall" and "be" in the first section (upon demand of the state or defendant), and in same section by striking out the words "where there is no correct stenographer present," and inserting therefor (or other person appointed by the court), and that the bill so amended do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 31, entitled "An act to create and provide for execution liens on lands," have duly considered the same and I am instructed by a majority of the committee to report the same back to the Senate with their recommendation that it do not pass.

STEWART, *Chairman.*

Senator Gooch submitted the following minority report:

Hon. J. D. Sayers, President of the Senate:

The undersigned not being able to concur in the report of the majority, respectfully presents this minority report: The bill seeks to remedy an evil that, in my judgment, has already and continues to seriously impair the value of our lands by rendering the titles uncertain, and charging notice of levies on land on persons who in fact have no notice and no opportunity for notice. Any sheriff or constable in any precinct in a county may create a lien on a tract of land by writing a levy on the back of an execution; and what is more startling, a United States marshal or any deputy may create a lien on land in any county in his district without even visiting the county, or posting notice of sale therein; and by the law as it is, the world is held to have notice, and such a levy has precedence over a purchaser, in good faith for value paid, who in fact has no actual notice of such levy. Such a result in my

judgment is wrong, and detrimental to the interest of the country. It prevents the purchase and sale of lands, prevents investments, either for speculative purposes or for homes. The bill provides that every officer making a levy shall notify the county clerk of the fact, and the clerk shall note it in a book kept for that purpose, and index it; and that until a levy is entered that it shall be regarded as inferior to the rights of a purchaser in good faith for value paid, without a knowledge of the levy. I regard the bill as aiming in a direction much desired, and unless some better remedy is proposed I think it should be passed. GOOCH.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration House bill No. 10, entitled "An act to amend section 4 of an act entitled 'an act to amend an act entitled an act to provide for the supplying of lost records in the several counties in this state, approved April 14, 1874, approved July 13, 1876,'" and I am instructed by the committee to report the bill back to the Senate with their recommendation that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 110, entitled "An act to amend section 1 of an act entitled 'an act further regulating proceedings in the several courts of the State of Texas,'" have considered the same, and find that the object sought to be accomplished by the said bill is fully provided for in the Revised Statutes, passed at the present session of the Legislature. I am therefore instructed by said committee to report said bill back to the Senate with the recommendation that the same do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 251, entitled "An act to amend article 988 of the Code of Criminal Procedure, passed by the Sixteenth Legislature," and I am instructed by the committee to report the bill back to the Senate with their recommendation that it do pass.

STEWART, *Chairman.*

Senator Buchanan, chairman of the committee on retrenchment and reform, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on retrenchment and reform, to whom was referred Senate bill No. 105, entitled "An act to repeal an act entitled 'an act to provide annual pensions for the surviving soldiers of the Texan revolution, and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers, approved July 28, 1876,' and appropriate money to pay pensioners under said act," and House bill No. 160 entitled as the above Senate bill, have had the same under consideration, and I am instructed by a majority of said committee to report the same back to the Senate with the recommendation that the said House bill do pass as a substitute for said Senate bill.

BUCHANAN, *Chairman.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 210,

entitled "An act to reorganize the third judicial district, and prescribe the times of holding the district courts in the third and seventh judicial districts," and find it correctly engrossed. **BROWN, Chairman.**

Senator Ledbetter, chairman of committee on educational affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on educational affairs having duly considered Senate bill No. 246, entitled "An act to establish a state normal school, to be known as the 'Sam Houston Institute,' and located at Huntsville, Texas," I am instructed by a majority of the committee to return said bill and recommend its passage. Responsible and prominent citizens of Huntsville, in a written communication, offer to donate to the state the two-story brick building formerly known as the "Austin College," and the grounds belonging thereto, for the purpose of such normal school. The bill accepts the donation, and provides for the establishment there of a state normal school, to be named in honor of General Sam Houston, who died and is buried at Huntsville; and in the opinion of the committee, there is no better way or place for the erection of a living monument to the memory of the illustrious father of Texas.

LEDBETTER, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on education to whom was referred Senate bill No. 261, "An act requiring the proceeds arising from the leasing or renting of county school lands and from the sales of timber thereon, to be applied exclusively to educational purposes," have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do pass.

LEDBETTER, Chairman.

Senator Stewart introduced a bill entitled "An act further to provide for perpetuating testimony."

Read by caption and referred to judiciary committee No. 2.

House bill No. 347, entitled "An act to amend section 2 of the charter of the corporation of Victoria, and to provide for certain changes caused thereby," was taken up and referred to committee on state affairs.

Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a code of criminal procedure for the State of Texas,'" was taken up as business on president's table, for consideration.

Senator Homan's amendments pending when last considered, and which are as follows, were then considered:

Strike out caption and insert as follows:

"An act to amend articles 560 and 561 of 'an act to adopt and establish a code of criminal procedure for the State of Texas,' as adopted by the Sixteenth Legislature."

Adopted.

Also the following:

Amend section 1 by striking out all after the word "Texas," in first line, to and including "518," in fourth line, and insert as follows:

"That articles 560 and 561 of 'an act to adopt and establish a code of criminal procedure for the State of Texas,' as adopted by the Sixteenth Legislature," be so amended as to read as follows: "Article 560."

Adopted.

Also the following:

Amend line sixteen, page 4 by striking out the words "section 519."

Adopted.

Senator Stewart moved a call of the Senate.

Call sustained.

Roll called.

Absent—Edwards, Grace, Terrell.

These senators, who were engaged in important committee duty, appeared, when the call was suspended.

Senator Edwards called up his motion to reconsider the vote adopting the emergency clause in the pending bill.

Carried, and the said emergency clause was then voted on and lost.

The bill was then ordered engrossed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Ford,

Gooch,
Hobby,
Houston,
Martin,
McCulloch,

Moore,
Motley,
Swain,
Terrell,
Tilson—15.

NAYS.

Burton,
Davenport,
Edwards,
Grace,
Guy,

Lane,
Lair,
Ledbetter,
McCormick,

Patton,
Stewart,
Shannon,
Storey—13.

(Senator Patton in the chair.)

Senate bill No. 130, entitled "An act to make an appropriation for the support of the state government for the year beginning March 1st, 1879, and ending February 28, 1881," was taken up and read first time.

On motion of Senator Brown, the rules were suspended and House bill No. 266, entitled "An act to authorize the county of Galveston to sell the shares of the capital stock of the Gulf, Colorado and Santa Fe railway company owned by said county," was taken up and read first time.

On motion of Senator Burnett, the rules were suspended and Senate bill No. 246, entitled "An act to establish a state normal school to be known as 'The Sam Houston Institute,' and located at Huntsville, Texas," was taken up and read first time.

On motion of Senator Guy, the rules were suspended and Senate bill No. 251, entitled "An act to amend article 988 of the Code of Criminal Procedure, passed by the Sixteenth Legislature," was taken up and read first time.

On motion of Senator Storey, the rules were suspended and Senate bill No. 123, entitled "An act to amend section 12 of an act entitled 'an act to enforce the collection of delinquent taxes on lands assessed since January, 1870,' approved August 19, 1876," was taken up and read first time.

On motion of Senator Storey, the rules were suspended and Senate bill No. 68, entitled "An act to amend section 683 of the Code of Criminal Procedure of this state," was taken up and read first time.

On motion of Senator Storey, the rules were suspended and Senate bill No. 94, entitled "An act to create a lien in favor of proprietors of livery or other public stables, and to provide for the manner in which same may be enforced," was taken up and read first time.

(The president in the chair.)

A message was received from the House announcing the passage by that body of House bill No. 238, entitled "An act to provide for the surrender and dissolution of charters of incorporated cities and towns in this state, and to authorize the counties wherein said cities or towns are situated to settle and administer their estates, collect their credits, pay their debts and to issue bonds and levy and collect taxes for that purpose."

The following messages were received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 5, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public for counties of the twenty-eighth senatorial district:

W. R. Hayes, John C. Beasley, Geo. Craven, T. J. Winn, J. J. Swann, Bee county.

J. D. Owen, J. R. Sanford, J. W. Allen, A. Gisler, Jackson county.

A. G. Picket, Sr., W. K. Fly, A. J. Williams, J. W. Dickey, Wilson county.

James A. Burke, George W. Bell, W. F. Miller, George Merriweather, Goliad county.

W. R. Friend, E. M. Stapp, Joseph Covey, Wm. A. Blair, Otto Starcker, C. G. Hartman, Rudolph Kleberg, DeWitt county.

J. M. Bickford, James McCoppin, C. W. Short, I. Cohn, John Roemer, Calhoun county.

C. LeSage, Eng. Sibley, F. R. Pridham, W. H. Innis, A. B. Peticolas, J. S. Munn, G. A. Levi, Victoria county.

Wright Williams, Aaron Rambie, John Campbell, Allison Ryman, T. A. Rodriguez, Atascosa county.

C. F. Bailey, Wm. C. Casterline, E. A. Perrenot, Aransas county.

L. B. Russell, Edward S. Atkinson, Refugio county.

J. D. Hutchison, L. D. Cook, Karnes county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 5, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your consent to the withdrawal of the following names sent in to be confirmed as notaries public, the same having been done under misapprehension:

Samuel Peacock, of Parker county; E. H. Foreman and J. D. Carroll, of Navarro county.

O. M. ROBERTS, *Governor.*

On motion of Senator Lane, the rules were suspended, and Senate bill No. 135, entitled "An act for the further relief of the Aransas road company," was taken up and read first time.

Senator Lane moved to further suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,

Duncan,
Ford,
Gooch,

Guy,
Hobby,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch.
Moore,
Motley,
Patton,
Stewart,

Shannon,
Storey,
Swain,
Tilson—23.

NAYS—none.

Not voting—Brown, Burton.

Senators Edwards, Grace and Terrell did not vote, as they were excused as absent on important committee duty.

The bill was read the second time and ordered engrossed.

Senate bill No. 190, entitled "An act to amend chapter 17, title 17 of the Penal Code," adopted at this session of the Legislature, relating to swindling and fraudulent disposition of mortgaged property by adding thereto article 997, was taken up and read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Ford,
Gooch,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--24.

NAYS—none.

Not voting—Burton, Swain.

Substitute for Senate joint resolution No. 29 and House joint resolution No. 2 (repealing the smoke-house tax, etc.,) was taken up, when Senator Patton moved to postpone the pending business five minutes, suspend the rules and take up Senate bill No. 201, entitled "An act to provide for the taking and preservation of testimony in capital cases, and the use of the testimony so taken in case of appeal," was taken up and read first time.

On motion of Senator Duncan, the pending business was postponed, rules suspended and Senate bill No. 62, entitled "An act for the suppression of tramping and punishment of tramps," was taken up and read second time.

Senator Duncan offered the following amendment.

Amend section 6 by adding "and who shall receive the same as other persons apprehending tramps and no more, to be paid in the same manner."

Adopted.

Also the following:

Amend section 2 by adding "or by fine not to exceed five hundred dollars, or sentenced to not less than thirty days nor more than one year at hard labor for the county."

Adopted.

Senator Burton offered the following amendment:

Amend section "Provided, this act shall not apply to any person that has ever been employed on any railroad or farm."

Senator Shannon offered the following amendment to the amendment of Senator Burton:

Add the words "Nor anybody else."

Accepted by Senator Burton and pending on adjournment.

Senator Gooch moved to recommit the bill and pending amendments to judiciary committee No. 1.

A message was received from the House announcing the passage by that body of Senate bill No. 231, entitled "An act amendatory of and supplemental to an act entitled 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts, approved 1879.'"

On motion of Senator McCulloch, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum not present.

A quorum soon appearing, the Senate proceeded to business.

Senator Terrell (by leave) presented the memorial of many citizens of Williamson county, asking that the local option law be amended and continued, stating that though imperfect, yet it had been of great benefit to the citizens of their county in preventing disorder and crime; also, setting out some important amendments.

Referred to committee on state affairs.

On motion of Senator Terrell, the pending business was postponed, rules suspended and House bill No. 238, entitled "An act to provide for the surrender and dissolution of charters of incorporated cities and towns in the state, and to authorize the counties wherein said cities and towns are situated to settle and administer their estates, collect their credits and to issue bonds and levy and collect taxes for that purpose," was taken up and read first time.

Senator Terrell (by leave) presented the memorial of G. J. and J. P. Martinez, through their attorney, in fact, E. A. Mexia, "Stating that they are subjects of the kingdom of Great Britain, and that on April 21, 1835, one Mareno was granted, by the authorities of Coahuila and Texas, of the Republic of Mexico, eleven leagues of land situated on the Brazos river, in McLennan and Hill counties; that they purchased the said land for a valuable consideration, and still own the same, except such portions as they have sold; that their grant has been recognized on the maps and in the files of the general land office of Texas; that they have had regular agents in Texas who have had charge of their land for the last twenty-five or thirty years; that they brought suit against adverse claimants in the federal courts, and in January, 1878, after a full trial, the title of memorialists was held to be good and judgment entered in their favor against said claimants. They particularly protest against the state bringing suit for the portion of said eleven league grant set apart through the mistake or inadvertence of the officers of Texas to the state university (amounting to about three leagues), as it is rightfully the property of memorialists and has been so recognized for years, and that it will entail useless expense on them to defend the suit, etc."

Referred to judiciary committee No. 1.

Also (by leave), another memorial from many citizens of Williamson county "asking that the local option law be amended and continued;

that it has in the last two years been of great service to their county, etc."

Referred to committee on state affairs.

Also (by leave) a memorial from the county officers and bar of Taylor county "asking the continuance of frontier protection, etc."

Referred to committee on Indian affairs and frontier protection.

Senator Ledbetter introduced a bill entitled "An act to amend section 5, article 16, title 4 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" approved February, 1879.

Read by caption and referred to judiciary committee No. 2.

House bill No. 258, entitled "An act to amend section 17 of an act to incorporate the Gulf, Colorado and Santa Fe railway company, and to grant land in aid of the construction of the same, passed May 28, 1873," was taken up. The further consideration of the same was postponed till to-morrow evening session.

On motion of Senator Houston, the rules were suspended and House bill No. 346, entitled "An act to revive 'an act incorporating the New Braunfels Academy,'" passed February 5, 1858, was taken up and read first time.

Senator Houston moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Buchanan,	Hobby,	Moore,
Burnett,	Houston,	Motley,
Burton,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Terrell,
Gooch,	McCulloch,	Tilson—22.
Guy,		

NAYS—none.

Not voting—Brown, Ford, Grace, McCormick, Patton, Swain.

Bill read second time.

On motion of Senator Houston, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Buchanan,	Houston,	Motley,
Burnett,	Lane,	Patton,
Burton,	Lair,	Stewart,
Davenport,	Ledbetter,	Shannon,
Duncan,	Martin,	Storey,
Edwards,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson—25.
Guy,		

NAYS—none.

Not voting—Ford, Grace, Swain.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Duncan,	Lane,
Buchanan,	Edwards,	Lair,
Burnett,	Guy,	Ledbetter,
Burton,	Hobby,	Martin,
Davenport,	Houston,	McCormick,

McCulloch,
Moore,
Motley,

Patton,
Stewart,
Storey,

Terrell,
Tilson—23.

NAYS—none.

Not voting—Ford, Gooch, Grace, Shannon, Swain.

On motion of Senator Storey, the pending business was postponed, rules suspended and House bill No. 132, entitled "An act to require persons and corporations to whom patents for land have been granted, to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to so pay said fees, and to provide the manner and means of enforcing the provisions hereof," was taken up and read first time.

(Senator Edwards in the chair.)

Senator Storey moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Davenport, Grace, Swain.

Bill read second time.

The amendment of the committee was adopted.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Guy.

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey
Swain.
Terrell,
Tilson—26.

NAYS—none.

Not voting—Davenport, Grace.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Davenport, Grace, Hobby, Patton.

On motion of Senator Lane, pending business was postponed, the rules

were suspended and substitute for House bill No. 8, entitled "An act for the preservation of oysters and oyster beds, and protecting the rights of persons to the same," was taken up and read a second time.

On motion of Senator McCormick, the pending business was postponed, rules suspended, and House joint resolution No. 24 "In regard to Pelican island," was taken up and read first time.

On motion of Senator Ledbetter, the pending business was postponed, rules suspended and House bill No. 160, entitled "An act to repeal 'an act to provide annual pensions for the surviving soldiers of the Texan revolution,'" was taken up and read first time.

Senator Ledbetter moved to suspend the rules and place the bill on its second reading.

Lost by the following vote (it requiring a four-fifth vote to suspend):

YEAS.

Brown,
Buchanan,
Duncan,
Edwards,
Gooch,
Guy,

Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Stewart,
Storey,
Swain,
Terrell,
Tilson--18.

NAYS.

Burnett,
Burton,

Ford,
Houston,

McCormick,
Shannon--6.

Not voting--Davenport, Grace, Hobby, Patton.

House joint resolution No. 27, "Instructing our senators and requesting our representatives in congress to ask of the United States government payment of all sums expended by Texas for frontier protection, etc.," was taken up and read second time.

On motion of Senator Brown, the pending business was postponed, rules suspended and House bill No. 266, entitled "An act to authorize the county of Galveston to sell the shares of the capital stock of the Gulf, Colorado and Santa Fe railway company owned by said county," was taken up by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAYS--none.

Not voting--Davenport, Grace.

Bill read second time.

House bill No. 10, entitled "An act to amend section 4 of an act entitled 'an act to amend an act entitled an act to provide for supplying of lost records in the several counties in this state,' approved April 14, 1874, approved July 13, 1876," was taken up and read first time.

House bill No. 70, entitled "An act to amend section 2 of an act to define the eighth judicial district, and to fix the times of holding the courts therein, approved August 11, 1876," was taken up and read first time.

House bill No. 137, entitled "An act to repeal 'an act to authorize and

require all forced sales of real estate and sales of negroes made by executors and administrators in the county of Travis to be made on Congress avenue, etc.," was taken up and read first time, with adverse report of committee.

The report of the committee was adopted and bill lost.

House bill No. 187 (the bell-punch bill) and Senate bill No. 136, entitled "An act for the relief of taxpayers," were taken up and referred to committee on finance.

On motion of Senator Terrell, the pending business was postponed, rules suspended and House bill No. 258, entitled "An act to incorporate the Gulf, Colorado and Santa Fe railway company, and to grant land in aid of the construction of the same, passed May 28, 1873," was taken up, read third time and passed.

On motion of Senator Houston, the rules were suspended and House bill No. 151, entitled "An act to encourage the construction of artesian wells," was taken up, read second time and ordered engrossed.

Senator Houston moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Brown,	Gooch,	McCulloch,
Buchanan,	Guy,	Moore,
Burnett,	Houston,	Motley,
Burton,	Lane,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Tilson—21.
	NAYS—Lair.	

Not voting—Davenport, Grace, Hobby, Patton, Swain, Terrell.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Houston,	Moore,
Duncan,	Lane,	Motley,
Edwards,	Ledbetter,	Patton,
Ford,	Martin,	Storey,
Guy,	McCulloch,	Terrell—16.
Hobby,		

NAYS.		
Buchanan,	Lair,	Shannon,
Burnett,	Stewart,	Tilson—6.

Not voting—Burton, Davenport, Gooch, Grace, McCormick, Swain.

On motion of Senator Storey, the pending business was postponed, rules suspended and Senate bill No. 248, entitled "An act to define what property used for school purposes is exempt from taxation under section 2, article 8 of the constitution," was taken up and read first time.

Senate bill No. 167, entitled "An act to amend an act entitled 'an act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof,'" was taken up and read third time.

Senator McCormick offered the following amendment:

Amend section 8 by adding the following: "Provided any person shifting any produce named in this act to any town or city having a public weigher, may, by written instructions, authorize his factor, commission merchant, or agent, to have such produce weighed by private weighers if he prefers so to do; in all such cases the prohibitions and

penalties embraced in this section and in the preceding section shall not apply."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Davenport, Grace, Houston.

The bill was then passed.

Senator Ledbetter called up his motion to reconsider the vote by which House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar, in this state, from the payment of taxes assessed, and now due for the year 1878, in consequence of a great public calamity," was lost on yesterday.

The motion to reconsider was then adopted, and the bill passed by the following vote:

YEAS.

Burnett,
Davenport,
Duncan,
Ford,
Grace,
Guy,
Houston,

Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,

Motley,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—19.

NAYS.

Brown,
Buchanan,
Edwards,

Gooch,
Hobby,
Martin,

Patton,
Storey—8.

Not voting—Burton.

(President in the chair.)

The president, after publicly reading its caption, signed Senate bill No. 231, entitled "An act amendatory of and supplemental to an act entitled 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the times of holding the courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,'" approved 1879.

Substitute for Senate joint resolution No. 29 and House joint resolution No. 2, "Proposing an amendment to article 8 of the constitution," was taken up for consideration.

Senator Terrell offered the following amendment:

"Also all tools in use by a mechanic in his trade and all private libraries."

Senator Burnett moved to take up Senator Homan's motion to reconsider the vote ordering the pending joint resolution engrossed.

Senator Duncan moved a call of the house.

Call sustained.

Roll called. Absent—Senator Hobby.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 231, "An act amendatory of and supplemental to an act entitled 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the times of holding the courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,' approved , 1879," and at 4:30 o'clock P. M. presented the same to the governor for his signature.
 GRACE, Chairman.

Senator Shannon moved a suspension of rules to place Senate bill No. 123, entitled "An act to amend section 12 of 'an act to enforce the collection of delinquent taxes on lands assessed since January, 1870, approved August 19, 1876,'" on its second reading.

Carried by the following vote:

YEAS.

Brown,
 Buchanan,
 Burnett,
 Burton,
 Davenport,
 Duncan,
 Edwards,
 Ford,
 Gooch,

Grace,
 Guy,
 Houston,
 Lane,
 Lair,
 Ledbetter,
 Martin,
 McCormick,
 McCulloch,

Moore,
 Motley,
 Patton,
 Stewart,
 Shannon,
 Swain,
 Terrell,
 Tilson—26.

NAYS—Storey.

Not voting—Hobby.

Bill read second time.

The absent Senator appearing, the call was suspended, and the consideration of substitute for Senate joint resolution No. 29, and House joint resolution No. 2, proposing amendments to article 8 of the constitution, was resumed.

The motion to reconsider the engrossment of the pending resolution, was lost by the following vote:

YEAS.

Buchanan,
 Burnett,
 Burton,
 Edwards,

Ford,
 Gooch,
 Houston,
 Lane,

Martin,
 McCormick,
 Moore,
 Motley—12.

NAYS.

Brown,
 Davenport,
 Duncan,
 Grace,
 Guy,
 Hobby,

Lair,
 Ledbetter,
 McCulloch,
 Patton,
 Stewart,

Shannon,
 Storey,
 Swain,
 Terrell,
 Tilson—16.

Senator Edwards offered the original House joint resolution No. 2 as a substitute for the substitute adopted by the Senate for the same.

Senator Terrell then withdrew his pending amendment and offered the following amendment:

Amend by adding "mechanics' tools used in manual labor."
 (Pending on adjournment.)

Senator Houston moved that the Senate go into executive session to-morrow, just after the morning call, to consider the nominations of his excellency the governor sent to the Senate yesterday and to-day by special messages.

Carried.

On motion of Senator Buchanan, the Senate adjourned until 10 o'clock A. M. to-morrow.

FORTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 6, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present; prayer by the chaplain.

On motion of Senator Davenport, the reading of the journals of yesterday was dispensed with and same adopted.

A message was received from the House announcing the passage by that body of Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate."

Senator Terrell presented the memorial of many citizens of Austin "asking that the act incorporating the city of Austin be repealed and the government of the city be transferred to the commissioners of the county, with such provisions as will secure payment of existing indebtedness and contracts, stating that the city government has been grievously oppressive by means of the heavy taxes imposed, much of which has been squandered and in addition a large debt incurred, etc."

Referred to committee on state affairs.

Senator Davenport presented the memorial of many citizens of Taylor county against the disbanding of the frontier battalion, because their local constabulary is entirely too weak to cope with the desperadoes that abound throughout the whole frontier and who come from every part of the union; stating that private feuds are engendered, bloody vendettas result therefrom, the lives of innocent citizens are wantonly sacrificed, and their property held at the mercy of robbers and thieves; that the rangers prevent all this, and give security to both life and property; that they also protect the people on the frontier from the predatory bands of savages, and that they therefore pray the continuance by the state of frontier protection.

Read and referred to committee on Indian affairs and frontier protection.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 235, "An act to amend section 94 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved day of February, 1879," have had the same under careful consideration, and the committee have instructed me to make the following report:

The bill proposes to so amend the law as to require the State of Texas to maintain and support all indigent lunatics of the several counties, retained in the various counties, at the expense of the county, after being

denied admission in the Lunatic Asylum for want of room therein. We are referred to section 54, article 17 of the constitution in support of the proposed bill. But we are of the opinion that the section referred to does not contemplate that the state shall maintain and support the indigent lunatics that are maintained and supported by the several counties, unless the Legislature shall see fit so to provide.

The constitution, in the opinion of the committee, leaves the care of the indigent lunatics entirely to the discretion of the Legislature, and the Legislature has not yet deemed it expedient to provide that the state shall maintain and support the indigent lunatics, except those received in the Lunatic Asylum.

And your committee are of the opinion that for the Legislature to provide that the state should support and maintain indigent lunatics in the various counties, would open the door wide for all kinds of speculation and extravagance that would bankrupt the state treasury. The law does give preference to indigent lunatics over all other patients, and the committee take this occasion to say that this provision of the law should be rigidly enforced by the superintendent of the Lunatic Asylum. For the above reasons the committee instruct me to report the bill back to the Senate, and recommend that it do not pass. STEWART, *Chairman*.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 273, "An act to amend section 5, article 16, title 4 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas, approved February, 1879,'" have had the same under consideration, and I am instructed to report the bill back to the Senate with the recommendation that it do pass. STEWART, *Chairman*.

Senator Grace introduced a bill, entitled "An act to amend articles 130 and 132 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed at the present session of the Legislature.

Read by caption and referred to judiciary committee No. 2.

Also, "An act to amend articles 75 and 79 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed at the present session of the Legislature.

Read by caption and referred to judiciary committee No. 2.

Senator Terrell introduced a joint resolution, "To revive the appropriations of January 16 and February 16, 1858, to pay the public debt of Texas."

Read by caption and referred to judiciary committee No. 2.

Senator Hobby introduced a bill, entitled "An act amendatory of and supplemental to article 878 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed at this session.

Read by caption and referred to judiciary committee No. 2.

On motion of Senator Duncan the Senate went into executive session to consider the nominations for notaries public sent to the Senate yesterday and the day previous by his excellency the governor.

(Senator Storey in the chair.)

IN SENATE.—On motion of Senator Houston the secretary was instructed to spread upon the journal a statement of the confirmations made in executive session. It is accordingly stated that the Senate did

advise and consent to the appointments made by his excellency of notaries public for the counties of the twenty-eighth senatorial district, and to the appointment of notaries public in lieu of names previously sent in for the counties of El Paso, Bexar, Tom Green, Panola, Ellis, Gregg and Dallas, and also to the appointment of Robert M. Keasler, L. L. Teague and John T. Kilgore to be notaries public in Gregg county, the consideration of the last named appointments having been at a previous executive session postponed.

Senate bill No. 62, entitled "An act for the suppression of tramping and punishment of tramps," was taken up as the unfinished business.

Senator Gooch's motion to recommit this bill made on yesterday was called up.

Senator Gooch withdrew the motion.

(President in the chair.)

Senator Duncan offered a substitute for the bill under consideration.

Senator Shannon moved to re-refer the bill with pending amendments and substitute to judiciary committee No. 1.

Lost.

The substitute of Senator Duncan was then adopted by the following vote:

YEAS.

Buchanan,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Houston,
Lane,
Lair,
McCulloch,
Moore,

Motley,
Patton,
Storey,
Swain,
Tilson—16.

NAYS.

Brown,
Burnett,
Burton,
Davenport,

Homan,
Ledbetter,
Martin,

Stewart,
Shannon,
Terrell—10.

Not voting—Grace, Hobby, McCormick.

Senator Stewart moved a call of the Senate on the engrossment of the bill.

Call sustained.

Roll called.

Absent—Gooch, Hobby, McCormick.

The special order being Senate bill No. 130, (the general appropriation bill) was taken up for consideration.

Senator Shannon moved to postpone the special order five minutes.

Lost.

Senate bill No. 130, just taken up, was read second time and substitute of the committee adopted.

The absent senators appearing, the call of the Senate was suspended and the consideration of Senate bill No. 62 was resumed.

Senator Duncan moved that the pending business be postponed, fifty copies ordered printed and the bill made the special order for to-morrow just after the morning call and from day to day until it is disposed of.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Duncan,

Edwards,
Gooch,
Guy,

Houston,
Lane,
Lair,

McCormick,
McCulloch,
Moore,

Patton,
Shannon,
Storey,

Swain,
Terrell,
Tilson—18.

NAYS.

Burnett,
Burton,
Davenport,
Grace,

Hobby,
Homan,
Ledbetter,

Martin,
Motley,
Stewart—10.

Senator Homan introduced a bill entitled "An act to prevent the sale, exchange or gift of intoxicating liquors within five miles in every direction of Troy Institute in Bell county."

Read by caption and referred to judiciary committee No. 2.

The special order being Senate bill No. 130 was resumed.

EXECUTIVE DEPARTMENT.

Senator Hobby offered the following amendment:

In section 1, line nine, strike out "\$1200" and insert \$1500."

Adopted.

Senator Storey offered the following amendment:

Substitute for lines fifteen and sixteen the following: "For labor to keep the executive mansion grounds in order and other contingent expenses, \$1200."

Adopted.

Senator Storey offered the following substitute for line nineteen:

"For rewards, detective force and bringing offenders to trial, \$20,000."

Adopted.

Senator Terrell offered the following amendment:

Amend line seven, page 2 by striking out "\$250" where it occurs and insert "\$1000, or so much thereof as may be required to copy promptly the laws as passed."

Withdrawn.

Senator Burton offered the following amendment:

In state department, line five, strike out "\$1500" and insert "\$1600."

Lost.

Senator Edwards offered the following:

"For publishing the Revised Statutes, \$22,000."

Adopted.

Senator Homan offered the following amendment:

In line 18 strike out "\$1600" and insert "\$1500."

Senator Terrell offered the following amendment as a substitute for Senator Homan's amendment:

Strike out "\$1600" where it occurs in line eighteen, fixing salary of chief clerk of treasury department, and insert "\$1800."

Senator Homan withdrew his amendment, and Senator Terrell's amendment became a pending amendment to the bill and was voted on and lost by the following vote:

YEAS.

Burton,
Ford,
Houston,

Patton,
Shannon,
Storey,

Swain,
Terrell- 8.

NAYS.

Brown,
Buchanan,
Burnett,
Davenport,

Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lair,

Ledbetter,
Martin,
McCulloch,

Moore,
Motley,

Stewart,
Tilson---19.

Not voting—Lane, McCormick.

Senator Terrell presented the following as his reasons for voting yea on this amendment:

“I vote yea because the chief clerk becomes the treasurer of this state when the treasurer is sick or absent, and will keep the key to the treasury. Eighteen hundred dollars a year is not too much for the skill and integrity which that clerk should have. He can get that amount from any wholesale merchant, and Texas can pay the custodian of her money what a private man could afford. I take this vote as evidence of the feeling of the Senate on the question of compensating clerks, and will not retard business by offering similar amendments to the bill.”

The president, after publicly reading its caption, signed House bill No. 346, entitled “An act to revive ‘an act incorporating the New Braunfels Academy,’ passed February 5, 1858.”

Senator Homan renewed his amendment just withdrawn, and which was adopted by the following vote:

YEAS.

Burnett,
Davenport,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lair,
McCormick,

Moore,
Motley,
Stewart,
Shannon,
Tilson—15.

NAYS.

Brown,
Buchanan,
Burton,
Duncan,
Ford,

Houston,
Lane,
Ledbetter,
Martin,
McCulloch,

Patton,
Storey,
Swain,
Terrell—14.

Senator Grace moved a call of the Senate.

Call not sustained.

Senator Edwards entered a motion to reconsider the vote by which Senate bill No. 271 was passed.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 179, entitled “An act to define in what civil cases depositions of witnesses may be taken;” Senate bill No. 186, entitled “An act requiring railroad companies to stop their trains at the boundary lines of the State of Texas for a certain length of time;” Senate bill No. 208, entitled “An act to provide for the state library and for the supreme court library;” Senate bill No. 239, entitled “An act prescribing the times of holding the district courts in the twenty-second judicial district;” Senate bill No. 117, entitled “An act to provide for the sale of the public domain and to apply the proceeds from the sales thereof to the public school fund and to the payment of the public debt;” Senate bill No. 225, entitled “An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court of said county to said change;” Senate bill No. 88, entitled “An act to amend articles 560 and 561 of an act to adopt and establish a Code of Criminal Procedure for the State of Texas as adopted by the Sixteenth Legisla-

ture;" Senate bill No. 211, entitled "An act to amend chapter 6 of title 15 of the new Penal Code by further defining and punishing the offense of kidnapping;" Senate bill No. 135, entitled "An act for the relief of the Aransas road company;" and find all of them correctly engrossed. Also your committee have examined and find correctly engrossed, ryder amending section 8 of Senate bill No. 167, and Senate amendments to House bill No. 132. Your committee have also examined Senate bill No. 271, and find it correctly engrossed, but your committee report that said bill as passed contains no enacting clause.

BROWN, *Chairman.*

On motion of Senator Terrell the pending business was postponed five minutes, rules suspended, and Senator Edwards' motion to reconsider the vote passing Senate bill No. 271, entitled "An act to amend article 3193 of an act to adopt and establish the Revised Civil Statutes of the State of Texas," was taken up adopted.

Senator Terrell offered the following amendment:

Amend by inserting before article 3193 the words: "Be it enacted by the Legislature of the State of Texas."

Adopted.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 6, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public for counties of the eleventh senatorial district:

Jno. T. Walker, John T. Wilkins, J. A. Balton, A. P. Bray, J. C. Roberts, J. E. Hughes, C. C. Potter, W. O. Davis, E. A. Blanton, W. T. Roberts, W. H. Dougherty, H. E. Eldridge, S. W. Bellah, T. A. Stephens, Cook county.

Thos. W. Randolph, R. P. Jones, J. R. Jeter, S. S. Fears, S. B. Savage, G. A. Brown, J. M. Cook, A. H. Coffin, H. Tone, Wm. Hughes, W. T. Gass, J. S. Pattie, H. B. Lindsey, B. F. Barrett, Wm. M. Williams, J. R. Diamond, J. W. Givens, H. D. Taylor, Grayson county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 6, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your consent to withdraw the list of notaries public sent for the county of Galveston of the nineteenth senatorial district.

Respectfully, O. M. ROBERTS, *Governor.*

A message was received from the House announcing the passage by that body of House joint resolution No. 47, authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition by the International and Great Northern railroad company for the purpose of displaying the rich and various products of Texas.

Senator McCormick was granted leave to withdraw the names sent in for notaries public for Galveston county, as requested in special message of his excellency.

On motion of Senator McCormick, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

The Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum present.

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bills No. 274 and 275, and I am instructed by said committee to report the bills back to the Senate with their recommendation that they do pass.

STEWART, *Chairman.*

(President in the chair.)

The unfinished business being substitute for House joint resolution No. 2, and Senate joint resolution No. 29, "Proposing amendment to article 8 of the constitution, was taken up.

The pending substitute of Senator Edwards, being House joint resolution No. 2, which is as follows:

"*Be it resolved by the Legislature of the State of Texas, That article 8 of the constitution of the State of Texas be amended by adding a new section, to be styled section 19,*" to read as follows:

"SECTION 19. Farm products of the soil in the hands of the producer, and all family supplies for family use, shall be and are exempt from taxation," was then considered.

Senator Martin moved a call of the Senate.

Call sustained.

Roll called. Absent—Senators Gooch, Brown, Terrell.

Pending the call the business under consideration went to the table.

Substitute for House bill No. 8, entitled "An act for the preservation of oysters and oyster beds, and protecting the rights of persons to the same, was taken up, read third time and passed.

House joint resolution No. 27, "Instructing our senators and requesting our representatives in congress to ask of the United States government payment of all sums expended by Texas for frontier defense, etc." was taken up and read third time.

Senator Edwards offered the following amendment:

Resolved further, In order that the time of future legislatures during this century shall be saved that this resolution shall be in full force and continue a standing request until the year A. D. 1900, and that the Texan members of congress take due notice hereof.

Adopted and bill passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,
Guy.
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin.
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey
Swain,
Tilson—25.

NAYS—none.

Not voting—Brown, Edwards, Ford, Storey, Terrell.

Senator Storey moved to reconsider the vote just taken.

Carried.

Also, to reconsider the vote adopting the amendment of Senator Edwards.

Carried and Senator Edwards withdrew the amendment.

The resolution was then passed by the following vote:

YEAS.

Mr. President,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford.
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Brown, Gooch, McCormick, Terrell.

House bill No. 266, entitled "An act to authorize the county of Galveston to sell the shares of the capital stock of the Gulf, Colorado and Santa Fe railway company owned by said county," was taken up and read second time.

House bill No. 10, entitled "An act to amend section 4 of an act entitled 'an act to amend an act entitled an act to provide for the supplying of lost records in the several counties in this state, approved April 14, 1874,' approved July 13, 1876," was taken up and read second time.

House joint resolution No. 24, "In regard to Pelican Island," was taken up and read second time.

(The president *pro tempore* in the chair.)

Senator Stewart offered the following amendment:

Amend by adding after the words "party in first section" the words "and no improvement shall be made on said island or connected therewith that will interfere with the navigation of Galveston Bay."

Senator McCormick offered the following amendment to the amendment of Senator Stewart.

Amend the amendment by striking out the word "navigation" and inserting "navigable channels."

The absent senators appearing, the unfinished business being Senator Edwards' substitute for the Senate substitute, House joint resolution No. 2 and Senate joint resolution 29 was taken up, and Senator Edwards' substitute lost by the following vote (it taking a two-third vote to adopt):

YEAS.

Buchanan,
Burnett,
Burton,
Edwards,
Ford,

Gooch,
Homan,
Houston,
Lane,
Martin,

McCormick,
McCulloch,
Moore,
Motley,
Tilson—15.

NAYS.

Brown,
Davenport,
Duncan,
Grace,
Guy,

Hobby,
Lair,
Ledbetter,
Patton,
Stewart,

Shannon,
Storey,
Swain,
Terrell—14.

Senator Houston offered the following amendment:

Amend by inserting after the word "soil" the words "and wool."

Senator Terrell offered the following as amendment:

Amend by adding "mechanics' tools used in manual labor."

(The president in the chair.)

The president, after publicly reading its caption, signed House bill No. 258, "An act to amend section seventeen of an act to incorporate the Gulf, Colorado and Santa Fe railway company, and to grant land in aid of the construction of the same," passed May 28, 1878.

Senator Gooch offered the following substitute for the pending resolution and amendments:

After the words "to read as follows," strike out and insert "the Legislature shall have power to exempt from taxation products of the soil and wool in the hands of the producer, provisions on hand for home consumption, and tools of a mechanic for the personal use of the owner."

Lost by the following vote:

YEAS.		
Burnett, Burton, Edwards, Gooch,	Houston, Martin, McCormick,	Stewart, Shannon, Swain—10.
NAYS.		
Brown, Davenport, Duncan, Grace, Guy, Hobby,	Homan, Lair, Ledbetter, McCulloch, Moore,	Motley, Patton, Storey, Terrell, Tilson—16.

Not voting—Buchanan, Ford, Lane.

Senator Gooch offered a substitute for the pending amendments pending on adjournment, and will be given in the proceedings to-morrow.

(Senator Homan moved the previous question and withdrew it.)

Senator Grace moved the previous question.

Motion seconded, but the Senate refused to order the main question by the following vote:

YEAS.		
Davenport, Ford, Grace, Hobby, Houston,	Ledbetter, McCulloch, Moore, Motley,	Patton, Stewart, Storey, Terrell—13.
NAYS.		
Brown, Buchanan, Burnett, Burton, Duncan,	Edwards, Gooch, Guy, Homan, Lane,	Lair, Martin, McCormick, Shannon, Swain—15.

Not voting—Terrell.

Senator Buchanan moved to adjourn until to-morrow at 10 o'clock A. M.

Carried by the following vote:

YEAS.		
Buchanan, Burton, Davenport, Ford, Guy, Hobby,	Houston, Martin, McCormick, Moore, Motley,	Patton, Stewart, Shannon, Storey, Tilson—16.

Brown,
Burnett,
Duncan,
Edwards,
Gooch,

NAYS.

Grace,
Homan,
Lane,
Lair,

Lodbetter,
McCulloch,
Swain,
Terrell---13.

FORTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 7, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Homan presented the memorial of the "Brenham Greys," of Washington county, asking the passage of laws to provide a military force to aid the civil authorities in suppressing lawlessness and crime, and favoring the military act embraced in the Revised Civil Statutes, passed at the present session of the Legislature, etc.

Referred to committee on state affairs.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 268, entitled "An act to amend article 2767 of chapter 3 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas, so as to require the state treasurer to pay state warrants when presented without reference to their respective dates or numbers,'" and a majority of said committee instruct me to report the said bill back with the recommendation that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 267, entitled "An act to amend chapter 4 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' by adding to said chapter another article, to wit: Article 4761a, providing for the payment of certain state warrants by collectors of taxes," and instruct me to report the same back with the recommendation that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 277, "An act to amend article 878 of the Revised Statutes," and have instructed me to report the bill back and recommend its passage.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, having considered Senate joint resolution No. 256, to establish the fees allowed by the laws of 1876, and are of opinion that the object of the bill cannot be obtained by a joint resolution, and only by a re-enactment in full of the fee bill of 1876; the committee, therefore, instruct me to return said joint resolution and recommend that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 217, entitled "An act to prevent certain public officers from using their offices to advance their private interests," and I am instructed by the committee to report the bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 272, entitled "An act further to provide for perpetuating testimony," and I am instructed by the committee to report said bill back to the Senate with the recommendation that it do pass.

STEWART, *Chairman.*

Senator Houston, chairman of the committee on state affairs, submitted following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House bill No. 347, entitled "An act to amend section 2 of the charter of the corporation of Victoria, and to provide for certain changes caused thereby," and I am instructed to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *Chairman.*

Senator Homan, from judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 185, entitled "An act to provide against the evils resulting from the sale of intoxicating liquors in the State of Texas," having duly considered the same, instruct me to report it back and recommend its passage.

HOMAN, *for Committee.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 278, entitled "An act to prevent the sale, exchange or gift of intoxicating liquors within five miles in every direction of Troy Institute, in Bell county," having considered the same and finding that notice of the intention to apply for the passage of said bill has been given as required by law, have instructed me to report the same back and recommend its passage.

HOMAN, *for Committee.*

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The senate finance committee have had under consideration House bill No. 67, "To amend an act entitled 'an act defining what money and property is subject to taxation or exemption, and the mode of listing the same,'" approved August 21, 1876, and I am instructed by a majority of the committee present to recommend its passage.

STOREY, *Chairman.*

Senator Motley introduced a joint resolution, "Authorizing the comptroller of the state to purchase maps."

Read by caption and referred to committee on state affairs.

Senator McCormick presented a memorial from the members of the bar of Waller county, asking that their county be detached from the eighteenth judicial district and attached to the sixteenth or twenty-

first judicial district of the state, giving many reasons therefor, accompanied with a bill to accomplish this purpose.

Referred to committee on judicial districts.

Senator Davenport introduced a bill, entitled "An act to provide for the payment of officer's costs in certain criminal cases out of the moneys collected on forfeited appearance bonds, bail bonds and recognizances.

Read by caption and referred to judiciary committee No. 1.

Senator Lane introduced a bill, entitled "An act supplemental to an act entitled 'an act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas,' approved February, 1879.

Read by caption and referred to committee on judicial districts.

Senator Grace offered the following resolution:

"Resolved, That the committee of investigations of management of the different asylums of the state be and they are hereby required to report at once to the Senate progress in said investigations."

Senator Brown offered the following as a substitute for the resolution of Senator Grace:

"Resolved, That the standing committee on state asylums are instructed to report as early as practicable the result of investigation of the management of asylums, by the joint sub-committee on asylums, and recommendations of the committee on the subject."

Withdrawn.

Senator Lair moved to lay the resolution of Senator Grace on the table.

Lost.

The president, after publicly reading its caption, signed House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar, in this state, from the payment of taxes assessed and now due for the year 1878, in consequence of a great public calamity."

A message was received from the House announcing the passage by that body of Senate bill No. 103, entitled "An act to organize the state penitentiaries, and to regulate the management of convicts therein," and that the House concurs in Senate amendments to caption and section 2 of House bill No. 132, "An act to require persons and corporations, to whom patents for land have been granted, to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to so pay said fees; and to provide the manner and means of enforcing the provisions hereof," and that the House does not concur in the amendment to section 4, and the amendment adding section 5 to said bill.

The resolution of Senator Grace was lost by the following vote:

YEAS—Grace.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

Not voting—Davenport, Ford, McCormick.

Substitute for Senate bill No. 130, (the general appropriation bill), was then taken up as unfinished business.

On motion of Senator Duncan, the rules were suspended, the unfinished business postponed for thirty minutes, and Senate bill No. 62, entitled "An act for the suppression of tramping and the punishment of tramps," was taken up.

Senator Guy offered a substitute for the pending bill.

Senator Burton offered the following amendment to the bill:

Amend section 8 by striking out in line seventeen, all after the word "appearance" to the word "and" in line mentioned.

Senator Stewart moved to postpone the consideration of bill, substitute and amendments till Monday week.

Lost by the following vote:

YEAS.		
Brown, Burnett, Burton, Grace,	Hobby, Homan, Ledbetter, Martin,	Stewart, Shannon, Swain—11.
NAYS.		
Buchanan, Duncan, Edwards, Gooch, Guy,	Houston, Lane, Lair, McCulloch, Moore,	Motley, Patton, Storey, Terrell, Tilson—15.

Not voting—Davenport, Ford, McCormick.

Senator Duncan moved a call of the Senate on Senator Burton's amendment.

Call sustained.

Roll called.

Absent—Ford.

On motion of Senator Stewart, the rules were suspended and Senate bill No. 72, entitled "An act amendatory of an act entitled 'an act to provide for and regulate mechanics', contrators', builders' and other liens in the State of Texas,' approved August, 1876," was taken up and read second time.

The substitute of the committee was adopted and bill ordered engrossed.

Senator Stewart moved a suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.		
Buchanan, Burnett, Burton, Davenport, Duncan, Gooch, Grace, Guy,	Hobby, Homan, Houston, Lane, Lair, Ledbetter, McCulloch, Motley,	Patton, Stewart, Shannon, Storey, Swain, Terrell, Tilson—23.

NAYS—none.

Not voting—Burton, Edwards, Ford, Martin, McCormick, Moore.

Bill read third time.

Senator Terrell offered the following amendment:

"SECTION 2. The lateness of the time in the session at which this bill receives consideration, and the importance of offering speedy protection to those to be benefited, creates an emergency and public imperative necessity which demands the suspension of the rule requiring a bill to

be read on three several days, and that this act take effect and be in force from and after its passage."

Adopted.

The bill passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Stewart,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Burton, Edwards, Ford, McCormick, Moore, Patton, Shannon.

On motion of Senator Burnett, the unfinished business was postponed, rules suspended and Senate bill No. 260, entitled "An act to secure the early determination of appeals in the supreme court, in causes involving the right to office," was taken up and read first time.

Senator Hobby moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Tilson—25.

NAYS—none.

Not voting—Guy, McCormick, Motley, Terrell.

Bill read a second time and ordered engrossed.

On motion of Senator Hobby, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Stewart,
Shannon,
Storey,
Swain,
Tilson—25.

NAYS—none.

Not voting—McCormick, Motley, Patton, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,

Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,

Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Stewart,
Shannon,

Storey,
Swain,
Tilson—26.

NAYS—none.

Not voting—McCormick, Motley, Terrell.

On motion of Senator Brown, the unfinished business was postponed, rules suspended and House bill No. 266, entitled "An act to authorize the county of Galveston to sell the shares of the capital stock of the Gulf, Colorado and Santa Fe railroad company, owned by said county," was taken up and read third time.

Senator Homan offered the following amendment:

Amend by inserting after the word "railway," and before the words "to Belton," in section 1, the following: "Through the towns of Brenham, in Washington county, Caldwell, in Burleson county, and Cameron, in Milam county."

Lost by the following vote:

Burnett,
Burton,
Davenport,
Duncan,

YEAS.

Guy,
Homan,
Houston,

Lair,
Martin,
Shannon—10.

NAYS.

Brown,
Edwards,
Gooch,
Hobby,
Lane,

Ledbetter,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Stewart,
Storey,
Swain,
Tilson—15.

Not voting—Buchanan, Ford, Grace, Terrell.

The bill was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Tilson—26.

NAYS—none.

Not voting—Edwards, Swain, Terrell.

On motion of Senator Gooch the unfinished business was postponed five minutes, rules suspended and Senate bill No. 79, entitled "An act to validate certain acts of notaries public, who have used seals with the word "Texas" engraved between the points of the star thereon, instead of around the margin thereof," was taken up and read first time.

Senator Gooch moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,

Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,

Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Shannon,

Storey,
Terrell,
Tilson—25.

NAYS—none.

Not voting—McCulloch, Patton, Stewart, Swain.

Bill read second time.

Senator Gooch offered the following amendment:

“The lateness of the session creates an imperative public necessity that the rules be suspended requiring this bill to be read on three several days in each house and it is suspended.”

Adopted, and bill ordered engrossed.

On motion of Senator Gooch the rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Brown, Buchanan, Burton, McCulloch.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Burton, Gooch, Swain.

On motion of Senator Storey, the rules were suspended, unfinished business postponed and Senate bill No. 249, entitled “An act to define what property used for school puposes is exempt from taxation under section 2, article 8 of the constitution,” was taken up and read second time.

Senator Storey offered the following amendment:

“SECTION Whereas there is much doubt existing in the minds of officers upon the subject of taxation herein named, and much confusion is arising for want of a law upon the subject, an imperative public necessity and emergency exists for the passage of this act, it shall therefore take effect and be in force from and after its passage.”

Adopted, and bill ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,

Burnett,
Burten,

Davenport,
Duncan,

Ford,
Grace,
Guy,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

Moore,
Motley,
Stewart,
Storey,
Tilson--21.

NAYS—none.

Not voting—Edwards, Gooch, McCormick, McCulloch, Patton, Shannon, Swain, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Lair,
Ledbetter,
McCormick,
McCulloch.

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--24.

NAYS—none.

Not voting—Edwards, Houston, Lane, Martin, Swain.

On motion of Senator Stewart, the rules were suspended, unfinished business postponed and Senate bill No. 271, entitled "An act to amend article 3193 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" was taken up.

Senator Stewart offered the following amendment:

Amend by inserting before the words "Article 3193" the following:

"SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That article 3193 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' shall hereafter read as follows, viz."

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAYS—none.

Not voting—Brown, Gooch, McCulloch.

The bill was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--26.

NAYS—none.

Not voting—Ford, Gooch, Swain.

(Senator Grace in the chair.)

On motion of Senator Lane, the unfinished business was postponed, rules suspended and Senate bill No. 135, entitled "An act for the relief of the Aransas road company," was taken up, read third time and passed by the following vote:

YEAS.		
Buchanan,	Guy,	McCulloch,
Burnett,	Hobby,	Moore,
Burton,	Homan,	Motley,
Davenport,	Lane,	Patton,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Shannon,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—25.
Grace,		

NAYS—none.

Not voting—Brown, Houston, Storey, Swain.

On motion of Senator Motley, the rules were suspended, the unfinished business postponed fifteen minutes and Senate bill No. 133, entitled "An act to endow Henderson College, in Rusk county, with a land grant," was taken up and read first time.

On motion of Senator Motley, the rules were suspended and Senate bill No. 137, entitled "An act for the relief of the heirs of Catlett Burnett," was taken up and read first time.

On motion of Senator Homan, the rules were suspended and Senate bill No. 159, entitled "An act to prescribe the requisites of indictments in certain cases," was taken up and read first time.

A message was received from the House announcing the passage by that body of the following bills, to wit:

House bill No. 88, entitled "An act for the relief of Mrs. M. A. C. Wilson, widow of William F. Wilson," and House bill No. 102, entitled "An act defining the duties of commissioners' courts, when sitting as a board of equalization."

(President in the chair.)

On motion of Senator Duncan, the unfinished business was postponed thirty minutes.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 7, 1879. }

To the honorable Senate of the State of Texas, in session assembled:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment:

A. J. Hood, of Parker county, to be district judge of the twenty-ninth judicial district, embracing the counties of Parker, Tarrant and Jack, in the State of Texas. Respectfully, O. M. ROBERTS, Governor.

Senator Shannon moved that the Senate go into executive session tomorrow just after the morning call to consider the nomination of his excellency the governor, just sent to the Senate by special message.

Senator Stewart entered a motion to reconsider the vote refusing to adopt the substitute of Senator Edwards (which was the joint resolution No. 2, as adopted by the House and sent to the Senate), for the substitute of Senate joint resolution No. 29, and the said House joint resolution No. 2, "proposing amendments to article 8 of the state constitution."

Senator Storey (by leave), introduced a bill entitled "An act to amend article 3367 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature."

Read by caption and referred to judiciary committee No. 1.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 151, entitled "An act to encourage the construction of artesian wells," and Senate bill No. 12, entitled "An act amendatory of article 3176, 3177, 3178 and 3179 of title 61, chapter 2, of the Revised Statutes of the State of Texas, and report them correctly engrossed. **BROWN, Chairman.**

On motion of Senator Ledbetter, the rules were suspended and Senate bill No. 273, entitled "An act to amend section 5, article 16, title 4, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved February, 1879," was taken up and read first time.

On motion of Senator Swain the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

Senator Burton (by leave), introduced a bill entitled "An act to fix and regulate the fees of all the officers of the State of Texas, and the several counties thereof."

Read by caption and referred to judiciary committee No. 2.

Senator Edwards, chairman of the committee on constitutional amendments, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments have had under consideration Senate joint resolution No. 150, "Proposing amendments to section 10 of article 1 of the constitution of the State of Texas," and I am instructed by a majority of your committee to report the same back and recommend that it do not pass. **EDWARDS, Chairman.**

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments have had under consideration joint resolution No. 99, "Amending section 24 of article 3 of the constitution of the State of Texas," and I am instructed by the majority of your committee to report the accompanying substitute for the same with the recommendation that the substitute do pass.

EDWARDS, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments have had under consideration Senate joint resolution No. 230, "Proposing an amendment to the constitution by the creation of a department of health and board of pardons," and I am instructed by a majority of your committee to report the same back to the Senate and recommend that it do not pass.

EDWARDS, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments have had under consideration Senate joint resolution No. 258, "Proposing amendments to sections 4 and 5 of article 4 of the constitution of the State of Texas," and I am instructed by a majority of your committee to report the same back and recommend that it do not pass. EDWARDS, *Chairman.*

On motion of Senator Ledbetter, the unfinished business was postponed, rules suspended and Senate bill No. 273, entitled "An act to amend section 5, article 16, title 4 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved February, 1879," was taken up and placed on its second reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,

McCulloch,
Moore,
Motley,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Brown, Grace, Martin, Patton, Swain.

Bill read second time.

Senator Ledbetter offered the following amendment:

"SECTION 2. Whereas, the county of Lee, by the law now in force, is not attached to any congressional district, and it being important that the voters of that county should have the right to vote for candidates for congress, creates an emergency that the rules be suspended requiring bills to be read on three several days, so that this bill be passed immediately; it is therefore enacted that the rules be and are hereby suspended, so as to put the bill on its passage."

Adopted, and bill ordered engrossed.

On motion of Senator Ledbetter, the rules were further suspended and bill placed on its third reading by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--23.

NAYS—none.

Not voting—Brown, Buchanan, Ford, Grace, Homan, Martin.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,

McCulloch,
Moore,
Motley,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Brown, Grace, Martin, Patton.

On motion of Senator Patton, the rules were suspended, unfinished business postponed and House bill No. 238, entitled "An act to provide for the surrender and dissolution of charters of incorporated cities and towns in this state, and to authorize the counties wherein said cities or towns are situated, to settle and administer their estates, collect their credits, pay their debts, etc," was taken up and read second time.

On motion of Senator Terrell, one hundred copies of the bill were ordered printed and made the special order for to-morrow afternoon and from day to-day until disposed of.

A message was received from the House announcing the passage by that body of substitute for House bill No. 36, entitled "An act authorizing and requiring the commissioner of the general land office to issue patents to certain lands granted to the Bayland Orphan's Home, situated on Galveston bay, Harris county, Texas."

The president, after publicly reading its caption, signed Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate."

On motion of Senator Terrell, House bill No. 132, entitled "An act to require persons and corporations, to whom patents for lands have been granted, to pay the fees thereon within sixty days from the passage of this act, etc.," was taken up.

Senator Storey moved that the Senate do not recede from its amendments, and that a conference committee be appointed by the two houses on the differences of the Senate and House on said bill.

Carried.

The president appointed as said conference committee on the part of the Senate, Senators Storey, Stewart and Terrell.

On motion of Senator Edwards, House joint resolution No. 47, "Authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition by the International and Great Northern railroad company, for the purpose of displaying the rich and various products of Texas," was taken up by the following vote:

YEAS.

Burnett,	Hobby,	McCulloch,
Burton,	Homan,	Moore,
Edwards,	Houston,	Motley,
Ford,	Lair,	Patton,
Gooch,	Ledbetter,	Stewart,
Grace,	Martin,	Tilson—20.
Guy,	McCormick,	

NAYS.

Davenport,	Lane.	Terrell—5.
Duncan,	Storey,	

Not voting—Brown, Buchanan, Shannon, Swain.

Resolution read second time.

Senator Duncan offered the following amendment:

Amend after "rich and various products of" by striking out "Texas" and insert "International lands."

Senator Edwards offered the following amendment:

"3. In order that the object sought to be attained by this resolution may be accomplished, it is indispensable that it go into operation imme-

diately, therefore the emergency exists and the resolution shall go into effect immediately after its passage."

Senator Grace moved the previous question upon the resolution and pending amendments.

Motion seconded and main question ordered.

Senator Duncan's amendment was lost by the following vote:

	YEAS.	
Davenport, Duncan,	Grace,	Terrell—4.

	NAYS.	
Buchanan, Burnett, Burton, Edwards, Ford, Gooch, Guy, Hobby,	Homan, Houston, Lane, Lair, Ledbetter, Martin, McCormick, McCulloch,	Moore, Motley, Stewart, Shannon, Storey, Swain, Tilson—23.

Not voting—Brown, Patton.

On motion of Senator Martin, Senator Brown was excused for the evening.

Senator Edwards' amendment to the pending resolution was then lost.

The resolution was passed to its third reading by the following vote:

	YEAS.	
Buchanan, Burnett, Burton, Edwards, Ford, Gooch,	Guy, Hobby, Houston, Lane, Ledbetter,	Martin, McCormick, McCulloch, Moore, Stewart—16.

	NAYS.	
Davenport, Duncan, Grace, Homan,	Lair, Patton, Shannon, Storey,	Swain, Terrell, Tilson—11.

Not voting—Motley.

Senator Edwards moved to reconsider the vote just taken, but withdrew it.

House joint resolution No. 24, "In regard to Pelican Island," was taken up.

The pending amendment of Senator McCormick to the amendment of Senator Stewart was then considered.

The amendment of Senator McCormick was lost by the following vote:

	YEAS.	
Burnett, Davenport, Edwards, Ford,	Hobby, Homan, Ledbetter, McCormick,	Moore, Motley, Storey—11.

	NAYS.	
Duncan, Gooch, Grace, Guy, Houston,	Lair, Martin, McCulloch, Patton,	Stewart, Storey, Swain, Tilson—13.

Not voting—Buchanan, Burton, Lane, Terrell.

The amendment of Senator Stewart was then adopted by the following vote:

YEAS.		
Burnett,	Houston,	Patton,
Duncan,	Lane,	Stewart,
Gooch,	Lair,	Shannon,
Grace,	Ledbetter,	Storey,
Guy,	Martin,	Swain,
Hobby,	McCulloch,	Terrell,
Homan,	Moore,	Tilson—21.
NAYS.		
Davenport,	McCormick,	Motley—4.
Edwards,		

Not voting—Buchanan, Burton, Ford.

House bill No. 70 was taken up, when Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully compared and find correctly enrolled and properly signed, Senate bill No. 77, "An act to regulate and control the assessment of taxes on real estate," and at 3:20 o'clock P. M., presented the same to the governor for his signature.

GRACE, Chairman.

Senator Gooch, from committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully compared with the original, Senate bill No. 271, "An act to amend article 3193 of an act to adopt and establish the Revised Civil Statutes of the State of Texas," which was taken up, reconsidered and amended on March 6, and has been re-engrossed, and your committee find the same correctly engrossed.

GOOCH, for Committee.

Senator Edwards moved to commit substitute for House joint resolution No. 2 and Senate joint resolution No. 29, proposing amendments to article 8 of the constitution of the state, to the committee of the whole Senate.

Carried by the following vote:

YEAS.		
Burnett,	Houston,	Motley,
Burton,	Lane,	Stewart,
Edwards,	Martin,	Shannon,
Ford,	McCormick,	Storey,
Gooch,	Moore,	Tilson—16.
Hobby,		
NAYS.		
Davenport,	Homan,	McCulloch,
Duncan,	Lair,	Patton,
Grace,	Ledbetter,	Terrell—10.
Guy,		

Not voting—Buchanan, Swain.

The Senate then went into committee of the whole.

(Senator Edwards in the chair.)

IN SENATE.—The committee rose, and through their chairman reported that they had had under consideration Senate substitute for House joint resolution No. 2 and Senate joint resolution No. 29, with accompanying

amendments and substitutes, and that they have made no progress in considering the same, and asked the Senate that the committee be discharged.

The report of the committee of the whole was adopted by the following vote:

YEAS.		
Burnett,	Homan,	Storey,
Davenport,	Lair,	Swain,
Duncan,	McCulloch,	Terrell,
Grace,	Patton,	Tilson—14.
Guy,	Shannon,	
NAYS.		
Burton,	Houston,	McCormick,
Edwards,	Lane,	Moore,
Ford,	Ledbetter,	Motley,
Gooch,	Martin,	Stewart—13.
Hobby,		

Not voting—Buchanan.

Senator Storey (by leave), introduced a bill entitled "An act amendatory of and supplemental to chapter 3, title 78, of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature."

Read by caption and referred to the committee on educational affairs.

Senator Gooch, chairman of the committee on public debt, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public debt have had under consideration Senate bill No. 47, entitled "An act to provide for funding the bonded and floating debt of the State of Texas, and to authorize and require the issue of four per cent. interest bearing bonds of the state for that purpose," and said committee instruct me to report the same back to the Senate, and request that it be referred to the finance committee, who have under consideration several similar bills.

Gooch, *Chairman.*

Report of committee adopted and bill so referred.

On motion of Senator Duncan, the Senate adjourned until 9:30 A. M. to-morrow.

FORTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 8, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with, but could not be approved until examined, as the morning and evening sessions were badly mixed.

Senator Grace called the attention of the Senate to the fact of the morning and evening sessions being mixed, and moved that an examination be made to ascertain if the manuscript journals were in the same confusion.

Upon examination the manuscript journals were found to be correct and that the confusion existed only in the printed journals.

On motion of Senator Buchanan, Senator Motley was excused until Monday, owing to sickness in his family.

Senator Patton presented the petition of a portion of the members of the bar of Waller county, "against detaching said county from the present judicial district to which it belongs, and attaching it to the sixteenth or twenty-first judicial district, and charging that efforts making to secure this by certain parties are not for the public good, etc.

Petition taken up and read.

Senator Moore, chairman of special committee, presented the following report from the special committee appointed to visit the Agricultural and Mechanical colleges at Bryan and Alta Vista.

SENATE CHAMBER, AUSTIN, March 8, 1879.

Hon. J. D. Sayers, President of the Senate, and Hon. John H. Cochran, Speaker of the House of Representatives:

Your joint committee of two members of the Senate and three of the House of Representatives, appointed to visit the Agricultural and Mechanical College of Texas, and the Agricultural and Mechanical College for colored youths, near Hempstead, and carefully examine their present condition, and the manner in which they are conducted, etc., have visited the said institutions and made a thorough examination, as contemplated by the resolution of the two houses, and respectfully report as the judgment and opinion of the committee, that the Agricultural and Mechanical College of Texas presents a condition which reflects credit upon the state and upon the judicious management of the board of directors of that institution, and upon the faculty of able professors there employed. We found 167 students in attendance. We examined all the appointments of the institution and carefully inquired into the character and methods of instruction and discipline. We are fully satisfied that the aim and effort of the board of directors and faculty under their supervision has been to make the college fully meet the requirements of the fourth section of the act of congress, in relation thereto, and the terms of our statutes accepting the aid of congress, and providing for the establishment of the college, to wit: to make it a college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts. As regards the exercises in military tactics now required at said college, we are satisfied that the same is conducive to the good of the institution in exercising the students and promoting order and propriety of conduct, and protecting the diligent in the hours of study. It has been avowedly not the intention of the board of directors to make the college a manual labor school, but to use the practical farming carried on in connection with the college as a field of illustration of those branches of learning related to agriculture taught in the college.

The college is, as yet, not furnished with any sufficient laboratory of chemical materials and scientific apparatus, and these are greatly needed to properly instruct the students in the scientific principles embraced in a thorough knowledge of agriculture and mechanic arts.

The college is also destitute of standard works of reference in general learning and literature, and the students are confined in their investigations to the text books of the curriculum and the lectures of the professors.

The recitation rooms, quarters, mess room, and all the appointments except the hospital and halls for the debating and literary societies are good, and the management of the whole, including the steward's hall, as the same was patent to our observation, and as it was fully explained to us, both by the faculty and students, worthy of unqualified approval. The college needs a hospital separate from the other buildings, suitable for the proper care of the sick, where they will not be disturbed by the noise and other incidents of the regular exercises of the students. It is the decided opinion of this committee that students looking to the acquisition of proficiency in the pursuits of agriculture and the mechanic arts should be furnished the advantages to be derived from the exercises in debating and literary societies, and that to promote proper emulation, at least two such societies should be sustained in connection with the college, and that to this end two halls, each capable of accommodating from seventy-five to one hundred members, should be provided as soon as practicable, and dedicated to the use of such societies.

From matriculation fees, and the necessary margin of profits on the subsistence of the students, now borne by the management on account of the state, a small annual fund arises which might be used in providing a suitable hospital building, and starting the nucleus of a college library.

From our investigations we are satisfied that if an appropriation should be made equal to (and to be satisfied by) the interest on the university fund now in the treasury, and the interest which will accrue on said fund between this time and the next session of the Legislature, to be used by the board of directors of the college in the manner provided for by the House bill No. 134, the board will be able to supply, in a reasonable measure, the deficiencies we have pointed out, and we therefore recommend that such appropriation be made for the Agricultural and Mechanical College of Texas.

We visited the college building and grounds near Hempstead intended for colored youths, where we found Professor Minor, but no colored youths seeking instruction. From a thorough inquiry into what had been done and attempted to be done by the professor and President Gathright in connection with this enterprise, as well as from our own knowledge and information derived from many intelligent citizens, we are satisfied that the colored race in Texas is not yet sufficiently advanced in the love of learning or in the acquisition of wealth to enable them practically to avail themselves of the state's bounty as offered in the institution.

From a careful examination of the premises, and a like knowledge of the condition of the colored citizenship of Texas, we are satisfied that no system looking to the support of the school in part by the manual labor of the students, can be devised which will make the school a success.

We see no reasonable chance of rendering the investment already made practically available except on the basis of full beneficence, to the extent of tuition, lodging and subsistence of the students attending.

The great need of that portion of our citizenship is a sufficient number of trained teachers of their own race. And after careful study of this problem, we recommend that this property near Hempstead be used as a place for conducting a normal school for colored youth. We are assured that thirty-one pupils can be properly taught, lodged and fed, for an annual outlay not exceeding six thousand dollars. We believe the funds necessary to support said normal school could be taken from the availa-

ble school fund, not only without detriment to the efficiency of that fund, but greatly in aid of its practical beneficial application to the colored race, and that a proportional amount, having regard to the scholastic population of each race, might be taken from the available school fund for the support of a normal school for the white scholastic population.

We are assured that various eligible localities in the state would actively compete for the privilege of donating to the state suitable buildings and grounds for the use and endowment of such a normal school for the white scholastic population.

Respectfully submitted,

J. W. MOORE,
A. P. McCORMICK.
J. B. HENDERSON,
A. M. DOUGLASS,
M. D. K. TAYLOR.

Senator Ford, chairman of the committee on Indian affairs and frontier protection, submitted the following report :

Hon. J. D. Sayers, President of the Senate:

Your committee on Indian affairs and frontier protection, to whom was referred a "joint resolution," originating in the House of Representatives, and numbered 35, "on the subject of Indian depredations in the State of Texas," have had the same under consideration, and a majority of said committee have instructed me to report that, in their opinion, the danger impending over the border settlers on the line of uncovered and unprotected frontier, lying between Fort Concho and Fort Sill, and about three hundred miles in length, is imminent, and an attack may be justly apprehended at any moment upon the settlers above indicated. It appears from information derived from official sources, that in the immediate vicinity of Fort Sill and Fort Reno, Indian territory, there are numerous bands of Indians congregated. These people have at recent periods been waging war against the United States, and during the waging of hostilities they committed many sanguinary acts of revolting cruelty. They are now discontented and restless, and would gladly throw off all restraining influences, and again seek the warpath.

A little more than a year since Gen. Pope officially reported a portion of those Indians in "a state of semi-starvation." Gen. McKenzie, about the same date recommended an increase of the force having those unhappy people in charge. Gen. Sheridan answered that the number of troops in his department, indeed, in the army of the United States, did not permit a compliance with the recommendation.

The condition of affairs in that section has not improved. It is not at all incredible that less than six hundred United States troops have been unable to keep eighteen thousand sullen and dissatisfied savages in check, and that they have committed depredations upon the whites in the Pan Handle and elsewhere.

Your committee take this occasion to call the attention of this Legislature and of the authorities of the state to the line between Fort Concho and Fort Sill, and to the entire absence of any adequate means of defense now on hand or soon available should an outbreak occur and a heavy force of Indians be precipitated upon the border settlers in that section. To await for such a catastrophe; to let this promising portion of our frontier be drenched in blood, the inhabitants murdered, captured and

driven back; to let ruin come in its worst guise, and then to act, to apply a remedy, would hardly be wisdom.

In view of the fact that the joint resolution contemplates action in relation to this line, your committee recommend its passage.

FORD, *Chairman.*

Senator Ledbetter, chairman of committee on education, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on education, to whom was referred Senate bill No. 283, "An act amendatory to, and supplemental to chapter 3, title 78 of the Revised Civil Statutes of the State of Texas," adopted at the present session of the Legislature, have had the same under consideration, and I am instructed by a majority of the committee to report the bill back to the Senate and recommend its passage.

LEDBETTER, *Chairman.*

Senator Gooch, chairman of the committee on public debt, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public debt have had under consideration the memorial of Mrs. Emma M. Moore, widow of Commodore Moore, and I am instructed to report that the committee recommend that the memorial be not granted, for the reason that the memorial shows that the state is not indebted to her (her late husband having given the state a receipt in full discharge of its indebtedness to him), and because there is a general law now in force providing for pensions to widows of soldiers.

GOOCH, *Chairman.*

Senator Guy, chairman of the committee on private land claims, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 262, entitled "A bill to be entitled 'an act to grant to Jackson Doyle a headright of six hundred and forty acres of land,'" have considered the same, and find that due notice by publication of same has been given, and a majority of your committee, having examined the proofs accompanying said bill, instruct me to report said bill back to the Senate and to recommend its passage.

GUY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred the petition of Thomas Humphries and Lucy Andrews, heirs of James Humphries, praying that a certificate for a league and labor of land be issued to them, have carefully considered the same, and find that due notice of same has been given, and after having examined all the proofs accompanying said petition, your committee instruct me to report the accompanying bill to the Senate and to recommend its passage.

GUY, *Chairman.*

Senator Houston introduced a bill entitled "An act to amend an act entitled 'an act to encourage irrigation and navigation.'"

Read by caption and referred to committee on state affairs.

Senator Burton introduced a bill entitled "An act to establish at the Agricultural and Mechanical College for colored youths a normal and manual school."

Read by caption and referred to committee on education.

Senator Davenport introduced a bill entitled "An act amendatory of 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,' approved February 22, 1879."

Read by caption and referred to committee on judicial districts.

Senator Shannon offered the following resolution:

Resolved, That the Senator from the thirteenth senatorial district, the Hon. R. S. Guy, be excused for his absence from the Senate from the beginning of the present session until the twenty-seventh day of January, 1879, on account of sickness.

Adopted.

Senator Edwards offered the following resolution:

Resolved, That the report of the joint committee appointed to visit the Agricultural and Mechanical College of Texas be referred to a select committee appointed by the president of the Senate with instructions to report, by appropriate bills or otherwise, at as early a day as practicable.

Adopted.

On motion of Senator Grace, the Senate went into executive session to consider the nominations sent to the Senate on yesterday and previously by his excellency the governor, that had not been acted on by the Senate.

(Senator Stewart in the chair.)

IN SENATE.—On motion of Senator Duncan, the secretary of the Senate was instructed to enter upon the journals the confirmations of the Senate made in executive session, and in obedience to said instructions it is stated that the Senate did advise and consent to the appointment made by his excellency the governor, of A. J. Hood, of Parker county, to be district judge of the twenty-ninth judicial district; and also to the appointments of notaries public for the eleventh senatorial district, and to the appointment of A. G. Dupuy and W. A. Miller as notaries public for Anderson county, and J. P. Smith to be notary public for Cherokee county.

(The president in the chair.)

On motion of Senator Swain, the rules were suspended and pending business postponed five minutes, and Senate bill No. 267, entitled "An act to amend chapter 4 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas, by adding to said chapter another article, to wit: (Article 4761a) providing for the payment of certain state warrants by collectors of taxes,'" was taken up and read first time.

On motion of Senator Grace, the bill was postponed, and fifty copies ordered printed.

On motion of Senator Swain, the bill was made the special order for Monday next, just after the morning call, and from day to day until disposed of.

On motion of Senator Grace, the pending business was postponed fifteen minutes, rules suspended to take up Senate bills Nos. 274 and 275.

Senate bill No. 274, entitled "An act to amend articles 130 and 132 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed at the present session of the Legislature, was taken up and read first time.

On motion of Senator Grace, the rules were suspended and bill placed on its second reading—by the following vote :

Brown,	Grace,	McCormick,
Buchanan,	Guy,	Moore,
Burnett,	Hobby,	Stewart,
Burton,	Homan,	Shannon,
Davenport,	Houston,	Storey,
Duncan,	Lair,	Terrell,
Edwards,	Martin,	Tilson—22.
Gooch,		

NAYS—none.

Not voting—Ford, Lane, Ledbetter, McCulloch, Patton, Swain.

Bill read second time.

Senator Gooch offered the following amendment:

After the words "such officers," add "in any event."

Adopted.

Also the following:

After the words "unexpired term," add "and the terms of such officers shall in any event expire with the term of the governor making such appointment."

Adopted.

Senator Swain moved that the bill be postponed and 50 copies ordered printed.

Lost and the bill ordered engrossed.

The rules were still further suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Gooch,	Ledbetter,
Buchanan,	Grace,	Martin,
Burnett,	Guy,	Moore,
Burton,	Hobby,	Stewart,
Davenport,	Homan,	Shannon,
Duncan,	Houston,	Storey,
Edwards,	Lair,	Tilson—22.
Ford,		

NAYS.

Swain,

Terrell— 2.

Not voting—Lane, McCormick, McCulloch, Patton.

Bill read third time.

Senator Gooch offered the following amendment:

After the words "unexpired term," strike out and add "and the terms of such officers shall in any event expire with the term of the governor making such appointment."

Adopted by the following vote:

YEAS.		
Brown,	Gooch,	Ledbetter,
Buchanan,	Grace,	Martin,
Burnett,	Guy,	Moore,
Burton,	Hobby,	Stewart,
Davenport,	Homan,	Shannon,
Duncan,	Houston,	Storey,
Edwards,	Lane,	Terrell,
Ford,	Lair,	Tilson—24.

NAYS.

Patton,

Swain—2.

Not voting—McCormick, McCulloch.

The bill was then passed by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
Moore,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—22.

NAYS.

Brown,
Buchanan,

McCulloch,
Patton,

Storey—5.

Not voting—McCormick.

A message was received from the House announcing the passage by that body of substitute for House bill No. 342, entitled "An act to provide for the building, making and completion of such works and improvements at the East Texas Penitentiary, at Rusk, as may be necessary and proper to put the same into operation, and to make an appropriation to carry out the provisions of this act."

Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or to complete, or to complete payment for court houses and jails;" and that Messrs. Coleman, McComb and Baker have been appointed a committee of conference upon the part of the House on the differences arising on House bill No. 132, "Requiring fees to be paid for patents for land, etc."

Senate bill No. 275, entitled "An act to amend articles 75 and 79 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed at the present session of the Legislature, was taken up and read first time.

The rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
Moore,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--20.

NAYS—Patton.

Not voting—Burton, Davenport, Edwards, Ford, Lane, McCormick, McCulloch.

The bill was read the second time.

Senator Gooch offered the following amendment:

Strike out after the words "unexpired term," in section 1, and add "and the terms of such offices shall in any event expire with the term of the governor making the appointment."

Adopted and bill ordered engrossed.

The rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,

Davenport,
Duncan,
Edwards,

Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,

Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Stewart,
Shannon,
Terrell,
Tilson--23.

NAYS.

Patton,

Storey--2.

Not voting—Buchanan, Lane, Swain.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,

McCormick,
McCulloch,
Stewart,
Shannon,
Swain,
Terrell,
Tilson--22.

NAYS—Patton.

Not voting—Davenport, Ford, Lane, Moore, Storey.

On motion of Senator Ledbetter, the rules were suspended and Senate bill No. 283, entitled "An act amendatory of and supplemental to chapter 3, title 78 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature," was taken up and 50 copies of the bill ordered printed.

The president appointed as a committee on the report of the committee appointed to visit the Agricultural and Mechanical Colleges, at Bryan and Alta Vista, Senators Edwards, McCormick, Moore, Shannon, Ledbetter, Lane and Burnett.

A message was received from the House announcing the passage by that body of Senate bill No. 6, entitled "An act regulating the election of clerks of the district and county courts in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore and now holding both of said offices," and House bill No. 446, entitled "An act to authorize the mayor and aldermen of the town of Waxahachie to transfer its stock in the Waxahachie Tap railroad."

Senator Martin called up his motion to reconsider the vote by which the report of the committee on finance in favor of the claim of Mrs. C. Toby was not adopted.

Senator Shannon moved the previous question on the pending motion, which was seconded.

Senator Stewart moved a call of the House.

Call sustained.

Roll called. Absent—Grace.

The following House bills were taken up for reference, to wit:

House bill No. 36, entitled "An act authorizing and requiring the commissioner of the general land office to issue patents to certain lands granted to the Bayland Orphans' Home, situated on Galveston bay, Harris county, Texas."

Referred to the committee on general land office.

House bill No. 88, entitled "An act for the relief of Mrs. M. A. C. Wilson, widow of William F. Wilson."

Referred to the committee on private land claims.

House bill No. 102, entitled "An act defining the duties of commissioners' courts when sitting as a board of equalization."

Referred to judiciary committee No. 2.

Senator Storey (by leave) introduced a bill entitled "An act to create the thirty-third judicial district of Texas and fixing the time of holding court in said district."

Read by caption and referred to the committee on judicial districts.

The main question on the motion of Senator Martin to reconsider the vote on the Toby claim, was ordered, and the motion to reconsider carried by the following vote:

YEAS.

Brown,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane
Martin,
McCormick,

McCulloch,
Patton,
Stewart,
Storey,
Swain—17.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,

Homan,
Lair,
Ledbetter,
Moore.

Shannon,
Terrell,
Tilson--11.

On motion of Senator Homan, the rules were suspended, pending business postponed five minutes and Senate bill No. 177, entitled "An act to prohibit the sale, exchange or gift of intoxicating liquors within three miles of Frainville High School, in Burleson county," was taken up and read first time.

On motion of Senator Homan, the rules were suspended and Senate bill No. 238, entitled "An act to prevent attorneys who may have represented the state in any proceeding from afterward appearing as counsel adversely to the state, in the same or in any other proceeding involving the same subject matter," was taken up and read first time.

On motion of Senator Homan, the rules were suspended and Senate bill No. 278, entitled "An act to prevent the sale, exchange or gift of intoxicating liquors within five miles in every direction of Troy Institute in Bell county," was taken up and read first time.

On motion of Senator Buchanan, Senator Storey was excused until Monday.

On motion of Senator Lane, the rules were suspended, pending business postponed and Senate bill No. 204, entitled "An act to require persons enclosing public free school lands to pay an annual rent therefor," was taken up, bill read second time and ordered engrossed.

Senator Duncan offered the following amendment:

Amend by adding to section 6:

"*Provided*, that this law shall not be so construed as to authorize any person hereafter to enter upon, enclose and control any school land of this state."

Withdrawn.

On motion of Senator Martin, the consideration of the Toby claim was postponed and made the special order for Tuesday next just after the morning call and from day to day until disposed of.

Senator Grace arose to a personal explanation with regard to a statement in some paper that the clerk of his enrolling committee, Mr. H. C. Surghnor, had committed an error in the enrollment of the amendments

to the new codes, etc., as printed and placed on the desks of members. He fully exonerated the clerk referred to from all blame in the matter.

On motion of Senator Duncan, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum not present.

Senator McCulloch moved a call of the Senate.

Senator Edwards moved to adjourn until 10 o'clock Monday morning. Lost.

A quorum appearing the Senate proceeded to business.

Senator Burton moved to suspend the rules and take up Senate joint resolution No. 99.

Declared out of order.

House bill No. 10, entitled "An act to amend section 4 of an act entitled an act to amend an act entitled 'an act to provide for the supplying of lost records in the several counties in the state,'" approved April 14, 1874, approved July 13, 1876, was taken up, read third time and passed.

On motion of Senator Edwards, the rules were suspended and House joint resolution No. 47, "Authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition by the International and Great Northern railroad company, for the purpose of displaying the rich and various products of Texas," was taken up and referred to judiciary committee No. 1.

On motion of Senator Guy, House bill No. 446, with regard to the Waxahachie railroad company," was taken up and read first time.

House bill No. 70, entitled "An act to amend section 2 of 'an act to define the eighth judicial district, and to fix the times of holding the courts therein,'" approved August 11, 1876, was taken up and read second time and passed to a third reading.

House bill No. 137, entitled "An act to repeal an act entitled 'an act to authorize and require all forced sales of real estate and sale of negroes made by executors and administrators in the county of Travis, to be made on Congress avenue, etc.," was taken up, read second time and passed to a third reading.

House bill No. 160, entitled "An act to repeal 'an act to provide annual pensions for the surviving soldiers of the Texan revolution and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers,'" approved July 28, 1876, was taken up and read a second time.

Senator McCulloch moved the previous question on the passage of the bill to a third reading.

Motion seconded and main question ordered.

Bill passed to third reading by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Gooch,

Grace,
Hobby,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Swain,
Terrell—16.

NAYS.

Burnett,
Burton,
Ford,
Guy,

Homan,
Houston,
McCormick,

Patton,
Stewart,
Shannon--10.

Not voting—Storey, Tilson.

House joint resolution No. 24, "In regard to Pelican Island," was taken up, read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Stewart,
Terrell,
Tilson--23.

NAYS--none.

Not voting—Brown, Davenport, Lane, Storey, Swain.

(President in the chair.)

The special order being House bill No. 238, entitled "An act to provide for the surrender and dissolution of charters of incorporated cities and towns in this state, and to authorize the counties wherein said cities or towns are situated to settle and administer their estates, collect their credits, pay their debts, and issue bonds and levy and collect taxes for that purpose," was taken up.

On motion of Senator Stewart, the further consideration of this bill was postponed until Monday at 3 o'clock P. M., and made the special order for that time, and from evening to evening until disposed of.

Senator Shannon, chairman of the committee on internal improvements (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 270, entitled "An act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge railroad company, have had the same under consideration, and I am instructed to report that notice has been given as required by law and that it is the opinion of the committee that the bill should pass. SHANNON, *Chairman.*

Senator Guy, chairman of the committee on general land office (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on general land office, to whom was referred House bill No. 138, entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands, in accordance with the original subdivisions made under the act approved August 30, 1856," have considered the same, and I am instructed by a majority of said committee to report said bill back and to recommend that it do pass. GUY, *Chairman.*

On motion of Senator Swain, the Senate adjourned until Monday morning at 9:30 o'clock.

FORTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 10, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

Senator Guy moved to adjourn until 10 o'clock A. M., as the want of a quorum was probably owing to a misunderstanding as to the time to which the Senate adjourned.

A quorum soon appearing, Senator Guy withdrew the motion to adjourn and the Senate proceeded to business.

Prayer by the chaplain.

On motion of Senator Duncan the reading of the journals of Saturday was dispensed with and the same adopted.

Senator Lair presented a petition from the citizens of Plano, in Collin county, "asking important amendments to the local option law," among which are the following:

That section 1, after the word "*provided*," shall read: "That nothing herein contained shall be construed to prohibit the sale of wines for sacramental purposes; nor alcohol for scientific uses; nor alcoholic stimulants for medicines, in cases of actual sickness, when sold by a regular druggist upon the written prescription of a regular practicing physician."

That section 5 be changed to read, "a sum not less than fifty nor more than three hundred dollars;" and that a section be added, to this effect:

"Any physician giving prescriptions for wines, malt liquors or alcoholic stimulants in cases other than that of actual sickness, upon proof and conviction thereof, shall be subject to the same penalties as other violations of the law," and your petitioners will ever pray.

Read and referred to committee on state affairs.

Senator Shannon presented a memorial from the citizens of Young county, "asking that the unorganized counties now attached to said county for land and other purposes, be not detached and connected with other counties, particularly the new organized counties of Throckmorton and Baylor; stating that there are no reasons for a change; that such change is contrary to the general desire of the people living in the Young land district, and contrary to the public interest; while on the other hand, such change would be attended with much expense, inconvenience and confusion, and further that the newly organized counties seeking the jurisdiction of the unorganized counties, are newly and sparsely settled, and have no court house or suitable building for keeping the records of the unorganized counties contended for," etc.

Read and referred to committee on counties and county boundaries.

Senator Stewart presented a memorial from several teachers in Harris county, "asking an appropriation to pay them for services rendered as teachers in the years 1871 and 1872, which they performed in good faith and under regular contract with the constituted school authorities of Harris county, acting under the laws, etc., of the state; and that they be allowed the full amount for which they contracted to teach for and was allowed under the rules and regulations of the school authorities at Austin; stating that after they had contracted to teach as aforesaid the board of education, without their consent, and in violation of the plain terms of the contract, reduced their salaries twenty-five per cent.; and

asking in said appropriation to be protected from the arbitrary and illegal reduction of their salary by the said board of education of 1871 and 1872."

Read and referred to committee on finance.

Senator Shannon, chairman of committee on judicial districts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts have had under consideration various memorials from citizens of Harris county, asking that the criminal district court of Galveston and Harris counties be abolished in Harris county, and your committee are of the opinion that the legislation prayed for would be "local" or "special" in its character, and the petitioners not having complied with section 57 of article 3 of the constitution, I am instructed by the committee to report said memorials back to the Senate with the recommendation that the prayer of petitioners be not granted.

SHANNON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No: 281, entitled "An act supplemental of an act entitled 'an act to fix the times of holding the district courts of the twenty-fifth judicial district,'" have considered the same, and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 282, entitled "An act to attach Waller county to the twenty-first judicial district, and to fix the times of holding the district courts therein," have duly considered the same, and have instructed me to report that it is the opinion of the committee that the bill should not pass.

SHANNON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 288, entitled "An act amendatory of 'an act establishing the tenth, twelfth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,' approved February 22, 1879," have considered the same and instructed me to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Brown, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and compared with the originals the following bills, viz: Senate bill No. 79, entitled "An act to validate certain acts of notaries public who have used seals with the word 'Texas' engraved between the points of the star thereon instead of around the margin thereof;" Senate bill No. 249, entitled "An act to define what property used for school purposes is exempt from taxation under section 2, article 3, of the constitution;" Senate bill No. 260, entitled "An act to secure the early determination of appeals in the supreme court in causes involving the right to office;" Senate bill No. 273, entitled

"An act to amend section 5, article 16, title 4, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved February, 1879;" Senate bill No. 274, entitled "An act to amend articles 130 and 132 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature;" Senate bill No. 275, entitled "An act to amend articles 75 and 79 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at this session of the Legislature," and report them all correctly engrossed.

BROWN, *Chairman.*

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate joint resolution No. 276, entitled "Joint resolution to revise appropriation of January 18, and February 16, 1858, to pay the public debt of Texas," and I am instructed by committee to report the resolution back to the Senate with their recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 236, entitled "An act to amend title 42, chapter 4, of an act to adopt and establish the Revised Statutes of the State of Texas," and I am instructed by said committee to report the bill back to the Senate with their recommendation that it do pass.

STEWART, *Chairman.*

Senator Stewart introduced a bill, entitled "An act to amend article 1296 of the Revised Civil Statutes of the State of Texas."

Read by caption and referred to judiciary committee No. 2.

House bill No. 342, entitled "An act to provide for the building, making and completion of such works and improvements at the East Texas penitentiary, at Rusk, as may be necessary and proper to put the same into operation, and to make an appropriation to carry out the provisions of this act," was taken up and referred to the committee on penitentiaries.

On motion of Senator Shannon the pending business was postponed fifteen minutes and Senate bill No. 123, entitled "An act to amend section 12 of an act entitled 'an act to enforce the collection of delinquent taxes on lands assessed since January, 1870,' approved August 19, 1876," was taken up and ordered engrossed.

On motion of Senator Shannon, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Tilson---24.

NAYS—none.

Not voting—Edwards, Swain.

On motion of Senator Shannon, the further consideration of the bill

was postponed until to-morrow, just after the morning call, and made the special order for that hour and from day to day until disposed of.

The president, after publicly reading its caption, signed Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in Gregg and Wood counties, and such other counties where it may become necessary to construct or complete payments for court houses or jails."

On motion of Senator Davenport, the pending business was postponed five minutes, rules suspended and Senate bill No. 288, entitled "An act amendatory of 'an act establishing the tenth, twelfth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,'" approved February 22, 1879, was taken up and read first time.

Senator Davenport moved that the rules be suspended, and bill be placed on its second reading.

Carried by the following vote:

YEAS.

Brown,	Guy,	McCulloch,
Buchanan,	Hobby,	Motley,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Swain,
Duncan,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—21.

NAYS—none.

Not voting—Edwards, Ford, Grace, Houston, Moore, Patton.

Bill read a second time and ordered engrossed.

On motion of Senator Davenport, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,	Gooch,	McCulloch,
Buchanan,	Guy,	Moore,
Burnett,	Hobby,	Motley,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Swain,
Duncan,	Ledbetter,	Terrell,
Edwards,	Martin,	Tilson—23.
Ford,	McCormick,	

NAYS—none.

Not voting—Grace, Houston, Patton, Stewart.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Guy,	Motley,
Buchanan,	Hobby,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Lair,	Stewart,
Davenport,	Ledbetter,	Shannon,
Duncan,	Martin,	Swain,
Edwards,	McCormick,	Terrell,
Ford,	McCulloch,	Tilson—25.
Gooch,		

NAYS—none.

Not voting—Grace, Houston, Moore.

On motion of Senator Swain, the pending business was postponed five minutes, rules suspended and Senate bill No. 268, entitled "An act to amend article 2767 of chapter 3 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas, so as to require the state treasurer to pay state warrants when presented without regard to their respective dates or numbers,'" was taken up and read first time.

On motion of Senator Swain, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Shannon,
Swain,
Tilson—23.

NAYS

Edwards,

Terrell—2.

Not voting—Ford, Stewart.

The bill was read the second time.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 19, "An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct, or to complete, or to complete payment for court houses and jails," and at 10:10 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Lair moved to excuse the secretary of the senate.

Lost by the following vote:

YEAS.

Burton,
Guy,
Lane,
Lair,

Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Stewart,
Shannon—12.

NAYS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,

Ford,
Gooch,
Grace,
Hobby,
Houston,

Ledbetter,
Ripetoe,
Swain,
Terrell,
Tilson—16.

Senator Terrell offered a substitute for the bill under consideration.

On motion of Senator Swain, the pending business was postponed ten minutes to further consider this bill.

A message was received from the House announcing the passage by that body of House bill No. 68, entitled "An act to amend an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violations."

The following messages were received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 1, 1879. }

To the honorable Senate of the State of Texas :

GENTLEMEN--I respectfully ask your advice and consent to the following appointments of notaries public from counties of the nineteenth senatorial district:

Jno. M. Claiborne, J. Stewart Cleveland, S. T. Hanscomb, Jno. J. Harcourt, A. S. John, I. Lovenberg, Jno. C. Walker, John S. Shields, John Adriance, B. R. A. Scott, E. S. Fletcher, R. T. Byrne, W. R. Johnson, Chas. M. Mason, C. B. Gardner, Hngo Brosig, Oscar E. Finlay, Harris Masterson, D. M. Baker, Samuel Boyer Davis, Galveston county.

W. C. Braman, J. L. Croom, H. W. Chinn, Edgar Hawkins, Hamlin Rugely, R. G. Chessman, Matagorda county.

W. F. Smith, A. Metcalf, B. F. Holb, J. S. Rogers, J. J. Thurman, J. H. Shepard, J. P. Bryan, Brazoria county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 8, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public in the counties composing the eighteenth senatorial district, to wit:

Chas. Ilfry, A. P. Tompkins, Wm. Halsey, Jacob Scherer, J. S. Sellers, E. Simmler, Sam. Webb, A. L. Steele, Thos. H. Conklin, Garrett Hardcastle, F. M. Poland, A. W. May, W. N. Shaw, J. J. Gillespie, W. H. Palmer, T. W. Archer, R. A. Giraud, J. J. McKeever, Wm. Andres, Jas. Furgerson, Harris county.

Owen W. Arnold, N. A. Cravens, W. P. McComb, E. A. Linton, John N. Scott, L. B. Hightower, Montgomery county.

Respectfully, O. M. ROBERTS; *Governor.*

Senator Stewart moved that the Senate go into executive session to consider the nominations sent to the Senate by his excellency the governor in the foregoing special messages, on to-morrow just after the morning call.

Carried.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have compared with the originals Senate bill No. 204, entitled "An act to require persons enclosing public free school lands to pay an annual rent therefor;" and Senate bill No. 288, entitled "An act amendatory of 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,' approved February 22, 1879," and report them correctly engrossed. BROWN, *Chairman.*

On motion of Senator Terrell the Senate repaired to the hall of the House of Representatives to meet the House in joint session to elect six directors for the Agricultural and Mechanical College.

IN JOINT SESSION.

Roll of senators called; quorum present.

Roll of House called; quorum present.

The speaker of the House of Representatives announced the object of the joint session to be the election of six directors of the Agricultural and Mechanical College for each congressional district.

The president of the Senate announced nominations in order on the part of the Senate for one director from the first congressional district.

Senator Edwards nominated Hon. E. B. Pickett, of Liberty.

The speaker announced nominations in order on the part of the House.

Mr. Johnston, of Shelby, nominated Hon. E. B. Pickett, of Liberty.

The secretary of the Senate then called the roll of senators, and the following was the result of the vote:

Those voting for Hon. E. B. Pickett, were

Senators Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Edwards, Ford, Gooch, Grace, Guy, Hobby, Houston, Lane, Lair, Ledbetter, Martin, McCulloch, McCormick, Moore, Motley, Patton, Stewart, Swain, Terrell, Tilson—total 26.

Those not voting, were Senators Ripetoe and Shannon.

The clerk then called the roll of the House, and the following was the result of the vote:

Those voting for Hon. E. B. Pickett, were

Baker, Beck, Benavides, Bell, Brown of Gregg, Brown of Limestone, Bryan, Cain, Callaway, Carlton, Clemens, Cochran, Cocke, Collins, Coleman, Crossland, Crow, Daniel, Daugherty, Delaney, Douglass, English, Estes, Evans, Finlay, Fisher, Flewellen, Ford, Foster, Freeman, Frost, Fry, Gaither, Garrison, Gause, Geigher, Gibson, Goodson, Guy, Henderson of Smith, Henderson of Van Zandt, Henry, Hill, Holmes, Hurst, Jackson, Jones of Bastrop, Jones of Hunt, Johnson of Colorado, Johnston of Leon, Johnston of Shelby, King, Larkin, Leonard, Linn, Loe, Maedgen, May, Merritt, Mills, Moore, McComb, Mullins, Philpott, Pickett, Pauli of Fayette, Polley of Sabine, Polley of Wilson, Proctor, Reeves, Rumsey, Saunders, Scott, Singletary, Sledge, Smith of Harris, Smith of Titus, Smith of Travis, Stewart of Delta, Stewart of Houston, Stiles, Taylor of Fannin, Taylor of Marion, Thomas, Upton, Venters, Williams, Wurzbach—total 88.

The speaker then announced that Hon. E. B. Pickett, having received in the Senate 26 votes, and in the House 88 votes—total 114 votes, had received a majority of all the votes cast and declared him, therefore, duly and constitutionally elected director of the Agricultural and Mechanical College.

Nominations being in order for the second congressional district, Senator Grace, on the part of the Senate, nominated H. W. Lyday, of Fannin.

On the part of the House, Mr. Taylor, of Fannin, nominated H. W. Lyday.

Mr. Smith, of Titus, nominated Hon. Charles DeMorse, of Red River.

Mr. Coleman nominated Mr. George L. Hill, of Harrison.

The first ballot in the Senate, resulted as follows:

For Mr. Lyday was cast the votes of

Senators Blassingame, Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Ford, Gooch, Grace, Guy, Houston, Lane, Lair, Ledbetter, McCormick, Stewart, Swain—total 21.

For Mr. Chas. DeMorse, were cast the votes of Senators Edwards, Martin, Moore, Shannon, Terrell, Tilson—total 6.

For Mr. Hill was cast the vote of Senator Motley.

Not voting—Senators Hobby, McCulloch, Patton, Ripetoe, Storey—total 5.

On the part of the House there were cast for Mr. Lyday, the following votes:

Baker, Benavides, Bell, Brown of Limestone, Carlton, Cochran, Cooke, Daugherty, English, Estes, Evans, Finlay, Fisher, Ford, Foster, Freeman, Frost, Fry, Gaither, Gause, Geiger, Gibson, Goodson, Guy, Henderson of Van Zandt, Henry, Holmes, Hurst, Jackson, Jones of Hunt, Johnson of Colorado, Johnston of Leon, Johnston of Shelby, King, Larkin, Leonard, Linn, Loe, Maedgen, May, Merritt, Mills, Mullins, Philpott, Pickett, Pauli of Fayette, Polley of Sabine, Reeves, Rumsey, Saunders, Singletary, Sledge, Smith of Harris, Stewart of Delta, Stewart of Houston, Taylor of Fannin, Thomas, Upton, Venters, Williams, Wurzbach—total 61.

For Mr. Charles DeMorse, were cast the votes of the following representatives:

Bryan, Cain, Callaway, Collins, Crow, Delaney, Hill, Jones of Bastrop, Moore, Proctor, Smith of Titus, Stiles—total 12.

For Mr. Hill were cast the votes of the following representatives:

Beck, Clemens, Coleman, Crossland, Daniel, Flewellen, Garrison, McComb, Polley of Wilson, Scott, Smith of Travis, Taylor of Marion—total 12.

Making the total vote for Mr. Lyday in both houses 80.

The total vote for Mr. DeMorse in both houses 18.

The total vote of Mr. Hill in both houses 13.

Scattering—For Mr. W. A. Wortham, Brown of Gregg, Henderson of Smith—total 2.

The speaker then announced that as Mr. Lyday had received a majority of the votes of both houses, he declared him duly elected director for the Agricultural and Mechanical College of Texas from the second congressional district of the state.

The president announced nominations in order, on the part of the Senate, for one director for the third congressional district.

Senator Lair nominated Mr. Thomas M. Scott, of Collin.

Senator Moore nominated Mr. J. K. Dixon, of Hill.

The speaker then announced nominations in order on the part of the House.

Mr. Reeves nominated Mr. Thos. M. Scott, of Collin county.

Mr. Douglass nominated Mr. J. K. Dixon, of Hill county.

The secretary called the roll of the Senate, and the vote resulted as follows:

Those voting for Mr. Scott were:

Senators Brown, Davenport, Duncan, Grace, Guy, Lair, Ledbetter, Swain, Terrell—total 9.

Those voting for Mr. Dixon were:

Senators Buchanan, Burnett, Burton, Edwards, Ford, Gooch, Hobby, Houston, Lane, Martin, McCormick, McCulloch, Moore, Motley, Ripetoe, Stewart, Shannon, Tilson—total 18.

The clerk called the roll of the House, and the vote resulted as follows:

Those voting for Mr. Scott were:

Brown of Gregg, Bryan, Carlton, Crossland, Daugherty, Finlay, Foster, Gaither, Gause, Guy, Henderson of Smith, Jackson, Jones of Bastrop, Jones of Hunt, Johnston of Shelby, Leonard, Merritt, McComb, Reeves, Scott, Smith of Harris, Smith of Titus, Smith of Travis, Stewart of Delta, Taylor of Fannin, Thomas, Upton, Venters, Wurzbach—total 29.

Those voting for Mr. Dixon were:

Baker, Beck, Benavides, Brown of Limestone, Cain, Callaway, Clemens, Cochran, Cocke, Collins, Coleman, Crow, Daniel, Delaney, Douglass, English, Estes, Evans, Fisher, Flewellen, Ford, Freeman, Frost, Fry, Garrison, Geiger, Gibson, Goodson, Henderson of Van Zandt, Henry, Hill, Holmes, Hurst, Johnson of Colorado, Johnston of Leon, King, Larkin, Linn, Loe, Maedgen, May, Mills, Moore, Mullins, Philpott, Pickett, Pauli of Fayette, Polley of Sabine, Polley of Wilson, Proctor, Rumsey, Saunders, Singletary, Sledge, Stewart of Houston, Stiles, Taylor of Marion, Williams—58.

The total vote of both houses for Mr. Scott was 38.

The total vote of both houses for Mr. Dixon was 76.

The speaker announced that Mr. J. K. Dixon having received a majority of all the votes cast, was duly and constitutionally elected a director of the Agricultural and Mechanical College for the third congressional district.

Nominations being in order for the fourth congressional district on the part of the Senate, Senator Stewart nominated E. W. Taylor, of Harris county.

Senator Burnett nominated D. C. Dickson, of Grimes county.

Senator McCulloch nominated Jno. W. Durant, of Leon county.

Senator Martin nominated A. J. Rose, of Bell county.

On the part of the House, Mr. Smith, of Harris, nominated E. W. Taylor, of Harris.

Mr. Flewellen nominated D. C. Dickson, of Grimes.

Mr. Johnston, of Leon, nominated J. W. Durant, of Leon.

Mr. Maedgen nominated A. J. Rose, of Bell county.

On the first ballot Mr. Taylor received the following votes:

Senators Buchanan, Duncan, Edwards, Gooch, Guy, Houston, Lane, Ledbetter, Stewart, Swain, Terrell, Tilson—total 12.

Mr. Dixon received the following votes:

Senators Burnett, Burton, Ford, Hobby, Lair, McCormick, Moore, Ripetoe, Shannon—total 9.

Mr. Durant received the following votes:

Senators Grace, McCulloch, Motley—total 3.

Mr. Rose received the following votes:

Senators Brown, Davenport, Martin—total 3.

Of the members of the House Mr. Taylor received the votes of the following representatives:

Bell, Brown of Gregg, Bryan, Callaway, Carlton, Clemens, Collins, Estes, Goodson, Henderson of Van Zandt, Henry, Hill, Johnson of Colorado, McComb, Mullins, Saunders, Sledge, Smith of Harris, Smith of Titus, Stiles, Thomas—total 21.

Of the House Mr. Durant received the votes of the following representatives:

Baker, Benavides, Douglass, English, Finlay, Ford, Foster, Frost, Garrison, Gibson, Henderson of Smith, Holmes, Hurst, Jones of Hunt,

Johnston of Leon, Johnston of Shelby, Larkin, Linn, May, Philpott, Pickett, Polley of Sabine, Proctor, Singletary, Stewart of Delta, Stewart of Houston, Taylor of Marion, Williams—total 28.

In the House Mr. Dickson received the votes of the following representatives:

Beck, Cochran, Coleman, Crossland, Daniel, Daugherty, Evans, Fisher, Flewellen, Freeman, Fry, Geiger, Guy, Jones of Bastrop, Leonard, Linton, Loe, Pauli of Fayette, Polley of Wilson, Reeves, Scott, Venters—total 22.

In the House Mr. Rose received the votes of the following representatives:

Brown of Limestone, Cain, Cocke, Crow, Delaney, Gaither, Gause, Maedgen, Merritt, Mills, Moore, Rumsey, Smith of Travis, Upton, Wurzbach—total 16.

Making the total vote of Mr. Taylor in both houses, 38.

Total vote of Mr. Durant in both houses, 31.

Total vote of Mr. Dickson in both houses, 31.

The total vote of Mr. Rose in both houses, 18.

No one having received a majority of all the votes cast, a second ballot was ordered.

Senator Martin and Mr. Maedgen withdrew the name of Mr. Rose on the part of their respective houses.

Mr. Taylor received in the Senate, the following votes:

Senators Buchanan, Davenport, Duncan, Edwards, Gooch, Grace, Guy, Houston, Lane, Ledbetter, Stewart, Swain, Terrell, Tilson—total 14.

Mr. Dickson received in the Senate:

Senators Burton, Ford, Lair, Martin, McCormick, Ripetoe, Shannon—total 8.

Mr. Durant received in the Senate:

Senators Brown, McCulloch, Moore, Motley—total 4.

In the House Mr. Taylor received the votes of the following representatives.

Bell, Brown of Limestone, Bryan, Cain, Callaway, Carlton, Clemens, Collins, Crow, Delaney, Estes, Garrison, Goodson, Henderson of Van Zandt, Henry, Hill, Maedgen, Mills, McComb, Saunders, Smith of Harris, Smith of Titus, Stiles, Thomas—total 24.

Mr. Dickson received the votes of the following representatives:

Beck, Cochran, Cocke, Crossland, Daugherty, Evans, Fisher, Flewellen, Freeman, Fry, Gaither, Geiger, Guy, Jones of Bastrop, Johnson of Colorado, Leonard, Linton, Loe, Merritt, Pauli of Fayette, Polley of Wilson, Reeves, Rumsey, Scott, Sledge, Venters, Wurzbach—total 27.

Mr. Durant received the votes of the following representatives:

Baker, Benavides, Brown of Gregg, Crossland, Daniel, Douglass, English, Finlay, Ford, Foster, Frost, Gause, Gibson, Henderson of Smith, Holmes, Hurst, Jones of Hunt, Johnston of Leon, Johnston of Shelby, Larkin, Linn, May, Moore, Mullins, Philpott, Pickett, Polley of Sabine, Proctor, Singletary, Smith of Travis, Stewart of Delta, Stewart of Houston, Taylor of Fannin, Taylor of Marion, Upton, Williams—total 36.

The total vote of Mr. Taylor, in both the Senate and House—38.

The total vote of Mr. Dickson, in both the Senate and House—35.

The total vote of Mr. Durant, in both the Senate and House—40.

No one having received a majority of the votes cast, another ballot was ordered.

Senator Burnett on the part of the Senate, and Mr. Flewellen on the part of the House withdrew the name of Mr. Dickson.

In the Senate Mr. Taylor received the following votes:

Senators Buchanan, Burnett, Davenport, Duncan, Edwards, Ford, Gooch, Grace, Guy, Houston, Lane, Ledbetter, McCormick, Stewart, Swain, Terrell, Tilson—total 17.

In the Senate Mr. Durant received the following votes:

Senators Brown, Burton, Lair, Martin, McCulloch, Moore, Motley, Ripetoe, Shannon—total 9.

In the House Mr. Taylor received the votes of the following representatives:

Beck, Bell, Brown of Limestone, Bryan, Cain, Callaway, Carlton, Clemens, Cochran, Cocke, Collins, Coleman, Crow, Daugherty, Delaney, Estes, Evans, Flewellen, Freeman, Fry, Garrison, Goodson, Henderson of Van Zandt, Henry, Hill, Johnson of Colorado, Maedgen, Mills, McComb, Mullins, Polley of Wilson, Rumsey, Saunders, Scott, Sledge, Smith of Harris, Smith of Titus, Thomas—total 38.

In the House Mr. Durant received the votes of the following representatives:

Baker, Benavides, Brown of Gregg, Crossland, Daniel, Douglass, English, Finlay, Fisher, Ford, Foster, Frost, Gaither, Gause, Geiger, Gibson, Guy, Henderson of Smith, Holmes, Hurst, Jones of Bastrop, Jones of Hunt, Johnston of Leon, Johnston of Shelby, King, Larkin, Leonard, Linn, Linton, Loe, May, Merritt, Moore, Philpott, Pickett, Pauli of Fayette, Polley of Sabine, Proctor, Reeves, Singletary, Smith of Travis, Stewart of Delta, Stewart of Houston, Stiles, Taylor of Fannin, Taylor of Marion, Upton, Venters, Williams, Wurzbach—total 50.

Mr. Taylor had received in the Senate and House a total vote of 55.

Mr. Durant, in both the Senate and House received a total vote of 59.

The speaker then announced that Mr. Durant having received a majority of the votes cast, was duly elected director of the Agricultural and Mechanical College, for the fourth congressional district of the state.

The president declared nominations in order, on the part of the Senate, for one director for the fifth congressional district.

Senator McCormick nominated T. N. Waul, of Galveston.

Senator Ledbetter nominated A. J. Peeler, of Travis county.

The speaker declared nominations in order on the part of the House.

Mr. Finlay nominated T. N. Waul, of Galveston.

Mr. Frost nominated A. J. Peeler, of Travis county.

The secretary called the roll of the Senate and the vote resulted as follows:

Those voting for Mr. Waul were:

Senators Burnett, Burton, Davenport, Duncan, Ford, Hobby, Houston, Lane, McCormick, Moore—total, 10.

Those voting for Mr. Peeler were:

Senators Brown, Buchanan, Edwards, Gooch, Grace, Guy, Lair, Ledbetter, Martin, McCulloch, Motley, Stewart, Swain, Terrell, Tilson—total 15.

The clerk called the roll of the House and the vote resulted as follows:

Mr. Waul received the vote of the following representatives:

Benavides, Bryan, Cain, Carleton, Cochran, Crow, Daugherty, Douglass, Estes, Finlay, Fisher, Flewellen, Ford, Fry, Gause, Geiger, Gibson, Henry, Holmes, Johnson of Colorado, Larkin, Linton, Loe, Merritt, Mills,

Moore, Mullins, Rumsey, Saunders, Scott, Sledge, Smith of Harris, Smith of Titus, Taylor of Fannin, Venters, Wurzbach—total 36.

Mr. Peeler received the following vote:

Baker, Beck, Bell, Brown of Gregg, Brown of Limestone, Callaway, Clemens, Cocke, Collins, Coleman, Crossland, Daniel, Delaney, English, Foster, Freeman, Frost, Gaither, Garrison, Goodson, Guy, Henderson of Smith, Henderson of Van Zandt, Hill, Hurst, Jones of Bastrop, Jones of Hunt, Johnston of Leon, Johnston of Shelby, King, Leonard, Linn, Maedgen, May, McComb, Philpott, Pauli of Fayette, Polley of Sabine, Polley of Wilson, Proctor, Reeves, Singletary, Smith of Travis, Stewart of Delta, Stewart of Houston, Stiles, Thomas, Upton—total 48.

Making a total in both houses of 46 votes for Mr. Waul, and of 63 votes for Mr. Peeler.

The speaker accordingly announced that Mr. A. J. Peeler having received a majority of all the votes cast, was duly and constitutionally elected a director of the Agricultural and Mechanical College for the fifth congressional district.

Nominations being declared in order for the sixth congressional district, Senator Houston, on the part of the Senate, nominated George Pfeuffer, of Comal county.

On the part of the House Mr. Wurzbach nominated George Pfeuffer.

On the first ballot in the Senate Mr. Pfeuffer received the following vote:

Senators Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Edwards, Ford, Gooch, Grace, Guy, Hobby, Houston, Lane, Lair, Ledbetter, Martin, McCormick, McCulloch, Moore, Motley, Stewart, Swain, Terrel, Tilson—total 25.

In the House Mr. Pfeuffer received the votes of the following representatives:

Baker, Beck, Benavides, Bell, Brown of Gregg, Brown of Limestone, Bryan, Cain, Callaway, Carlton, Clemens, Cochran, Cocke, Collins, Coleman, Crossland, Crow, Daniel, Daugherty, Delaney, Douglass, English, Estes, Evans, Finlay, Fisher, Flewellen, Ford, Foster, Freeman, Frost, Fry, Gaither, Garrison, Gause, Geiger, Gibson, Goodson, Guy, Henderson of Smith, Henderson of Van Zandt, Henry, Hill, Holmes, Hurst, Jackson, Jones of Bastrop, Jones of Hunt, Johnson of Colorado, Johnston of Leon, Johnston of Shelby, King, Larkin, Leonard, Linn, Linton, Loe, Maedgen, May, Merritt, Mills, Moore, McComb, Mullins, Philpott, Pickett, Pauli of Fayette, Polley of Sabine, Polley of Wilson, Proctor, Reeves, Rumsey, Saunders, Scott, Singletary, Sledge, Smith of Harris, Smith of Titus, Smith of Travis, Stewart of Delta, Stewart of Houston, Stiles, Taylor of Fannin, Thomas, Upton, Venters, Wurzbach—total 87.

Mr. Pfeuffer received a total vote in both the Senate and House of 112. The speaker then declared that as Mr. Pfeuffer had received a majority of all the votes cast, that he declared him duly and constitutionally elected director of the Agricultural and Mechanical College for the sixth congressional district of the state.

On motion of Senator Ledbetter, the Senate retired to the Senate chamber.

IN SENATE.—Roll called; quorum present.

On motion of Senator Duncan, the vote refusing to excuse the Secretary was reconsidered.

Senator Lair offered the following resolution:

Resolved, That the Secretary be excused twelve days, and that he do not draw pay as Secretary during that time.

Adopted.

On motion of Senator Swain, the unfinished business was still further postponed to consider the pending bill (Senate bill, No. 268).

On motion of Senator Burton, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

President in the chair. Roll called—quorum not present; but a quorum soon appearing, the Senate proceeded to business.

Senator Guy moved to postpone the special order (House bill, No. 238) five minutes, and suspend the rules to take up House bill, No. 446, entitled "An act to authorize the mayor and board of aldermen of the town of Waxahachie to transfer its stock in the Waxahachie Tap railroad."

Carried and said bill taken up, read second time and passed to its third reading.

On motion of Senator Lane, the special order was postponed five minutes, rules suspended and House bill No. 347, entitled "An act to amend section two of the charter of the corporation of Victoria, and to provide for certain changes caused thereby," taken up and read first time.

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration House bill No. 202, entitled "An act to authorize and require the state board of education to cancel school certificate number sixty-three, heretofore issued by said board to William Umbdenstock, and to issue a duplicate thereof to Reuben Knight, county treasurer of Harrison county," and a majority of the committee are of the opinion that some of the provisions of said bill are obnoxious to section 56 of article 3 of the constitution, and no evidence appearing that notice had been given of the intention to apply for such special legislation, and for the further reason that the bill seeks to determine a matter that properly belongs to the judicial power of the state, they instruct me to report the bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

The special order being House bill No. 238, entitled "An act to provide for the surrender and dissolution of charters of incorporated cities and towns in the state, and to authorize the counties wherein said cities or towns are situated to settle and administer their estates, collect their credits," etc., was taken up.

Senator Storey moved a call of the house.

Call sustained.

Roll called.

Absent—Senators Edwards, Ford, Grace, Lane, Ledbetter, McCormick, Ripetoe, Swain, Terrell.

Pending the call the bill went to the table.

House bill No. 70, entitled "An act to amend section 2 of 'an act to

define the eighth judicial district and to fix the times of holding the courts therein,' approved August 11, 1876," was taken up, read third time and passed.

House bill No. 137, entitled "An act to repeal an act entitled 'an act to authorize and require all forced sales of real estate and sale of negroes, made by executors and administrators in the county of Travis to be made on Congress avenue, etc.," was taken up, read third time and passed.

House bill No. 160, entitled "An act to repeal 'an act to provide annual pensions for the surviving soldiers of the Texan revolution, and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers,' approved July 28, 1876," was taken up and read third time.

Senator Houston moved a call of the House on the passage of the bill.

Call sustained.

Roll called.

Absent—Ford, Ripetoe, Terrell.

On motion of Senator Storey, the rules were suspended, pending business postponed and Senate bill No. 67, entitled "An act to amend 'an act defining what money and property is subject to taxation, and the mode of listing the same,'" approved August 21, 1876, was taken up and read first time.

Senator Storey moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Grace,	McCulloch,
Buchanan,	Guy,	Moore,
Burnett,	Hobby,	Motley,
Burton,	Houston,	Patton,
Davenport,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCormick,	Tilson—27.
NAYS—none.		

Not voting—Terrell.

Bill read second time.

Senator Ledbetter offered the following amendment:

"*Provided*, that notes given for the purchase money for land, shall not be taxed while in the hands of the original vendor."

The absent senators appearing, the consideration of House bill No. 238 was resumed.

Senator Duncan offered the following amendment:

Amend by striking out "or town" "and town," "or towns" "and towns," wherever these words occur in the bill.

(Senator Ledbetter in the chair.)

Senator Duncan's amendment was lost by the following vote:

YEAS.		
Burton,	Ford,	McCormick,
Davenport,	Grace,	Shannon,
Duncan,	Hobby,	Terrell—11.
Edwards,	Houston,	
NAYS.		
Brown,	Burnett,	Guy,
Buchanan,	Gooch,	Lair,

Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,

Storey,
Swain,
Tilson—17.

Not voting—Lane.

Senator Edwards offered the following resolution:

Resolved, That House bill No. 228 and pending amendment be referred to committee on state affairs, with instructions to report a substitute providing the manner in which cities and towns of more than one thousand inhabitants may surrender their charters at a time when they are not in debt, and also the mode and manner of disposing of the assets of such towns and cities by the county commissioners' courts of the counties in which the same are situated.

The resolution of Senator Edwards was lost by the following vote:

YEAS.

Burton,
Davenport,
Edwards,
Ford,
Grace,

Hobby,
Homan,
Houston,
Martin,
McCormick,

Moore,
Ripetoe,
Shannon,
Terrell—14.

NAYS.

Brown,
Buchanan,
Burnett,
Duncan,
Gooch,

Guy,
Lair,
Ledbetter,
McCulloch,
Motley,

Patton,
Stewart,
Storey,
Swain,
Tilson—15.

Not voting—Lane.

Senator Grace offered the following amendment to the pending bill:
Amend by striking out the enacting clause.

(President in the chair.)

The president, after publicly reading its caption, signed House joint resolution No. 27, "Instructing our senators and requesting our representatives in Congress to ask of the United States government payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878, and the payment of the unexpended balance of the \$7,750,810 left with the United States government by this state for the payment of the debt of the late Republic of Texas."

A message was received from the House announcing the passage of House bill No. 95, entitled "An act regulating elections, approved August 23, 1876."

Senator Lair offered the following amendment:

Amend section 1, line two: after the word "state" insert "five thousand inhabitants or less."

Lost by the following vote:

YEAS.

Burnett,
Duncan,
Edwards,
Houston,

Lane,
Lair,
Ledbetter,
McCormick,

McCulloch,
Ripetoe,
Storey,
Terrell—12.

NAYS.

Brown,
Buchanan,
Burton,
Davenport,
Gooch,

Grace,
Guy,
Hobby,
Moore,
Motley,

Patton,
Stewart,
Swain,
Tilson—14.

Not voting—Ford, Martin, Shannon.

Senator Storey moved to postpone the bill pending and amendments until Friday just after the morning call and made the special order for that hour, and from day to day until disposed of.

Lost by the following vote:

YEAS.		
Buchanan, Burnett, Burton.	Ford, Grace, Lair,	Ripetoe, Shannon, Storey---9.
NAYS.		
Brown, Davenport, Duncan, Edwards, Gooch, Guy,	Hobby, Houston, Lane, Ledbetter, McCormick, McCulloch,	Moore, Motley, Patton, Stewart, Terrell, Tilson---18.

Not voting—Martin, Swain.

Senator McCulloch moved the previous question on the bill and pending amendment.

Motion seconded and main question ordered.

Senator Grace's amendment was then adopted by the following vote:

YEAS.		
Burnett, Burton, Davenport, Duncan, Edwards,	Ford, Grace, Hobby, Houston, Lane,	Ledbetter, McCormick, Shannon, Storey, Terrell---15.
NAYS.		
Brown, Buchanan, Gooch, Guy, Lair,	McCulloch, Moore, Motley, Patton,	Ripetoe, Stewart, Swain, Tilson---13.

Not voting—Martin.

Senator Ledbetter moved to reconsider the vote just taken and lay the motion on the table.

The motion to lay on the table was lost by the following vote:

YEAS.		
Burton, Davenport, Grace, Hobby,	Houston, Ledbetter, McCormick,	Shannon, Storey, Terrell---10.
NAYS.		
Brown, Buchanan, Burnett, Duncan, Edwards, Ford,	Gooch, Guy, Lane, Lair, McCulloch, Moore,	Motley, Patton, Ripetoe, Stewart, Tilson---17.

Not voting—Martin, Swain.

Senator Brown moved to postpone the motion to reconsider the vote adopting the amendment of Senator Grace until Friday next, just after the morning call, and that it be made the special order for that time and from day to day, etc.

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Gooch,

Guy,
Lair,
Motley,
Patton,

Ripetoe,
Stewart,
Storey—11.

NAYS.

Burton,
Davenport,
Duncan,
Edwards,
Ford,
Grace,

Hobby,
Houston,
Lane,
Ledbetter,
McCormick,
McCulloch,

Moore,
Shannon,
Swain,
Terrell,
Tilson—17.

Not voting—Martin.

Senator Tilson moved to adjourn until 9:30 A. M. to-morrow.

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Davenport,
Gooch,

Guy,
Lair,
Patton,
Ripetoe,

Stewart,
Storey,
Swain,
Tilson—13.

NAYS.

Burnett,
Duncan,
Edwards,
Ford,
Grace,

Hobby,
Houston,
Lane,
Ledbetter,
McCormick,

McCulloch,
Moore,
Motley,
Shannon,
Terrell—15.

Senator McCormick moved the previous question on the motion to reconsider.

Motion seconded and main question ordered.

The motion to reconsider was then lost by the following vote:

YEAS.

Brown,
Buchanan,
Gooch,
Guy,
Lair,

McCulloch,
Motley,
Patton,
Ripetoe,

Stewart,
Storey,
Swain,
Tilson—13.

NAYS.

Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Grace,
Hobby,
Houston,
Lane,
Ledbetter,

Martin,
McCormick,
Moore,
Shannon,
Terrell—16.

Senator Ford (by leave) introduced a bill, entitled "An act to authorize the construction of a ship channel from Corpus Christi across Mustang Island, and to donate land for the same."

Read by caption and referred to the committee on internal improvements.

House bill No. 95, entitled "An act to amend an act regulating elections, approved August 23, 1876," was taken up and referred to judiciary committee No. 2.

Senator Grace offered the following resolution:

WHEREAS, Conflicts of authority are frequently occurring between the commissioners' courts in many of the counties in the state and the city councils of many of the incorporated cities and towns in the state, as to

which has entire control of the streets, avenues, alleys etc., in said cities and towns for improvement, etc., and

Whereas, It is necessary that said question of power to control said streets etc., in said cities and towns, should be settled, therefore be it

Resolved, That judiciary committees Nos. 1 and 2 be and they are hereby instructed to take into consideration the general road law, and report, if necessary, a bill amending said law, so as to settle all doubts as to the control of said streets, avenues, etc.

Adopted.

Senator Gooch introduced a bill entitled "An act to amend article 226, title 5, chapter 1 of the Code of Criminal Procedure, passed in 1879"

Read by caption and referred to judiciary committee No. 2.

On motion of senator Guy, the rules were suspended and Senate joint resolution No. 178, proposing an amendment to article 16, sections 50 and 51 of the constitution of the State of Texas, was taken up and read the first time.

On motion of Senator Laue, Senate bill No. 204, entitled "An act to require persons inclosing public lands to pay an annual rent therefor," was taken up, read third time and passed.

On motion of Senator Storey, the rules were suspended and Senate bill No. 198, entitled "An act for the relief of Lieutenant Samuel Wilson (deceased), who fell at Fannin's massacre, in the year 1836," was taken up and read first time.

On motion of Senator McCulloch, the rules were suspended and substitute for Senate bill No. 163, entitled "An act to establish a state board of health," was taken up and read first time.

On motion of Senator Houston, the Senate adjourned until 9:30 A. M. to-morrow.

FORTY-NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 11, 1879. }

The Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ledbetter, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Motley, chairman of committee on asylums, asked for further time in which to report on the Deaf and Dumb Asylum.

Request granted.

Senator Guy, chairman of the committee on general land office, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on general land office, to whom was referred House bill No. 36, entitled "An act authorizing and requiring the commissioner of the general land office to issue patents to certain lands granted to the Bayland Orphan's Home, situated on Galveston bay, Harris county Texas," have considered the same, and I am instructed by a majority of said committee to report said bill back to the Senate and recommend its passage.

GUY, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration Senate bill No. 254, to be entitled "An act to authorize the attorney general to compromise and settle a certain suit pending in the district court of Bowie county, Texas," wherein the State of Texas is plaintiff and R. M. Johnson et al. are defendants, and while we do not approve the policy of compromising suits with defaulting officers, yet owing to the peculiar circumstances attending this special case, I am instructed by the committee to report the bill back with the accompanying substitute for the original bill, and recommend that the substitute do pass.

TILSON, *for Committee.*

Bill and substitute read first time.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have duly considered Senate bill No. 244, entitled "An act to amend an act entitled 'an act to provide for the judicial forfeiture of charters and prescribing the duties of the attorney general in relation thereto,' approved August 21, 1876, by providing for enforcing its provisions," and instruct me to report said bill back with the recommendation that it do pass.

TERRELL, *Chairman.*

Senator Stewart introduced a bill entitled "An act to create the office of register general, and to define the duties, powers and compensation of such officer."

Read by caption and referred to committee on state affairs.

Senator Swain introduced a bill entitled "An act to amend section 16 of an act entitled 'an act regulating the duties of tax-collectors in reference to the seizure and sale of property of delinquent taxpayers, and to define the further duties, powers and qualifications and liabilities of collectors of taxes, and to regulate their compensation,'" approved August 21, 1876.

Read by caption and referred to committee on finance.

Senator Patton offered the following resolution:

Resolved, That hereafter, at the sessions of the Senate, the roll of senators shall be called in regular order as they stand upon the roll, and each member shall be permitted to call up a bill when his name is called; and at each succeeding session, the secretary shall begin the call on the roll where he left off the session preceding.

Lies over under the rules.

(Senator Edwards in the chair.)

A message was received from the House announcing the passage by that body of substitute for House bill No. 188, entitled "An act to protect the wool growing interests of the State of Texas;" substitute for House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence, and to carry into effect sections 22 and 23 of article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,' approved August 15, 1879;" House bill No. 280, entitled "An act for the relief of the heirs of Alexander S. Green (deceased), late of Brazoria county, State of Texas, and Mathew Dockery, now a citizen of Lavaca county, State of Texas;" House bill No. 302, entitled "An act legalizing the county lines of Duval county, and of the counties affected thereby as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties;" House bill

No. 327, entitled "An act to better secure the collection of taxes;" House bill No. 377, entitled "An act to declare valid and binding on the county of Wilson certain sales of lots and blocks of the town of Floresville, in said county."

Senate bill No. 103, entitled "An act to organize the state penitentiaries and to regulate management of convicts therein," was taken up and referred to committee on revision of the codes.

Senator Duncan moved to postpone the pending business (Senate bill No. 130, the general appropriation bill) and take up Senate bill No. 196, entitled "An act to regulate the practice of medicine, surgery and pharmacy, and to repeal 'an act to regulate the practice of medicine,' approved August 31, 1876, and all other laws in conflict herewith."

Lost by the following vote:

YEAS.		
Brown, Buchanan, Duncan, Ford,	Gooch, Guy, Lane,	Lair, Patton, Tilson--10.
NAYS.		
Burnett, Burton, Davenport, Edwards, Grace, Hobby, Homan,	Houston, Ledbetter, Martin, McCormick, McCulloch, Moore,	Motley, Ripetoe, Stewart, Shannon, Storey, Swain--19.

Not voting—Terrell.

The pending business, being Senate bill No. 130, entitled "An act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881," was taken up for consideration.

Senator Storey offered the following amendment:

Add after line twenty-nine, for sinking fund public debt, \$100,000.
Adopted.

Senator Gooch offered the following amendment:

On page 2, line thirty-two, strike out "\$1600" and insert "\$1500."
Adopted by the following vote:

YEAS.		
Brown, Burnett, Burton, Davenport, Duncan, Edwards, Gooch,	Grace, Guy, Hobby, Homan, Lane, Lair, McCormick,	Moore, Motley, Stewart, Shannon, Swain, Tilson--20.
NAYS.		
Buchanan, Ford, Houston,	Ledbetter, Martin, McCulloch,	Patton, Storey, Terrell--9.

Not voting—Ripetoe.

Senator Burton offered the following amendment:

Comptroller's office: Amend line ten by striking out "\$12,000," and insert "\$6000."

Senator Grace offered the following substitute for the amendment of Senator Burton: Amend by striking out all in line ten, page 3.

Senator Gooch offered the following amendment:

Amend line ten, page 3, by adding after the words "additional clerks," and before the words "\$12,000," these words: "at a salary not higher than \$75 per month each."

Senator Duncan offered the following as a substitute for the pending amendments:

Amend line ten, page 3, by striking out "additional clerks," and inserting "for salary of additional clerks or such less number as may be necessary at \$900 a year, \$12,600."

Senator Ledbetter moved the previous question upon all the amendments before the Senate.

Motion seconded and main question ordered.

Senator Duncan's substitute was lost by the following vote:

YEAS.

Duncan,
Ford,

Lane,

Patton-4.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Grace,
Guy,

Hobby,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson-24.

Not voting—Gooch, Homan.

Senator Burton's amendment was lost by the following vote:

YEAS.

Burnett,
Burton,

Grace,

Lair-4.

NAYS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Guy,
Hobby,

Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson-24.

Not voting—Gooch, Homan.

Senator Gooch's amendment was adopted.

Senator Grace's amendment was then lost by the following vote

YEAS—none.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson-23.

Not voting—Gooch, Homan.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 133, entitled "An act to endow Henderson College, in Rusk county, with a land grant," and find it correctly engrossed. *BROWN, Chairman.*

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 11, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment, to wit:

J. R. Ryan to be notary public in Fannin county, in place of A. R. Ryan, whose name was sent in by mistake.

Respectfully, *O. M. ROBERTS, Governor.*

On motion of Senator Duncan, the Senate went into executive session on the nominations for notaries public sent to the Senate by his excellency the governor on yesterday and this morning.

The motion was adopted unanimously.

IN SENATE.—The Senate in executive session did advise and consent to the appointments by his excellency the governor of notaries public for the eighteenth and nineteenth senatorial districts; and to the appointment of J. R. Ryan to be notary public in Fannin county in place of A. R. Ryan, whose name had previously been sent in through mistake.

(President *pro tempore* in the chair.)

Senator Burnett offered the following amendments:

Line three, page 3, strike out "\$1600" and insert "\$1500;" line five, page 3, strike out "\$1650" and insert "\$1500;" line six, page 3, strike out "\$1600" and insert "\$1500."

Senator Duncan moved a call of the Senate.

Call sustained.

Roll called.

Absent—Gooch, Homan.

The pending business went to the table during the call.

The bills reported from the House this morning were taken up and referred to appropriate committees.

House bill No. 377 (caption just given) was referred to judiciary committee No. 1.

House bill No. 327 was referred to the committee on finance.

House bill No. 302 was referred to the committee on counties and county boundaries.

House bill No. 280 was referred to judiciary committee No. 2.

Substitute for House bill No. 188, was referred to the committee on state affairs.

Substitute for House bill No. 123 was referred to judiciary committee No. 1; and House bill No. 68 (amending the local option law) was referred to judiciary committee No. 2.

Senator Grace moved to postpone the consideration of the special order, Senate bill No. 62 (the tramp bill) till to-morrow morning at 10 o'clock.

Lost by the following vote:

		YEAS.	
	Burton,		Grace—2.
		NAYS.	
Brown,		Homan,	Patton,
Buchanan,		Houston,	Stewart,
Burton,		Lane,	Shannon,
Davenport,		Lair,	Storey,
Duncan,		McCormick,	Swain,
Guy,		McCulloch,	Tilson—20.
Hobby,		Motley,	
Not voting—Edwards, Ford, Gooch, Ledbetter, Martin, Moore, Ripetoe, Terrell.			

The absent senators appearing, the call of the Senate was suspended, and the consideration of Senate bill No. 130 (the general appropriation bill) was resumed.

The pending amendment of Senator Burnett was divided.

The first division, line three, page 3, to strike out "\$1600" and insert "\$1500," was adopted.

The second division, line five, page 3, strike out "\$1650" and insert "\$1500," was lost by the following vote:

YEAS.		
Brown,	Grace,	Motley,
Burnett,	Guy,	Ripetoe,
Burton,	Lair,	Shannon,
Edwards,	Ledbetter,	Tilson—14.
Gooch,	Moore,	
NAYS.		
Buchanan,	Houston,	Patton,
Davenport,	Lane,	Stewart,
Duncan,	Martin,	Storey,
Ford,	McCormick,	Swain,
Hobby,	McCulloch,	Terrell—16.
Homan,		

The third division of the amendment of Senator Burton was then adopted.

Senator Homan's amendment, which is as follows, line nineteen: strike out "\$1600" and insert "\$1500" was then adopted.

Senator Motley offered the following amendment:

In line nineteen, general land office, strike out "\$1600" and insert "\$1500."

Senator Gooch offered the following as a substitute for the amendment of Senator Motley:

Line nineteen—strike out "\$1600" and insert "\$1200."

Accepted by Senator Motley.

Senator Grace offered the following amendment as a substitute for the pending amendments:

Amend by striking out "\$1600" and insert "\$1000," in line nineteen.

Senator Duncan moved the previous question on the pending amendments.

Motion seconded and main question ordered.

The substitute of Senator Gooch for the amendment of Senator Motley was lost by the following vote:

YEAS.		
Brown,	Edwards,	Grace,
Burnett,	Gooch,	Guy,

Homan,
Lair,

Moore,
Motley,
NAYS.

Shannon,
Tilson—12.

Davenport,
Duncan,
Ford,
Hobby,
Houston,

Lane,
Ledbetter,
Martin,
McCormick,
Patton,

Ripetoe,
Storey,
Swain,
Terrell--14.

Not voting—Buchanan, Burton, McCulloch, Stewart.

Senator Grace's substitute for pending amendment was then lost by the following vote:

Gooch,
Grace,

YEAS.
McCormick,

Tilson -4.

Brown,
Buchanan,
Burnett,
Burten,
Davenport,
Duncan,
Edwards,
Ford,

NAYS.
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--24.

Not voting—McCulloch, Stewart.

Senator Motley's amendment was then adopted.

Senator Motley offered the following amendment:

In line twenty (general land office) strike out "\$1600" and insert "\$1500."

Adopted.

Also the following:

In line twenty-seven (general land office) strike out "\$1600" and insert "\$1500."

Adopted.

Also the following:

Strike "\$360" and insert "\$250."

Lost.

Also the following:

Strike out "\$5200" and insert "\$4800."

Adopted.

Senator Swain offered the following amendment:

Strike out line twenty-six and insert "assistant clerks, \$15,000."

Senator Gooch offered the following as a substitute for the amendment of Senator Swain:

In line twenty-six, after the word "clerks," insert "\$75 per month, \$11,250."

Withdrawn and the amendment of Senator Swain lost by the following vote:

Brown,
Burton,
Davenport,
Edwards,

YEAS.
Ford,
Houston,
Lane,
Ledbetter,

Patton,
Shannon,
Swain,
Terrell—12.

Buchanan,
Burnett,
Duncan,

NAYS.
Gooch,
Grace,
Guy,

Hobby,
Homan,
Martin,

McCormick,
Moore,

Ripetoe,
Stewart,

Storey,
Tilson—15.

Not voting—Lair, Motley, McCulloch.

Senator Patton offered the following amendment:

Amend by striking out "\$1600" in line nineteen and inserting "\$1500."

Senator Gooch offered the following:

"In line nineteen, page 3, after the words "for salary of Spanish clerk," strike out "\$1600" and insert "\$1215."

Senator Patton's amendment was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon—23.

NAYS.

McCormick,
Storey,

Swain,
Terrell,

Tilson—5.

Not voting—Edwards, Ford.

Senator Gooch's amendment was then lost by the following vote:

YEAS.

Burnett,
Gooch,
Grace,
Homan,

Lair,
McCormick,
Motley,

Ripetoe,
Shannon,
Tilson—10.

NAYS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Ford,
Guy,

Hobby,
Houston,
Lane,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Stewart,
Storey,
Swain,
Terrell—19.

Not voting—Edwards.

Senator Brown offered the following amendment:

Amend by striking out "\$2000," in line eighteen, page 3, and inserting "\$1800."

Senator Duncan offered the following amendment:

Amend line eighteen, page 3, by striking out "\$2000" and inserting "\$1500."

Senator Brown's amendment was lost.

Senator Duncan's amendment was pending on adjournment.

The following messages were received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public from counties of the fifteenth senatorial district:

Wyndham Kemp, Thos. P. Tindall, J. M. Joiner, William A. Rumples, Frank Bailey, William Yardly, Jno. T. Young, H. W. Cook, Samuel

Holmes, W. H. Davison, W. T. Neal, J. B. Boyd, H. Owens, Charles H. Clifford, James K. Ross, Robertson county.

John W. Perrin, A. W. Landers, Ananias Green, Wm. R. Ellis, C. M. Thomason, Wm. H. Holland, John E. Houston, A. D. Boggs, J. R. Monroe, A. J. Parker, Jr., T. J. Weir, R. M. Bryan, Robert S. Burkholder, Leon county.

J. P. Ayres, Luthar W. Clark, W. G. Taliaferro, John A. Buckholts, A. C. Brietz, L. B. Aldrige, H. D. Laules, M. W. McCraw, Brazos county. Respectfully, O. M. ROBERTS, Governor.

Senator Homan moved that the Senate go into executive session on the nominations just sent to the Senate by his excellency the governor tomorrow morning just after the morning call.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 11, 1879. }

To the honorable Senate and House of Representatives, in Legislature assembled:

I herewith submit to you the annexed memorial of the principal railroad companies of the State of Texas, in relation to the regulation of freights in article 4257 in the Civil Code, adopted at this session of the Legislature. They represent a very great industrial interest, and a very large amount of property that has been fastened upon our soil permanently, under the encouragement of the legislative action of the state. That encouragement has consisted of a loan of money as to some of them, and a donation of land and the passage of a general law indicating the mode and measure of regulating freights and the fare of passengers, as well as stipulations in relation thereto in their charters. This liberal encouragement has induced them to introduce into this state many millions of money, and invest it in railroads that now reach almost every portion of the most densely settled parts of the state. The benefits conferred upon such portions, without any special enumeration of them, may be estimated by the great desire of other sections of the state to get railroads constructed for their use.

Anticipating that some action might be taken by the Legislature on this subject, I, in my inaugural, called attention to the difficulty of doing it in such a way as to do justice to the interest of all parties. I now most respectfully recommend a patient and serious consideration of the facts and views presented in this memorial. The Legislature has the right to create artificial persons in the shape of railroad companies, and bestow upon them franchises. It has also the right, as I believe, to regulate their conduct, the same as if they were natural persons. This is a question of continuing an abiding power in successive legislatures to regulate the conduct of persons, both natural and artificial.

The doctrine that a privilege granted in a charter, creating an artificial person, constituted a contract, binding upon all future legislatures, was judiciously settled when the subject was one of little importance in reference to the national interests of the country.

It is not so now, when a vast amount of the business of the country is carried on through incorporated companies.

The magnitude of the subject now, as I long since anticipated (see 24 Texas Reports, p. 131), will force upon the country what I consider a more correct view of the powers of government, as it has already been

assumed in the second section of the twelfth article of our constitution, adopted in 1876.

While I recognize the power to regulate freights, I fully appreciate the necessity of very great caution in the exercise of it, and beg leave to ask of the Legislature a thorough examination into the subject before the rates under which the roads were built shall be altered to their prejudice.

It should be recollected that most, if not all, of these roads were constructed at a time when the cost of construction per mile was high; that in their construction an interest-bearing bonded debt had to be contracted by them, and that it was only upon such terms that railroads could then have been built at all in this state. We now have the benefit of them built on such terms. Under these circumstances I would recommend that great care should be taken in legislating concerning them, so that their interest should not be prostrated in the effort to do justice between them and the people who use the railroads which they have built.

In addition to what has been said, I desire to call your attention to the fact that, under the statute (General Laws of 1876, page 312) it is made the duty of the attorney general, unless otherwise directed by law, to seek a judicial forfeiture of all charters of private corporations receiving state aid which have not conformed to their charter stipulations. While this power should be vested in that officer, yet I am inclined to think that some discretion should also be given him to determine whether it is to the interest of the state to prosecute such suits in each particular case.

Most of the railroad companies of the state have failed to construct their roads within the time prescribed in the charters. Under the law the attorney general must take steps to forfeit the charters of such companies. New charters may be obtained under the general law; and, unless some advantage to the state could be obtained by bringing the suits at this time, no reason is seen why the suits should be brought. The discretion to determine that might well be left to the attorney general representing the state.

O. M. ROBERTS.

MEMORIAL.

To His Excellency O. M. Roberts, Governor of the State of Texas.

We, the undersigned, representing the principal railroads of Texas, would respectfully represent to your excellency that in the Civil Code, which has recently become a law, article 4257 establishes freight rates that if enforced must hopelessly ruin every road in the state. This section is as follows:

“No railway company in this state shall demand or receive for transportation of freight over its line of road exceeding twenty-five cents for each one hundred pounds for each one hundred miles or fraction of one hundred miles over fifty miles; and when the freight is transported less than fifty miles, the charge therefor shall not exceed thirty cents per one hundred pounds.”

The language of this section is so uncertain that we are constrained to believe that it does not convey the ideas or intentions of those who prepared the Code. As an example the law, as framed, does not provide for any charge for a haul of fifty miles, and authorizes a greater charge for forty nine miles than for one hundred miles.

We believe and claim that the lines we represent are protected under their charters against the Code rates complained of; but it is hoped the

legislation may be so shaped as to bring no conflict of interests, as we desire to be in harmony with the public policy, and hope that it may be necessary only to draw attention to the matter to so shape legislation as to protect all interests.

The lines we represent have cost over seventy-five millions of dollars, at a cost to the people of the state of less than five millions of dollars, and are paying into the treasury about one-eighth of the entire revenue of the state.

Even the attempted assistance of the state to aid the roads by grants of land has so far been but a burthen upon them, as in every case the taxes paid by the companies have been greatly in excess of the revenue derived from land sales. There may be a prospective value to these lands, but it is absolutely dependent upon the further extension of the roads and the bringing into the state by the railway companies of immigrants to settle upon them.

We cannot believe it was the intention of the framers of the code or of the legislators to destroy the roads in operation, or to check railroad development in the state, but to those experienced in railway matters, such a result must be inevitable, should the code rates be enforced. The section under consideration at once reduces the rate privileges of the lines we represent just fifty per cent., and must send every mile of road in the state under the hammer of the auctioneer within twelve months.

The fact exists, that with all the benefits and advantages of the maximum rates allowed by the *old law*, and under our charters, not a road in the state has paid a cent to stock investors. The company owning and operating the greatest mileage of any in the state (the International and Great Northern) is now bankrupt and in the hands of a receiver. With this data, which is known to every one without further proof, what would be the result of a reduction of fifty per cent. of the maximum allowed by law. It is confidently asserted that a compliance with the rates permitted in section 4257 of the Civil Code the solvent companies would become bankrupt, and the insolvent ones unable to longer exist or earn sufficient to pay their operating expenses.

An examination of the question of transportation exhibits the fact that the many articles transported are capable of bearing varying rates in payment for transportation—in proportion to the value of the article transported, and that the value of the transportation has in reference to the cost of performing the service. The railroad company must earn an average rate which will be sufficiently remunerative to pay the expense of transportation, and also an interest on the investment. If the maximum rate charged on articles of luxury and great value is high, the rate on necessaries and staples can be proportionately low, so that an average or mean rate may be remunerative, and this again is dependent upon the tonnage of each class that is carried.

If the maximum rate is made at a low figure, those articles which have been heretofore transported at a remarkably low rate must necessarily be raised to make the average remunerative. For instance, one car load of cotton, in round numbers, is the product of a year's labor of five men and eighty acres of land, and valued at about sixteen hundred dollars; one car load of lumber is the product of one acre, and the labor of about one-sixteenth of one man, and valued at fifty dollars, and the cost of hauling both, irrespective of handling or the risks of fire, etc., may be considered as nearly the same, yet the low rate charged on lumber is only

compensated by the charges made on freights of a higher class, so that the average may be a fair compensation. Lumber at Austin in 1870 was worth about seventy-five dollars per thousand feet, board measure. Under the present low rates, which the maximum permits railroads to transport it, establishes the value of lumber at Austin at about seventeen dollars per thousand feet; but should the maximum be reduced, say one-half, the low rate upon lumber, and similarly classed articles, must be raised to make a remunerative average rate for the total tonnage hauled; and lumber would then sell at Austin for more than twice its present value per thousand. This instance would apply to almost every point in the state affected by railroad rates, and would tend, not only to double the value of lumber, but necessarily increase the cost to the consumer and producer of all articles which are classed in the lowest rates, and probably prevent the transportation of some of them.

A careful calculation will exhibit, in round numbers, that a car load of cotton, in comparison with a car load of grain, is nine times greater in value, is the product of seven times as much acreage of ground, and is also the result of twenty-two times as much labor. Should, therefore, the same rates be applied to both car loads, the grain-grower would pay for the transportation of the year's product of his farm ten to twelve times more than the cotton-grower. This method of comparison, extended, would exhibit discrepancies still more marked, and it is to equalize such discrepancies that freights are classified and rates varied from the maximum allowed by law to the lowest rates applied to articles (stones, bones, etc.) whose value would not permit of transportation except at the lowest rate permissible. The question as to how low a rate is remunerative is so varying, and dependent upon so many facts, as to empty cars, rains, accidents, etc., that it is beyond human foresight to state, except in special and individual cases.

To make brief an argument that could be extended into volumes, the railroad commissioners of various states have finally concluded and asserted the transportation problem to be governed by the usual laws of commerce and trade and it seems a logical conclusion, that when an average is sought, the reduction of the maximum limit would necessarily raise the minimum limit, especially when the greatest tonnage is of the lower classes.

We could add much to show that the code rates would work great hardships upon the people as well as the roads, but we respectfully submit that there is no real conflict between the interests of the people and the roads, and that under the liberal general railway laws of the state, if not restrained by unfriendly legislation, roads may and will be built in competition with existing lines as rapidly as the development of the country offers a living for them; and, under competition so brought about, rates and railway tariffs will adjust themselves without legislative interferences as promptly as in other commercial transactions.

A bill has passed the Senate, and is now before the House, amending the code, and restoring the old maximum rate of fifty cents for one hundred pounds for one hundred miles. The companies have been able to exist with this limitation, and believe they can continue to do so.

This bill also contains provisions very onerous and restrictive, and does not, we think, deal justly by the railway companies; but, as the old rates are restored, and as it is, perhaps, too late to properly formulate a new bill and pass it through both houses, such as would be just and equitable

both to the state and to the railway corporations, we would prefer that it should become a law, and so relieve the companies from the great danger of bankruptcy that seems to be inevitable under a compliance with the new code.

We respectfully ask, in conclusion, that you will call attention of the Legislature to this matter in such a manner as you may consider right and proper.

Respectfully,

- G. JORDAN, *Vice-President H. and T. C. R'y Co.*
- P. BREMOND, *President E. and W. T. N. G. R. R. Co.*
- J. F. CROSBY, *Vice-President and Gen'l Man. T. and N. O. R'y Co.*
- FRANK S. BOND, *Vice-President T. and P. R'y Co.*
- R. S. HAYES, *Vice-President I. and G. N. R'y Co.*
- H. M. HOXIE, *Vice-President G. H. and H. R'y Co.*
- H. B. ANDREWS, *Vice-President G. H. and S. A. R'y Co.*

TARIFF OF RATES ACCOMPANYING MEMORIAL.

The following table will show the rates in force at the present time, from Dallas to four stations, relatively: 32, 78, 124 and 163 miles distant from that point, under the present tariff, and the rates that would prevail under article 4257 of the new code. These rates would prevail under the new code, throughout the state for similar distances. The top figures in each case, are the rates now in force; the figures underneath are those that would prevail under article 4257 of the new code, as construed by one of the commissioners:

RATES PER ONE HUNDRED POUNDS IN CAR LOAD LOTS.

FROM DALLAS TO A STATION DISTANT.	Comparison of rates.	First Class—Dry goods, tea, clothing, liquors, cigars, etc.	Second Class—Wagons, stoneware, saddlery, furniture, plows, etc.	Third Class—Ale, beer, burlaps, corn and other mills, etc.	Fourth Class—Beef and pork in barrels, salt, sugar, canned fruits, coffee, etc.	Class A—Bacon and lard, bagging and ties, etc.	Class B—Agricultural implements, furniture, horse shoes, etc.	Class C—Vegetables, apples, vinegar, cider, etc.	Class D—Lumber, live stock, grain, sash, blinds and doors, brick, etc.	Class E—Lime and cement, fertilizers, bones, pig iron, ores, etc.
		Old rate.	Code rate	Old rate.	Code rate	Old rate.	Code rate	Old rate.	Code rate	Old rate.
32 miles	{	33 30	31 30	28 30	23 30	20 30	17 30	16 30	15 30	10 30
78 miles	{	45 25	43 25	40 25	35 25	25 25	23 25	21 25	20 25	15 25
124 miles	{	64 31	57 31	52 31	47 31	35 31	28 31	26 31	25 31	20 31
163 miles	{	70 41	60 41	55 41	50 41	37 41	30 41	28 41	25 41	22 41

The foregoing message of his excellency the governor was taken up and read.

Pending the reading Senator Homan moved that the reading of the message be suspended, that 100 copies be ordered printed for the use of the Senate, and that the message be referred to the committee on internal improvements.

Motion adopted.

On motion of Senator Shannon the Senate adjourned until 8 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum present.

On motion of Senator Guy, the rules were suspended and House bill No. 446, entitled "An act to authorize the mayor and board of aldermen of the town of Waxahachie to transfer its stock in the Waxahachie Tap railroad," was taken up, read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Edwards, Gooch, Grace, McCulloch, Swain.

House bill No. 36, entitled "An act authorizing and requiring the commissioner of the general land office to issue patents to certain lands granted to the Bayland Orphans' Home, situated on Galveston bay, Harris county, Texas," was taken up and read first time.

On motion of Senator Stewart, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Gooch, Grace, Houston, McCulloch.

Bill read second time.

Senator Stewart offered the following amendment:

Amend by adding "Owing to the fact that this session of the Legislature is near its close, there is an imperative public necessity requiring the reading of this bill on three several days to be dispensed with."

Adopted, and bill passed to its third reading.

The rules were suspended and the bill placed on its third reading by the following vote:

YEAS.		
Brown,	Guy,	Motley,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCormick,	Terrell,
Gooch,	Moore,	Tilson—27.

NAYS—none.

Not voting—Grace, Lane, McCulloch.

Bill read third time and passed by the following vote:

YEAS:		
Brown,	Hobby,	Motley,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Ripetoe,
Burton,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCormick,	Terrell,
Gooch,	Moore,	Tilson—28.
Guy,		

NAYS—none.

Not voting—Grace, McCulloch.

House bill No. 160 (to repeal the pension law) was taken up.

Senator Houston moved a call of the House.

Call sustained.

Roll call.

Absent—Grace, McCulloch.

Pending the call the bill went to the table.

Senator Houston, chairman of the committee on state affairs (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House bill No. 188, entitled "An act to protect the wool-growing interests of the State of Texas," and instruct me to report the same back to the Senate with amendment and to recommend that it do pass as amended.

HOUSTON, *Chairman.*

Amend section 11 by striking out the words "Blanco" and "Travis."
 Senator Storey, chairman of committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have considered Senate bill No. 155, "An act to provide for the assessment and collection of certain back school taxes due from railway companies," and a majority of the committee instruct me to recommend its passage.

STOREY, *Chairman.*

Substitute for Senate joint resolution No. 29 and House joint resolution No. 2, "Proposing amendments to article 8 of the state constitution," was taken up for consideration.

Senator Duncan offered the following amendment:

Amend by adding:

"*Provided*, the whole amount exempt shall not exceed in value five hundred dollars."

Senator Gooch offered the following as a substitute for the amendment of Senator Duncan:

Before the words "family supplies" insert "and wool."

Senator Homan moved the previous question on the pending amendments.

Motion seconded and the main question ordered by the following vote:

YEAS.

Brown,
Davenport,
Ford,
Guy,
Hobby,

Homan,
Houston,
Lane,
Motley,
Patton,

Stewart,
Storey,
Swain,
Terrell,
Tilson--15.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,

Edwards,
Gooch,
Lair,
Ledbetter.

Martin,
McCormick,
Moore,
Shannon--12.

Not voting—Grace, McCulloch, Ripetoe.

Senator Duncan raised the point of order that the amendment of Senator Gooch was not in order, as it was not germane to the amendment it substituted.

Overruled.

Senator Gooch's substitute was lost by the following vote:

YEAS.

Edwards,
Ford,
Gooch,

Houston,
McCormick,
Moore,

Motley,
Shannon--8.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,

Guy,
Hobby,
Homan,
Lair,
Ledbetter,
McCulloch,

Patton,
Stewart,
Storey,
Swain,
Terrell,
Tilson--18.

Not voting—Grace, Lane, Martin, Ripetoe.

Senator Duncan's amendment was then lost by the following vote:

YEAS.

Brown,
Davenport,
Duncan,
Hobby,

Lair,
Motley,
Stewart,

Shannon,
Storey,
Terrell--10

NAYS.

Buchanan,
Burnett,
Burton,
Edwards,
Gooch,
Guy,

Homan,
Houston,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Swain,
Tilson--16.

Not voting—Ford, Grace, Lane, Ripetoe.

Senator Terrell offered the following:

Amend by adding the words "also tools of mechanics for the personal manual use of the owner."

Senator Edwards moved to excuse Senator Grace for the evening.

Ruled out of order.

Senator Gooch moved that the call of the Senate be suspended.

Lost.

On motion of Senator Edwards, the Senate went into committee of the whole on the pending bill.

(Senator Edwards in the chair).

Senator Duncan moved that the committee rise and report no progress.

Carried, and the committee rose and through their chairman so reported.

(President *pro tempore* in the chair).

The amendment of Senator Terrell was then adopted by the following vote.

YEAS.

Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,
Hobby,

Homan.
Houston,
Lane,
Lair,
Ledbetter,
Martin.
McCormick,
McCulloch.

Moore,
Motley,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson---24.

NAYS.

Brown,
Not voting—Burton, Grace, Shannon.

Buchanan,

Patton---8.

A message was received from the House announcing the passage by that body of House bill No. 89, entitled "An act in relation to assignments for the benefit of creditors, and to regulate the same and the proceedings thereunder," and House joint resolution No. 32, "to amend article 6 section 1 of the constitution of the state of Texas."

Senator Ledbetter offered the following amendment:

Amend by adding "and all libraries of professional men,"

Senator Duncan offered the following amendment to the amendment of Senator Ledbetter:

Strike out "libraries of professional men," and insert "private libraries."

Senator Edwards offered the following amendment:

"And all manuscript sermons of ministers of the gospel, and all false teeth, tools and apparatus of dentists, and all surgical instruments."

Senator Duncan moved the previous question on the resolution and pending amendments.

Motion seconded and the main question ordered.

Senator Duncan's amendment was lost by the following vote:

YEAS.

Davenport,
Duncan,
Homan,

Houston,
Lane,
Ledbetter,

Motley,
Patton,
Terrell - 9.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Lair,
Martin,
McCormick,
McCulloch,

Moore,
Ripetoe,
Stewart
Shannon,
Storey.
Tilson.---20.

Not voting—Senator Swain.

The amendment of Senator Edwards was then lost.

Senator Ledbetter's amendment was lost by the following vote:

Grace,
Lane,

YEAS.

Ledbetter,
McCulloch,

Motley.—5.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

NAYS.

Guy,
Hobby,
Homan,
Houston,
Lair,
Martin,
McCormick,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson.—25.

The following message was received from his excellency the governor, which was taken up and read.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 11, 1879.

To the honorable Senate of the State of Texas, in session assembled:

GENTLEMEN—I respectfully return to your honorable body the bill originating therein, entitled "An act to provide for the change of location of the court house of Marion county" without approving the same, together with my objections to its becoming a law, as follows, to wit:

This act is deemed to be in conflict with that part of section 56 in article 3 of the constitution of this state which prohibits the Legislature from passing a local or special law "Regulating the affairs of counties, cities, towns, or school districts." This act assumes to regulate the affairs of Marion county in reference to the change of the location of the court house within the city of Jefferson, the county seat of Marion county.

Respectfully,

O. M. ROBERTS, *Governor.*

On motion of Senator Tilson, the message and bill were referred to judiciary committee No. 1.

The pending resolution (substitute for House joint resolution No. 2, etc.) was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—30.

NAYS—none.

The absent senators appearing, the consideration of House bill No. 160 (the repeal of the pension act) was resumed.

The bill was passed by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,

Edwards,
Gooch,
Grace,
Hobby,

Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,

Ripetoe,
Swain,

Terrell,
Tilson—18.

NAYS.

Burnett,
Burton,
Ford,
Guy,

Homan,
Houston,
Lane,
McCormick,

Patton,
Stewart,
Shannon,
Storey--12.

On motion of Senator Grace, the rules were suspended and House bill No. 138, entitled "An act requiring the commissioner, of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act, approved August 30, 1856," was taken up and read first time.

House bill No. 67, entitled "An act to amend an act defining what money and property are subject to taxation, and the mode of testing the same, approved August 21, 1876," was taken up and read third time.

The pending amendment of Senator Ledbetter (to exempt notes given for land while in the hands of the original vendor) was then considered and lost.

Senator Martin offered the following amendment:

Provided further, That the word "property," wherever it occurs in this act, shall not be so construed as to include the wearing apparel or actual supplies on hand necessary for home use.

Lost.

Senator Duncan moved the previous question upon the bill and pending amendment.

Motion seconded and main question ordered.

Senator Martin's amendment was lost by the following vote:

YEAS.

Burnett,
Burton,
Lane,
Lair,

Martin,
Motley,
Patton,

Ripetoe,
Shannon,
Terrell—10.

NAYS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Grace,
Hobby,
Homan,
Ledbetter,
McCormick,

McCulloch,
Moore,
Stewart,
Storey,
Swain,
Tilson—18.

Not voting—Guy, Houston.

The bill was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.

Grace,

McCormick,

McCulloch—3.

Not voting—Edwards, Houston.

The president *pro tempore*, after publicly reading their captions, signed the following bills: !

House bill No. 10, entitled "An act to amend section 4 of an act entitled 'an act to amend an act to provide for the supplying of lost records in the several counties in this state, approved April 14, 1874' approved July 13, 1876." House bill No. 70, entitled "An act to amend section 2 of an act to define the eighth judicial district, and to fix the times of holding the courts therein, approved August 11, 1876." House bill No. 137, entitled "An act to repeal an act entitled 'an act to authorize and require all forced sales of real estate and sales of negroes made by executors and administrators in the county of Travis, to be made on Congress Avenue, at the southeast corner of block No. 70,' approved November 28, 1857." House joint resolution No. 24, "In regard to Pelican Island." House bill No. 446, entitled "An act to authorize the mayor and board of aldermen of the town of Waxahachie to transfer its stock in the Waxahachie Tap railroad."

House bill No. 347, entitled "An act to amend section 2 of the charter of the corporation of Victoria, and to provide for certain changes caused thereby," was taken up, read second time and passed to a third reading.

House bill No. 202, entitled "An act to authorize and require the state board of education to cancel school certificate No. 63, heretofore issued by said board to Wm. Umbdenstock, and to issue a duplicate thereof to Reuben Knight, county treasurer of Harrison county," with adverse report of committee, was taken up, report adopted and bill lost.

House joint resolution No. 35, "On the subject of Indian depredations in the State of Texas," was taken up and read first time.

On motion of Senator Burton, the rules were suspended and Senate bill No. 282, entitled "An act to attach Waller county to the twenty-first judicial district, and to fix the time for holding court therein," with adverse report of committee, was taken up, the report of the committee adopted and bill lost.

Senate bill No. 6, entitled "An act regulating the election of clerks of the district and county courts in counties having less than 8000 inhabitants," etc., was taken up and referred to judiciary committee No. 2.

On motion of Senator Grace the rules were suspended and Senate bill No. 209, entitled "An act for the relief of Joseph Fenner," was taken up and read first time.

(Senator Stewart in the chair.)

Senator Ledbetter offered the following resolution:

"Resolved, That the sergeant-at-arms be authorized to purchase daily sufficient ice for the use of the Senate."

Adopted.

On motion of Senator Patton the rules were suspended and Senate bill No. 267, entitled "An act to amend chapter 4 of an act to adopt and establish the Revised Civil Statutes of the State of Texas, by adding to said chapter another article to wit: article 4761a, providing for the payment of certain state warrants by collectors of taxes," was taken up and read second time.

Senator Gooch offered the following amendment:

In line ten, strike out the word "one-fourth," and insert "the amount levied for."

Adopted.

Also, the following:

In line seven, after the words "any officer of the state," insert "or county presenting the same."

Adopted.

Senator Duncan offered the following amendment:

Amend by inserting after the provision "allowing tax collectors to pay state warrants," these words: "without discount."

Adopted.

Senator Storey offered the following:

After the word "state" in line seven, insert the words "for services rendered by such officers."

Withdrawn.

And, also, the following:

In line nine, strike out "one-third," and insert "one-fourth."

Adopted.

Senator Ford moved to refer the bill to the committee on finance.

Senator McCulloch moved the previous question on the engrossment of the bill and pending question.

Motion seconded and main question ordered.

The motion of Senator Ford to recommit the bill was lost by the following vote:

	YEAS.	
Edwards, Ford,	Storey,	Terrell--4.
	NAYS.	
Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Gooch, Grace,	Guy, Hobby, Homan, Houston, Lane, Lair, Ledbetter, Martin,	McCulloch, Moore, Patton, Stewart, Shannon, Swain, Tilson--23.

Not voting—McCormick, Motley, Ripetoe.

The bill was then ordered engrossed by the following vote:

	YEAS.	
Buchanan, Burnett, Burton, Davenport, Duncan, Gooch, Grace,	Guy, Hobby, Houston, Lane, Lair, Martin, McCulloch,	Moore, Patton, Stewart, Shannon, Swain, Tilson---20.
	NAYES.	
Brown, Edwards, Ford,	Homan, Ledbetter, McCormick,	Storey, Terrell--8,

Not voting—Motley, Ripetoe.

On motion of Senator Houston, the Senate adjourned until 9.30 A. M. I. to-morrow.

FIFTIETH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, March 12, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll all called; quorum present. Prayer by the chaplain.

On motion of Senator Gooch the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Storey presented a memorial of many county officers and others against a reduction of the fees of county officials as established by law in 1876, giving several reasons therefor.

Read and referred to judiciary committee No. 1.

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered memorials Nos. 71, 73, 74, 75 and 79, and I am instructed to report that the subject matter of these memorials is now before the Legislature in different bills and no further action is deemed necessary on these memorials.

Houston, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered Senate bill No. 189, "An act to authorize M. B. Starkey and others to erect a dam across the Clear fork of the Brazos river at Crystal Falls, in Stephens county," and I am instructed to report the same back to the Senate and recommend its passage.

Houston, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House bill No. 15, and I am instructed to report the same back to the Senate and recommend its passage.

Houston, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered Senate bill No. 286, "An act to amend 'an act to encourage irrigation and navigation,'" and I am instructed to report same back to the Senate with the recommendation that it do pass.

Houston, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered memorial No. 77 of Brenham Grays, asking the passage of military laws to aid civil authorities, and I am instructed to report the same back to the Senate with the recommendation that it be referred to committee on military affairs.

Houston, Chairman.

Report read, adopted and bill referred as requested.

Hon. J. D. Sayers, President of the Senate:

Your committee have considered Senate bill No. 295, "An act to create the office of registrar general, etc.," and I am instructed to report the same back to the Senate with the request that fifty copies be printed for the use of the Senate, and the recommendation that it do pass.

Houston, Chairman.

On motion of Senator Houston, the report of the committee was adopted, and fifty copies of the bill and report ordered printed.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 285, entitled "An act to fix and regulate the fees of all the officers of the State of Texas and the several counties thereof," and the committee are of the opinion that such fees are properly fixed by the Revised Statutes of the State of Texas, passed by this Legislature, with the exception

of some several matters which are provided for in a substitute for the bill which is herewith returned to the Senate, and I am instructed by the committee to report the bill back to the Senate and recommend that it do not pass, but that the substitute of the committee for the original bill do pass.

STEWART, *Chairman.*

On motion of Senator Storey, fifty copies of the substitute and report were ordered printed.

Senator Shannon, chairman of the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 290, entitled "An act to create the thirty-third judicial district," have considered the same and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Swain, chairman of the committee on penitentiary, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiary, to whom was referred House bill No. 342, "An act to provide for the building, making and completion of such works and improvements at the East Penitentiary, at Rusk, as may be necessary and proper to put the same into operation, and to make appropriation to carry out the provisions of this act," have had the same under consideration, and instruct me to report the same with accompanying amendments, and as amended to recommend its passage.

SWAIN, *Chairman.*

First amendment: In line ten, section 3, after words "into operation," and before the words "said lessees," insert "*provided*, that said board may contract with any other person or persons who will contract and obligate themselves to comply with the terms of the agreement for the completion of the work to be done on said penitentiary for a less cost to the state than that charged by the lessees."

Second amendment: In line thirteen, section 3, before the words "said board," insert "if they become the contractors; but if any other person or persons become the contractor or contractors, they shall be paid with the money paid into the state treasury by the lessees of the penitentiary or penitentiaries, and the amount of money to be paid by them to the amount of sixty thousand dollars per annum, or so much thereof as may be necessary, is hereby appropriated."

Third amendment: In line fourteen, section 8, after the words "said lessees," insert the words "or contractors."

Senator Guy, chairman of the committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred House bill No. 88, entitled "An act for the relief of Mrs. M. A. C. Wilson, widow of William F. Wilson," have considered the same, and I am instructed by a majority of said committee to report said bill back to the Senate and to recommend its passage.

GUY, *Chairman.*

Senator Motley, from the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred Senate bill No. 279, entitled "Joint resolution authorizing the comptroller of the state to purchase maps," have carefully considered the same and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

MOTLEY, for Committee.

Senator Storey introduced a bill entitled "An act to authorize the issuance of land certificates to the heirs of those who were killed in the Dawson massacre, near the Salado, in September, 1842, and of those who were taken prisoners there and died while in prison.

Read by caption and referred to committee on private land claims.

Also, a bill to be entitled "An act to authorize the adjutant general to sell or exchange inferior arms and munitions of war on hand and not in use by the state."

Read by caption and referred to committee on finance.

Senator Lane introduced a bill to be entitled "An act to prevent the migration or exportation or importation of live stock affected by any contagious or infectious disease."

Read by caption and referred to committee on stock and stock-raising.

Also, a bill entitled "An act granting an extension of time to the Rockport, Fulton and Laredo railroad company for the construction of its road."

Read by caption and referred to committee on internal improvements.

A message was received from the House announcing the passage by that body of Senate bill No. 210, entitled "An act to reorganize the third judicial district, and prescribe the times of holding the district courts in the third and seventh judicial districts."

Senator McCulloch offered the following concurrent resolution:

WHEREAS, There are two or three thousand copies of ex-Governor Hubbard's message still on hand in the two houses, and also many hundred of Governor Roberts'; and as it is not right to adjourn and leave these messages scattered about over the halls and passages of the capitol; therefore be it

Resolved, That the committees on finance and printing in the Senate and House be requested to see that these public documents are distributed before the close of the session.

On motion of Senator Martin the resolution was referred to the committee on state affairs.

The following House bills were taken up for reference:

House bill No. 89, entitled "An act in relation to assignments for the benefit of creditors, and to regulate the same and the proceedings thereunder."

Referred to judiciary committee No. 2.

House joint resolution No. 32, to amend article 6 section 1 of the constitution of the State of Texas.

Referred to the committee on constitutional amendments.

Senator Patton called up his resolution offered on yesterday, with regard to the order of calling up bills.

Senator Moore offered the following amendment:

"*Provided,* bills of a general character will be given the preference."

Senator Gooch offered the following as a substitute for the amendment of Senator Moore, and accepted by Senator Moore:

"*Provided,* this rule shall not apply to tax, bond and appropriation

bills, nor change the rules relating to House bills during the evening session."

Senator Patton offered the following as a substitute for the amendment of Senator Gooch:

"Provided, that the general appropriation bill shall have the precedence in the order of business at the morning sessions until disposed of."

Senator Edwards offered the following as an amendment to the substitute of Senator Patton:

"And one hour only during each session shall be devoted to such bills."

Accepted by Senator Patton.

Senator Gooch withdrew his substitute and Senator Moore withdrew his amendment.

Senator Patton then offered his substitute, as amended, as an amendment to the original resolution.

Amendment adopted.

The resolution of Senator Patton, as amended, was then adopted.

On motion of Senator McCulloch, the Senate went into executive session.

IN SENATE.—Senator Duncan moved to spread on the journals the confirmations of the Senate had in executive session to-day.

In obedience to this order it is entered on the journals, that the Senate did advise and consent to the appointments by his excellency the governor of notaries public for the fifteenth senatorial district.

Senate bill No. 130, "the general appropriation bill," was then taken up.

Senator Duncan's amendment, pending on adjournment, was lost by the following vote:

	YEAS.	
Burnett,	Grace,	McCormick,
Burton,	Guy,	Motley,
Duncan,	Homan,	Swain,
Edwards,	Lair,	Tilson—12.
	NAYS.	
Davenport,	Lane	Stewart,
Ford,	Martin,	Shannon,
Gooch,	McCulloch,	Storey,
Hobby,	Moore,	Terrell—13.
Houston,		

Not voting—Brown, Buchanan, Ledbetter, Patton, Ripetoe.

Senator Burton offered the following amendment:

Amend in line thirty-one, page 3, by striking out "\$360" and inserting "\$400."

Lost.

Senator Grace offered the following resolution:

Amend by striking out in line twenty-one "\$1200" and inserting "\$1500."

Lost.

Also the following:

Amend by inserting in line opposite first assistant clerk "\$1200" instead of "\$1500."

Lost.

Senator Burton offered the following:

Amend line thirty by striking out "\$500" and inserting "\$400."

Withdrawn.

Senator Swain offered the following:

In line seven, page 4, strike out "\$2000" and insert "\$1500."

Lost by the following vote:

YEAS.		
Edwards, Grace,	McCormick, Swain,	Tilson—5.
NAYS.		
Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Ford, Gooch,	Guy, Homan, Houston, Lane, Lair, Ledbetter, Martin, McCulloch,	Motley, Patton, Ripetoe, Stewart, Shannon, Storey, Terrell—23.
Not voting—Hobby, Moore.		

Senator Storey offered the following:

Amend line twenty-two by inserting before "assistant cooks" the word "two."

Adopted.

Senator Edwards offered the following:

"And no member of the superintendent's family, who is not an employe, shall be supported out of the funds appropriated for the support of the institution."

Adopted by the following vote:

YEAS.		
Buchanan, Burnett, Davenport, Edwards, Grace, Hobby,	Homan, Lane, Lair, Martin, McCormick, Moore,	Patton, Shannon, Storey, Terrell, Tilson—17.
NAYS.		
Brown, Burton, Duncan, Gooch,	Guy, Houston, Ledbetter, McCulloch,	Motley, Ripetoe, Swain—11.
Not voting—Ford, Stewart.		

Senator Burton offered the following:

Amend by striking out "line eighteen."

Lost

Senator Edwards offered the following:

In line twenty-five strike out "\$6000" and insert "\$3000."

Senator Swain offered the following as a substitute for the amendment of Senator Edwards:

Strike out "\$6000" in line twenty-five and insert "\$4000."

Accepted by Senator Edwards and adopted.

Senator Edwards offered the following:

In line twenty-six strike out "\$20,000" and insert "\$18,000."

Lost by the following vote:

YEAS.		
Burnett, Burton, Davenport, Edwards,	Grace, Hobby, Homan, Lane,	McCormick, Ripetoe, Shannon—11.

NAYS

Brown,
Buchanan,
Duncan,
Ford,
Gooch,
Guy,
Houston,

Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Stewart,
Storey,
Swain,
Terrell,
Tilson---19.

Senator Edwards offered the following:

In line twenty-four strike out "\$1000" and insert "\$800."

Lost by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Edwards,

Grace,
Homan,
Lane,
Lair,

McCormick,
Ripetoe,
Shannon,
Tilson--12.

NAYS.

Brown,
Duncan,
Ford,
Gooch,
Guy,
Hobby.

Houston,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Stewart,
Storey,
Swain,
Terrell--16.

Senator Terrell moved to reconsider the vote by which the superintendent's salary was retained at \$2000.

Carried and vote reconsidered.

Senator Terrell then offered the following substitute for the amendment of Senator Swain (the vote on which had just been reconsidered):

Line seven, page 4, insert "\$2500" instead of "\$2000."

Senator Homan moved the previous question on the pending amendments.

Motion seconded and main question ordered.

Senator Terrell's substitute was lost by the following vote:

YEAS.

Duncan,
Gooch,
Houston,

Lane,
Stewart,

Swain,
Terrell--7.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Gracé.

Hobby,
Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Shannon,
Storey,
Tilson--22.

Not voting—Ford, Guy, Motley.

The amendment of Senator Swain just reconsidered was then lost.

Senator Homan moved to reconsider the vote adopting the amendment of Senator Edwards, with regard to the support of the families of the superintendents of the asylums.

Senator Martin moved a call of the Senate.

Call sustained.

Roll called.

Absent—Guy, Motley.

Call suspended.

Senator Homan moved the previous question.

Motion seconded and main question ordered.

The motion of Senator Homan to reconsider was lost by the following vote:

YEAS.		
Brown, Duncan, Gooch, Homan,	Houston, Lair, Ledbetter,	McCormick, Motley, Swain—10.

NAYS.		
Buchanan, Burnett, Burton, Davenport, Edwards, Grace,	Hobby, Lane, Martin, McCulloch, Moore, Patton,	Ripetoe, Stewart, Shannon, Storey, Terrell, Tilson—18.

Not voting—Ford, Guy.

Senator Edwards offered the following amendment:

“And no member of the superintendent’s family who is not an employe, shall be supported out of the funds appropriated for this institution.”

Senator Brown offered the following amendment to the pending amendment:

Amend by adding “nor be kept or entertained in or about the institution, unless by payment of a reasonable sum for lodging.”

Lost.

The amendment of Senator Edwards was then lost by the following vote:

YEAS.		
Buchanan, Burnett, Burton, Davenport, Edwards,	Hobby, Homan, Lane, Martin, Moore,	Shannon, Storey, Terrell, Tilson—14.

NAYS.		
Brown, Duncan, Ford, Gooch, Grace, Guy,	Houston, Lair, Ledbetter, McCormick, McCulloch,	Motley, Patton, Ripetoe, Stewart, Swain—16.

Senator Grace offered the following:

Amend by striking out in line eight, page 5, “\$600” and insert “\$300,” and add the words “and shall only be paid out by the treasurer on certificate of superintendent, he specifying the cause and notice of same.”

Senator Motley offered the following as a substitute for the amendment of Senator Grace:

Erase line eight, page 5.

Senator Duncan offered the following as a substitute for the pending amendments:

Amend by striking out “600” in line 8, page 5, and insert “900.”

Senator Homan moved the previous question on pending amendments.

Motion seconded and main question ordered.

Senator Duncan’s amendment was then lost by the following vote:

YEAS.		
Brown, Davenport, Duncan,	Homan, Houston,	Lane, Patton—7.

Buchanan,
Burnett,
Burton,
Edwards,
Gooch,
Grace,
Guy,
Hobby.

NAYS.

Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—22.

Senator Homan presented the following as his reasons for his vote just cast:

"I vote 'aye' because the Revised Statutes require the payment of a salary of \$900 to the oculist of the blind asylum. W. K. HOMAN."

Senator Motley's substitute was then lost.

Senator Grace's amendment was then lost by the following vote:

YEAS.

Grace,
Lair,

Terrell,

Tilson—4.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain—24.

Not voting—Duncan, Motley.

Senator Edwards offered the following:

Amend amendment by adding line thirty-three, page 4, printed bill, by striking out "and no member of superintendent's family who is not an employe shall be," and inserting "members of the superintendent's family who are not employes may be."

Pending on adjournment.

Senator Motley, chairman of the committee on asylums, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on asylums beg leave to report that, in accordance with a resolution adopted by the Senate authorizing the appointment of a joint sub-committee with power to send for papers and examine witnesses, that said sub-committee was appointed and proceeded to take testimony in regard to the management of the Deaf and Dumb Asylum, and submitted to your committee the testimony taken, and their report thereon, which has been examined by your committee, and a majority of your committee instruct me to return the following report: That the financial management of the institution has been efficiently and honestly conducted so far as your committee could ascertain. The investigation has been long and tedious. All of the premises considered, in view of the evidence submitted by said sub-committee, your committee have been forced to the conclusion that the present superintendent is unsuited for the position he occupies, and proper steps should be taken for his removal.

Your committee further recommend that a change be made in the law regulating the management of the Deaf and Dumb Asylum, so as to authorize the governor, with proper restrictions, to remove the superin-

tendent and board of trustees. In conclusion, your committee desire to say that they are fully satisfied that the superintendent for said asylum should be conversant with the sign language in order to protect it against impositions in the employment of teachers, and to produce harmony and tranquility and confidence between the superintendent and the unfortunate mutes, who are unable to communicate their wants except in the sign language.

MOTLEY, *Chairman*.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have compared with the originals, Senate bill No. 123, entitled "An act to amend section 12 of an act entitled 'an act to enforce the collection of delinquent taxes on lands assessed since January, 1870,' approved August 10, 1876;" and Senate bill No. 267, entitled 'An act to amend chapter 4 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' by adding another article to be numbered 4761a, providing for the payment of certain state warrants by the collectors of taxes," and report them correctly engrossed.

BROWN, *Chairman*.

Senator Storey, chairman of committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 136, "An act for the relief of taxpayers," and House bill No. 187, entitled "An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect," have carefully considered the same, and I am instructed by a majority of the committee present to report the House bill, with the accompanying amendments thereto, as a substitute to the Senate bill, back to the Senate with the recommendation that the bill as amended do pass.

STOREY, *Chairman*.

Strike out in section 1, line four, commencing from the top, the words "one hundred dollars," and insert in lieu thereof the words "two hundred and twenty-five dollars."

Add to section 4 the following:

"And it shall be unlawful for any person to pay for said drinks until the same are registered."

In section 11, strike out all the words after the word "fined," in line six, commencing from the top, and insert in lieu thereof the following: "Not less than fifty dollars and not more than two hundred and fifty dollars; and any person who shall pay for or receive any spirituous, vinous, or malt liquors sold to him before the same is registered, shall be fined in any sum not less than five dollars nor more than two hundred and fifty dollars."

Insert after the word "hundred," in last line but one of section 12, the following words: "and fifty."

Insert after the word "hundred," in the last line of section 14, the words, "and fifty."

In section 16, strike out all the words after the word "sum" in the last line, and insert in lieu thereof, the following: "of not less than fifty dollars nor more than two hundred and fifty dollars."

In section 21, insert after the words "dollar," in line six, the words "in addition to any other bond required by law," and strike out all the words after the word "fined," in the last line of said section, and insert in lieu thereof the words "two hundred and fifty dollars."

In section 22, after the word "hundred," in the last line, insert the words "and fifty."

In section 23, strike out all the words coming between the word "treasury," in line two, and the word "and," in line four.

In same section insert after the word "fines," in the last line, the words "and the costs."

On motion of Senator Tilson, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

President in the chair. Roll called; quorum present.

On motion of Senator Duncan the rules were suspended and Senate bill No. 6, entitled "An act regulating the election of county and district clerks in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore holding both offices," was taken up and House amendment concurred in.

A message was received from the House announcing the passage by that body of House bill No. 276, entitled "An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide for the payment of the interest and principal of the same."

On motion of Senator Grace the rules were suspended and House bill No. 138, entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act approved August 30, 1856," was taken up, read second time and passed to a third reading.

The president, after publicly reading its caption, signed House bill No. 160, entitled "An act to repeal 'an act to provide annual pensions for the surviving soldiers of the Texas revolution, and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers,' approved July 28, 1876."

Senator Edwards, chairman of the special committee on the report of the joint committee appointed to visit the Agricultural and Mechanical College, submitted the following report:

Your special committee to whom was referred the report of the joint committee appointed to visit the Agricultural and Mechanical College with instructions to report by bill or otherwise, beg leave to report that they have considered said report and the subjects connected therewith, and the conclusion has been reached by your committee that the educational interests of the state demand first-class normal schools in which white and colored teachers can be trained as educators, to the end that a uniform system of instruction of high standard may prevail throughout the state, and also that the efficiency of the Agricultural and Mechanical College at Bryan can be much increased by enlarging the facilities for instruction in the agricultural and mechanical branches. Your committee unanimously recommend the passage of the accompanying bill: being "An act making an appropriation of fifteen thousand (\$15,000) dollars to aid in instruction in agriculture and natural science connected

therewith at the Agricultural and Mechanical College of Texas." This bill does not take any money from the general revenue, but appropriates a portion of the interest arising from the university fund for the use of said college. This your committee think eminently proper, as by the state constitution the Agricultural and Mechanical College at Bryan is established as a branch of the state university. Your committee also unanimously recommend the passage of the accompanying bill: being "An act to provide for the organization and support of a normal school at Alta Vista College, Waller county, for the preparation and training of colored teachers;" and your committee have come to the conclusion that this is the only way in which the state property at Alta Vista can be utilized, and think it proper policy that a portion of the available school fund should be applied for the use of a normal school at said college for colored students, and, also, for a normal school at some other location for the training of white teachers, and your committee instructs me to recommend the passage of the accompanying bill, being "An act to establish a state normal school," and I am instructed by said committee to say that while your committee are unanimous in their opinion that a state normal school for white teachers should be established, a majority only of the committee are in favor of the provision in said bill that locates the school in Huntsville.

EDWARDS, *Chairman.*

The undersigned senators from said committee submitted the following minority report:

Hon. J. D. Sayers, President of the Senate:

A minority of your special committee in regard to report of concurrent committee of both houses of Legislature, in regard to Agricultural and Mechanical College and college for education of colored youths at Hempstead, beg leave to report that we concur in all the report recommended by the majority of the committee except that portion of the same in relation to the location of a normal school for the white scholastic population, said majority of your committee inserting Huntsville, Walker county; and we, the minority of said committee, adhering to the original recommendation of the concurrent committee, that the different localities of the state be invited to compete for the same, and the place offering the greatest inducements shall be the place where it shall be located, believing that this would give more general satisfaction from the fact that all portions of the state would have the opportunity presented them to compete for the same.

I. W. MOORE,

E. R. LANE,

W. R. SHANNON.

The bills reported by the committee were taken up and read first time. Substitute for Senate bill No. 130 (the general appropriation bill) was taken up for consideration.

Senator Brown moved a call of the Senate.

Call sustained.

Roll called.

Absent—Homan.

Senator Homan appeared and the call was suspended.

Senator Shannon made the point of order that the matter of Senator Edwards' amendment had been acted upon and that a motion to reconsider had been lost, and therefore was not in order.

Point of order sustained.

On motion of Senator Edwards, the rules were suspended, pending business postponed and Senate joint resolution No. 74, proposing an amendment to the constitution of the State of Texas, regulating suffrage, was taken up and referred to the committee on constitutional amendments.

On motion of Senator Gooch, the pending business was postponed, the rules were suspended and Senate bill No. 210, entitled "An act to reorganize the third judicial district of the state, and to prescribe the times of holding the courts therein," was taken up and House amendments concurred in.

Senator Burton offered the following amendment to the pending bill:
Page 4, amend by striking out line thirty-one.

Lost.

Senator Storey offered the following:

Strike out lines twenty and twenty-one.

Adopted.

Senator Motley offered the following:

Line thirty, page 5, strike out "\$6000" and insert "\$4000."

Withdrawn.

Senator Edwards offered the following:

In line thirty insert before "furnishing" the words "finishing and."

Adopted.

Senator Storey offered the following:

Strike out line twenty-nine.

Adopted.

Senator McCormick offered the following amendment:

After line five, on page 6, add in first column: "For building one frame shingle roof building, on piles, with about 100 yards of wharf to connect with the main land from a quarantine station house at the entrance of Galveston bay, \$1500; for building two frame shingle roof buildings for the protection of persons detained at said quarantine station, one for the sick and one for the well, to cost \$1000 each, \$2000; for building one frame shingle roof warehouse at said station for the storage of discharged cargoes of vessels coming from infected ports, \$2500."

Adopted.

Senator Gooch offered the following:

On page 6, line five, strike out the words "on gulf coast," and insert "in the state."

Adopted.

Senator Storey offered the following:

In line eight, page 6, strike out "\$105,000" in both lines and insert "\$50,000" in first line.

Adopted.

Senator Duncan offered the following:

Amend allowance for attorney general by adding: "For purchasing law books for library \$250."

Adopted by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,

McCormick,
Moore,
Patton,
Ripetoe,
Storey,
Terrell--19.

NAYS.

Brown,
Burnett,
Burton,
Grace,

Lair,
McCulloch,
Motley,

Stewart,
Shannon,
Tilson—10.

Not voting—Swain.

Senator Brown offered the following:

Strike out "\$1800," in line twelve, and insert "\$2700."

Senator Patton offered the following amendment as a substitute for the amendment of Senator Brown:

Amend by striking out all in line twelve, page 6, and inserting therefor "salary of chief clerk for each year, \$1500; salary of assistant clerk for each year, \$1200."

Accepted by Senator Brown and adopted.

Senator Storey offered the following:

Strike out line twenty-four, page 6, and insert the following: "To build house and pay rent for storage of arms, \$1000."

Adopted.

Senator Ripetoe offered the following:

Strike out page 6, line nineteen "\$3000," and insert "\$2000."

Adopted.

Senator Houston offered the following:

Amend line twenty-six, page 6, by inserting the figure "1" before the figure "5," wherever it occurs in the line so as to read "\$150,000," "\$150,000."

Senator Swain offered the following as a substitute for the amendment of Senator Houston:

Strike out "\$50,000" in line twenty-six and insert "\$25,000."

Senator Houston's amendment was then lost by the following vote:

YEAS.

Burnett,
Davenport,
Duncan,
Ford,

Guy,
Hobby,
Homan,
Houston,

Lane,
Shannon,
Storey,
Terrell—12.

NAYS.

Buchanan,
Edwards,
Gooch,
Grace,
Lair,
Ledbetter,

Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Swain,
Tilson--16.

Not voting—Brown, Burton.

Senator Houston offered the following substitute for the amendment of Senator Swain:

Amend line twenty-six, page 6, by striking out "\$50,000" where it occurs and inserting in lieu thereof "\$149,500."

Senator Edwards offered the following as a substitute for pending amendments:

Line twenty-six, strike out "\$50,000," and insert "\$75,000."

The president after reading its caption, signed Senate bill No. 6, entitled "An act regulating the election of county and district clerks in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore holding both offices."

(Senator Duncan in the chair.)

On motion of Senator Davenport, the Senate adjourned until 9:30 A. M. to-morrow.

FIFTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 13, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

Prayer by the Rev. Dr. McCarty of the Methodist Episcopal Church.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Burnett, the chaplain of the Senate was excused until Saturday morning next.

Senator Homan presented the petition of Alma Farmer, Kate Simpson, Bettie Heslep and one hundred other ladies of Burleson county, asking amendments to the "local option law," to make it more effective.

Read and referred to committee on state affairs.

Senator Davenport presented the memorial from the members of the Gatesville council of the Friends of Temperance in Coryell county, (of 90 members), asking amendments to the local option law, to make it more effective.

Read and referred to committee on state affairs.

Also, a memorial from the heirs of John D. Groesbeck, "stating that they have wrongfully been deprived of a grant of land rightfully belonging to them, and located under a certificate to Salvador Castillo, received from the government of Mexico, with a regular chain of title from said government, down to their father, and recognized as valid by our state government, by certain parties locating certificates on said grant and for which patents have been issued; and asking that the commissioner of the general land office be required to issue to them (the said heirs) a certificate for the amount of land wrongfully located and patented to the said parties herein referred to, etc."

Read and referred to committee on private land claims.

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration Senate bill No. 297, entitled "An act to authorize the adjutant general to sell or exchange inferior arms and munitions of war on hand and not of use to the state," and I am instructed by the committee to recommend its passage.

STOREY, *Chairman.*

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 12, 1879. }

To the honorable Senate of the State of Texas in session assembled:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments, to wit:

C. C. Heath and John Anderson to be pilot commissioners for Aransas Pass, in the State of Texas, in place of Jack Sands (deceased) and W. N. Heath, removed. Respectfully, O. M. ROBERTS, *Governor.*

Senator McCulloch offered the following joint resolution:

WHEREAS, The session of the Sixteenth Legislature, allotted by the

constitution, will have ended on to-morrow, leaving many main questions on the president's and speaker's tables untouched; and

Whereas, It is absolutely necessary for the accomplishment of the purposes for which this Legislature convened, that the Senate and House should continue in session fifteen days longer; therefore,

Be it Resolved, That the Sixteenth Legislature adjourn *sine die* on Monday morning the 31st of March.

Be it further Resolved, That no member shall speak more than once, nor a longer time than ten minutes, on any one question without leave.

Senator Duncan moved to refer this resolution to the committee on state affairs.

Withdrawn.

Senator Brown offered the following resolution as a substitute for the resolution of Senator McCulloch:

Resolved by the Senate, the House concurring, That the present session of the Sixteenth Legislature be adjourned *sine die* at 6 o'clock P. M. on Friday, the 14th day of March, A. D. 1879.

Senator Homan offered the following resolution as a substitute for the pending resolutions:

Resolved by the Senate, the House concurring, that the Sixteenth Legislature will remain in session until the business affecting the interests of the state, now before the body, is disposed of.

On motion of Senator Storey, the pending resolutions were postponed until to-morrow morning.

Substitute for Senate bill No. 130 (the general appropriation bill) was taken up.

Senator Burnett offered the following as a substitute for the pending amendments:

Page 6, strike out lines twenty-six and twenty-seven and insert instead the following: "For the protection of the frontier and suppression of lawlessness and crime for each year, \$150,000."

Senator Edwards then withdrew his amendment.

The president, after publicly reading its caption, signed Senate bill No. 210, entitled "An act to reorganize the third judicial district of the state, and to prescribe the times of holding the same."

Senator Lane offered the following amendment to the substitute of Senator Burnett:

Amend substitute as follows: "For each year for protection of the frontier, \$125,000; for lawlessness and crime, \$25,000."

Senator Lane withdrew this amendment and offered the following:

Amend substitute as follows: "For each year for protection of the frontier, \$125,000; for lawlessness and crime for the organization of a force to operate in southwest Texas, but to be subject to the orders of the adjutant general and governor on an emergency to go to any part of the state, \$25,000."

Senator Lane withdrew his amendment, when Senator Terrell offered the following amendment to the substitute of Senator Burnett:

Add to substitute the following words, viz: "Twenty-five thousand dollars of which shall be appropriated each year to the organization of a force to operate in southwest Texas, but to be subject to the orders of the governor on an emergency to be used elsewhere."

Senator Brown asked for a division of the question.

The first division (\$25,000 for a force in southwest Texas) was then adopted by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Davenport,	Houston,	Patton,
Duncan,	Lane,	Stewart,
Edwards,	Lair,	Shannon,
Ford,	Ledbetter,	Storey,
Gooch,	Martin,	Terrell,
Grace,	McCormick,	Tilson—26.
Guy,	McCulloch,	
NAYS.		
Burnett,	Ripetoe,	Swain—4.
Burton,		

The second division (empowering the governor to use this force elsewhere in cases of emergency) was carried by the following vote:

YEAS.		
Buchanan,	Hobby,	Motley.
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Gooch,	McCormick,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—27.
NAYS.		
Brown,		Davenport--2.

Not voting—Lane.

The substitute of Senator Burnett, as amended by the amendment of Senator Terrell, was then adopted by the following vote:

YEAS.		
Burnett,	Guy,	Motley,
Burton,	Hobby,	Ripetoe,
Davenport,	Homan,	Stewart,
Duncan,	Houston,	Shannon,
Edwards,	Lane,	Storey,
Ford,	McCulloch,	Terrell—19.
Grace,		
NAYS.		
Buchanan,	Martin,	Patton,
Gooch,	McCormick,	Swain,
Lair,	Moore,	Tilson--10.
Ledbetter,		

Not voting—Brown.

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed, Senate bill No. 6, "An act regulating the election of clerks of the district and county courts in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore and now holding both of said offices," and presented the same to the governor for his approval on yesterday at 4:50 o'clock P. M.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 210, "An act to reorganize the third judicial district and prescribe the times of holding the district courts in the third and seventh judicial districts," and at 11 o'clock A. M. this day presented the same to the governor for his signature.

GRACE, *Chairman.*

On motion of Senator Swain, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

On motion of Senator Shannon, the rules adopted by resolution recently to govern the order of taking up bills, was suspended and substitute for Senate bill No. 130 (the general appropriation bill) was taken up for consideration."

Senator Shannon offered the following amendment:

In line nineteen strike out "twenty-seven" and insert "thirty-two;" same line, strike out "\$67,500, \$67,500" and insert "\$80,000, \$80,000."

Adopted.

Senator Storey offered the following amendment:

Add line twenty-three, "to purchase law books for supreme court library, \$1000, \$1000."

Adopted.

Senator Houston offered the following:

Line twenty-three, after "twenty-third and twenty-fourth," also "\$3000" insert "\$3500."

Senator Burnett offered the following as a substitute for the amendment of Senator Houston:

Page 7: strike out lines twenty-two and twenty-three and insert "for salaries of district attorneys, \$6000, \$6000."

Adopted, and then adopted as an amendment to the bill.

Senator Storey offered the following amendment:

Page 6, line thirty-one: strike out "\$800, \$800" and insert "\$400, \$400."

Adopted.

Senator Duncan offered the following:

Strike out in line twenty-one, page 7, "\$3500, \$3500" and insert "\$2500, 2500."

Adopted.

Senator Buchanan offered the following:

Add after line nineteen, page 7, "for pay of special district judges, \$3000 \$3000."

Senator Gooch offered the following as a substitute for the pending amendment:

Add line twenty-six between lines twenty-five and twenty-seven, and insert "special district judges, \$6000, \$6000," \$100,000."

Accepted by Senator Buchanan and adopted.

Senator Edwards offered the following amendment:

Lines four and five: add "and in case the district attorneys shall receive annual salaries and no fees, their salaries shall be paid out of this appropriation" and strike out "\$90,000, \$90,000;" and insert "\$100,000, \$100,000."

Adopted.

Senator Storey offered the following:

Strike out "\$750" in line thirty-two and insert "\$500, \$500."

Adopted.

Senator Duncan offered the following:

Amend line twenty, page 6, by striking out "\$1200, \$1200" and inserting "\$1500, \$1500."

Lost by the following vote:

YEAS.		
Brown,	Ford,	Martin,
Davenport,	Guy,	Stewart,
Duncan,	Houston,	Terrell---9.
NAYS.		
Buchanan,	Lane,	Patton,
Burnett,	Lair,	Ripetoe,
Burton,	Ledbetter,	Shannon,
Edwards,	McCormick,	Storey,
Gooch,	McCulloch,	Swain,
Hobby,	Moore,	Tilson---20.
Homan,	Motley,	

Not voting—Grace.

Senator Edwards offered the following amendment:

Strike out line ten, page 7, and insert line ten, "for librarian of supreme court of Tyler, \$300, \$300."

Adopted.

Senator Storey offered the following:

Between lines twelve and thirteen the following: "Postage and contingent expenses, \$750, \$750."

Adopted.

Also the following:

Line eleven, strike out "\$250" and insert "\$300, \$300."

Adopted.

Also the following:

Line twelve, strike out "\$250" where it occurs and insert "\$300, \$300."

Adopted.

Senator Homan offered the following:

Strike out line twenty-seven, page 7.

Lost by the following vote:

YEAS.		
Brown,	Homan,	Shannon,
Burnett,	Lair,	Swain,
Burton,	Motley,	Tilson—10.
Duncan,		
NAYS.		
Buchanan,	Houston,	Moore,
Davenport,	Lane,	Patton,
Edwards,	Ledbetter,	Ripetoe,
Ford,	Martin,	Stewart,
Gooch,	McCormick,	Storey,
Guy,	McCulloch,	Terrell---19.
Hobby,		

Not voting—Grace.

Senator Motley offered the following:

Strike out lines twenty-eight and twenty-nine.

Lost.

Senator Duncan offered the following:

Strike out "\$500, \$500" in line twenty-seven, page 7, and insert "\$1200, \$1200."

Lost.

Senator Terrell offered the following:

For renovating and repairing the small building immediately to the east of the north entrance to the capitol, \$500.

Adopted.

Senator Edwards offered the following:

Add page 2, to state department "for printing material and paper for printing office at Deaf and Dumb Asylum, \$2000, \$150."

Adopted.

Senator Storey offered the following:

"Miscellaneous—For attorneys' fees in the case now pending in the supreme court, styled DeGress vs. Hubbard et. al., employed under joint resolution of the Fourteenth Legislature, and appropriation now lapsed, \$750."

Lost.

Senator Swain offered the following:

Line thirteen, page 8, "for purchasing fish spawn, \$800, \$800."

Adopted.

Senator Motley offered the following:

"Amend by striking out line three, page 8."

Withdrawn.

Senator Homan offered the following as a substitute for pending amendment:

"Strike out from line thirty-one, page 7, to line twelve, page 8 inclusive, except lines three and eight, page 8."

Withdrawn.

Senator Gooch offered the following as a substitute for Senator Motley's amendment:

Strike out, line thirty-two, page 7, "\$1200, \$1200."

Accepted by Senator Motley.

Lost by the following vote:

YEAS.

Burnett,
Burton,
Gooch,
Guy,

Homan,
Motley,
Ripetoe,

Shannon,
Swain,
Tilson—10.

NAYS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Hobby,

Houston,
Lane,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Stewart,
Storey,
Terrell—16.

Not voting—Ford, Grace, Lair, Ledbetter.

Senator Storey offered the following:

Page 3, line fifteen, strike out "\$150, \$150," and insert "\$1500, 1500."

Adopted

Senator Burnett offered the following amendment:

Strike out the words "for porter hire," and the figures set opposite said words wherever they occur in the bill.

Lost by the following vote:

YEAS.		
Brown,	Grace,	Motley,
Burnett,	Homan,	Shannon,
Burton,	Lair,	Swain,
Gooch,	McCulloch,	Tilson—12.
NAYS.		
Duncan,	Lane,	Patton,
Edwards,	Ledbetter,	Stewart,
Guy,	Martin,	Storey,
Hobby,	McCormick,	Terrell—14,
Houston,	Moore,	

Not voting—Buchanan, Davenport, Ford, Ripetoe.

Senator Storey presented a communication from the draughtsmen in the general land office in favor of liberal salaries for their department, and giving strong reasons for their request.

Senator Duncan offered the following:

Amend by adding to department of insurance, statistics and history, "For procuring translations from other languages into English such papers as the commissioner may wish translated for state purpose, \$500, \$500."
Lost.

Senator Storey offered the following:

Strike out "\$13,500," in line twenty-six, page 3, where it occurs, and insert "\$15,200" in lieu thereof.

Lost by the following vote:

YEAS.		
Brown,	Gooch,	Martin,
Davenport,	Houston,	Swain,
Duncan,	Ledbetter,	Terrell—9.
NAYS.		
Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Motley,
Burton,	Lane,	Ripetoe,
Edwards,	Lair,	Stewart,
Grace,	McCormick,	Shannon,
Guy,	McCulloch,	Tilson—18.

Not voting—Ford, Patton, Storey.

Senator Swain offered the following:

Strike out "\$13,500" in line twenty-six, page 3, and insert "\$14,000."
Lost.

Senator Terrell offered the following:

Amend page 3, line twenty-eight, by inserting the following: "\$5600, \$5600, where the figures \$5200 occur in the original printed bill as the salary for four compiling draughtsmen."

Senator Duncan offered the following as a substitute for pending amendment.

Amend line twenty-nine, page 3, by striking out "\$10,000, \$10,000," and insert "\$15,000, \$15,000."

Senator Grace moved the previous question.

Motion seconded and main question ordered.

Senator Duncan's substitute was lost.

Senator Terrell's amendment was lost by the following vote:

YEAS.

Edwards,
Ford,
Houston,

Lane,
Ledbetter,
Martin,

McCulloch,
Storey,
Terrell—9.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,

Gooch,
Grace,
Guy,
Hobby,
Homan,
Lair,

McCormick,
Moore,
Motley,
Ripetoe,
Shannon,
Tilson—18.

Not voting—Patton, Stewart, Swain.

Senator Storey offered the following amendment:

Fill blank in line fifteen with “\$300, \$300.”

Adopted.

Senator Duncan offered the following :

Add to executive department, “for repairing the executive mansion, re-roofing and painting mansion, and for repairing out-buildings and rebuilding fences and painting same, and for furnishing the mansion, \$2500.”

Senator Houston offered the following as an amendment to the amendment pending:

Amend amendment by striking out “\$2500” and inserting “\$3500.”

Accepted by Senator Duncan, and the amendment of Senator Duncan as amended was adopted.

Senator Swain offered the following amendment:

For fiscal years ending 31st August, 1880 and 1881, the entire available school fund annually derived from all sources and one-tenth of the general revenue is hereby set aside annually for the support of the public free schools of this state for the years 1879 and 1880, and a proportionate part thereof to the 31st day of December, 1881.

Senator Homan offered the following:

Strike out the words “one-tenth” and insert “one-fourth.”

Withdrawn.

✓ Senator Patton offered the following as a substitute for the amendment of Senator Swain.

Add on page 8: “The entire available school fund annually derived from all sources, including the poll tax and one-fourth of the general revenue, is hereby set aside annually for the support of the public free schools of this state for the years ending August 31, 1880 and 1881.”

Senator Gooch moved a call of the House.

Call sustained.

Roll called.

Absent—Senator Burton.

On motion of Senator Gooch the call was suspended.

Senator Duncan moved the previous question on bill and pending amendments.

Motion seconded but the Senate refused to order the main question.

Senator Edwards offered the following as an amendment to the pending substitute of Senator Patton:

“That the entire available school fund arising from interest, the annual poll of one dollar for the use of the public free schools, and one-sixth of the ad valorem and occupation tax, after deducting the amount set aside for use of normal schools, is hereby set apart for the use of the public free schools annually until the 31st day of August, 1881.”

Senator Duncan moved the previous question on the pending amendments.

Motion seconded and the main question ordered.

The amendment of Senator Edwards was lost by the following vote:

YEAS.

Brown,
Davenport,
Duncan,
Edwards.

Hobby,
Lane,
Ledbetter.

Martin,
Moore,
Tilson—10.

NAYS.

Buchanan,
Burnett,
Burton,
Ford,
Gooch,
Grace,
Guy.

Homan,
Houston,
Lair,
McCormick,
McCulloch,
Motley,
Patton.

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—20.

The substitute of Senator Patton was adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Ford,
Grace,
Guy.

Homan,
Houston,
Lair,
McCormick,
McCulloch.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon—16.

NAYS.

Brown,
Davenport,
Duncan,
Edwards,
Gooch.

Hobby,
Lane,
Ledbetter,
Martin,
Moore.

Storey,
Swain,
Terrell,
Tilson—14.

The substitute of Senator Patton for the amendment of Senator Swain was then adopted as an amendment to the bill by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace.

Guy,
Hobby,
Homan,
Houston,
Lair,
McCormick.

McCulloch,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon—19.

NAYS.

Brown,
Davenport,
Gooch,
Lane.

Ledbetter,
Martin,
Moore,
Storey.

Swain,
Terrell,
Tilson—11.

Senator Edwards moved to reconsider the vote just taken.

Senator McCormick moved to adjourn until 8 o'clock to-night.

Lost.

Senator Duncan moved to adjourn until 9:30 A. M. to-morrow.

Carried by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Gooch,
Grace.

Guy,
Lane,
Lair,
Ledbetter,
Martin.

Moore,
Patton,
Shannon,
Terrell,
Tilson—15.

	NAYS.	
Brown,	Ford,	McCormick,
Burnett,	Hobby,	McCulloch.
Burton,	Homan,	Ripetoe,
Edwards,	Houston,	Stewart-12.
Not voting—Motley, Storey, Swain.		

FIFTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 14, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Moore, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Lair presented a memorial of many citizens of Denton county, "asking for a more stringent liquor law."

Referred to committee on state affairs.

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No 292, entitled "An act to authorize the construction of a ship channel from Corpus Christi across Mustang Island, and to donate land for the same," have considered the same, and I am instructed to report that the notice required by law has been duly given and that it is the judgment of the committee that the bill should pass.

SHANNON, *Chairman.*

Senator Tilson, chairman of committee on counties and county boundaries, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on county and county boundaries, to whom was referred House bill No. 302, to be entitled "An act legalizing the county lines of Duval county, and if affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties," have had the same under consideration, and I am instructed by a majority of said committee to report the same back to the Senate with the recommendation that it do pass.

TILSON, *Chairman.*

(President *pro tempore* in the chair.)

Senator Swain, from committee on the revision of the code, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the codes have considered Senate bill No. 103, "An act to provide for the organization of the state penitentiaries," together with the House amendments thereto, and have instructed me to report the bill back and recommend that the Senate concur in said amendments.

SWAIN, *for Committee.*

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 291, entitled "An act to amend article 1296 of the Revised Civil Statutes of the State of Texas," and I am instructed by a majority of said committee to report said bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 253, entitled "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' and a majority of the committee are of the opinion that in so far as the Revised Statutes read amending as contemplated by this bill, it is already sufficiently provided for in bills now pending in the Senate," and they instruct me to report this bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 252, entitled "An act to amend chapter 2 of title 15 and chapter 1 of title 16, in the Code of Criminal Procedure, of an act entitled "An act to adopt and establish a penal code and a code of criminal procedure for the State of Texas," and a majority of the committee instruct me to report said bill back to the Senate with the recommendation that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration House bills Nos. 68, 89-95 and 102, and I am instructed by the committee to report said bills back to the Senate and recommend their passage.

STEWART, *Chairman.*

Senator Terrell, chairman of Judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred joint resolution of the Senate, No. 47, authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition by the International and Great Northern railroad company, have considered the same and instruct me to report that they are in possession of a communication from the commissioner of insurance, statistics and history assuring your committee that should the resolution pass he will deliver only duplicate geological specimens, and that after ample bond has been executed to secure their speedy return to his hands. In view of this fact the joint resolution is returned and its passage recommended.

A. W. TERRELL, *for Committee.*

Senator Buchanan introduced a bill entitled "An act to provide for the surrender and dissolution of the charter of the city of Terrell, in Kaufman county, Texas."

Read by caption and referred to judiciary committee No. 1.

Senator Lane introduced a bill, entitled "An act supplemental and amendatory of an act entitled 'an act fixing the times of holding the courts of the twenty-third judicial district,' approved February 12, 1879."

Read by caption and referred to committee on judicial districts.

Senator Lane offered the following resolution:

Resolved, That hereafter, at the morning sessions of the Senate, immediately after the morning call, the roll of Senators shall be called in regular order as they now stand upon the roll, and each senator, as his name is called, shall have ten minutes to call up any bill or bills he may desire, and at each succeeding session the secretary shall begin the call where he left off at the session preceding.

Senator Homan offered the following amendment to the pending resolution.

Amend by striking out "as they stand on the roll," and insert "alphabetically."

Withdrawn.

Senator McCulloch called up his resolution to adjourn on the thirty-first instant.

Senator Gooch moved to postpone the consideration of the resolution and substitutes until Wednesday next, the nineteenth instant.

Carried by the following vote:

YEAS.		
Burnett,	Houston,	Motley,
Edwards,	Lane,	Patton,
Ford,	Ledbetter,	Stewart,
Gooch,	Martin,	Shannon,
Grace,	McCormick,	Terrell—16.
Hobby,		

NAYS.		
Brown,	Guy,	Ripetoe,
Buchanan,	Homan,	Storey,
Burton,	Lair,	Swain,
Davenport,	McCulloch,	Tilson—14.
Duncan,	Moore.	

Senator Brown offered the following resolution:

Resolved, 1. That it is the duty of this Legislature to continue in session until all important business is disposed of, at the lowest adequate compensation.

Resolved, 2. That, whereas, the constitution limits the per diem after sixty days to two dollars, it is, therefore, to be regarded by this Legislature as just compensation for time and service devoted to the state by the members thereof.

Resolved, 3. That, in fixing the per diem during the first sixty days of the session at five dollars, the Sixteenth Legislature, though authorized by the letter of a constitutional provision, has appropriated to its members an amount in excess of the constitutional estimate of just and adequate compensation, therefore,

Resolved, 4. That it is the sense of this Senate that the senators and representatives of this Legislature should return to the state treasury the excess over two dollars per diem which they have severally received for the first sixty days of the session.

Senator Storey moved to lay the resolutions of Senator Brown on the table.

Carried by the following vote:

YEAS.		
Buchanan,	Homan,	Moore,
Burnett,	Lair,	Motley,
Davenport,	Ledbetter,	Ripetoe,
Ford,	Martin,	Storey,
Hobby,	McCulloch,	Tilson—15.

NAYS.

Brown,
Burton,
Duncan,
Edwards,
Gooch,

Grace,
Guy,
Lane,
McCormick,
Patton,

Stewart,
Shannon,
Swain,
Terrell--14.

Not voting—Houston.

Senator Terrell presented the following protest against an immediate adjournment:

Whereas, the important questions of taxation which can alone originate in the House of Representatives, have not yet been solved by that body, the Senate will not concur in any resolution to adjourn until it can adopt measures of reform which will enable the state government to be administered for the next two years within the revenues. TERRELL.

House bill No. 276, entitled "An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide for the payment of the interest and principal of the same," was taken up and referred to committee on finance.

(Senator Burnett in the chair.)

A message was received from his excellency the governor.

The unfinished business being substitute for Senate bill No. 130 (the general appropriation bill), was taken up.

The pending motion of Senator Edwards to reconsider the vote by which the substitute of Senator Patton was adopted on yesterday, was then considered.

(President in the chair.)

On motion of Senator McCulloch, the Senate adjourned until 8 o'clock P. M.

AFTERNOON SESSION.

President in the chair. Roll call; quorum not present.

On motion of Senator Martin, Senator Houston was excused for the evening.

A quorum appearing the Senate proceeded to business.

Senator Duncan moved to postpone the order of business as adopted by resolution until the appropriation bill is disposed of.

Lost.

The name of Senator Brown was called when he called up Senate bill No. 46, entitled "An act to provide for the election of a district attorney in certain judicial districts of the State of Texas" for consideration. (The bill was on its second reading.)

Senator Guy offered the following amendment:

Amend by striking out the word "eleventh" in line three, section 1.

Adopted.

Senator Terrell offered the following amendment.

"Amend by striking out the sixteenth judicial district."

Adopted.

Senator Stewart offered the following:

"Amend by striking out the twenty-first judicial district."

Adopted.

Senator Shannon offered the following:

Strike out "tenth" in line three.

Adopted.

Senator Motley offered the following:

"Strike out the second judicial district."

Adopted.

Senator Burton offered the following:

"Amend by striking out the eighteenth judicial district."

Lost by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Ford,

Grace,
Guy,
Ledbetter,
Martin,

Moore,
Ripetoe,
Stewart,
Shannon---12.

NAYS.

Brown,
Buchanan,
Duncan,
Edwards,
Gooch,

Hobby,
Homan,
Lane,
Lair,
McCormick,

McCulloch,
Motley,
Storey,
Swain---14.

Not voting—Patton, Terrell, Tilson.

Also the following:

"Amend by exempting the counties of Waller, Fort Bend and Wharton from the operation of this act."

Lost.

Senator Lair offered the following:

"Strike out the judicial district composed of the counties of Collin and Grayson."

Adopted.

Senator Swain offered the following:

"Amend by striking out the sixth judicial district."

Adopted.

Senator Ledbetter offered the following:

"Amend by striking out the fifteenth district."

Adopted.

Senator Patton offered the following:

"Amend by striking out the nineteenth judicial district."

Adopted.

Senator Martin offered the following:

"Amend by striking out the thirteenth judicial district."

Adopted.

Senator Buchanan offered the following:

"Amend by striking out the county of Kaufman."

Lost.

Senator Edwards (by request) moved to reconsider the vote by which Senator Burton's amendment to exempt the counties of Waller, Fort Bend and Wharton was lost.

Lost by the following vote:

Burnett,
Burton
Davenport,
Ford,

Guy,
Homan,
Ledbetter,
Martin,

Motley,
Ripetoe.
Shannon,
Swain—12

NAYS.

Brown,
Buchanan,

Duncan,
Edwards,

Gooch,
Hobby,

Lane,
Lair,
McCormick,

McCulloch,
Moore,
Stewart,

Storey,
Tilson--14.

Not voting—Grace, Patton, Terrell.

Senator Edwards offered the following as a substitute for section 1 of the bill:

Amend section 1 to read:

“SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That a district attorney shall be elected in each judicial district in this state in which there is not now a district attorney in office, who shall perform all the duties required by law of those officers.”

Lost by the following vote:

Duncan,

YEAS.

Edwards--2.

NAYS.

Brown,
Burnett,
Davenport,
Ford,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--24.

Not voting—Buchanan, Burton, Terrell.

Senator Burton offered the following:

Amend by striking out the “enacting clause.”

Lost, and bill ordered engrossed.

Senator Burnett moved to suspend the rules and place the bill upon its third reading.

Carried by the following vote:

Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

YEAS.

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--25.

Brown,

NAYS.

Buchanan--2.

Not voting—Patton, Swain.

Bill read third time and passed by the following vote:

Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

YEAS.

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--24.

NAYS.

Burton,

Ripetoe--4.

Brown,
Buchanan,
Not voting—Patton.

A message was received from the House announcing the passage by that body of House bill No. 394, entitled "An act to repeal chapters 1, 2 and 3 of title 64 of the Civil Code, adopted February 21, 1879."

The said bill was then taken up and referred to committee on military affairs.

On motion of Senator Swain, Senator Hobby was excused for four days from to-morrow.

The hour devoted to bills by roll call having expired, Senator Grace moved to suspend the rules and take up House bill No. 138, entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands, in accordance with the original subdivisions made under the act approved August 30, 1856."

Carried, and the bill taken up, read third time and passed.

On motion of Senator Gooch, the rules were suspended and House bill No. 95, entitled "An act to amend 'an act regulating elections,' approved August 23, 1876," was taken up and read first time.

On motion of Senator Duncan, the rules were suspended and Senate bill No. 196, entitled "An act to regulate the practice of medicine, surgery and pharmacy, and to repeal an act to be entitled 'an act to regulate the practice of medicine, approved August 31, 1876,' and all other laws in conflict herewith," was taken up and read second time.

Senator Duncan offered the following amendment:

Amend line five, page 4, by inserting after the words "chartered institution" these words: "of medicine, surgery or pharmacy, or the certificate herein provided for."

Senator Motley moved the indefinite postponement of the bill and amendments.

Senator Storey moved the postponement of the bill and pending amendments until to-morrow evening.

Carried.

On motion of Senator Swain, Senate bill No. 103, entitled "An act to organize the State penitentiaries and to regulate the management of convicts therein," was taken up and House amendments concurred in.

Senator Terrell, chairman of judiciary committee No. 1, have submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence, and to carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,' approved August 15, 1879," have considered the same, and instruct me to report the same back and recommend its passage.

TERRELL, *Chairman.*

On motion of Senator Terrell the bill just reported was taken up and read first time.

On motion of Senator Grace 50 copies of the bill were ordered printed.

On motion of Senator Grace, the rules were suspended and Senate bill No. 209, entitled "An act for the relief of Joseph Fenner," was taken up, read second time and ordered engrossed.

Senator Storey, chairman of the conference committee on House bill No. 132 (requiring parties to pay for patents at land office, etc.), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The undersigned conference committee, to whom was referred the differences between the Senate and House upon Senate amendments to House bill No. 132, entitled "An act to require persons and corporations to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to so pay said fees, to provide the manner and means of enforcing the provisions thereof," have had the same under consideration, and recommend that the Senate recede from the first amendment upon which the two houses had disagreed, and that the House agree to the second amendment upon which there was a disagreement.

L. J. STOREY,
A. W. TERRELL,
CHAS. STEWART,
Senate Committee.

W. S. COLEMAN,
J. B. POLLEY,
On the part of the House.

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration House bill No. 280, entitled "An act for the relief of the heirs of Alexander S. Green, deceased, late of Brazoria county, State of Texas; and Matthew Dockery, now a citizen of Lavaca county, State of Texas," and a majority of the committee instruct me to report the bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Senator Shannon, chairman of the committee on judicial districts (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts to whom was referred Senate bill entitled "An act amendatory of an act entitled 'an act to fix the times of holding the courts in the twenty-third judicial district,' approved February 12, 1879," have considered the same, and have instructed me to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator McCormick (by leave) introduced a bill, entitled "An act to amend an act entitled 'an act to incorporate the Texas Banking and Insurance company,' approved July 1, 1876."

Read by caption and referred to judiciary committee No. 1.

The following messages, received from his excellency the governor this morning, were taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 14, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public, from counties of the seventeenth senatorial district:

W. W. King, I. N. Dennis, Edward Hawes, William Lipscomb, Wharton county.

J. Boone, R. H. Boxley, J. T. Griffin, B. F. Elliott, Henry P. Dow-

man, R. Morris, Henry L. Rankin, W. Thomas Andress, T. S. Reese, Waller county.

R. J. Colder, J. M. Weston, W. C. Sims, W. P. Quigg, W. W. McMahon, W. L. Davidson, G. D. Parker, J. T. Fen, N. B. Dunlevy, G. K. Cessna, Fort Bend county.

Respectfully, O. N. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 14, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public:

- James C. Loving, Jack county.
 B. C. Rhome, T. James, Smith county.
 James M. Shaw, Grimes county.
 W. J. Gibbs, J. R. Harwell, Limestone county.
 Gus Garrison, Hopkins county.
 G. T. Ross, Austin county.
 J. Q. A. Capps, John E. Reagan, Anderson county.
 A. Howard, Harrison county.
 W. H. Miller, Haywood Harris, George H. Gould, Rusk county.
 Mart Jones, Navarro county.
 J. F. Storey, F. B. Looney, Freestone county.
 W. E. Duncan, Cass county.
 Sam Pounds, Morris county.
 B. I. Arnold, Milam county.
 W. R. Murray, Joseph L. Harris, Panola county.
 J. L. Hawkins, Hill county.
 Edward Braden, R. O. Robinson, Kinney county.
 C. F. Whitney, Duval county.
 K. B. Seale, Jasper county.
 R. H. Smith, A. W. Canfield, Robert Myers, Joseph Bunn, W. J. Wingate, Orange county.
 W. H. Mershon, Wise county.
 D. L. Jagers, William Manuel, C. T. Hill, A. W. Harrell, L. H. McGowan, San Jacinto county.
 P. S. Watts, Hardin county.
 Geo. W. O'Brien, Jefferson county.
 A. R. Barry, Bosque county.
 J. W. Messenger, Hood county.
 James Armstrong, John H. Jackson, Charles Wilcox, Chambers county.
 A. S. Russell, Milam county.
 Thomas H. Hall, Smith county.
 Stephen P. West, W. R. Lee, O. J. Delano, John H. Mayo, Patrick Haynes, N. B. Charlton, R. M. Shivers, Tyler county.
 A. R. Moores, Bowie county.
 J. C. Son, Palo Pinto county.
 William Veal, Stephens county.
 A. A. Burck, Burleson county.
 Thomas H. Brown, Limestone county.
 J. A. Templeton, Cherokee county.
 E. M. Goss, Kaufman county.
 W. E. Jones, H. L. Kinser, Hunt county.

W. H. Fears, Ellis county.
 B. F. Maddox, Grayson county.
 James Armstrong, Chambers county.
 A. B. Persans, Grayson county.
 Carey Shaw, Colorado county.

Respectfully,

O. M. ROBERTS, *Governor.*

Senator Burton moved that the Senate go into executive session to consider the nominations contained in the messages of his excellency the Governor on to-morrow morning just after the morning call.

Carried.

On motion of Senator Storey, the rules were suspended, and Senate bill No. 155, entitled "An act to provide for the assessment and collection of certain back school taxes due from railway corporations," was taken up, read first time, and fifty copies ordered printed.

House bill No. 280, entitled "An act for the relief of the heirs of A. S. Green (deceased), late of Brazoria county, State of Texas, and Matthew Dockrey, now a citizen of Lavaca county, State of Texas, was taken up and read first time.

Senator Ford entered a motion to reconsider the vote by which Senate bill No. 46 (the district attorney bill) was passed.

On motion of Senator Duncan, the Senate adjourned until 9.30 A. M. to-morrow.

FIFTY-THIRD DAY.

SENATE CHAMBER,
 AUSTIN, TEXAS, March 15, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Guy presented a petition from many citizens of Johnson county "asking for amendments to the local option law."

Read and referred to judiciary committee No. 2.

Senator Lane presented a petition from many citizens of Karnes county, "asking amendments to the local option law."

Read and referred to judiciary committee No. 2.

Senator Shannon, chairman of the committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 298, entitled "An act granting an extension of time to the Rockport, Fulton and Laredo railroad company for the construction of its road," have considered the same, and I am instructed to report that the law requiring publication in such cases to be made, has been complied with, and it is the opinion of the committee that the relief asked for should be granted.

SHANNON, *Chairman.*

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 276,

entitled "An act to authorize counties to take up their outstanding bonds, and to issue others in lieu thereof, and to provide for the payment of the interest and principal of the same," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass. **STOREY, Chairman.**

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 294, entitled "An act to amend section 16 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes and to regulate their compensation,'" have carefully considered the same, and I am instructed by a majority of the committee present to report the bill back to the Senate, with the recommendation that it do not pass. **STOREY, Chairman.**

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 305, entitled "An act to amend an act entitled 'an act to incorporate the Texas Banking and Insurance Company, approved July 1, 1870,'" have considered the same, and instruct me to report as follows: The object of the bill is to change the name of the company. Being a special act it is not believed that the object contemplated can thus be accomplished under the prohibition contained in article 3 section 56 of the constitution. The object desired by the bill can, in the opinion of your committee, be attained without legislative aid, under the provisions of the act of April 23, 1874 (general laws, page 122). I am, for the reasons above set forth, instructed to recommend that the bill do not pass. **TERRELL, for Committee.**

Senator McCormick introduced a joint resolution "Asking leave of absence from the state for one month for William H. Burk, judge of the eighteenth judicial district of the state."

Referred to the committee on state affairs.

The president, after publicly reading its caption, signed House bill No. 67, entitled "An act to amend an act defining what money and property are subject to taxation, and the mode of listing the same."

On motion of Senator Motley, the rules were suspended and Senate joint resolution No. 67, "Authorizing the comptroller of the state to purchase maps," was taken up and read first time.

The rules were suspended and resolution placed on its second reading by the following vote:

YEAS.		
Brown,	Houston,	Motley,
Buchanan,	Lane,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Davenport,	Martin,	Storey,
Gooch,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—23.
Homan,	Moore,	

NAYS.

Duncan,	Patton—2.
Not voting—Edwards, Ford, Grace, Swain.	

Resolution read second time.

Senator Duncan offered the following amendment:

"Amend by striking out all relating to purchase and distribution of small maps."

Adopted.

On motion of Senator Duncan, the resolution was indefinitely postponed.

On motion of Senator Tilson, the Senate went into executive session.

IN SENATE.—Senator Burnett moved to place upon the journals the confirmations of the Senate just made in executive session.

In obedience thereto, it is stated, the Senate did advise and consent to the appointment of notaries public, made by his excellency the governor, by communications dated March 14, for the counties composing the seventeenth senatorial district, and for the counties of Jack, Smith, Grimes, Limestone, Hopkins, Austin, Anderson, Harrison, Navarro, Freestone, Cass, Morris, Milam, Panola, Hill, Kinney, Duval, Jasper, Orange, Wise, San Jacinto, Hardin, Jefferson, Bosque, Hood, Chambers, Tyler, Bowie, Palo Pinto, Stephens, Kaufman, Hunt, Ellis, Grayson, Colorado; and of Haywood, Harris and George H. Gould, to be notaries public in Rusk county; and, also, to the appointment of C. C. Heath and John Anderson, to be pilot commissioners for Aransas Pass, in place of Jack Sands, deceased, and W. N. Heath, removed.

The unfinished business, being Senate bill No. 130 (the general appropriation bill), was taken up, with the motion of Senator Edwards to reconsider the vote by which the amendment of Senator Patton was adopted pending.

Senator Martin moved a call of the Senate.

Call sustained.

Roll called.

Absent—Senator Grace, who was absent on committee duty.

Senator Grace appearing, the call was suspended.

The motion to reconsider was then voted on, with the following result:

YEAS.

Brown,
Duncan,
Edwards,
Gooch,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
Moore.

Storey,
Swain,
Terrell,
Tilson—14.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Ford,

Grace,
Guy,
McCormick,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon—14.

There being a tie vote, the president voted in the negative and declared the motion to reconsider lost.

Senator Homan stated that he was paired with Senator Hobby, who was absent, and could not vote on this question; that he would vote no on the question and Senator Hobby would vote aye.

On the vote to reconsider, Senator Terrell asked leave to spread on the journal the following as his reasons for voting yea:

On voting to reconsider the vote heretofore taken, by which the Senate determined to appropriate one-fourth of the general revenue for free school purposes, Senator Terrell said:

I vote yea, and desire the following reasons therefor to be spread on the journals:

1. Because we cannot so reduce the necessary expenses of the state government as to enable us to give one-fourth of the general revenue to free schools, without increasing still more the state debt and issuing more bonds for current expenses.

2. Because, while I will vote to free schools every dollar that we can spare without going in debt, I will not vote one dollar which will create a new debt to be met by taxation.

3. Because Texas is per capita the poorest state or territory in the union except Utah, and in giving one-fourth of all her revenue for free schools, she would contribute more to that purpose in proportion to her per capita wealth, when we add the interest on the permanent school fund, than any state in the union. This I do not think we are required to do, in the midst of hard times and general distress.

4. Because unless we check this tendency to create debt for a sentiment, we will bankrupt the state.

A. W. TERRELL.

Senator Storey offered the following amendment:

"For salary of the secretary of the board of education, \$1500, \$1500, to be appropriated out of the available school fund."

Adopted.

Senator McCormick offered the following amendment:

In the provision making appropriation for public schools, after the words "public free schools" insert the words "normal schools."

Senator Storey moved to lay the amendment on the table.

Lost by the following vote:

YEAS.

Buchanan,
Davenport,
Gooch,
Grace,

Houston,
Lair,
Patton,

Shannon,
Storey,
Terrell--10.

NAYS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Guy,

Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Homan,

Moore,
Motley,
Ripetoe,
Stewart,
Swain,
Tilson--18.

Not voting--Ford, Swain.

The amendment of Senator McCormick was then adopted by the following vote.

YEAS.

Brown,
Burnett,
Burton,
Edwards,
Guy,

Homan,
Lane,
Ledbetter,
McCormick,
Moore.

Motley,
Ripetoe,
Stewart,
Swain,
Tilson--15.

NAYS.

Davenport,
Duncan,
Gooch,
Grace,

Houston,
Lair,
Martin,
McCulloch,

Patton,
Shannon,
Storey--11.

Not voting--Buchanan, Ford, Terrell.

Senator Edwards offered the following:

On page 4, strike out line thirty-one and amend lines twenty-seven and

twenty-eight to read: "Repairs of building \$800, \$800; miscellaneous purposes, \$800, \$800."

Adopted.

Also, the following:

Page 2, amend lines twenty-two and twenty-three to read: "For porter and messenger hire treasurer's and comptroller's departments, \$480, \$480."

Adopted.

Also, the following:

Strike out "one-fourth," and insert "one-sixth" wherever it occurs in the appropriation for public free school.

Senator Homan moved to lay the amendment on the table.

Senator Shannon moved a call of the Senate.

Call sustained.

Roll called and the Senate was full.

The motion of Senator Homan to lay the pending amendment on the table was lost by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Grace,

Guy,
Homan,
McCormick,
McCulloch,

Patton,
Ripetoe,
Stewart,
Shannon—13.

NAYS.

Brown,
Duncan,
Edwards,
Ford,
Gooch,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
Moore,

Motley,
Storey,
Swain,
Terrell,
Tilson—16.

Senator Storey offered the following amendment as a substitute for the pending amendment of Senator Edwards:

Strike out "one-fourth" and insert "one-sixth" for first year, and "one-fifth" for second year.

(Senator Houston in the chair.)

A message was received from his excellency the governor:

(The president in the chair.)

Senator Storey (by leave), presented a petition from the citizens of McCulloch county, in the form of resolutions adopted at a public meeting held in said county on the fourth instant, condemning the action of the Legislature in attaching Williamson county to their judicial district, and asking for the creation of a new judicial district, to be composed of the counties of San Saba, McCulloch, Concho, Tom Green, Menard, Kimble, Mason, Llano, Gillespie and Blanco, and that Williamson, Lampasas and Burnett counties be left out of their district, giving several reasons for their action.

Referred to committee on judicial districts.

(Senator Gooch in the chair.)

Senator Burnett introduced a bill to be entitled "An act for the relief of James Harding."

Read by caption and referred to committee on claims and accounts.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Say vs, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 46, entitled "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas;" Senate bill No. 209, entitled, "An act for the relief of Joseph Fenner," and find them correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Homan, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

President in the chair. Roll called; quorum present.

Senator Grace moved to postpone all other business and take up substitute for Senate bill No. 130, the general appropriation bill.

Carried and the bill taken up, with the substitute of Senator Storey for the amendment of Senator Edwards pending.

(Senator Guy in the chair.)

(President in the chair.)

The president, after publicly reading its caption, signed House bill No. 138, entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act," approved August 30, 1856.

Senator Grace moved the previous question upon the pending amendment and substitute.

Senator Martin moved a call of the House.

Call sustained; roll called.

Absent—Edwards, Lane, Terrell.

Under the rule established by resolution requiring the roll of senators to be called in calling up bills, etc., the name of Senator Buchanan was called, when he called up Senate bill No. 243, entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" which was taken up and read first time.

Senator Burton was called next, when he called up Senate joint resolution No. 99, "giving consent of the state for certain late lessees of the penitentiary to sue the state," which was taken up and read second time.

Senator Burnett offered the following amendment:

Amend by adding the following section:

"Section 2. The fact that the next term of the district court of Travis county will convene within three months, and the fact that this session of the legislature is drawing to a close with a large number of bills of a public nature pending, creates an emergency and imperative public necessity for the immediate taking effect of this resolution, and a suspension of the rule requiring bills and joint resolutions to be read on three several days; *and it is therefore resolved*, that said rule be suspended and that this joint resolution be in force from its passage."

Adopted.

Resolution ordered engrossed by the following vote:

YEAS.

Brown,
Burnett,
Burton,

Duncan,
Ford,
Grace,

Guy,
Homan,
Lair,

Ledbetter,
Martin,
McCormick,

McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon---18.

NAYS.

Buchanan,
Davenport,
Edwards,
Gooch,

Houston,
Moore,
Storey,

Swain,
Terrell,
Tilson--10.

Not voting—Lane.

Senator Burnett moved to suspend the rules and place the resolution on its third reading.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Grace,

Guy,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon
Tilson--23.

NAYS.

Buchanan,
Gooch,

Storey,
Swain,

Terrell--5.

Not voting—Lane.

Resolution was read third time.

Senator Burnett offered the following amendment :

“Joint resolution authorizing Natham Patton, one of the late lessees of the state penitentiary, to sue the state.”

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,

Guy,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon--21.

NAYS.

Buchanan,
Davenport,
Gooch,

Storey,
Swain,

Terrell,
Tilson--7.

Not voting—Lane.

The resolution was then passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Ford,
Grace,
Guy,

Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Tilson--20.

NAYS.

Buchanan,
Davenport,
Edwards,
Not voting—Lane.

Gooch,
Houston,
Storey,

Swain,
Terrell--8.

Senator Houston, chairman of the committee on state affairs (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred Senate joint resolution relating to medals for Texas veterans, have had the same under consideration, have adopted a substitute for the same, and I am instructed by the committee to report the substitute to the Senate and recommend that it do pass.

Houston, *Chairman.*

The substitute was taken up and read first time.

The absent senators appearing, the call was suspended and the consideration of substitute for Senate bill No. 130, (the general appropriation bill), with pending amendments, was resumed.

The previous question, which had been moved, was seconded and main question ordered by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Grace,
Guy,
Homan,

Houston,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—21.

NAYS.

Brown,
Duncan,
Edwards,

Gooch,
Lane,

Martin,
Terrell—7.

Not voting—Ford.

Senator Edwards having accepted the substitute of Senator Storey, the said substitute was voted on and lost by the following vote:

YEAS.

Brown,
Duncan,
Edwards,
Gooch,
Lane,

Lair,
Ledbetter,
Martin,
Moore,

Storey,
Swain,
Terrell,
Tilson—13.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Ford,

Grace,
Guy,
Houston,
McCormick,
McCulloch,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon—15.

Senator Homan stated he was paired with Senator Hobby, who was absent; that he would vote "no" and Senator Hobby would vote "aye."

The bill was then ordered engrossed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Ford,
Grace,
Guy,

Homan,
Houston,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon—19.

NAYS.

Brown,
Duncan,
Edwards,
Gooch,

Lane,
Martin,
Storey,

Swain,
Terrell,
Tilson—10.

Senator Gooch presented the following as his reasons for voting no on the engrossment of this bill:

For the reason that I regard many of the appropriations made as extravagant, and that annual deficiencies will be created unless the rate of taxation is increased, each of which results can be and should be avoided, I vote no.

JNO. YOUNG GOOCH.

Senator Homan moved to reconsider the vote just taken, and to lay the motion on the table.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Ford,
Grace,

Guy,
Homan,
Houston,
McCormick,
McCulloch,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon—16.

NAYS.

Brown,
Duncan,
Edwards,
Gooch,
Lane,

Lair,
Ledbetter,
Martin,
Moore,

Storey,
Swain,
Terrell,
Tilson—18.

On motion of Senator Burnett, (next on the roll), Senate joint resolution No. 220, "Proposing amendments to article 16 of the constitution of the state by adding thereto section 58," was taken up and read first time.

On motion of Senator Davenport, Senate bill No. 53, entitled "An act for the relief of the heirs of Silas Dunsmore, deceased," was taken up and read first time.

On motion of Senator Duncan, Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases," was taken up, read a second time and ordered engrossed.

(Senator Storey in the chair.)

On motion of Senator Duncan, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson—26.

NAYS—none.

Not voting—Moore, Stewart, Terrell.

Bill read third time.

Senator Duncan offered the following amendment:

"SECTION That as the session is drawing to a close, and there is no law now authorizing the transcribing county records, therefore a public imperative necessity and emergency exists that the rules be suspended which requires this bill to be read on three several days that it may become a law at this session."

Adopted and bill passed.

On motion of Senator Gooch, substitute for House bill No. 342, entitled, "An act to provide for the building, making and completion of such works and improvements at the East Texas penitentiary at Rusk as may be necessary and proper to put the same into operation, and to make an appropriation to carry out the provisions of this act," was taken up and read first time.

On motion of Senator Gooch, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,	Grace,	McCormick,
Buchanan,	Guy,	McCulloch,
Burnett,	Homan,	Moore,
Burton,	Houston,	Motley,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Tilson—25.
Gooch,		

NAYS—Terrell.

Not voting—Patton, Stewart, Shannon.

Bill read second time.

On motion of Senator Swain, the amendments of the committee were adopted.

Senator Swain offered the following amendment:

Add to section 3: "That if a contract is made, the governor shall appoint an inspector of work, who shall inspect the work to be done and see that it is in accordance with the contract. He shall receive five dollars per day while engaged in the performance of his duties."

Withdrawn.

Senator Terrell offered the following amendment:

"The governor shall appoint a supervising architect to protect the interest of the state in the construction of the work contemplated by this act, whose duty it shall be to observe the progress of the work and see that it is in compliance with the contract and specifications. He shall stop the work when it is being done in violation of the contract, and shall report once in each month to the governor concerning the progress and character of the work. He shall be allowed during its progress a salary of five dollars per day."

Adopted and bill passed to its third reading.

Senator Gooch moved to further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,	Guy,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson—27.

NAYS—none.

Not voting—Burton, Stewart.

Bill read third time and passed by the following vote:

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace.

YEAS.
Guy,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore.
NAYS—Houston.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

Not voting—Burton.

Senator Ford called up under the rules Senate bill No. 270, entitled "An act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge railroad company," which was taken up and read first time.

Senator Houston moved to suspend the rules to place the bill on its second reading.

Carried by the following vote:

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace.

YEAS.
Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore.
NAYS—none.

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain—26.

Not voting—Davenport, Terrell, Tilson.

Bill read second time and ordered engrossed.

On motion of Senator Houston, the rules were further suspended and bill placed on its third reading by the following vote:

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace.

YEAS.
Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore.
NAYS—none.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

Bill read third time and passed by the following vote:

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace.

YEAS.
Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore.
NAYS—Terrell.

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—27.

Not voting—Davenport.

A message was received from the House announcing the passage by that body of Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of the Grand Lodge of Texas."

On motion of Senator Lane, the rules were suspended and Senate bill No. 90, entitled "An act to suppress lawlessness and crime, and to organize a force for that purpose," was taken up and read second time.

Senator Stewart moved to adjourn until 7:30 P. M.

Lost by the following vote :

YEAS.		
Burnett,	Grace,	McCormick,
Duncan,	Homan,	Stewart,
Edwards,	Lane,	Swain—11.
Gooch,	Martin,	
NAYS.		
Brown,	Lair,	Ripetoe,
Buchanan,	Ledbetter,	Shannon,
Burton,	McCulloch,	Storey,
Ford,	Moore,	Terrell,
Guy,	Motley,	Tilson—17.
Houston,	Patton,	

Not voting—Davenport.

Senator Lane offered the following amendment:

Amend by striking out section 4 and inserting the following therefor: "Section 4. The members of said company shall be allowed the following pay, to wit: The captain, \$125 per month; the first lieutenant, \$100 per month; the sergeants, corporals and privates, \$30 each per month. The payments shall be made at such time and in such manner as the adjutant general of the state may prescribe."

Senator Duncan moved to adjourn until 8 o'clock to-night.

Lost.

Senator Lane's amendment was then adopted.

The following messages were received from his excellency the governor:

To the honorable Senate of the State of Texas :

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of pilot commissioners for the port of Galveston: Charles C. Sweeney, Charles Fowler, Anderson Munn, Leon Blum, J. N. Sawyer. Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 15, 1879. }

To the honorable Senate of the State of Texas :

GENTLEMEN—I respectfully submit that the name of S. S. Hanscomb, as sent into and confirmed by the Senate as notary public of Galveston county, is not spelled correctly. It should have been spelled S. S. Hanscom. I respectfully ask that the requisite correction be made.

Respectfully, O. M. ROBERTS, *Governor.*

Senator Duncan moved to adjourn until 9:30 A. M. Monday.

Carried by the following vote:

YEAS.		
Brown,	Lair,	Motley,
Buchanan,	Ledbetter,	Patton,
Burnett,	Martin,	Ripetoe,
Burton,	McCulloch,	Shannon,
Grace,	Moore,	Swain--16.
Guy,		
NAYS.		
Duncan,	Houston,	Storey.
Edwards,	Lane,	Terrell,
Gooch,	McCormick,	Tilson--11.
Homan,	Stewart,	
Not voting--Davenport,	Ford.	

FIFTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 17, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Gooch the reading of the journals of Saturday was dispensed with and same adopted.

Senator Davenport presented a petition from numerous settlers on the school lands, "asking that the interest which they pay the state be reduced from ten to six per cent., showing that interest since this rate was established between the settlers and the state has been greatly reduced everywhere, and expressing the hope that the state will reduce the rate of interest as they request."

Referred to the committee on finance.

Senator Storey presented a petition from the county court and many citizens of McCulloch county asking that the sale of certain donated lots by commissioners appointed by the county court of said county for that purpose be legalized in consequence of the sale by mistake not conforming to the law.

Referred to judiciary committee No. 1.

Senator Terrell, chairman of the judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered memorial No. 35, a memorial of citizens of Kaufman county protesting against diminishing the jurisdiction of county courts, and asking that the jurisdiction of the county court of Kaufman county be increased in connection with Senate bill No. 144, "An act to increase the civil and criminal jurisdiction of the county courts of the counties of Hunt, Kaufman, Denton and Collin," and instruct me to report them back, and that as the thirty days notice required by the constitution in case of local bills has not been given recommend the bill do not pass.

TERRELL, *Chairman.*

Senator Storey, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 280, to be entitled "An act to provide for the payment of officers'

costs in certain criminal cases out of the money collected on the forfeited appearance bonds, bail bonds and recognizances," have considered the same, and instruct me to report it back and recommend its passage.

STOREY, *for Committee.*

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance, to whom was referred House bill No. 327, entitled "An act to better secure the collection of taxes," have carefully considered the same, and I am instructed by the committee to report the bill, with the accompanying amendments, back to the Senate, and as amended to recommend that it pass.

STOREY, *Chairman.*

In section 1, line two, insert after the word "all," the words "real and."

In same section, line five, insert after the word "estate," the words "personal property."

In same section, line six, strike out the word "first."

In line six, insert after the word "on," the word "any."

In same line, insert after the word "personal," the words "on real."

In line seven, strike out the word "if."

Senator Buchanan, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, have considered Senate bill No. 303, to be entitled "An act to provide for the surrender and dissolution of the charter of the city of Terrell, in Kaufman county, Texas," and instruct me to report it back with the recommendation that the bill do pass.

BUCHANAN, *for Committee.*

Senator Storey introduced a bill entitled "An act to validate the sale of certain town lots and county lands, situated in the county of McCulloch."

Read by caption and referred to judiciary committee No. 1.

Senator Terrell (by leave) submitted the following report as chairman of judiciary committee No. 1:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 308, to be entitled "An act to validate the sale of certain town lots and county lands situated in the county of McCulloch," and instruct me to report it back and recommend its passage.

TERRELL, *Chairman.*

The resolution of Senator Lane, offered on Saturday, with regard to the order of calling up bills, etc., was taken up for consideration when it was withdrawn by the mover.

The special order being Senate bill No. 62, the tramp bill, was then then up.

On motion of Senator Storey, the rules were suspended ten minutes and Senate bill No. 308, entitled "An act to validate the sale of certain lots and county lands, situated in the county of McCulloch," was taken up and read first time.

Senator Storey moved that the rules be suspended and bill placed on its second reading.

Carried by the following vote :

YEAS.

Brown,	Homan,	Patton,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Storey,
Duncan,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell,
Grace,	Moore,	Tilson—26.
Guy,	Motley,	

NAYS—none.

Not voting—Edwards, Ford, Martin.

Bill read second time and ordered engrossed.

On motion of Senator Storey the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Gooch,	McCormick,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—27.

NAYS—none.

Not voting—Davenport, Ford.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Gooch,	McCormick,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—27.

YEAS—none.

Not voting—Davenport, Ford.

On motion of Senator Homan, Senator Ford was excused for five days.

On motion of Senator Patton, Senator Terrell was excused for the day.

On motion of Senator Lane, Senate bill No. 90, entitled "An act to suppress lawlessness and crime and to organize a force for that purpose," was taken up.

Senator Lane offered the following amendment:

Amend by striking out section 1 and insert therefor as follows:

"Section 1. That the governor is hereby authorized and required to immediately organize a company of twenty-five men, rank and file, to wit: Twenty-one privates, two sergeants, two corporals, and in addition thereto there shall be one captain and one first lieutenant; and in the aggregate said company shall consist of twenty-seven men, officers, non-commissioned officers and privates."

Senator Gooch offered the following as an amendment to the pending amendment:

Strike out the word "required."

Accepted by Senator Lane, and as amended adopted.

Senator Gooch offered the following amendment:

Amend by adding to the preamble after the word "whereas," where it first appears, insert "it is credibly reported."

Adopted.

Also the following:

Amend section 2, where it refers to the time of enlistment, after the words "12 months or longer," add "or shorter," and "may be disbanded when they are no longer needed."

Adopted.

Bill ordered engrossed.

On motion of Senator Lane the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Tilson—25.

NAYS—none.

Not voting—Grace, Swain.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—26.

NAYS—Swain.

(Senator Gooch in the chair.)

On motion of Senator Stewart, the rules were suspended, special order postponed and Senate bill No. 295, entitled "An act to create the office of registrar general, and to define the duties, powers and compensation of such officer," was taken up and read first time.

On motion of Senator Patton, the special order was postponed, rules suspended and House bill No. 280, entitled "An act for the relief of the heirs of A. S. Green, deceased, late of Brazoria county, State of Texas, and Matthew Dockery, now a citizen of Lavaca county, State of Texas," was taken up, read a second time and passed to a third reading.

On motion of Senator Motley, the rules were suspended, special order postponed and Senate bill No. 137, entitled "An act for the relief of the heirs of Catlett Burnett, deceased," was taken up, read second time and ordered engrossed.

On motion of Senator Houston, the special order was postponed, rules suspended and Senate bill No. 142, entitled "An act to regulate the admission and practice of attorneys and counselors-at-law," was taken up, read second time and ordered engrossed.

The special order, being Senate bill No. 62 (the tramp bill), was taken up with pending substitute and amendment.

Senator Burnett moved to postpone the bill, substitute and amendment until the third Monday in April.

Lost by the following vote:

YEAS.		
Brown,	Homan,	Motley,
Burnett,	Ledbetter,	Ripetoe,
Burton,	Martin,	Stewart,
Edwards,	McCulloch,	Shannon—13.
Grace,		

NAYS.		
Buchanan,	Houston,	Patton.
Davenport,	Lane,	Storey,
Duncan,	Lair,	Swain,
Gooch,	McCormick,	Terrell,
Guy,	Moore,	Tilson—15.

Senator Duncan moved a call of the Senate.

Call sustained.

Roll called.

Absent—Senator Edwards.

During the call the pending business went to the table.

On motion of Senator Swain, the rules were suspended and House bill No. 15, entitled "An act for the relief of all persons whose lands have been sold for taxes and bought in by the State," was taken up and read first time.

(President in the chair.)

On motion of Senator Gooch, the rules were suspended and House bill No. 95, entitled "An act regulating elections," approved August 23, 1876, was taken up, read second time and passed to a third reading.

Senator Burton (by leave) presented the petition of Johnson Hensley for a bounty warrant of twelve hundred and eighty acres and donation warrant of six hundred and forty acres of land for services rendered in the army of the Republic.

Referred to the committee on private land claims.

On motion of Senator Buchanan, the rules were suspended and Senate bill No. 243, entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" was taken up and read second time.

Senator Buchanan offered the following amendment:

"That the present session of the Legislature being near its close, an imperative public necessity exists for the suspension of the constitutional rules requiring this bill to be read on three several days and it is so enacted."

Adopted, and bill ordered engrossed.

On motion of Senator Grace, the rules were suspended and Senate bill No. 209, entitled "An act for the relief of Joseph Fenner," was taken up, read third time and passed by the following vote:

YEAS.		
Brown,	Guy,	Ledbetter,
Buchanan,	Homan,	Martin,
Burnett,	Houston,	McCormick,
Gooch,	Lane,	McCulloch,
Grace,	Lair,	Moore,

Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,

Swain,
Tilson—23.

NAYS—none.

Not voting—Burton, Davenport, Duncan, Edwards.

The absent senators appearing the consideration of Senate bill No. 62, entitled "An act for the suppression and punishment of tramps," was resumed.

The substitute of Senator Guy was then adopted by the following vote as a substitute for the substitute of Senator Duncan:

YEAS.

Brown,
Burnett,
Davenport,
Edwards,
Gooch,
Grace,

Guy,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Ripetoe,
Stewart,
Shannon—17.

NAYS.

Buchanan,
Duncan,
Houston,
Lair,

McCulloch,
Patton,
Storey,

Swain,
Terrell,
Tilson—10.

Not voting—Burton.

Senator Guy offered the following amendment:

Amend section 1 of the substitute: Strike out where they occur, the words "or who shall be found concealed in any railroad car."

Adopted.

Senator Gooch offered the following:

Amend by striking out the words "in a railroad car," and inserting in lieu thereof the following: "In or under a railroad car without having the consent of the managers and not having paid his fare."

Withdrawn.

Senator Swain offered the following amendment:

"Amend by striking out the enacting clause."

Senator Brown offered the following resolution:

Resolved, That the pending substitute and amendments be referred to the committee on revised code with instructions to report, as early as possible, a bill amending chapter 7 of the Penal Code enlarging the definition of the word "vagrant," so as to include all persons designated as "troops" in the substitute, and increasing the penalty in some cases for vagrancy.

The resolution was lost by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Edwards,

Grace,
Homan,
Martin,
McCormick,

Ripetoe,
Stewart,
Shannon,
Swain—12.

NAYS.

Buchanan,
Duncan,
Davenport,
Gooch,
Guy,
Houston,

Lane,
Lair,
Ledbetter,
McCulloch,
Moore,

Motley,
Patton,
Storey,
Terrell,
Tilson—16.

Senator Terrell offered the following amendment:

Amend line seven, section 2, by inserting the words "at living wages," after the word "subsistence" in line seven.

Adopted.

Also the following :

Amend section 1 as follows : Insert the words "at living wages," after the word "tendered," in line eight.

Adopted.

Senator Martin offered the following amendment :

"That the above act shall not apply to any Irishman."

Senator Homan offered the following as an amendment to the pending amendment:

Add to amendment the words "or member of the Legislature."

Accepted by Senator Martin, and the amendment as amended was then lost by the following vote:

	YEAS.	
Brown,	Grace,	Stewart--4.
Burton,		

	NAYS.	
Buchanan,	Lane,	Motley,
Burnett,	Lair,	Patton,
Davenport,	Ledbetter,	Ripetoe,
Duncan,	Martin,	Shannon,
Gooch,	McCormick,	Storey,
Guy,	McCulloch,	Terrell,
Homan,	Moore,	Tilson--22.
Houston,		

Not voting—Edwards, Swain.

Senator Terrell offered the following:

Strike out the words referring to the punishment and insert in lieu thereof the following: "He shall be punished on conviction by being compelled to perform hard labor for the county, under the direction of the sheriff, for not more than ninety days and not less than thirty days."

Lost by the following vote:

	YEAS.	
Buchanan,	Houston,	Patton,
Davenport,	Lane,	Storey,
Duncan,	Lair,	Terrell,
Gooch,	McCulloch,	Tilson--12.

	NAYS.	
Brown,	Homan,	Motley,
Burnett,	Ledbetter,	Ripetoe,
Edwards,	Martin,	Stewart,
Grace,	McCormick,	Shannon,
Guy,	Moore,	Swain--15.

Not voting—Burton.

Senator Stewart offered the following:

In section 1 amend after the word "charity" in sixth line, and add "and who has had nothing to eat for six months."

Senator Storey moved to postpone the bill and amendments till Wednesday, just after the morning call.

Lost.

Senator Storey moved to lay the amendment of Senator Stewart on the table.

Carried by the following vote:

YEAS.

Brown,
Davenport,
Duncan,
Gooch,
Guy,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Storey,
Terrell,
Tilson—18.

NAYS.

Buchanan,
Burnett,
Burton,

Edwards,
Grace,
Martin.

Stewart,
Shannon,
Swain—9.

Not voting—Ripetoe.

Senator Duncan offered the following:

Amend by striking out "punishment," and inserting "shall be punished by imprisonment at labor for the county for not less than twenty nor more than ninety days."

Adopted by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Edwards,
Gooch,

Houston,
Lane,
Lair,
McCulloch,
Moore,

Motley,
Patton,
Storey,
Terrell,
Tilson—15.

NAYS.

Brown,
Burnett,
Grace,
Guy,

Homan,
Ledbetter,
Martin,
McCormick,

Stewart,
Shannon,
Swain—11.

Not voting—Burton, Ripetoe.

Senator Brown offered the following amendment:

Amend by substituting the word "vagrant" for the word "tramp" wherever it occurs in the bill.

Senator Gooch moved the previous question upon bill and pending amendments.

Motion seconded and main question ordered.

Senator Brown's amendment was then lost by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,

Edwards,
Grace,
Martin,

Stewart,
Shannon,
Swain—10.

NAYS.

Buchanan,
Duncan,
Gooch,
Guy,
Homan,
Houston,

Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Storey,
Terrell,
Tilson—17.

Not voting—Lane.

Senator Swain's amendment was then voted on with the following result:

YEAS.

Brown,
Burnett,
Burton,
Edwards,
Grace,

Homan,
Ledbetter,
Martin,
McCormick,
Motley,

Ripetoe,
Stewart,
Shannon,
Swain—14.

NAYS..

Buchanan,
Davenport,
Duncan,
Gooch,
Guy,

Houston,
Lane,
Lair,
McCulloch,
Moore,

Patton,
Storey,
Terrell,
Tilson—14.

There being a tie vote the president voted in the negative and declared the amendment lost.

The substitute of Senator Guy, as amended, was then adopted as a substitute for the original bill by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Guy,

Homan,
Houston,
Lair,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson---22.

NAYS.

Grace,
Ledbetter,

Stewart,

Swain--4.

Not voting—Edwards, Lane.

The bill was ordered engrossed by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Gooch,
Guy,
Houston,

Lane,
Lair,
McCulloch,
Moore,
Motley.

Patton,
Ripetoe,
Storey,
Terrell,
Tilson—16.

NAYS.

Brown,
Burnett,
Burton,
Edwards,

Grace,
Homan,
Ledbetter,
Martin,

McCormick,
Stewart,
Shannon,
Swain--12.

On motion of Senator Duncan, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Homan,
Houston,
Lane,
Lair,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson—23.

NAYS.

Brown,
Ledbetter,

Martin,
Stewart,

Swain--5.

Bill read third time.

Senator Duncan offered the following amendment as an additional section:

“SECTION Any person in view of any offense described in this act may apprehend the offender and take him before a justice of the peace for examination.”

Lost by the following vote (it requiring a two-third vote to adopt):

YEAS.		
Buchanan,	Houston,	Patton,
Davenport,	Lair,	Storey,
Duncan,	McCormick,	Terrell,
Edwards,	Moore,	Tilson—14.
Gooch,	Motley,	
NAYS.		
Brown,	Guy,	McCulloch,
Burnett,	Homan,	Ripetoe,
Burton,	Lane,	Stewart,
Ford,	Ledbetter,	Shannon,
Grace,	Martin,	Swain—15.

The bill was then passed by the following vote:

YEAS.		
Buchanan,	Lane,	Motley,
Davenport,	Lair,	Patton,
Duncan,	McCormick,	Storey,
Gooch,	McCulloch,	Terrell,
Guy,	Moore,	Tilson---16.
Houston,		
NAYS.		
Brown,	Grace,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Ledbetter,	Shannon,
Edwards,	Martin,	Swain---12.

A message was received from the House announcing the passage by that body of House bill No. 337, entitled "An act to authorize counties, cities and towns to scale and fund their indebtedness and for raising means to pay the same."

Senator Lane (by leave) offered the following resolution in lieu of the one he withdrew this morning.

Amend resolution by substituting the following therefor:

"Resolved, That hereafter, at the morning session of the senate, immediately after the morning call, the roll of senators shall be called in regular order, as they now stand upon the roll, and such senator, as his name is called, shall have ten minutes to call up any bill or bills he may desire; and at each succeeding morning session the secretary shall begin the call where he left off at the session preceeding, and that the roll call shall begin under this resolution at the name of the senators who would be called under the resolution now in force.

"Resolved, further, That the afternoon session of the Senate be devoted to House bills, and that the roll of senators be called in alphabetical order, and that each senator, as his name is called, shall have ten minutes to call up any House bill or bills he may desire, and that at each succeeding afternoon session the secretary shall begin the call where he left off at the session preceeding.

"Resolved, That the evening or night sessions of the Senate shall be devoted to bills of appropriation, revenue and general interest."

Senator Duncan offered the following amendment:

After "ten minutes" insert "and disposed of."

Adopted.

Senator Shannon offered the following:

Strike out "Senate and House bills" wherever they occur.

Adopted.

Senator Brown offered the following:

“Strike out that part of the resolution relating to evening and night sessions.”

Senator Homan offered the following as a substitute for the amendment of Senator Brown:

Insert after the word “call” in third line, the words “and at each afternoon session,” and to strike out the word “morning” in eighth line, and strike out second section of resolution relating to “afternoon sessions.”

Senator Patton offered the following as an amendment to the substitute:

“*Provided*, that we adopt this resolution in view of the fact that such resolutions are more honored in the breach than the observance.”

On motion of Senator Martin, the original resolution and amendments were referred to committee on finance, and that they report to-morrow morning.

A message was received from the House, announcing that that body had refused to concur in Senate substitute for substitute for House joint resolution No. 2, proposing amendments to article 8 of the constitution.

Senator Storey (by leave) introduced a bill entitled “An act to amend article 4556 of the Revised Statutes of the State of Texas, adopted at the present session of the Legislature.”

Read by caption and referred to judiciary committee No. 1.

Senator Houston, chairman of committee on state affairs (by leave), submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered Senate joint resolution granting leave of absence to W. H. Burkhart, judge of the eighteenth judicial district, and I am instructed to report the same back to the Senate and to recommend that it do pass. HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered the three memorials, Nos. 83, 84 and on the subject of local option liquor laws, accompanying this report, and I am instructed to report that the subject matter of the same is already under consideration by bill, and that further action upon them is unnecessary. HOUSTON, *Chairman.*

On motion of Senator Patton, the pending business was postponed ten minutes, rules suspended and Senate bill No. 267, entitled “An act to amend chapter 4 of ‘an act to adopt and establish the Revised Civil Statutes of the State of Texas, by adding another article to be numbered 4761, as providing for the payment of certain state warrants by the collectors of taxes,” was taken up, read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,

Guy,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Tilson—22.

NAYS.

Edwards,
Homan,

Ledbetter,
McCormick,

Storey—5.

Senator Grace (by leave) introduced a bill entitled "An act for the relief of Wm. Judge."

Read by caption and referred to the committee on private land claims.

Also a bill entitled "An act for the relief of J. S. Daugherty."

Read by caption and referred to the committee on private land claims.

On motion of Senator Ripetoe, the rules were suspended, and Senate bill No. 211, entitled "An act to amend chapter 6 of title 4 of the new Penal Code by further defining the offense of kidnapping," was taken up, read third time and passed.

On motion of Senator Burnett, the rules were suspended and Senate bill No. 261, entitled "An act requiring the proceeds arising from the leasing or renting of county school lands, and from sales of timber thereon, to be applied exclusively to educational purposes," was taken up and read first time.

Senator Burnett moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,

Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
McCulloch,
Moore,
Motley,
Ripetoe,
Shannon,
Tilson—22.

NAYS—none.

Not voting—Grace, Patton, Stewart, Storey, Swain.

Bill read second time and ordered engrossed.

On motion of Senator Burnett, the rules were still further suspended and the bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Guy,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Ripetoe,
Shannon,
Storey,
Tilson—22.

NAYS—none.

Not voting—Edwards, Grace, Patton, Stewart, Swain.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,

Grace,
Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
Moore,
Motley,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson—24.

NAYS—none.

Not voting—McCulloch, Patton, Stewart.

The president placed before the Senate the following report of the committee of the stockraisers' association:

To the Hon. C. L. Carter, President of the Northwest Texas Stock Association:

Your committee to whom was referred the resolution in regard to the burning of prairies, have the honor of submitting the following as their report:

To the Hon. J. D. Sayers, President of the Senate, the Senators and members of the Sixteenth Legislature of the State of Texas:

WHEREAS, The Northwest Texas Stock Raising Association, now in session at the town of Henrietta, in Clay county, feel that the present laws in relation to the burning of any woodland or prairie are inadequate to meet the demands of the stockraising interest of the entire State of Texas; and whereas, at the present time thousands of cattle lie dying amid the smouldering dust of our fire swept prairies; and whereas, the stock is the vital interest at least of this part of our great commonwealth; be it therefore

Resolved, That this association most earnestly petition and request its members and representatives in the Sixteenth Legislature to amend the act of August 28, 1856, in relation to the burning of any woodland or prairie, as well as the penal clause of same. That this association, in the interest of stockraising in Texas, would ask that it be a penal offense to burn any woodland or prairie other than the lands of the proper owner, between the first of July and the first of April succeeding. That if the time herein specified should conflict in any manner with the stock or any other interest of the people of southern or eastern Texas, that then in the interest of northwest Texas we ask that this petition be granted, and a law made operative in the territory north of the Colorado river and west of the main line of the Houston and Texas Central railway; and that a penalty be affixed to said law causing all wilful or negligent burning to be an offense of higher grade than is affixed by the present law, and would suggest that the punishment be by imprisonment in the state penitentiary for a term not more than five nor less than one year.

Respectfully submitted. J. R. STEVENS, *Chairman of Committee.*

Referred to committee on stock and stockraising.

Senator Brown, chairman of committee on engrossed bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed Senate bill No. 308, entitled "An act to validate the sale of certain town lots and county lands situated in the county of McCulloch."

BROWN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have compared Senate bill No. 270, entitled "An act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge railroad company," and find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Motley, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

President in the chair; quorum present.

Under the rules, Senator Edwards called up Senate joint resolution No. 263, relating to medals for Texas veterans, which was taken up and read second time.

The substitute recommended by the committee was adopted and resolution ordered engrossed.

The rules were suspended and resolution placed on its third reading by the following vote:

YEAS.		
Brown,	Grace,	McCormick,
Buchanan,	Guy,	McCulloch,
Burnett,	Homan,	Motley,
Burton,	Houston,	Ripetoe,
Davenport,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Gooch,	Martin,	Tilson—24.

NAYS—none.

Not voting—Moore, Patton, Swain.

Resolution read third time and passed.

Senator Guy called up, under the rules, Senate joint resolution No. 178, "Proposing an amendment to article 16, sections 50 and 51 of the constitution of the State of Texas," which was taken up and read a second time.

(Senator Storey in the chair.)

Senator Guy offered the following amendment:

"Be it further resolved, That as soon as this joint resolution shall have passed both houses of the Legislature by the requisite two-thirds vote, the governor is authorized and requested to cause the foregoing amendment to the constitution to be submitted to the qualified voters of the state at an election to be held on the first Tuesday in July, A. D. 1879, after causing notice of the time of holding the election to be published as required by the constitution."

Adopted.

Senator Shannon offered the following:

Strike out of section 4 all after "execution" where it occurs in line twelve, page 2.

Adopted.

Senator Homan offered a substitute for the pending joint resolution:

Senator Guy moved a call of the Senate.

Call sustained.

Roll called.

Absent—Grace.

Pending the call the resolution went to the table.

On motion of Senator Buchanan, the rules were suspended and Senate bill No. 303, entitled "An act to provide for the surrender and dissolution of the charter of the city of Terrell, in Kaufman county," was taken up and re-referred to judiciary committee No. 1.

On motion of Senator Gooch, the call was suspended and the consideration of Senate joint resolution No. 178 was resumed.

Senator Gooch then moved the previous question upon pending amendments.

Motion seconded and the Senate refused to order the main question by the following vote:

YEAS.		
Buchanan,	Grace,	Moore,
Burnett,	Lair,	Motley,
Davenport,	Ledbetter,	Tilson--10.
Gooch,		

NAYS.		
Brown,	Homan,	McCulloch,
Burton,	Houston,	Patton,
Duncan,	Lane,	Ripetoe,
Edwards,	Martin,	Stewart,
Guy,	McCormick,	Storey--15.

Not voting—Shannon, Swain.

Senator Stewart offered the following amendment to the substitute of Senator Homan:

Amend Senator Homan's "homestead" resolution by striking out the words "and in this last case only when the work or material contracted for in writing, with the consent of the wife given in the same manner as is required in making a sale and conveyance of the homestead."

Adopted by the following vote:

YEAS.		
Brown,	Lair,	Stewart,
Duncan,	Martin,	Storey,
Gooch,	McCulloch,	Swain,
Guy,	Patton,	Tilson--13.
Lane,		

NAYS.		
Burnett,	Homan,	Moore,
Burton,	Houston,	Motley,
Davenport,	Ledbetter,	Ripetoe,
Grace,	McCormick,	Shannon--12.

Not voting—Buchanan, Edwards.

Senator Guy offered the following amendment to the substitute of Senator Homan:

Amend by striking out all between the words "land" and "void," in section 50, pertaining to mortgage or trust deed.

Senator Gooch moved to lay the substitute of Senator Homan, and amendment to it of Senator Guy, on the table.

Carried by the following vote:

YEAS.		
Brown,	Houston,	Ripetoe,
Buchanan,	Lair,	Stewart,
Burnett,	Martin,	Shannon,
Duncan,	McCormick,	Storey,
Gooch,	Moore,	Tilson--17.
Guy,	Motley,	

NAYS.		
Burton	Grace,	Ledbetter--5.
Davenport,	Homan,	

Not voting—Edwards, Lane, McCulloch, Patton, Swain.

Senator Brown offered the following:

Amend by inserting in line two, page 2, after the word "thence" the words "besides fencing;" in line five, insert after the word "improvements" the words "exclusive of fencing;" in line eight, insert after

the word "thereof," the words "and fencing thereon;" in line twenty-one insert after the words "with the" the words "fencing and other," and in the same line insert after "such improvements" the words "exclusive of."

Adopted by the following vote:

YEAS.		
Brown,	Grace,	Ripetoe,
Buchanan,	Homan,	Stewart,
Burnett,	Houston,	Shannon,
Burton,	Lair,	Storey,
Davenport,	Martin,	Swain,
Edwards,	Moore,	Tilson—19.
Gooch,		
NAYS.		
Duncan,	McCormick,	Motley,
Guy,	McCulloch,	Patton—7.
Ledbetter,		

Not voting—Lane.

Senator Duncan moved to reconsider the vote by which the amendment of Senator Shannon was adopted.

Senator Homan moved to lay the motion on the table.

Carried.

Senator McCulloch offered the following amendment:

Amend by striking out "\$3000" wherever it is used in sections 50 and 51 and insert "\$2000."

Senator Burton offered the following:

Amend by striking out "three thousand" in the resolution, and insert "five thousand."

Senator Gooch moved the previous question on the engrossment of the resolution and pending amendments.

Motion seconded and main question ordered.

The amendment of Senator Burton was lost.

The amendment of Senator McCulloch was then lost.

The resolution was then ordered engrossed by the following vote:

YEAS.		
Brown,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Gooch,	McCormick,	Storey,
Grace,	McCulloch,	Swain,
Guy,	Patton,	Tilson---15.
NAYS.		
Buchanan,	Edwards,	Martin,
Burnett,	Homan,	Moore,
Burton,	Houston,	Motley,
Davenport,	Ledbetter,	Ripetoe—12.

(President in the chair.)

Business on the president's table: House joint resolution No. 35, "On the subject of Indian depredations in the State of Texas," was taken up, read second time and passed to a third reading.

House bill No. 347, entitled "An act to amend section two of the charter of the corporation of Victoria, and to provide for certain changes caused thereby," was taken up, read third time and passed.

House joint resolution No. 47, "Authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition, etc.," was taken up, read third time and passed.

House bill No. 68, entitled "An act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violation," was taken up and read first time.

House bill No. 88, entitled "An act for the relief of Mrs. M. A. C. Wilson, widow of William F. Wilson," was taken up and read first time.

House bill No. 89, entitled "An act in relation to assignments for the benefit of creditors, and to regulate the same and the proceedings thereon," was taken up and read first time.

House bill No. 102, entitled "An act defining the duties of commissioners' courts when sitting as a board of equalization," was taken up, read first time, and, on motion motion of Senator Edwards, 50 copies were ordered printed.

Substitute for House bill No. 188, entitled "An act to protect the wool-growing interests of the State of Texas," was taken up and read first time.

House bill No. 276, entitled "An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide for the payment of the interest and principal of the same," was taken up and read first time.

House bill No. 327, entitled "An act to better secure the collection of taxes," was taken up and read first time.

House bill No. 302, entitled "An act legalizing the county lines of Duval county and of counties affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties," was taken up and read first time.

Substitute for House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence, and to carry into effect sections 22 and 23 of article 16 of the constitution of the state, and authorizing the passage of stock and fence laws, approved August 15, 1879,'" was taken up and read second time.

On motion of Senator Lane, the bill was postponed until to-morrow evening.

Senate bill No. 7, entitled "An act to prevent the hiring or operating of convicts outside the prison walls," was taken up and read first time with adverse report of committee.

The report was adopted and bill lost.

Senate bill No. 10, entitled "An act to amend an act, approved June 20, 1876, entitled 'an act to amend article 382, title 2, chapter 3, of the Penal Code,'" was taken up and read first time with adverse report of committee.

The report of the committee was adopted and the bill lost.

Senate bill No. 18, entitled "An act for the relief of persons whose lands have been sold for taxes and purchased by the State," was taken up and read first time.

Senate bill No. 26, entitled "An act to provide for the removal of county officers," with adverse report of committee.

On motion of Senator Ledbetter, the report was adopted and bill lost.

Senate bill No. 30, entitled "An act requiring persons taking causes to the supreme court of appeals to make a deposite to cover the costs in said court," was taken up and read first time.

House bill No. 187, entitled "An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt

liquors in quantities less than a quart, and to make an appropriation to carry the same into effect," was taken up and read first time.

Senate bill No. 31, "An act to create and provide for execution liens on land," was taken up and read first time.

Senate bill No. 36, "An act providing for the transportation of convicts under contract from the counties in which they are convicted to the penitentiary," was taken up and read first time.

Senate bill No. 39, "An act to amend section 3 of 'an act regulating interest,'" approved August 21, 1876, was taken up, read first time, adverse report of committee adopted, and bill lost.

Senate joint resolution No. 45, "Instructing our senators and requesting our representatives in congress to ask for protection to the Texas frontier and compensation for past expenses by the state in that behalf," was taken up, read first time, together with the adverse report of the committee, and, on motion of Senator Edwards, was laid on the table.

Senate bill No. 50, "An act to amend section 1 of an act entitled 'an act to provide for the transferring of all criminal cases in which indictments have been found to the proper court having jurisdiction thereof,'" approved August 12, 1876, was taken up and read first time.

Senate bill No. 52, "An act to protect the rights of pre-emption settlers who have heretofore or may hereafter enlist in the frontier battalion or other military forces of the state," was taken up and read first time.

On motion of senator Houston; the rules were suspended, and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Grace,
Guy,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—~~26~~.

NAYS—none.

Not voting—Burton, Edwards, Gooch.

Senator Houston offered the following amendment:

Amend section 2 by inserting after the word "emergency" the words "and imperative public necessity."

Adopted and bill ordered engrossed.

Senate bill No. 81, entitled "An act to amend section 15 of an act entitled 'an act to organize the district courts, and to define their powers and jurisdiction,'" approved May 11, 1846, was taken up and read first time with adverse report of committee.

Report adopted and bill lost.

Senate bill No. 76, entitled "An act to provide for the speedy and authoritative publication of the opinions of the supreme court and court of the State of Texas in the Texas Law Journal," was taken up and read first time with adverse report of committee.

Report adopted and bill lost.

Senator Brown, chairman of committee on engrossed bills, submitted the following report from that committee:

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have compared original Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases," with the engrossed copy, and find it correctly engrossed.

BROWN, *Chairman.*

Senate bill No. 75, entitled "An act to set aside the available school fund remaining on hand for the fiscal year ending August 31, A. D. 1879," was taken up with adverse report of committee, and read first time.

On motion of Senator Homan the report of the committee was adopted and the bill lost.

Senate bill No. 71, entitled "An act to provide for the payment of witnesses and officers in certain criminal cases," was taken up and read first time, with adverse report of committee.

On motion of Senator Gooch, the report was adopted and the bill lost.

Senate bill No. 64, "An act for the relief of C. Jordan," was taken up and read first time, and on motion of Senator McCormick was laid on the table.

Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish separate from community property," was taken up and read first time.

Senate bill No. 95, entitled "An act to attach the county of Throckmorton to the county of Young for judicial purposes," was taken up and read first time, and, on motion of Senator Davenport, was laid on the table.

Senate joint resolution No. 92, "To amend section 24 of article 3 of the constitution of the State of Texas," was taken up and read first time.

Senate bill No. 80, "An act to amend sections 9 and 36 of an act entitled 'an act to provide for the election of justices of the peace, and to define their powers and jurisdiction,' approved August 17, 1876," was taken up and read first time.

By leave, Senator McCormick introduced a bill entitled "An act to amend and supplement the existing quarantine law of the State of Texas, title 83 of the Revised Statutes."

Referred to committee on public health and statistics.

Senator Guy, chairman of the committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on private land claims have had under consideration Senate bill No. 296, entitled "An act to authorize the issuance of land certificate to those or the heirs of these volunteers who participated in the Dawson massacre, near the Salado, in September, 1842," and I am instructed by the committee to recommend its passage.

GUY, *Chairman.*

Senate bill No. 283, "An act amendatory of and supplemental to chapter 3, title 78 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature," was taken up and read first time.

Senator Grace moved that the Senate go into executive session immediately after the morning call to-morrow, to consider the appointments of the governor.

Carried.

House bill No. 337, "An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same," was taken up and referred to committee on counties and county boundaries.

On motion of Senator Grace, the Senate adjourned until to-morrow at 9 o'clock.

FIFTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 18, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Gooch, the reading of the journals was dispensed with, and the same adopted.

On motion of Senator Gooch, Senator Terrell was excused for the day.

On motion of Senator Motley, Mr. W. N. Ramey, the journal secretary, was excused for the day, in consequence of sickness.

Senator McCulloch, chairman of the committee on statistics of industry, public health and history of Texas, made the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on statistics of industry, public health and history of Texas, to whom was referred Senate bill No. 312, a bill to be entitled "An act to amend and supplement the existing quarantine law of the State of Texas," have had the same under consideration, and as it is in harmony with an act to establish a state board of health, I am instructed to report the same back, and recommend that it do pass.

McCULLOCH, *Chairman.*

Senator Martin, chairman of the committee on agricultural affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on agricultural affairs, to whom was referred Senate bill No. 51, "An act for the encouragement of agriculture, and to provide for the collection and preservation of agricultural statistics, have considered the same, and I am instructed by the committee to report it back to the Senate with the recommendation that it do not pass.

MARTIN, *Chairman.*

Senator Buchanan, for judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 303, for reconsideration, have had the same under consideration, and I am instructed by a majority of said committee to report the same back with the accompanying substitute, and to recommend the passage of the substitute.

BUCHANAN, *for Committee.*

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your finance committee have considered the petition of citizens of Comanche county referred to it, in which they ask a reduction of interest

from ten to six per centum on the deferred payments due by them to the school fund for school lands sold to them by the state.

These lands were in the main purchased on a credit of ten years, the deferred payments to bear ten per centum interest, the purchaser having the privilege of paying at any time, but not required to pay in cash more than one-tenth of the purchase money, and annually thereafter one-tenth of the principal, and ten per centum interest on the deferred payments.

These are believed to be exceedingly liberal terms for the purchaser, and the interest of the school fund will not permit any deduction of the interest, and I am instructed to recommend that the prayer of petitioners be not granted.

STOREY, *Chairman.*

A message was received from the House announcing that that body has refused to adopt the report of the conference committee on the disagreement between the two houses on House bill No. 132, "An act to require persons and corporations, to whom patents for land have been granted, to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to so pay said fees, and to provide the manner and means of enforcing the provisions hereof," and asks another committee of conference upon the same, and that Messrs. McComb, Coleman and Gause have been appointed such committee on the part of the House.

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred resolutions of the county commissioners' court of Clay county, asking the passage of a law authorizing and empowering counties that have an outstanding debt to register the same, and to levy a tax of one-fourth of one per cent. for the payment of such registered indebtedness, have carefully considered the same, and I am instructed by the committee to report the resolution back to the Senate with the recommendation that the relief prayed for be not granted, for the reason that it is believed that ample power and authority for the relief of said county is provided for in chapter 2 of title 31 of the Revised Statutes of this state.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration the various resolutions on the disposition of pending business before the Senate, referred to the committee on yesterday, and after mature deliberation the committee recommend the adoption of the accompanying substitute for said resolutions. The committee deprecate the custom of suspending the rules to take up bills out of their order. It retards business, increases the expense of legislation, unnecessarily lengthens the journals and operates with great injustice to many senators.

STOREY, *Chairman.*

Resolved, That hereafter, at the morning session of the Senate, immediately after the morning call, one hour shall be devoted to calling bills as follows: The roll of senators shall be called in regular order as they now stand upon the roll, and each senator, as his name is called, may call up any bill he may desire, and at each succeeding morning session the secretary shall begin the call where he left off at the session preceding, and no member during said hour shall speak more than five minutes and that the roll call shall begin under the resolution at the name of the senator, who would be called under the resolution now in force.

Resolved, further, That the afternoon session of the Senate be devoted to House bills, and that the roll of senators be called in alphabetical order, and that each senator, as his name is called, may call up any House bill he may desire and that at each succeeding afternoon session the secretary shall begin the call where he left off at the session preceding, and no senator shall speak more than five minutes; *provided,* the appropriation bills and revenue bills shall have precedence over all other business."

Senator Houston called up his motion, made on the fifteenth instant, to reconsider the vote passing Senate bill No. 46, "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas," and the vote reconsidered.

Senator Houston offered the following amendment:

Amend by striking out "twenty-second."

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Grace,
Guy,
Homan.

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
Moore,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--23.

NAYS—none.

Not voting—Brown, Edwards, McCulloch, Patton.

Senator Ripetoe offered the following amendment:

Strike out "eighteen."

Withdrawn.

The bill was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Grace,
Guy,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch.

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Tilson--24.

NAYS.

Burton,

Swain--2.

Not voting—Edwards.

On motion of Senator Edwards, a conference committee was appointed on the difference of the two houses on House bill No. 132 (with regard to patent fees in land office).

The president appointed on said committee Senators Edwards, Lane and Storey.

Senate bill No. 107, entitled "An act to amend an act entitled 'an act to regulate the respective duties of district and county attorneys,'" was taken up and read first time.

Senate bill No. 110, entitled "An act to amend section 1 of an act entitled 'an act further regulating proceedings in the several courts of the State of Texas,'" was taken up, with adverse report of committee, and read first time.

On motion of Senator Guy, the report was adopted and bill lost.

Senate bill No. 111, entitled "An act to regulate the pay of grand and

petit jurors in the several counties of this state," was taken up and read first time.

Senate bill No. 116, entitled "An act to amend section 12 of 'an act to establish and provide for the support and maintenance of an efficient system of public free schools, approved August 16, 1876,'" was taken up and read first time.

Senate bill No. 118, entitled "An act extending the landlord's lien for rents to owners of residences, storehouses and other buildings," was taken up and read first time.

On motion of Senator Duncan, one hundred copies of the bill were ordered printed.

Senate bill No. 119, entitled "An act giving to each of the unorganized counties of the state four leagues of land, and providing for the location and survey thereof," was taken up and read first time with adverse report of committee.

On motion of Senator Martin, the report of the committee was adopted and bill lost.

The president, after publicly reading its caption, signed Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, and by the name and style of the Grand Lodge of Texas."

Senate bill No. 128, entitled "An act to prevent the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another, without his consent, and provide a penalty therefor," was taken up and read first time.

Senate joint resolution No. 129, "Abrogating section 2, article 16 of the constitution," was taken up with adverse report of committee.

The report of the committee was adopted and resolution lost.

Senate bill No. 131, entitled "An act to provide for ascertaining the amount due supervisors, inspectors and teachers of common free schools in the State of Texas, from the first day of September, 1872, to the thirty-first day of August, 1876, and to appropriate money to pay the same," was taken up and read first time.

Senate bill No. 134, entitled "An act to require the owner of surveys to pay the patent fee therefore before filing the field notes of the same in the general land office," was taken up and read first time.

Senate bill No. 138, entitled "An act to amend an act to amend article 766 of the Penal Code," approved May 17, 1873, was taken up and read first time.

Senate bill No. 144, entitled "An act to increase the civil and criminal jurisdiction of the county courts of Hunt, Kaufman, Denton and Collin counties," was taken up, with adverse report of committee.

The report of the committee was adopted and bill lost.

Senate bill No. 146, entitled "An act prohibiting the sale of liquor to inebriates and habitual drunkards, and the sale of the same on the Sabbath, between the hours of 8 o'clock A. M. and 6 o'clock P. M.," was taken up, with adverse report of committee.

The report of the committee was adopted and bill lost.

Senate bill No. 148, entitled "An act to prevent and punish the aiding and abetting the escape of state and county convicts," was taken up and read first time.

Senate joint resolution No. 130, "To amend section 10 of article 1 of the constitution of the State of Texas, so that persons indicted for

homicides may be tried in their absence in case they evade arrest," was taken up, with adverse report of committee, and read first time.

The report of the committee was adopted and bill lost.

Senate bill No. 154, entitled "An act to provide for the payment of claims for purchasers of books, apparatus and furniture for public schools made by board of school directors under the authority of 'an act to establish a system of public free schools for the State of Texas,' approved August 13, 1875," etc., was taken up and read first time.

On motion of Senator Tilson, the bill was laid on the table.

Senate bill No. 157, entitled "An act to punish trespassers," was taken up and read first time.

Senate bill No. 161, entitled "An act to create the office of state librarian," with adverse report of committee, was taken up and read first time.

On motion of Senator Ledbetter, the report of the committee was adopted and the bill lost.

Senate joint resolution No. 165, "Proposing an amendment to section 40, article 16 of the constitution of the state," was taken up and read first time.

Senate bill No. 166, entitled "An act requiring the commissioner of the general land office to issue patents to the parties purchasing university lands, in accordance with the subdivisions made under the act, approved August 30, 1856," was taken up and read first time.

Senate bill No. 168, entitled "An act to amend section 18 of an act entitled 'an act regulating elections, approved August 23, 1876, and to repeal section 22 thereof,'" was taken up and read first time.

Senate bill No. 171, entitled "An act to authorize and require county clerks to issue license for the retail of spirituous, vinous and other intoxicating liquors in quantities less than one quart, and to prohibit such sale without license," was taken up and read first time.

Senate bill No. 172, entitled "An act to amend section 5 of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violation, approved June 21, 1876,'" was taken up with adverse report of committee.

On motion of Senator Martin, the bill was laid on the table.

Senate bill No. 173, entitled "An act for the relief of S. W. Baker," was taken up and read first time.

Senate bill No. 182 was taken up and read first time.

A message was received from the House announcing the passage by that body of Senate bill No 245, entitled "An act to authorize the commissioner of the general land office to contract for the lithographic printing of maps of the various counties of the state, and to provide for the sale of the same, and make an appropriation to carry this act into effect;" and that the House concurs in Senate amendments to substitute for House bill No. 36, "An act authorizing and requiring the commissioner of the general land office to issue patents to certain lands granted to the Bayland Orphans' Home, situated on Galveston bay, Harris county, Texas;" also concurs in Senate amendments to substitute for House bill No. 342, "An act to provide for the building, making and completion of such works and improvements at the East Texas Penitentiary at Rusk, as may be necessary and proper to put the same into operation, and to make an appropriation to carry out the provisions of this act."

Senate bill No. 185, entitled "An act to provide against the evils resulting from the sale of intoxicating liquors in the State of Texas," was taken up and read first time.

Senate bill No. 189, entitled "An act to authorize M. B. Starkey and R. A. Eddleman to erect a dam across the Clear Fork of the Brazos river, at Crystal Falls, in Stephens county, Texas," was taken up and read first time.

Senate bill No. 195, entitled "An act to punish persons for erecting fences in this state made wholly of barbed wire," was taken up and read first time.

Senate bill No. 120, entitled "An act requiring holders of recorded mortgages and other recorded liens to enter satisfaction thereof on receiving payment," was taken up with adverse report of committee and read first time.

Report adopted and bill lost.

Senate bill No. 199, entitled "An act to amend 'an act supplementary to an act approved February 5, 1841,'" was taken up with adverse report of committee.

Report of committee adopted and bill lost.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 141, "An act to incorporate the Grand Lodge of Ancient Free and Accepted Masons in and for the State of Texas, under and by the name and style of 'The Grand Lodge of Texas,'" and at 10:25 o'clock A. M., presented the same to the governor for his signature.

GRACE, *Chairman.*

Senate bill No. 200, entitled "An act to validate certain land certificates issued on bounty land warrants to John Steele, William L. Williamson, Robert Middleton, etc.," was taken up and read first time, and the following Senate bills were taken up and read first time, to wit:

Senate bill No. 201, entitled "An act to provide for the taking and preservation of the testimony in capital cases, etc."

Senate joint resolution No. 205, "Authorizing the governor of the State of Texas to lease certain grounds belonging to the capital grounds in the city of Austin."

Senate bill No. 207, entitled "An act supplementary to and amendatory of an act entitled 'an act to adopt and establish the Revised Civil Statute.'"

Senate bill No. 216, entitled "An act specifying fees of collection of taxes for sale of real estate for delinquent taxes."

Senate bill No. 217, entitled "An act to prevent certain public officers from using their offices to advance their private interests."

Senate bill No. 219, entitled "An act to ascertain the amount due and outstanding against the State of Texas for land purchased by the State," was taken up and bill laid on the table.

Senate bill No. 222, entitled "An act to provide for furnishing and utilizing the East Texas penitentiary and to make an appropriation therefor," was taken up, read first time and laid on the table.

The following bills were taken up and read first time, to-wit:

Senate bill No. 223, entitled "An act to validate bounty certificate of Joseph Hawkins."

Senate bill 224, entitled "An act to amend article 539 of section 2 of "an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State."

Senate bill No. 228, entitled "An act to amend an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed January 21, 1879.

Senate joint resolution No. 230 proposing an amendment to the constitution.

This resolution was taken up with endorsement of committee.

On motion of Senator Tilson, the report was adopted and resolution lost.

The following bills were taken up and read first time, viz:

Senate bill No. 232, entitled "An act to amend chapter 3 title 78 of the Revised Statutes by creating 3732a."

Substitute for Senate bill No. 233, entitled "An act to provide for the payment of sums due county school superintendents and directors for services rendered prior to the year ending August 31, 1876."

Senate bill No. 235, entitled "An act to amend section '94 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" approved February _____, 1879.

Senate bill No. 236, entitled "An act to amend title 42, chapter 4 of an act entitled 'an act to adopt and establish the Revised Statutes of the State of Texas.'"

Senate bill No. 240, entitled "An act to regulate the proceedings in the several courts of the State of Texas and define the duties thereof."

Senate bill No. 241, entitled "An act to amend articles 684 and 669 of the Penal Code," passed February 21, 1879.

Senate bill No. 242, entitled "An act to amend article 1179 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Senate bill No. 244, entitled "An act to amend an act entitled 'an act to provide for the judicial forfeitures of charters and prescribing the duties of the attorney general thereto, etc.'"

Senate bill No. 248, entitled "An act for the relief of the heirs of James Bell, a soldier of the Texas revolution."

This bill was taken up, with adverse report of committee.

On motion of Senator Gooch, the report of the committee was adopted and bill lost.

Senate bill No. 252, entitled "An act to amend chapter 2 of title 15 and chapter 1 of title 16, in the Code of Criminal Procedure, of an act entitled 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas.'"

Senate bill No. 253, entitled "An act to amend chapters 19 and 20 of title 29 and chapters 3 and 4 of title 42, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Senate bill No. 255, entitled "An act to provide for the erection of a marble shaft on Fannin's battle ground."

Senate joint resolution No. 256, "to establish the fees allowed in the general laws of 1876 as the fees of county officers," was taken up and read first time, with adverse report of committee.

On motion of Senator Grace, the report of the committee was adopted and the resolution was lost.

Senate joint resolution No. 257, "granting leave of absence to Hon. B. T. Estes, judge of the fifth judicial district of Texas," was taken up and read first time.

Senate joint resolution No. 258, "Proposing amendments to section 405 of article 4 of the state constitution," with adverse report of committee was taken up.

On motion of Senator Grace, the report of the committee was adopted and the resolution was lost.

Senate bill No. 259, entitled "An act amending articles 1664, 1696 and 1706 of the Revised Statutes, passed at the first session of the Sixteenth Legislature entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" was taken up and read first time.

Also, the following bills were taken up and read first time, to wit:

Senate bill No. 262, entitled "An act to grant to Jackson Doyle six hundred and forty acres of land."

Senate bill No. 265, entitled "An act authorizing any person being a citizen of the State of Texas, who may have been entitled to land for military services in the army of the late Republic of Texas under any law in force at that or a subsequent date, and who may have failed to obtain the same, to bring his action in the district court," etc.

Senate bill No. 272, entitled "An act further to provide for the perpetuating testimony."

Senate joint resolution No. 276, "To revive the appropriation of 16th January and 16th February, 1858, to pay the public debt of Texas."

This was taken up with adverse report of committee, and, on motion of Senator Grace, the report was adopted and bill lost.

Senate bill No. 277, entitled "An act amendatory and supplemental to article 878 of an act entitled 'an act to adopt and establish the Revised Civil Statutes passed at this session.'"

Senate bill No. 280, entitled "An act to provide for the payment of officers' costs in certain criminal cases out of the money collected on forfeited appearance bonds," etc.

Senate bill No. 281, entitled "An act supplemental of an act entitled 'an act to fix the time of holding the district courts of the twenty-fifth judicial district.'"

Substitute for Senate bill No. 285, entitled "An act to fix and regulate the fees of all the officers of the State of Texas and the several counties thereof."

Senate bill No. 286, entitled "An act to amend 'an act to encourage irrigation and navigation.'"

Senate bill No. 289, entitled "An act for the relief of Thomas Humphreys and Lucy Andrews."

Senate bill No. 290, entitled "An act to create the thirty-third judicial district."

Senate bill No. 291, entitled "An act to amend article 1296 of the Revised Civil Statutes of the State of Texas."

Senate bill No. 292, entitled "An act to authorize the construction of a ship channel from Corpus Christi across Mustang Island, and to donate land for the same."

Senate bill No. 294, entitled "An act to amend section 16 of an act entitled 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers, etc.,"' was taken up with adverse report of committee.

On motion of Senator Grace, the report was adopted and bill lost.

Senate bill No. 296, entitled "An act to authorize the issuance of land certificates to those, or heirs of those, who participated in the Dawson massacre," etc.

Senate bill No. 297, entitled "An act to authorize the adjutant general to sell or exchange inferior arms and munitions of war on hand and not of use to the state."

Senate bill No. 298, entitled "An act granting an extension of time to the Rockport, Fulton and Laredo railroad company for the construction of its road."

Substitute for Senate bill No. 303, entitled "An act to provide for the dissolution and surrender of the charter of Terrell, in Kaufman county, Texas, and to provide for the payment of the debts due by said city."

Senate bill No. 304, entitled "An act amendatory of an act entitled 'an act fixing the times of holding the courts of the twenty-third judicial district of the state,' " etc.

Senate bill No. 305, entitled "An act to amend an act entitled 'an act to incorporate the Texas Banking and Insurance company,' approved July 1, 1870," was taken up with adverse report of committee.

On motion of Senator Grace, the report was adopted and bill lost.

Senate joint resolution No. 306, entitled, "Joint resolution granting leave of absence from the state for one month to Hon. W. H. Burkhart, judge of the eighteenth judicial district," was taken up and read first time.

Senator McCormick moved that the rules be suspended to place the resolution upon its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Gooch,
Grace,
Guy,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Tilson--22.

NAYS—none.

Not voting—Burton, Davenport, Edwards, Ripetoe.

The resolution was then read second time and ordered engrossed.

Senator McCormick moved that the rules be further suspended to place the resolution upon its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,

Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Stewart,
Shannon,
Storey,
Swain,
Tilson---24.

NAYS—none.

Not voting—Grace, Patton, Ripetoe.

The resolution was then read a third time and passed.

On motion of Senator Storey, the Senate went into executive session.

IN SENATE.—(Senator Ledbetter in the chair.)

On motion of Senator McCormick, the secretary was instructed to enter upon the journals the confirmations made by the Senate in executive session. It is accordingly stated that the Senate did advise and consent to the appointment by his excellency the governor of Charles C. Sweeney, Charles Fowler, Anderson Munn, Leon Blum and J. N. Sawyer, to be pilot commissioners for the port of Galveston, and of S. S. Hanscom to be notary public of Galveston county.

(President in the chair).

Senator Storey called up the resolution reported this morning from the committee on finance in relation to the order of business.

Senator Burton offered the following amendment:

Amend by striking out "five" and inserting "ten."

Lost.

Senator Homan offered the following amendment:

Strike out all after word "provided" near conclusion of resolution.

Lost.

Senator Duncan offered the following as a substitute for the resolution:

"Hereafter, all business in this Senate shall come up and be acted on in its regular order as it appears on the calendar, and all rules heretofore adopted changing the standing rules of this Senate temporarily, are hereby abrogated."

Senator Moore moved to lay the substitute on the table.

Senator Duncan moved a call of the Senate upon the motion to lay on the table.

Motion not sustained.

The motion to lay the substitute on the table was then carried by the following vote:

YEAS.		
Buchanan,	Lair,	Motley,
Burnett,	Ledbetter,	Ripetoe,
Burton,	Martin,	Stewart,
Edwards,	McCulloch,	Storey,
Lane,	Moore,	Tilson—15.
NAYS.		
Brown,	Guy,	McCormick,
Davenport,	Homan,	Patton,
Duncan,	Houston,	Shannon—10.
Gooch,		

Not voting—Grace, Swain.

The resolution as reported by the committee was then adopted.

Senator Duncan (by leave) introduced a bill to be entitled "An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvements, to receive the state and county taxes from persons who refused to pay the taxes levied for such purpose."

Referred to judiciary committee No. 2.

(Senator Edwards in the chair.)

Senator Grace called up Senate bill No. 130, entitled "An act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881."

Bill read third time and passed.

Senator Homan called up Senate bill No. 159, entitled "An act to prescribe the requisites of indictments in certain cases."

The bill was read second time.

Senator Homan offered the following amendment:

Amend section 10, page 3, by inserting after the word "weapon," in line sixteen, the words "without lawful authority," and by inserting after the word "avering," in line sixteen, the words "more specifically."

Adopted.

Senator Homan also offered the following amendment:

"The fact that the session of the Legislature is near its close, with a large number of bills pending before it, creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended, and said rules are hereby suspended."

Adopted.

The bill was then ordered engrossed.

Senator Homan moved to suspend the rules to place the bill upon its third reading.

Carried by the following vote:

YEAS.

Burnett,	Guy,	Martin,
Burton,	Homan,	McCormick,
Davenport,	Houston,	McCulloch,
Duncan,	Lane,	Moore,
Edwards,	Lair,	Ripetoe,
Grace,	Ledbetter,	Shannon--18.

NAYS.

Gooch,	Storey,	Tilson 4.
Patton,		

Not voting—Brown, Buchanan, Motley, Stewart, Swain.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Homan,	McCulloch,
Burnett,	Houston,	Moore,
Burton,	Lane,	Ripetoe,
Duncan,	Lair,	Stewart,
Edwards,	Martin,	Shannon.
Gooch,	McCormick,	Tilson—19.
Grace,		

NAYS.

Buchanan,	Ledbetter,	Patton,
Davenport,	Motley,	Storey—6.

Not voting—Guy, Swain.

A message was received from the House announcing the passage by that body of the following bills:

House bill No. 179, entitled "An act to further define the duties of assessors of taxes;" substitute for House bill No. 119, entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes, and to regulate their compensation;'" House bill No. 207, entitled "An act to amend articles 2403, 2404 and 2405 of the Revised Statutes;" and House bill No. 237, entitled "An act for the better protection of timber."

The above bills were referred as follows:

House bill No. 179 to the committee on finance; substitute for House bill No. 119 to committee on finance; House bill No. 207 to judiciary committee No. 1, and House bill No. 237 to judiciary committee No. 2.

Senator Houston called up Senate bill No. 142, entitled "An act to regulate the admission and practice of attorneys and counselors-at-law."

Bill read third time and passed.

A message was received from the House announcing the passage by that body of substitute for House bill No. 33, entitled "An act to amend article 4767 of the Revised Civil Statutes."

On motion of Senator Houston, Senator Hobby was excused until Thursday morning.

Senator Lane called up Senate bill No. 182, entitled "An act amendatory of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in the state that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved June 24, 1876."

Senator Lane moved to suspend the rules to place the bill upon its second reading.

Carried by the following vote:

YEAS.		
Brown,	Grace,	McCormick,
Buchanan,	Guy,	McCulloch,
Burnett,	Homan,	Moore,
Burton,	Houston,	Motley,
Davenport,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Gooch,	Martin,	Tilson--24.

YEAS---none.

Not voting--Patton, Ripetoe, Swain.

Bill read second time.

Senator Lane offered the following amendment:

Amend by adding:

"SECTION The near approach of the close of the session of the Legislature makes it an imperative public necessity that the rules requiring this bill to be read on three several days be suspended, and it is so enacted."

Adopted.

Senator Homan offered the following amendment:

Strike out in section 2 the words "with a purpose of evading the provisions of this act," and insert "except as provided in this act."

Adopted.

The bill was then ordered engrossed.

Senator Lane moved that the rules be further suspended to place the bill upon its third reading.

Carried by the following vote:

YEAS.		
Brown,	Guy,	Motley,
Buchanan,	Homan,	Ripetoe,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Edwards,	Martin,	Tilson--23.
Gooch,	Moore,	

NAYS---none.

Not voting--Grace, McCormick, McCulloch, Patton.

The bill was then read third time and passed.

Senator Lair called up Senate bill No. 36, entitled "An act providing for the transportation of convicts under contract from the counties in which they are convicted to the penitentiary."

Bill read second time and ordered engrossed.

Senator Ledbetter called up Senate bill No. 13, entitled "An act to provide for the time and place of holding the supreme court of the State of Texas."

Bill read second time, with favorable majority report and adverse minority report from judiciary committee No. 2.

Senator Ledbetter moved to adopt the majority report.

Senators Patton and Stewart, upon request, were permitted to withdraw their names from the minority report.

(President in the chair.)

Senator Duncan moved to postpone further consideration of the pending bill until next Friday.

Senator Brown moved the previous question upon the motion of Senator Duncan to postpone, the motion of Senator Ledbetter to adopt majority report and the engrossment of the bill.

Motion seconded and the main question ordered.

The motion to postpone was then lost by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Edwards,

Houston,
Lane,
McCormick,

Motley,
Stewart,
Tilson—10.

NAYS.

Brown,
Burnett,
Burton,
Gooch,
Grace,
Guy,

Homan,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Shannon,
Storey,
Swain—17.

Senator Edwards moved the point of order that the previous question could not reach further than the motion to postpone, and that a motion to adopt a favorable report of a committee could not properly be entertained.

Point of order overruled.

The majority report was then adopted by the following vote:

YEAS.

Brown,
Burnett,
Gooch,
Grace,
Guy,
Homan,

Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain—18.

NAYS.

Buchanan,
Burton,
Davenport,

Duncan,
Edwards,
Lane,

McCormick,
Motley,
Tilson—9.

The bill was then ordered engrossed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Gooch,

Grace,
Guy,
Homan,
Houston,

Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,

Stewart,
Shannon,

Storey,
Swain--19.

NAYS.

Buchanan,
Davenport,
Duncan,

Edwards,
Lane,
McCormick,

Motley,
Tilson--8.

Senate bill No. 88, entitled "An act to amend section 518 and 519 of an act to adopt and establish a Code of Criminal Procedure for the State of Texas," was taken up and read third time.

Senator Guy offered the following amendment:

"*Provided*, that on the first application for continuance, the judge shall have no discretion if the requirements of the Statute be complied with by the defendant."

Lost by the following vote:

YEAS.

Davenport,
Edwards,
Grace,
Guy,
Lane,

Lair,
Ledbetter,
McCormick,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Tilson--14.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,

Gooch,
Homan,
Houston,
Martin,

McCulloch,
Moore,
Motley,
Swain--13.

Senator Ledbetter offered the following amendment:

Amend: "*Provided*, that when a defendant is charged with murder he shall not be forced to trial at the first term of the court after indictment."

Lost by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Grace,

Guy,
Lane,
Ledbetter,
McCormick,

Patton,
Stewart,
Shannon,
Tilson--12.

NAYS.

Brown,
Buchanan,
Duncan,
Edwards,
Gooch,
Homan,

Houston,
Lair,
Martin,
McCulloch,
Moore,

Motley,
Ripetoe,
Storey,
Swain,
Terrell--16.

Senator Edwards moved to re-refer the bill to judiciary committee No. 2.

Lost by the following vote:

YEAS.

Burton,
Davenport,
Edwards,
Grace,

Lane,
Ledbetter,
McCormick,
Patton,

Stewart,
Shannon,
Storey,
Tilson--12.

NAYS.

Brown,
Buchanan,
Burnett,
Duncan,
Gooch,

Guy,
Homan,
Houston,
Lair,
Martin,

McCulloch,
Moore,
Motley,
Swain--14.

Not voting—Senator Ripetoe, who was excused from voting on motion of Senator McCormick.

The bill was then passed by the following vote:

YEAS.		
Brown,	Homan,	Moore,
Buchanan,	Houston,	Motley,
Burnett,	Lair,	Ripetoe,
Duncan,	Martin,	Swain--14.
Gooch,	McCulloch,	
NAYS.		
Burton,	Lane,	Stewart,
Davenport,	Ledbet'er,	Shannon,
Edwards,	McCormick,	Storey,
Grace,	Patton,	Tilson—13.
Guy,		

On motion of Senator Houston the Senate adjourned until 3 o'clock,
P. M.

AFTERNOON SESSION.

President in the chair. Roll called; quorum present.

House bill No. 123, entitled "An act to amend sections 6 and 9, of 'an act to define a lawful fence and to carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,'" approved August 15, 1876, was taken up.

Senator Lane offered the following amendment:

"*Provided*, that the counties of Refugio, Aransas, San Patricio and Bee be excepted from the provisions of this act."

Adopted.

Senator Lair offered the following amendment:

Amend in line six, page 3, after the word "pickets," add the words "or rails."

Adopted.

Senator Homan offered the following amendment:

Add after "same," in line sixteen, section 3, page 4, "and the fact that the provisions of this act have been adopted in any county or subdivision thereof shall not prevent the holding of another election thereon in the same territory or any portion thereof at any time after the expiration of twelve months from the time this act was adopted in said territory."

Adopted.

Senator Brown offered the following amendment:

Amend by inserting in line eleven, page 3, after the word "wise," the words "or a strip of tin not less than four inches wide;" also, by inserting in line fifteen, page 4, after the word "plank," the words "or strip of tin."

Lost.

Senator Storey offered the following amendment:

Strike out all after the word "fence," in line five, page 3, to "or" in line six, and insert "that two or more barbed wires and one or more planks or rails for each pannel."

Adopted.

Senator Lane offered the following amendment:

Amend section 2 in line nine by inserting between the words "if" and "wires," "such."

Adopted.

On motion of Senator Shannon the bill and amendments were referred to the committee on stock and stockraising.

A message was received from the House announcing the passage by that body of the following bills:

House bill No. 324, "An act authorizing the payment of taxes of non-residents of counties to be made at the comptroller's office;" substitute for House bill No. 333, "An act to amend section 21 of an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent tax payers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation," approved August 21, 1876; substitute for House bills Nos. 305 and 335, "An act to provide for the sales of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same."

The above named bills just received from the House were all referred to the committee on finance.

House bill No. 95, entitled "An act to amend 'an act regulating elections,'" approved August 23, 1876, was taken up.

Bill read third time and passed.

House bill No. 280, entitled "An act for the relief of the heirs of Alexander S. Green (deceased), late of Brazoria county, State of Texas, and Matthew Dockery, now a citizen of Lavaca county, State of Texas," was taken up.

Bill read third time and passed.

House joint resolution No. 35, "on the subject of Indian depredations in the State of Texas," was taken up, read third time and passed.

Substitute for House joint resolution No. 2, and Senate joint resolution No. 29, "amending the constitution of the State of Texas, by adding a new section to be styled section 19," was taken up.

Senator Duncan moved that the Senate adhere to its substitute.

Senator Edwards moved that the Senate recede from its amendments.

Senator Duncan moved a call of the Senate.

Call sustained.

Absent—Grace, Houston.

Pending the call the business went to the table.

House bill No. 15, entitled "An act for the relief of all persons whose lands have been sold for taxes and bought in by the state," was taken up and read second time.

The absent senators appearing, the call was suspended and pending business resumed, which was substitute for Senate joint resolution No. 29 and substitute for House joint resolution No. 2.

A message was received from the House announcing the passage by that body of the following bills:

House bill No. 341, entitled "An act to prohibit the sale, giving away or otherwise disposing of intoxicating liquors or medicated bitters or compounds producing intoxication within five miles of the Southeast Texas Male and Female College, in Jasper county, Texas, and to provide a penalty for its violation;" House bill No. 451, entitled "An act to amend 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' approved, 1879;" and House bill No. 400, entitled "An act for the relief of S. A. Owens

and Mary L. Tarlton, and to authorize the repayment of certain moneys to them improperly collected by the state."

The president took up these bills and referred them as follows:

House bill No. 341 was referred to committee on state affairs.

House bill No. 451 referred to judiciary committee No. 2.

House bill No. 400 referred to committee on claims and accounts.

Senator Grace moved the previous question on the pending bill.

Motion seconded and main question ordered by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Grace,
Guy.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAY—McCormick.

Not voting—Duncan.

Senator Edwards' motion for the Senate to recede from its amendments was voted on with the following result:

YEAS.

Buchanan,
Burnett,
Burton,
Edwards,
Gooch,

Homan,
Houston,
Lane,
Martin,
McCormick,

Moore,
Motley,
Ripetoe,
Stewart--14.

NAYS.

Brown,
Davenport,
Duncan,
Grace,
Guy,

Lair,
Ledbetter,
McCulloch,
Patton,
Shannon,

Storey,
Swain,
Terrell,
Tilson—14.

There being a tie vote the president voted in the affirmative and declared the question carried.

Senator Homan moved to reconsider the vote by which the Senate receded from its amendments, etc.

Withdrawn.

Senator Duncan raised the point of order that a motion could not be withdrawn after the ayes and nays had been ordered and roll call commenced.

Sustained, and the vote reconsidered by the following vote:

YEAS.

Brown,
Davenport,
Duncan,
Gooch,
Grace,

Guy,
Lair,
Ledbetter,
McCulloch,
Patton,

Shannon,
Storey,
Swain,
Terrell,
Tilson—15.

NAYS

Buchanan,
Burnett,
Burton,
Edwards,
Homan,

Houston,
Lane,
Martin,
McCormick.

Moore,
Motley,
Ripetoe,
Stewart—13.

Senator Grace moved to postpone the subject to Friday afternoon.

Senator Gooch moved to postpone until 3 o'clock P. M., March 19, next.

Adopted.

House bill No. 88, entitled "An act for the relief of Mrs. M. A. C. Wilson, widow of William F. Wilson," was taken up, read second time and passed to a third reading.

House bill No. 68, entitled "An act to amend an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state, that may so elect, prescribing the mode of election and affixing a punishment for its violation," was taken up and read second time.

(Senator Edwards in the chair.)

A message was received from the House, announcing the passage by that body of substitute for Senate bill No. 23, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change."

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 313, entitled "An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvements to receive the state and county taxes from persons who refuse to pay the taxes levied for such purpose," and your committee have amended the same and as amended by the committee, I am instructed to report said bill back to the Senate and recommend its passage.

STEWART, *Chairman.*

Amendments offered by committee:

Add the following section as section 3 of the bill, and change "section 3" as it appears in the bill to "section 4: "

"Section 3. That it shall be lawful for said collectors to proceed to collect the county and State taxes in such manner as the law provides, without at the same time proceeding to collect said subsidy taxes; *provided*, this law shall not be so construed as to destroy any present remedy for the collection of subsidy taxes."

Amend by inserting in fifteenth line, after the word "therefore," these words: "there exists a public imperative necessity and emergency for the suspension of the rule which requires this bill to be read on three several days in each house; and therefore, the rule is hereby suspended."

House bill No. 15, entitled "An act for relief of all persons whose lands have been sold for taxes and bought in by the state," was taken up.

Senator Duncan offered the following amendment:

Amend after the word "sold," in second line, insert "prior to the first day of January, A. D. 1880."

Lost, and bill passed to a third reading by the following vote:

YEAS.

Burnett,
Burton,
Edwards,
Grace,
Guy,

Homan,
Lair,
Ledbetter,
McCormick,
Moore,

Motley,
Ripetoe,
Swain,
Tilson—14.

NAYS.

Brown,
Buchanan,
Davenport,
Duncan,

Lane,
Martin,
McCulloch,
Patton,

Stewart,
Shannon,
Storey,
Terrell—12.

Not voting—Gooch, Houston.

House bill No. 187 (the bell-punch bill) was taken up and read second time.

The amendments of the committee were adopted.

Senator Homan offered the following as a substitute for the tenth amendment of the committee:

Amend section 23 by striking out all after the words "schools" in line seventeen, to and including the word "informer" in line eighteen.

Lost.

Senator Grace offered the following amendment:

Add after the word "preparations" in line nine, on page 2: "The exceptions contemplated by this proviso do not apply to any tonic bitters, etc., of which the chief constituent is alcoholic liquor, but simply to tinctures and extracts."

Adopted.

Senator Ledbetter offered the following:

Amend in section 24 by striking out "one-fourth," in line twenty-three, and insert "one-half," and in line twenty-four strike out "one-eighth," and insert "one-quarter."

Lost.

Bill passed to third reading by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Gooch,
Grace.

Guy,
Homan,
Lane,
McCormick,
Motley,
Patton,

Ripetoe,
Shannon,
Storey,
Swain,
Tilson—17.

NAYS.

Burnett,
Burton,
Edwards,
Lair,

Ledbetter,
Martin,
McCulloch,

Moore,
Stewart,
Terrell—10.

(President in the chair.)

On motion of Senator Storey, Senator Buchanan was excused for two days.

Senator Storey (by leave) introduced a joint resolution "requiring payment of land office fees and taxes by railway companies and other corporations, before any relief shall be granted them.

Referred to judiciary committee No. 1.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills, have examined and carefully compared with the originals the engrossed copies of the following bills, viz:

Senate bill No. 52, entitled "An act to protect the rights of pre-emption settlers, who have heretofore or may hereafter enlist in the frontier battalion, or other military forces of the state;" Substitute Senate bill No. 62, entitled "An act for the suppression and punishment of tramps;"

Senate bill No. 90, entitled "An act to suppress lawlessness and crime, and to organize a force for that purpose;" Senate joint resolution No. 99, "Authorizing Nathan Patton, one of the late lessees of the penitentiary, to sue the state;" Senate bill No. 243, entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas;'" Senate bill No. 261, entitled "An act requiring the proceeds arising from the leasing or renting of county school lands and from sales of timber thereon, to be applied exclusively to educational purposes;" Substitute Senate joint resolution No. 263, "Relating to medals for Texas veterans," and report them all correctly engrossed.

BROWN, *Chairman.*

Senator Edwards, chairman of the committee on constitutional amendments (by leave) submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, to whom was referred joint resolution No. 234, "amending section 18 of article 3 of the constitution of the State of Texas," have considered the same, and instruct me to report it back with the recommendation that it do pass.

EDWARDS, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, to whom was referred joint resolution No. 70, "amending section 7 of article 3 of the constitution of the State of Texas," have considered the same, and instruct me to report it back with the recommendation that it do not pass.

EDWARDS, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, to whom was referred joint resolution No. 37, "Amending section 50, article 16 of the constitution of the State of Texas," have considered the same, and instruct me to report it back with the recommendation that it do not pass, as the matter contained therein has already been acted upon by other resolutions.

EDWARDS, *Chairman.*

Senator McCormick introduced a bill entitled "An act to revive and validate land certificate No. 8016."

Read by caption and referred to committee on private land claims.

Also, a bill entitled "An act to revive and validate land certificate No. 6058."

Read by caption and referred to committee on private land claims.

Senator Tilson, chairman of the committee on counties and county boundaries (by leave), submitted the following report from that committee:

Hon. J. D. Sayers, President of the Senate:

Your committee on counties and county boundaries, to whom was referred House bill No. 337, "An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same," have had the same under consideration, and, after careful examination, I am instructed to report said bill back to the Senate with the recommendation that it do pass.

TILSON, *Chairman.*

On motion of Senator Burton, the Senate then adjourned until to-morrow at 9:30 o'clock A. M.

FIFTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 19, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Davenport presented the petition of certain settlers on the state school lands in Comanche county, together with many of the county officers and other citizens of said county, "asking for relief for the settlers on said school lands whose claims have been declared forfeited under sections 11 and 13 of the act of April 24, 1874," accompanied with a bill to grant said relief.

Petition and bill referred to committee on state affairs.

Senator Stewart, from the committee on constitutional amendments, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee on constitutional amendments, have had under consideration Senate joint resolution No. 9, entitled "Joint resolution amending section 11 of article 1 of the constitution of the State of Texas," and a majority of the committee have prepared a substitute for said resolution, and instruct me to report both back to the Senate and to recommend that the substitute do pass.

STEWART, *for Committee.*

The substitute reported by the committee was taken up and read first time.

Senator McCulloch offered the following concurrent resolution:

WHEREAS, There are certain bills that have not been passed by this session of the Sixteenth Legislature that are essential and necessary to be passed and have been deferred for bills of less merit, and to the detriment of the interest of the state; therefore, be it

Resolved, That a joint committee of conference be requested to call out the necessary business bills of general character necessary to be passed at this session.

Resolution lies over under the rules.

Senator Terrell introduced a bill entitled "An act to legalize certain land certificates therein named."

Referred to the committee on state affairs.

Senator Edwards, under the rules, called up Senate bill No. 277, entitled "An act amendatory and supplemental to article 878 of an act entitled 'an to adopt and establish the Revised Civil Statutes passed at this session.'"

The bill was read second time.

Senator Hobby offered the following amendment:

Amend by adding the following section:

"Section That the near approach of the close of the session is an imperative necessity which justifies the suspension of the rule requiring this bill to be read on three several days, and it is hereby suspended."

Adopted and bill ordered engrossed.

On motion of Senator Edwards the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Edwards,
Grace,
Guy,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS—none.

Not voting.—Davenport, Duncan, Gooch, McCormick.

Bill read third time and passed.

The president, after publicly reading their captions, signed the following bills and resolutions, to wit:

House bill No. 36, entitled "An act authorizing and requiring the commissioner of the general land office to issue patents to certain lands granted to Bayland Orphans' Home, situated on Galveston bay, Harris county;" substitute for House bill No. 342, entitled "An act to provide for the building, making and completion of such works and improvements at the East Texas penitentiary at Rusk, as may be necessary and proper to put the same into operation, and to make an appropriation to carry out the provisions of this act;" House joint resolution No. 47, "authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition by the International and Great Northern railroad company for the purpose of displaying the rich and various products of Texas;" House bill No. 347, entitled "An act to amend section 2 of the charter of the corporation of Victoria and to provide for certain changes caused thereby."

Senator Martin, under the rules, called up Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas."

The bill was read second time.

Senator Burton offered the following amendment:

Amend by striking out all after the word "Austin" in the third line down to the word "beginning," in fourth line, and insert the words "the city of Galveston, in Galveston county, and the city of Tyler, in Smith county."

Senator Burnett moved to lay the amendment on the table.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Gooch,
Grace,
Homan,

Houston,
Lair,
Ledbetter,
Martin,
McCulloch,

Patton,
Stewart,
Storey,
Swain,
Terrell—15.

NAYS.

Burton,
Davenport,
Duncan,
Edwards,

Guy,
Hobby,
McCormick,
Moore,

Motley,
Ripetoe,
Shannon,
Tilson—12.

Not voting—Lane.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called.

Absent—Lane.

The absent senator appearing, the bill was ordered engrossed.

Senator Storey entered a motion to reconsider the vote passing Senate bill No. 130 (the general appropriation bill).

Senator Edwards entered a motion to reconsider the vote engrossing Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas."

The following House bills were taken up and referred to appropriate committees:

Substitute for House bill No. 33, entitled "An act to amend article 4767 of the Revised Civil Statutes," was referred to judiciary committee No. 1.

Substitute for Senate bill No. 23, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change."

Referred to judiciary committee No. 2.

Senator Storey, chairman of the committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 324, entitled "An act authorizing the payment of taxes of non-residents of counties, to be made at the comptroller's office," have duly considered the same, and I am instructed by the committee to report the bill back to the Senate, with the recommendation that it pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 179, entitled "An act to further define the duties of assessors of taxes," have duly considered the same, and it is believed that a literal construction of this act makes the assessor of taxes liable to assess a penalty of seventy-five cents against himself for any failure to assess property at the time and place prescribed by law. The committee do not believe this bill is necessary, or that it will be likely to secure a better assessment than the laws now in force. I am therefore instructed by the committee to return the bill to the Senate with the recommendation that it do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred substitute for House bill No. 119, entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes, and to regulate their compensation,'" have carefully considered the same, and I am instructed to report that in the opinion of the committee articles 4705 and 4724 of the Revised Civil Statutes, adopted since this bill was introduced in the House, secures the end sought by this bill. The committee therefore recommend that this bill do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred substitute for House bill No. 338, entitled "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent tax payers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation,' approved August 21, 1876," have carefully considered

the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred substitute for House bill Nos. 305 and 335, entitled "An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same," have duly considered the same and instructed me to report the said substitute back to the Senate with the recommendation that fifty copies of it be printed for the use of the committee and the Senate.

STOREY, *Chairman.*

Fifty copies of this bill and report were ordered printed.

Senate bill No. 52, entitled "An act to protect the rights of pre-emptors who have heretofore, or may hereafter, enlist in the frontier battalion or other military forces of the state," was taken up, read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore.
Motley,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--25.

NAYS.

Lair,

Patton--2.

Not voting--Ripetoe.

A message was received from the House announcing the passage by that body of House bill No. 375, entitled "An act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," approved February, 1879.

Senate bill No. 127, entitled "An act to provide for holding special terms of the district court when and where the same may be necessary."

House bill No. 375 was taken up and referred to judiciary committee No. 2.

Senate bill No. 123, entitled "An act to amend section 12 of 'an act to enforce the collection of delinquent taxes on lands assessed since January, 1870,'" approved August, 1876, was taken up and read third time.

Senator Gooch offered the following amendment:

Add after the words "bid off" the words "and make a deed to the state, and one deed shall include all tracts of land bid off to the state at such tax sale."

On motion of Senator Lane, the bill and amendment was referred to committee on finance.

Senate bill No. 133, entitled "An act to endow Henderson College, in Rusk county, with a land grant," was taken up.

Senator Martin offered the following:

Amend by inserting: "The Tehuacana College, in Limestone county, shall receive the same amount of land."

Senator McCulloch moved to indefinitely postpone the bill.

Lost by the following vote:

	YEAS.	
Brown, Lair,	McCulloch, Patton,	Storey—5.

	NAYS.	
Burnett, Burton, Davenport, Duncan, Edwards, Gooch, Guy,	Hobby, Homan, Houston, Lane, Ledbetter, Martin, McCormick,	Moore, Motley, Ripetoe, Shannon, Swain, Terrell, Tilson—21.

Not voting—Grace, Stewart.

Senator Tilson offered the following amendment:

“Add a like amount of land for Texarkana Institution, to be hereafter established.”

Senator Homan offered the following substitute for pending amendments:

Add after the words “Henderson College,” wherever they occur in caption and bill, the words “and every other college and university in the state.”

Senator Guy offered the following amendment:

Amend by adding, “That the same amount of land be given to the Lancaster Masonic Institute, situated in Dallas county.”

Ordered to be withheld until the amendments already on the table were disposed of.

Senator Homan withdrew his substitute, when Senator Duncan moved the previous question on the bill and pending amendments.

Motion seconded and main question ordered.

The amendment of Senator Martin was lost by the following vote:

	YEAS.	
Brown, Burnett, Duncan,	Martin, Patton,	Stewart, Tilson—7.

	NAYS.	
Burton, Edwards, Gooch, Grace, Guy, Hobby, Homan,	Houston, Lane, Lair, Ledbetter, McCormick, McCulloch,	Moore, Motley, Ripetoe, Storey, Swain, Terrell—19.

Not voting—Davenport, Shannon.

The amendment of Senator Tilson was lost by the following vote:

	YEAS.	
Brown, Duncan, Martin, Patton,	Ripetoe, Stewart, Storey,	Swain, Terrell, Tilson—10.

	NAYS.	
Burnett, Burton, Davenport, Edwards, Gooch, Grace,	Hobby, Homan, Houston, Lane, Lair,	Ledbetter, McCormick, McCulloch, Moore, Motley—16.

Not voting—Guy, Shannon.

The bill was then passed by the following vote:

YEAS.		
Burnett,	Guy,	McCormick,
Burton,	Hobby,	Motley,
Duncan,	Houston,	Ripetoe,
Edwards,	Lane,	Stewart,
Gooch,	Ledbetter,	Terrell--15.
NAYS.		
Brown,	Martin,	Shannon,
Grace,	McCulloch,	Storey,
Homan,	Moore,	Swain,
Lair,	Patton,	Tilson--12.

Not voting—Davenport.

The president directed the secretary to not report the bill to the House until he could satisfy himself further as to whether the bill required a two-thirds vote or not.

Senator Storey called up his motion to reconsider the vote passing Senate bill No. 130 (the general appropriation bill), and moved a call of the House on the motion to reconsider.

Call sustained.

Roll called.

Absent—Davenport.

On motion of Senator Houston, Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts when and where the same may be necessary," was taken up and House amendments concurred in.

Senate bill No. 243, entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" was taken up and read third time.

The absent senator appearing, the consideration of the motion to reconsider the vote passing Senate bill No. 130 was resumed.

The vote to reconsider carried.

The bill was then passed by the following vote:

YEAS.		
Burnett,	Homan,	Motley,
Burton,	Houston,	Patton,
Davenport,	Lane,	Ripetoe,
Grace,	McCormick,	Stewart,
Guy,	McCulloch,	Shannon--15.
NAYS.		
Brown,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Edwards,	Martin,	Terrell,
Gooch,	Moore,	Tilson--13.
Hobby,		

The adjournment resolution was taken up.

Senator Homan moved to indefinitely postpone the resolution, substitute and amendments.

Senator Terrell withdrew his substitute.

Senator Duncan offered the following amendment :

Strike out all after "resolved," and insert "by the Senate, the House concurring, that the Legislature do take a recess, beginning next Monday, and to continue until the first Monday in September, 1879."

Lost.

Senator Duncan offered the following amendment :

Strike out all after "resolved," and insert "by the Senate, the House concurring, that the Legislature adjourn *sine die* on Monday next."

Senator Motley moved the previous question on the resolution and pending amendment and motion.

Motion seconded and main question ordered.

Senator Duncan's amendment was lost by the following vote:

YEAS.		
Brown, Burton,	Duncan,	Tilson--4.
NAYS.		
Burnett, Davenport, Edwards, Gooch, Grace, Guy, Hobby, Homan,	Houston, Lane, Lair, Ledbetter, Martin, McCormick, McCulloch, Moore.	Motley, Patton, Ripetoe, Stewart, Shannon, Storey, Swain, Terrell-- 24.

Senator Homan withdrew his substitute.

The motion of Senator Homan to postpone indefinitely was carried by the following vote:

YEAS.		
Duncan, Edwards, Gooch, Grace, Hobby,	Homan, Houston, Lane, Ledbetter, Martin.	Patton, Stewart, Terrell, Tilson---14.
NAYS.		
Brown, Burnett, Burton, Davenport, Guy.	Lair, McCormick, McCulloch, Moore,	Ripetoe, Shannon, Storey, Swain---13.

Senator Ledbetter moved to take up the motion to reconsider the vote by which Senate bill No. 13 was engrossed.

Senator Burton moved a call of the Senate.

Call sustained.

Roll called.

Absent—Senator Motley.

On motion of Senator Brown, Senator Burton was excused for a short time.

The absent senator appearing, the pending business was resumed.

Senator Ledbetter moved to lay the pending motion to reconsider on the table.

Senator Hobby moved a call of the Senate.

Call sustained.

Roll called—Senate full.

Senator Ledbetter's motion to lay the motion to reconsider on the table was carried by the following vote:

YEAS.		
Burnett, Grace, Homan, Houston, Lair,	Ledbetter, McCulloch, Motley, Patton, Stewart,	Shannon, Storey, Swain, Terrell--14.

NAYS.

Brown,
Davenport,
Duncan,
Edwards,

Gooch,
Guy,
Hobby,
Lane,

Martin,
McCormick,
Tilson—11.

Not voting—Burton, Moore, Ripetoe.

Senate joint resolution No. 37, "Amending section 50 of article 16 of the constitution of the State of Texas," was taken up with adverse report of committee.

On motion of Senator Homan, the report of the committee was adopted and resolution lost.

Substitute for joint resolution No. 70, "Proposing amendments to the constitution of the State of Texas," was taken up and read first time.

Senate bill No. 313, entitled "An act to compel collectors of taxes in counties wherein subsidies have been granted to railroad or other works of internal improvements to receive the state and county taxes from persons who refuse to pay the taxes levied for such purpose," was taken up and read first time.

The rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Stewart,
Shannon,
Terrell,
Tilson--25.

NAYS—none.

Not voting—Ripetoe, Storey, Swain.

Bill read second time.

Senator Terrell offered the following amendment:

After the word "therefor," in twenty-fifth line, insert "except the said subsidy tax."

Adopted and bill ordered engrossed.

The rules were then suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAYS—none.

Not voting—Edwards, Lane.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Duncan,

Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane.

Lair,
Ledbetter,
Martin,
McCormick,
Moore,

Motley,
Patton,
Stewart,
Shannon,

Storey,
Swain,
Terrell,
Tilson—22.

NAYS.

Burton,

Homan—2.

Not voting—Davenport, Edwards, McCulloch, Ripetoe.

Senator Brown, chairman of committee on engrossed bills, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have carefully examined and compared with the originals the engrossed copies of the following bills, viz : Substitute Senate bill No. 130, entitled "An act to make an appropriation for the support of the government for the years beginning March 1, 1879, and ending February 28, 1881;" Senate bill No. 137, entitled "An act for the relief of the heirs of Catlett Burnett, deceased;" Senate joint resolution No. 178, proposing an amendment to article 16, sections 50 and 51 of the constitution of the State of Texas;" Senate bill No. 13, entitled "An act to provide for the time and place of holding the supreme court of the State of Texas," and find them correctly engrossed.

BROWN, *Chairman.*

Senate joint resolution No. 234, "amending section 18 article 3 of the constitution," was taken up and read first time.

Senate joint resolution No. 74, "Proposing an amendment to the constitution of the State of Texas regulating suffrage," was taken up and read first time.

On motion of Senator Houston the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

President in the chair. Roll called; quorum present.

House bill No. 15, entitled "An act for the relief of all persons whose lands have been sold for taxes and bought in by the state," was taken up, read third time and passed by the following vote:

YEAS.

Burnett,
Burton,
Edwards,
Hobby,
Homan,

Houston,
Lair,
Ledbetter,
McCormick,

Motley,
Ripetoe,
Swain,
Tilson—13.

NAYS.

Brown,
Davenport,
Duncan,

Martin,
McCulloch,
Patton,

Stewart,
Shannon,
Storey—9.

Not voting—Gooch, Grace, Guy, Lane, Moore, Terrell.

Senator Edwards (by leave) introduced a joint resolution requesting our members in congress to bring to the consideration of that body the subject of aiding a line of vessels between the port of Galveston and the Mexican ports on the gulf.

Read by caption and referred to committee on state affairs.

House bill No. 68, entitled "An act to amend 'an act to prohibit the

sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violation," was taken up, read third time and passed.

House bill No. 88, entitled "An act for the relief of Mrs. M. A. C. Wilson, widow of William F. Wilson," was taken up, read third time and passed by the following vote:

YEAS.		
Burnett,	Lair,	Ripetoe,
Davenport,	Ledbetter,	Stewart,
Edwards,	Martin,	Shannon,
Grace,	McCormick,	Storey,
Guy,	McCulloch,	Swain,
Hobby,	Motley,	Tilson—19.
Houston,		
NAYS.		
Brown,	Homan,	Patton—4.
Gooch,		

Not voting—Burton, Duncan, Lane, Moore, Terrell.

House bill No. 187, entitled "An act to provide for the levying and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect," was taken up, read third time and passed by the following vote:

YEAS.		
Brown,	Hobby,	Patton,
Davenport,	Homan,	Ripetoe,
Duncan,	Lane,	Shannon,
Gooch,	Lair,	Storey,
Grace,	McCulloch,	Swain—17.
Guy,	Motley,	
NAYS.		
Burnett,	Ledbetter,	Stewart,
Burton,	Martin,	Terrell,
Edwards,	McCormick,	Tilson—11.
Houston,	Moore,	

Substitute for House joint resolution No. 2, "Proposing amendments to article 8 of the constitution," was taken up.

Senator Storey moved a call of the Senate.

Call sustained.

Roll called.

Absent—Senator Terrell.

The pending business then went to the table.

House bill No. 89, entitled "An act in relation to assignments for the benefit of creditors, and to regulate the same, and the proceedings thereunder," was taken up.

Senator McCormick offered the following amendment:

Add this section to the bill and number consecutively:

"Section 17. Every mortgage, deed of trust, or other form of lien attempted to be given by the owner of any stock of goods, wares or merchandise, daily exposed to sale in parcels in the regular course of the business of such merchandise, and contemplating a continuance of possession of said goods, and control of said business by sale of said goods by said owner, shall be deemed fraudulent and void."

Adopted.

Senator Ledbetter offered the following:

Amend by adding the following section:

"Section 18. Any attempted preference of any creditor or creditors by such assignor shall be deemed fraudulent and without effect."

The absent senator appearing, the consideration of substitute for House joint resolution No. 2 was resumed.

Senator Edwards (by leave) withdrew his motion to recede from Senate amendments.

Senator Edwards moved that the Senate insist on its substitute.

Adopted.

The consideration of House bill No. 89 was resumed.

(Senator Lane in the chair.)

The amendment of Senator Ledbetter was then adopted and bill passed to third reading by the following vote:

YEAS.

Burnett,
Duncan,
Edwards,
Hobby,
Homan,
Lane,
Lair,

Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—19.

NAYS.

Brown,
Burton,
Not voting—Davenport, Grace, Guy, Patton.

Gooch,
Houston,

Stewart—5.

(President in the chair.)

Substitute for House bill No. 138, entitled "An act to protect the wool growing interests of the State of Texas," was taken up and read second time.

The committee amendments were adopted.

Senator Hobby offered the following:

"Amend by exempting the counties of San Jacinto, Polk and Tyler from the provisions of this bill."

Adopted.

Senator Stewart offered the following:

Add to section 11 "Harris."

Adopted.

Senator Burton offered the following:

Add to section 11 "Wharton county."

Adopted.

Senator Grace offered the following:

Amend by inserting "Fannin" in the list of counties exempted from the provisions of this act.

Adopted.

Senator Swain offered the following:

Amend by exempting "Red River county" from the provisions of this act.

Adopted.

Senator Duncan offered the following:

Amend by adding the "counties of Camp and Upshur" to the exceptions from the operations of this act.

Adopted.

Senator Shannon offered the following:

Add to section 11: "The unorganized counties attached to Jack and Young counties for judicial purposes."

Adopted.

Senator Duncan offered the following:

Amend by striking out of section 11 the counties of "Camp, Gregg and Upshur."

Adopted and bill passed to a third reading.

The president after publicly reading their captions, signed the following bills:

House bill No. 280, entitled "An act for the relief of the heirs of Alexander S. Green, deceased, late of Brazoria county, State of Texas, and Matthew Dockery, now a citizen of Lavaca county, State of Texas;" House bill No. 95, entitled "An act to amend 'an act regulating elections,' approved August 23, 1876;" and House joint resolution No. 35, "On the subject of Indian depredations in the State of Texas."

A message was received from the House announcing the passage by that body of House bill No. 303, entitled "An act to repeal joint resolution No. 9, approved August 28, 1876."

This bill was taken up by the president and referred to the committee on finance.

House bill No. 102, entitled "An act defining the duties of commissioners' courts when sitting as a board of equalization," was taken up and read second time.

Senator Houston offered the following amendment:

Amend section 6 by striking out all after the word "shall" in line twenty-two, page 2, and insert the following:

"Examine, equalize and correct assessments so made by the assessor, and when so made by the assessor and when so revised, equalized and corrected, the same shall be approved."

Senator Edwards offered the following as a substitute for the pending amendment:

Strike out lines twenty-two and twenty-three, section 6, and insert "and the board of equalization shall examine said list and act upon same as required in sections 2 and 3 of this act."

Withdrawn and Senator Houston's amendment adopted.

Senator Grace offered the following:

"That the bill, with amendments, be recommitted to judiciary committee No. 2."

Senator Grace's motion to recommit to judiciary committee No. 2 was lost by the following vote:

	YEAS.	
Brown,	Edwards.	McCormick---5.
Duncan,	Grace,	
	NAYS.	
Burnett,	Lair.	Ripetoe,
Burton,	Ledbetter,	Stewart.
Davenport,	Martin,	Shannon,
Gooch,	McCulloch,	Storey.
Guy,	Moore,	Swain,
Hobby,	Motley,	Terrell,
Homan,	Patton,	Tilson--22.
Lane,		
Not voting—Houston.		

Senator Duncan moved to postpone bill and amendments till to-morrow evening.

Senator Gooch offered the following:

Page 2, line twenty-six, after the word "to" and before the words "give the person written notice" add the words "order the county clerk to."

Also the following:

Line eight, page 2, after the words "board of equalization to" and before the words "ten days," insert the word "give," and add "shall cause the county clerk to give."

Senator Swain moved the previous question on the pending amendments.

Motion seconded and main question ordered.

The motion of Senator Duncan to postpone was lost.

The first amendment of Senator Gooch was adopted.

The second amendment of Senator Gooch was then adopted.

Senator Edwards moved to commit the bill to the committee on finance.

Lost by the following vote:

YEAS.		
Brown,	Duncan,	Grace,
Burton,	Edwards,	McCormick—6.
NAYS.		
Burnett,	Ledbetter,	Stewart,
Davenport,	Martin,	Shannon,
Gooch,	McCulloch,	Storey,
Guy,	Moore,	Swain,
Hobby,	Motley,	Terrell,
Homan,	Patton,	Tilson—20.
Lair,	Ripetoe,	

Not voting—Houston, Lane.

Senator Duncan offered the following amendment:

"Strike out sections 2 and 3."

Senator Martin moved the previous question on the bill and pending amendment.

Seconded and main question ordered by the following vote:

YEAS.		
Burnett,	Lair,	Patton,
Davenport,	Ledbetter,	Ripetoe,
Gooch,	Martin,	Stewart,
Grace,	McCulloch,	Shannon,
Guy,	Moore,	Swain,
Hobby,	Motley,	Terrell—19.
Homan,		

NAYS.		
Brown,	Edwards,	Storey,
Burton,	McCormick,	Tilson—7.
Duncan,		

Not voting—Houston, Lane.

The amendment of Senator Duncan was lost by the following vote:

YEAS.		
Duncan,	Lane,	McCulloch—7.
Edwards,	McCormick,	
NAYS.		
Brown,	Davenport,	Guy,
Burnett,	Gooch,	Hobby,
Burton,	Grace,	Homan,

Lair,
Ledbetter,
Martin,
Moore,

Motley,
Patton,
Stewart,
Shannon,

Storey,
Swain,
Terrell,
Tilson--21.

Not voting—Houston.

Bill passed to third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Gooch,
Guy,
Hobby,
Homan,

Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe.
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS.

Duncan,
Edwards,

Grace,
Lane,

McCormick—5.

Not voting—Houston.

Substitute for House bill No. 119, entitled "An act to amend sections 9 and 26 of an act to define the duties, powers, qualifications and liabilities of assessors of taxes, and to regulate their compensation," was taken up and read first time.

Senator Storey, chairman of the committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your finance committee have considered Senate bill No. 123, "An act to amend section 12 of an act entitled 'an act to enforce the collection of delinquent taxes on lands assessed January, 1870,' approved August 19, 1876," and I am instructed to report as a substitute therefor, "an act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the day of February, 1879," and to recommend that the substitute pass.

STOREY, *Chairman.*

The substitute recommended by the committee was taken up and read first time.

House bill No. 324, entitled "An act authorizing the payment of taxes of non-residents of counties to be made at the comptroller's office," was taken up and read first time.

House bill No. 179, entitled "An act to further define the duties of assessors of taxes," was taken up and read first time.

House bill No. 337, entitled "An act to authorize counties, cities and towns to scale and fund their indebtedness and for raising means to pay the same," was taken up, read first time and fifty copies ordered printed.

Substitute for House bill No. 338, entitled "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation,' approved August 21, 1876," was taken up and read first time.

House bill No. 327, entitled "An act to better secure the collection of taxes," was taken up and read a second time.

The amendments of the committee were adopted and bill passed to a third reading.

House bill No. 302, entitled "An act legalizing the county lines of

Duval county, and of counties affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties," was taken up, read a second time and passed to a third reading.

House bill No. 276, entitled "An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide for the payment of the interest and principal of the same," was taken up, read second time and passed to a third reading.

On motion of Senator Terrell, the Senate adjourned until 9:30 A. M., to-morrow.

FIFTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 20, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Swain, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate bill No. 318, "An act to legalize certain land claims therein named," and I am instructed to report same back to the Senate with the recommendation that it be referred to committee on private land claims.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House bill No. 341, "An act to prohibit the giving away or disposition of intoxicating liquors or compounds within five miles of Southeast Texas Male and Female College, in Jasper county, and to provide penalty for its violation," and I am instructed to recommend its passage.

HOUSTON, *Chairman.*

Senator Guy, chairman of the committee on private land claims, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims to whom was referred Senate bill No. 315, entitled "A bill to be entitled 'an act for the relief of the heirs of Ira Ingram, deceased,'" have had the same under consideration and I am instructed by said committee to report said bill back to the Senate and to recommend its passage.

GUY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 314, entitled "A bill to be entitled 'an act to revive and validate certificate No. 6058,'" have considered the same, and I am instructed by said committee to report said bill back to the Senate and to recommend that the same do pass.

GUY, *Chairman.*

Senator Patton, chairman of committee on stock and stockraising, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on stock and stockraising have had under consideration House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence and to carry into effect sections 22 and 23 article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,' approved August 15, 1879," and direct me to recommend that the words "on the top wire," in section 1 of the bill, be stricken out, and "between the wires" be inserted therefor; also, that a new section be added to the bill to read as follows:

"Section 4. *Provided* that the counties of Refugio, Aransas, San Patricio and Bee shall be and are excepted from the provisions of this act," and that the bill so amended do pass. PATTON, *Chairman.*

Senator Hobby, from judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered House substitute for Senate bill No. 23, "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change," and have instructed me to report the same back to the Senate and recommend its passage. HOBBY, *for Committee.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 226, "An act to repeal an act entitled 'an act to amend and consolidate the several acts incorporating the town of Gonzales, approved March 6, 1873, etc., etc.,'" and have instructed me to report the same back to the Senate, and recommend that the bill do not pass, for the reason that it is a special law, and no evidence was before your committee that the notice of publication for such law had been made. HOBBY, *for Committee.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 having duly considered House bill No. 451, entitled "An act to amend 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for State of Texas,' approved 1879," respectfully return the same and recommend its passage, with the following amendments: Amend caption by striking out words and blank "approved 1879," and insert instead "passed at the present session of the Legislature," and amend section 1 by exempting the following additional counties: "Grimes, Madison, Walker, Trinity, Burleson, Washington, Austin." HOBBY, *for Committee.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered House bill No. 375, "An act to amend 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' approved February, 1879," and instruct me report it back to the Senate and recommend its passage. HOBBY, *for Committee.*

Fifty copies of this bill were ordered printed.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find

correctly enrolled and properly signed Senate bill No. 245, "An act to authorize the commissioner of the general land office to contract for the lithographic printing of maps of the various counties of this state, and to provide for the sale of the same, and to make an appropriation to carry this act into effect," and at 9:50 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Storey introduced a bill entitled "An act to amend article 826 of the Revised Civil Statutes, so as to correct the conflict in the boundary lines between Blanco and Kendall counties."

Read by caption and referred to committee on counties and county boundaries.

The resolution of Senator McCulloch offered on yesterday with regard to a committee to select the most important bills for the action of the Legislature, was taken up for consideration.

Senator Burton offered the following amendment:

Strike out the words "cull out."

Senator Ledbetter moved to postpone the resolution and amendment until to-morrow evening.

Senator Terrell offered the following amendment:

Add, "which shall be considered in preference to all other business."

Senator Ledbetter's motion to postpone was lost.

Senator Burton's amendment was lost.

The amendment of Senator Terrell was adopted, and the resolution as amended was then adopted by the following vote:

YEAS.

Burnett,
Duncan,
Edwards,
Gooch,
Grace,
Guy,
Hobby,

Houston,
Lair,
McCormick,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson--20.

NAYS.

Brown,
Burton.

Homan,
Lane,

Ledbetter,
Martin--6.

Not voting--Davenport, Shannon.

Senator Shannon moved that a committee of five senators be appointed under the requirements of the resolution just passed.

Senator Martin moved that the committee be composed of seven senators.

Accepted by Senator Shannon, and motion adopted.

On motion of Senator Motley, the sergeant-at-arms (Col. Barton), was excused in consequence of sickness.

The president, after reading their captions, signed the following bills to-wit:

Senate bill No. 245, entitled "An act to authorize the commissioner of the general land office to contract for lithographic printing of maps of the various counties of the state, and to provide for the sale of the same, and to make an appropriation to carry this act into effect"; House bill No. 68, entitled "An act to amend 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violation;'" House bill No. 15, entitled "An act for the relief of all persons whose lands have been sold for taxes and

bought in by the state;" House bill No. 88, entitled "An act for the relief of Mrs. M. A. C. Wilson, widow of William F. Wilson."

(President *pro tempore* in the chair.)

Senator Moore, under the rules, called Senate bill No. 302, entitled "An act making an appropriation of \$15,000 to aid in instruction in agriculture and the natural sciences connected therewith at the Agricultural and Mechanical College of Texas," which was read a second time.

(Senator Gooch in the chair.)

Senator Brown offered the following amendment:

Strike out all after the words "to the end that" in line six, section 1, and insert "that the theory of agriculture, involving instruction in the elements and peculiarities of soils, the constituents of plants, the chemical properties, the effect and value of fertilizers in relation to the various forms of vegetable growth, with such practical illustrations in the laboratory, garden, field and experimental work-shop as may be made without interfering with the prosecution of thorough courses of study, may be more efficiently taught in said college."

(President *pro tempore* in the chair.)

Senator Ledbetter moved a call of the Senate.

Call sustained.

Roll called.

Absent—Senator Grace.

The pending business went to the table.

The motion to reconsider the vote on the Toby claim was taken up, but the absent senator appearing, the consideration of Senate bill No. 302 was resumed.

The amendment of Senator Brown was lost by the following vote:

YEAS.

Brown,
Burnett,
Davenport,

Duncan,
Grace,

Guy,
Shannon—7.

NAYS.

Burton.
Edwards,
Gooch,
Hobby,
Homan,

Houston,
Lair,
Ledbetter,
McCormick,
Moore,

Homan,
Ripetoe,
Stewart,
Storey,
Tilson—15.

Not voting—Lane, Martin, McCulloch, Patton, Swain, Terrell.

The bill was then engrossed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS.

Davenport,
Grace.

Houston,

Lair—4.

Not voting—Shannon.

The motion to reconsider the vote on the report of the finance committee on the Toby claim, was again considered.

Senator Homan moved a call of the Senate.

Call sustained.

Roll called and Senate full.

Senator Terrell (by leave) introduced a bill entitled "An act to build a dam across the Colorado river above Austin, for manufacturing purposes."

Read by caption and referred to committee on internal improvements.

Senator Shannon introduced a bill entitled "An act to provide for the appointment of notaries public, cattle and hide inspectors, justices of the peace and constables in the unorganized counties of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

Senator Martin moved to postpone the consideration of his motion to reconsider the vote on the report of finance committee on the Toby claim until Monday next, just after the morning call, and that said motion be made the special order for that time and from day to day until disposed of.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called and Senate full.

The motion of Senator Martin was adopted by the following vote:

YEAS.

Brown,
Burton,
Duncan,
Edwards,
Gooch,
Grace,
Guy.

Hobby,
Houston,
Lane,
Martin,
McCormick,
McCulloch,
Patton,

Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson—20.

NAYS

Burnett,
Davenport,
Homan,

Lair,
Ledbetter,
Moore.

Motley,
Shannon—8.

(President in the chair.)

Senate bill No. 312, entitled "An act to amend and supplement the existing quarantine law of the State of Texas," was taken up and read first time.

The president appointed the following as a committee under the resolution adopted this morning:

McCulloch, Storey, Stewart, Hobby, Motley, Davenport and Swain.

Senate bill No. 13 was taken up.

Senator Storey moved a call of the Senate.

Call sustained.

Absent—Terrell.

Pending business went to the table.

Senate bill No. 137, entitled "An act for the relief of the heirs of Catlett Barnett (deceased) was taken up and passed.

Senate joint resolution No. 178, "proposing an amendment to article 16, sections 50 and 51 of the constitution of the State of Texas," was taken up and read third time.

The absent senator appearing, the consideration of Senate bill No. 13, entitled "An act to provide for the time and place of holding the supreme court," was resumed, and bill passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,

Gooch,
Grace,
Guy,

Homan,
Houston,
Lair,

Ledbetter,
Martin,
McCulloch,

Patton,
Stewart,
Shannon,

Storey,
Swain,
Terrell--18.

NAYS.

Davenport,
Duncan,
Edwards,
Hobby,

Lane,
McCormick,
Moore,

Motley,
Ripetoe,
Tilson--10.

Senator Ledbetter moved to reconsider the vote just taken and to lay that motion on the table.

Senator Hobby moved a call of the Senate.

Call sustained.

Roll called and Senate full.

The motion of Senator Ledbetter then carried by the following vote:

YEAS.

Brown,
Burnett,
Gooch,
Grace,
Homan,
Houston,

Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell--18.

NAYS.

Davenport,
Duncan,
Hobby,

Lane,
McCormick,

Motley,
Tilson--7.

Not voting--Burton, Edwards, Guy.

Senator Burton was excused by the Senate from voting.

The consideration of Senate joint resolution No. 178 was resumed and resolution passed by the following vote:

YEAS.

Brown,
Burnett,
Duncan,
Gooch,
Grace,
Guy,
Homan,

Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--21.

NAYS.

Davenport,
Edwards,

Hobby,
Houston,

Martin,
Moore -6.

Not voting--Burton.

Senate bill No. 243, entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" was taken up, read third time and passed.

Senate bill No. 107, entitled "An act to amend 'an act to regulate the respective duties of district and county attorneys,'" was taken up, read second time and ordered engrossed.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 127, "An act to provide for the holding of special terms of the district courts, when and where the same may be necessary," and at 12:45 o'clock P. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senate bill No. 111, entitled "An act to regulate the pay of grand and petit jurors in the several counties of this state," was taken up and read second time.

Senator Patton offered the following as an amendment to the committee's amendment:

Amend committee amendment—for "\$200" substitute "\$150."

Adopted.

The president, after publicly reading its caption, signed Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts, when and where the same may be necessary."

The committee's amendment as amended was then adopted.

On motion of Senator Terrell, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

President *pro tempore* in the chair. Roll called; quorum not present.

A quorum soon appearing, the Senate proceeded to business.

House bill No. 89, entitled "An act in relation to assignments for the benefit of creditors, and to regulate the same and the proceedings thereunder," was taken up, read third time and passed.

House bill No. 102, entitled "An act defining the duties of commissioners' courts when sitting as a board of equalization," was taken up, read third time and passed.

House bill No. 188, entitled "An act to protect the wool-growing interests of the State of Texas," was taken up and read third time.

On motion of Senator Edwards, Senators Terrell and Houston were excused for the evening.

Senator Patton offered the following amendment:

Strike out "Colorado county" from the list of counties exempted from the provisions of this act.

Adopted.

Senator McCulloch offered the following:

Strike out "Leon, Brazos and Robertson counties" from the list of exempted counties.

Adopted.

The bill was then postponed until the afternoon to-morrow.

House bill No. 276, entitled "An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof and to provide for the payment of the interest and principal of the same," was taken up and passed.

House bill No. 302, entitled "An act legalizing the county lines of Duval county, and of the counties affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties," was taken up, read third time and laid over for the present.

House bill No. 327, entitled "An act to better secure the collection of taxes," was taken up, read third time and passed.

House bill No. 119, entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes, and to regulate their compensation,'" was taken up and read second time.

On motion of Senator Storey, the bill was recommitted to the committee on finance.

House bill No. 324, entitled "An act authorizing the payment of taxes of non-residents of counties to be made at the comptroller's office," was taken up, read second time and passed to a third reading by the following vote:

YEAS.		
Brown,	Homan,	Patton,
Burnett,	Lair,	Ripetoe,
Burton,	Ledbetter,	Stewart,
Edwards,	McCormick,	Storey,
Gooch,	McCulloch,	Swain,
Hobby,	Motley,	Tilson--18.
NAYS.		
Davenport,	Martin,	Shannon--5.
Guy,	Moore.	
Not voting--Duncan, Grace, Lane.		

On motion of Senator Homan, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Lair,	Patton,
Burnett,	Ledbetter,	Ripetoe,
Edwards,	Martin,	Stewart,
Gooch,	McCormick,	Shannon,
Guy,	McCulloch,	Storey,
Hobby,	Moore,	Swain,
Homan,	Motley,	Tilson--21.
NAYS.		
Burton,		Davenport--2.
Not voting--Duncan, Grace, Lane.		

Bill read third time.
 Senator Edwards moved a call of the Senate.
 Call sustained.
 Roll called.
 Absent--Senators Duncan, Grace and Lane.
 Senator Edwards moved a suspension of the call.
 Carried, and the bill was passed by the following vote:

YEAS.		
Brown,	Homan,	Patton,
Burnett,	Lair,	Ripetoe,
Burton,	Ledbetter,	Stewart,
Edwards,	McCormick,	Storey,
Gooch,	McCulloch,	Swain,
Guy,	Moore,	Tilson--20.
Hobby,	Motley,	
NAYS.		
Davenport,	Martin,	Shannon--3.
Not voting--Duncan, Grace, Lane.		

House bill No. 338, entitled "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent tax-payers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation,'" approved August 21, 1876, was taken up and read second time with adverse report.

On motion of Senator Martin, the report was adopted and bill lost.

Senator Storey entered a motion to reconsider the vote passing Senate bill No. 324.

The following bills were taken up and read first time:

Substitute for Senate bill No. 23, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and to conform the jurisdiction of the district courts of said counties to such change."

Substitute for House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence and to carry into effect sections 22 and 23 article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,'" approved August 15, 1876.

House bill No. 341, entitled "An act to prohibit the sale, giving away or otherwise disposing of intoxicating liquors, or medicated bitters, or compounds producing intoxication, within five miles of the Southeast Texas Male and Female College in Jasper county, Texas, and to provide a penalty for its violation,"

House bill No. 451, entitled "An act to amend 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,'" approved , 1879.

Substitute for House bills Nos. 305 and 335, entitled "An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owner of which not having redeemed the same."

Senator McCulloch, under the rules, called up substitute for Senate bill No. 164, entitled "An act to establish a state board of health," which was read a second time.

(Senator McCormick in the chair.)

Senator McCulloch offered the following:

Amend by inserting in line nineteen, section 10, "the secretary, etc."

Adopted.

Senator Brown offered the following:

Strike out all of section 2 after the word "state," in line, page 2.

Adopted.

Senator Stewart offered the following:

Amend by adding after the word "state," in section 2, line sixteen, "but it shall not have the power to interfere with the quarantine regulations of this state, nor shall they interfere with the quarantine officers of any city or town of this state."

Adopted.

Senator Storey offered the following:

Strike out the words "seven members," and insert "one from each congressional district and one from the state at large."

Adopted.

Senator Brown offered the following:

Strike out all of section 2 after the word "health," in line thirteen, page 2.

Lost.

Senator McCulloch offered the following:

Amend by filling the blank in line eight, section 9 with "\$3000."

Lost.

Senator Ledbetter offered the following:

Amend by filling up the blank in section 9 by inserting "\$1500."

Senator Swain offered the following as a substitute for pending amendment:

Amend by filling blank with "\$2500."

Senator Ledbetter withdrew his amendment, and the amendment of Senator Swain was adopted, and the bill was then ordered engrossed by the following vote :

YEAS.		
Burnett,	Lair,	Ripetoe,
Gooch,	Ledbetter,	Storey,
Guy,	McCormick,	Swain,
Hobby,	McCulloch,	Tilson--14.
Homan,	Moore,	
NAYS.		
Brown,	Edwards,	Motley,
Burton,	Grace,	Shannon--8.
Davenport,	Martin,	
Not voting—Duncan, Lane, Patton.		

(President in the chair.)

Senator Moore, under the rules, called up Senate bill No. 301, entitled "An act to provide for the organization and support of a normal school at Alta Vista College in Waller county, for the preparation and training of colored teachers," was taken up.

(Senator Martin in the chair.)

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Duncan and Homan.

Bill went to the table.

Senator Ripetoe, under the rules, called up Senate bill No. 300, entitled "An act to establish a state normal school," was taken up and read second time.

On motion of Senator Ledbetter, Senator Duncan was excused for the evening.

The absent senators appearing, the consideration of Senate bill No. 301 was resumed.

Senator Grace moved to postpone the bill until to-morrow evening.

Lost by the following vote:

YEAS.		
Brown,	Guy,	McCulloch,
Grace,	Lair,	Patton--6.
NAYS.		
Burnett,	Homan,	Ripetoe,
Burton,	Ledbetter,	Stewart,
Davenport,	Martin,	Shannon,
Duncan,	McCormick,	Storey,
Edwards,	Moore,	Swain,
Gooch,	Motley,	Tilson--19.
Hobby,		

Not voting—Lane.

The bill was then ordered engrossed.

Senator Edwards moved to suspend the rules and place the bill on its third reading.

Lost by the following vote (it requiring four-fifths to suspend):

YEAS.		
Burnett.	Hobby,	Motley,
Burton,	Homan.	Ripetoe,
Davenport,	Ledbetter,	Stewart,
Duncan.	Martin,	Shannon,
Edwards,	McCormick.	Storey--17.
Guy,	Moore,	

Brown,
Gooch,
Grace,

NAYS.
Lair,
McCulloch,
Patton,

Swain.
Tilson—8.

Senator Tilson, chairman of the committee on county and county boundaries (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on county and county boundaries, to whom was referred Senate bill No. 320, to be entitled "An act to amend article 826 of the Revised Civil Statutes, so as to correct the conflict between the boundary line between Blanco and Kendall counties," have had the same under consideration, and find that due notice of the application for the passage of this law has been published as required by law, and instruct me to report said bill back to the Senate with the recommendation that it do pass.

TILSON, *Chairman.*

The bill just reported (Senate bill No. 320) was taken up and read first time.

Senator Storey, moved to suspend the rules and place bill on its second reading.

Carried by the following vote:

Brown,
Burnett,
Edwards,
Gooch,
Grace,
Guy,
Hobby,

YEAS.
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--21.

NAYS—Davenport.

Not voting—Burton, Duncan, Homan, Lane.

Bill read second time and ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

Brown,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Grace,
Guy,

YEAS.
Hobby,
Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--23.

NAYS—none.

Not voting—Duncan, Lane, Patton.

Bill read third time and passed by the following vote:

Brown,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Grace,
Guy,

YEAS.
Hobby,
Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--24.

NAYS—none.

Not voting—Lane.

Senator Edwards moved that the time for calling up bills under the rule be extended for the entire evening session.

Carried.

Senator Swain moved to adjourn until to-morrow at 9:30 A. M.

Lost.

The consideration of Senate bill 300 was resumed.

On motion of Senator Burnett, this bill (establishing a state normal school) was postponed until to-morrow evening.

Senator Patton, under the rules, called up Senate bill No. 128, entitled "An act to prevent the taking up of any horse, mare, gelding, etc., and using the same, etc.," was taken up, read second time and ordered engrossed.

On motion of Senator Stewart (under the rules), Senate bill No. 272, entitled "An act to further provide for perpetuating testimony," was taken up and read second time and ordered engrossed.

On motion of Senator Stewart, the vote just taken was reconsidered.

Senator Stewart offered the following amendment:

"Owing to the late period of the session there exists an imperative public necessity that requires that the reading of this bill for three several days be dispensed with, and that it take effect from and after its passage."

Adopted and bill ordered engrossed.

Senator Stewart moved to further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Guy,
Hobby.

Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—22.

NAYS—none.

Not voting—Grace, Lane, Patton.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Lair,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—21.

NAYS—Davenport.

Not voting—Grace, Lane, Ledbetter.

Senator Shannon, under the rules, called up Senate bill No. 123, entitled "An act to amend article 4759 of the Revised Civil Statutes of Texas," adopted February, 1879, was taken up, read a second time and ordered engrossed.

On motion of Senator Shannon, the rules were suspended, and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett.
Burton,
Davenport,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—23.

NAYS—none.

Not voting—Grace, Lane.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—23.

NAYS—none.

Not voting—Grace, Lane.

Senator Tilson moved to adjourn until 9:30 A. M. to-morrow.

Lost by the following vote:

YEAS.

Burton,
Davenport,
Guy,
Lair,

Ledbetter,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart—10.

NAYS.

Brown,
Burnett,
Edwards,
Gooch,
Hobby,

Homan,
Martin,
McCormick,
Motley,

Shannon,
Storey,
Swain,
Tilson—13.

Not voting—Grace, Lane.

Senator Edwards (by request) introduced a bill entitled "An act to repeal article 2971 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February, 1879."

Read by caption and referred to committee on insurance, statistics and history.

A message was received from the House, announcing as follows:

House concurs in Senate amendments to House bill No. 89, "An act in relation to assignments for the benefit of creditors, and to regulate the same and the proceedings thereunder;" also, House bill No. 102, "An act defining the duties of commissioners' courts when sitting as a board of equalization;" also, on House bill No. 187, "An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect," in all the amendments except the first.

(President in the chair.)

Senator Stewart moved to adjourn until to-morrow morning at 9 o'clock.

Lost.

On motion of Senator Storey, Senate bill No. 198, entitled "An act for the relief of the heirs of Lieutenant Samuel Wilson, deceased," was taken up, read second time and ordered engrossed.

Senator Swain called up Senate bill No. 201, entitled "An act to provide for the taking and preservation of the testimony in capital cases, and the use of the testimony so taken in case of appeal," was taken up and read second time.

Senator Guy offered the following:

Amend section 1 by striking out all between the word "trial" in line six and the word "be" in line seven and insert "by agreement between the state and defendant may."

Lost by the following vote:

YEAS.		
Burnett, Gooch, Guy,	Motley, Shannon,	Storey, Tilson--7.
NAYS.		
Brown, Burton, Davenport, Grace, Hobby, Homan,	Lair, Ledbetter, Martin, McCormick, McCulloch,	Moore, Patton, Ripetoe, Stewart, Swain--16.

Not yoting—Edwards, Lane.

The Senate refused to engross the bill by the following vote:

YEAS.		
Burton, Hobby, Homan, Lair,	Martin, Moore, Patton,	Stewart, Storey, Swain—10.
NAYS.		
Brown, Burnett, Davenport, Gooch,	Grace, Ledbetter, McCormick, McCulloch,	Motley, Shannon, Tilson---11.

Not voting—Edwards, Guy, Lane, Ripetoe.

On motion of Senator Storey, House bill No. 187 (the bell punch bill) was taken up.

Senator Storey moved that the Senate insist on its amendment that the House had refused to concur in.

Carried by the following vote:

YEAS.		
Davenport, Edwards, Grace, Hobby, Homan,	Lair, Ledbetter, Martin, McCulloch, Moore,	Patton, Ripetoe, Stewart, Shannon, Storey---15.
NAYS.		
Brown, Burnett, Burton,	Gooch, Guy, Lane,	McCormick, Motley, Tilson—9.

Senator Storey moved that a conference committee be appointed.

Carried, and the president appointed on said committee Senators Storey, Shannon and Martin.

Senator Lane (by leave) introduced a bill entitled "An act to amend article 3764 of the Revised Civil Code, approved February, 1879."

Senator Terrell requested that he be recorded as voting no on House bill No. 187 (the bell-punch bill), on its passage.

On motion of Senator Ledbetter, the Senate adjourned until 9:30 A. M. to-morrow.

FIFTY-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 21, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator McCormick entered a motion to reconsider the vote passing Senate bill No. 201 to engrossment on yesterday.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 323, to be entitled "An act to amend article 2754 of the Revised Civil Code, approved February, 1879," and as a law has passed at this session of the Legislature allowing parties, non-resident in the state or counties, to pay taxes on their lands to the comptroller at Austin, they deem it important, to prevent confusion in the accounts of collectors and the tax rolls of the counties, that the comptroller should furnish to the collectors of the several counties in the month of January of each year, a list of the amount of taxes paid into his office for tax due on land, giving the abstract, number of the survey, grantee, and number of acres on which the taxes have been paid, and by whom. They therefore believe that the bill should become a law, and instruct me to report it back recommending its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 309, to be entitled "An act to amend article 4556 of the Revised Statutes of the State of Texas, adopted at the present session of the Legislature," and instruct me to report it back and recommend its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, have considered House bill No. 207, to be entitled "An act to amend articles 2403, 2404 and 2405 of the Revised Statutes," and instructed me to report it back with the accompanying substitute, and recommend the passage of the substitute.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered House bill No. 377, to be entitled "An act to declare valid and binding on the county of Wilson certain sales of lots and blocks of the town of Floresville, in said county," and instruct me to report it back and recommend its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered House bill No. 33, to be entitled "An act to amend article 4767 of the Revised Civil Statutes," and instruct me to report it back with the accompanying substitute and recommend that the substitute do pass. *TERRELL, Chairman.*

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 321, entitled "An act to authorize the Austin Canal, Irrigation and Manufacturing Company to construct a dam across the Colorado river," have had the same under consideration, and instruct me to report that the law requiring thirty days notice in such cases has been complied with, and a majority of the committee instruct me to report the bill back to the Senate and recommend its passage. *SHANNON, Chairman.*

Senator Homan offered the following resolution:

Resolved, That the concurrent resolution adopted yesterday providing for the appointment of a committee to cull out bills of importance from the business before the Senate, and giving such bills precedence over other business, be and the same is hereby rescinded.

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Grace,

Guy,
Homan,
Houston,
Lane,
Ledbetter,

Martin,
McCormick,
Ripetoe,
Shannon,
Tilson—15.

NAYS.

Lair,
McCulloch,

Moore,
Patton,

Stewart,
Storey—6.

Not voting—Davenport, Edwards, Gooch, Hobby, Swain, Terrell.

Senator Tilson, under the rule, called up Senate joint resolution No. 257, "granting leave of absence to Hon. B. T. Estes, judge of the fifth judicial district of Texas," which was read a second time and ordered engrossed.

Senator Tilson offered the following amendment:

"Section 2. That in view of the near approach of the close of the session of the Legislature and the object to be attained by the passage of this resolution, an imperative necessity an emergency exists for the suspension of the constitutional rule, and that the resolution shall take effect and be in force from and after its passage."

Adopted.

On motion of Senator Tilson, the rules were suspended and resolution placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Swain,
Tilson--22.

NAYS—NONE.

Not voting—Gooch, McCulloch, Stewart, Storey, Terrell.
Resolution read third time and passed by the following vote:

YEAS.

Blassingame,	Guy,	Moore,
Brown,	Hobby,	Motley,
Buchanan,	Homan.	Patton,
Burnett,	Houston,	Ripetoe,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Edwards,	Martin,	Terrell,
Ford,	McCormick,	Tilson—29.
Grace,	McCulloch,	

NAYS—none.

Not voting—Gooch.

Senator Brown, under the rule, called up Senate bill No. 31, entitled "An act to create and provide for execution liens on land," which was taken up and read second time with majority and minority reports.

Senator Gooch moved to adopt the minority report.

Carried by the following vote:

YEAS.

Brown,	Hobby,	Motley,
Burton,	Lair,	Shannon,
Davenport,	Martin.	Storey,
Duncan,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—18.

NAYS.

Burnett,	Lane,	Patton,
Grace,	Ledbetter,	Stewart—7.
Houston,		

Not voting—Edwards, Homan.

The bill was then ordered engrossed by the following vote:

YEAS.

Brown,	Homan.	Patton,
Burnett,	Lair,	Ripetoe,
Burton,	Ledbetter,	Shannon,
Davenport,	Martin,	Storey,
Duncan,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—23.
Hobby,	Motley,	

NAYS.

Edwards,	Houston.	Stewart—5.
Grace,	Lane,	

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have compared with the originals the engrossed copies of the following Senate bills, viz:

Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas."

Senate bill No. 36, entitled "An act providing for the transportation of convicts under contract from the counties in which they are convicted, to the penitentiary."

Senate bill No. 159, entitled "An act to prescribe the requisites of indictments in certain cases."

Senate bill No. 142, entitled "An act to regulate the admission and practice of attorneys and counselors-at-law."

Senate bill No. 277, entitled "An act amendatory of and supplemental to article 878 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed at this session.

Senate joint resolution No. 306, "Granting leave of absence from the state for one month to Hon. W. H. Burkhart, judge of the eighteenth judicial district."

Senate bill No. 313, entitled "An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvement to receive the state and county taxes from persons who refuse to pay the tax levied for such purpose."

Senate bill No. 302, entitled "An act making an appropriation of \$15,000, to aid in instruction in agriculture and the natural sciences connected therewith at the Agricultural and Mechanical College of Texas," and find all of them correctly engrossed. BROWN, *Chairman.*

(Senator Lane in the chair.)

Senator Burnett, under the rules, called up Senate bill No. 213, entitled "An act to amend article 265 of the new Penal Code," with substitute, which was taken up, read second time and substitute adopted.

Senator Burnett offered the following:

"Section The near approach of the adjournment of the present session of the Legislature creates an imperative public necessity for the suspension of the rules requiring bills to be read on three several days, and said rule is suspended."

Adopted.

Senator Storey offered the following:

Add the words "or in any court in other counties."

Lost, and bill engrossed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Gooch,
Guy,
Hobby,

Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey--19.

NAYS.

Houston,

Lane--2.

Not voting—Duncan, Edwards, Moore, Swain, Terrell, Tilson.

On motion of Senator Edwards, the time for senators calling up bills was extended through the morning session.

The rules were further suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell--24.

NAYS--none.

Not voting—Moore, Swain, Terrell.

Bill read third time and passed.

A message was received from the House announcing the passage by that body of Senate bill No. 125, entitled "An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county, and the issuance of county bonds and levy of tax therefor in settlement of bonds of said county issued under an act of the Legislature passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for purposes of internal improvements.'"

Senate bill No. 250, entitled "An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district."

Senate joint resolution No. 35, "granting leave of absence from the state to Walter Acker."

Senate bill No. 121, entitled "An act supplemental to and amendatory of an act entitled an act to enable part owners of land to obtain partition thereof, and for other purposes."

Senate bill No. 158, entitled "An act to make an appropriation for the support of the lunatic asylum for the time beginning January 1, 1879, and ending February 28, 1879."

Senate bill No. 135, entitled "An act for the relief of the Aransas Road company."

And that the House concurs in Senate amendments to House bill No. 327, entitled "An act to better secure the collection of taxes."

Senator Burton's name was called, when he called up Senate bill No. 301, entitled "An act to provide for the organization and support of a normal school at Alta Vista College, in Waller county, for the preparation and training of colored teachers," which was read third time and passed by the following vote:

YEAS.		
Burnett,	Hobby,	McCulloch,
Burton,	Homan,	Moore,
Davenport,	Houston,	Ripetoe,
Duncan,	Lane,	Stewart,
Edwards,	Ledbetter,	Shannon,
Gooch,	Martin,	Swain,
Guy,	McCormick,	Tilson--21.
NAYS.		
Brown,	Patton,	Terrell--5.
Lair,	Storey,	

Not voting—Motley.

Senator Davenport called up Senate bill No. 53, entitled "An act for the relief of Silas Dinsmore (deceased)," which was read second time and ordered engrossed.

(President in the chair.)

Senator Buchanan, under the rules, called up substitute for Senate bill No. 303, entitled "An act to provide for the dissolution and surrender of the charter of the city of Terrell, in Kaufman county, Texas, and to provide for the payment of the debts due by said city," which was read second time and ordered engrossed.

On motion of Senator Buchanan, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Storey,
Swain,
Tilson--24.

NAYS--none.

Not voting--Davenport, Lane, Shannon, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Guy,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell--23.

NAYS--Terrell.

Not voting--Burton, Davenport, Gooch, Motley.

Senator Terrell presented the following:

"I vote no only because I regard the bill just passed as unconstitutional under section 56, article 3 of the constitution."

Senator Duncan called up Senate bill No. 207, entitled "An act supplementary to and amendatory of an act to adopt and establish the Revised Civil Statutes of the State of Texas," which was read second time and ordered engrossed.

On motion of Senator Duncan, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--24.

NAYS--none.

Not voting--Burton, Davenport, Martin, Moore.

Bill read third time and passed.

Senator Edwards, when his name was called, moved to take up Senate bill No. 302, entitled "An act making an appropriation of fifteen thousand dollars to aid in instruction in agriculture, and the natural sciences connected therewith, at the Agricultural and Mechanical College of Texas," which was taken up, read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,

Gooch,
Guy,
Hobby,
Homan,
Houston,

Lane,
Ledbetter,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Swain,

Terrell,
Tilson—22.

NAYS—Lair.

Not voting—Brown, Davenport, Martin, Storey.

Senator Guy, under the rules, called up Senate bill No. 251, entitled "An act to amend article 988 of the Code of Criminal Procedure, passed by the Sixteenth Legislature," which was read second time and ordered engrossed.

On motion of Senator Guy, the rules were suspended, and bill placed on its third reading by the following vote :

YEAS.

Brown,
Buchanan,
Burnett,
Barton,
Davenport,
Gooch,
Guy,
Hobby.

Homan,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,
Motley.

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—22.

NAYS.

Edwards,
Not voting—Duncan, Martin, Terrell.
Bill read third time and passed.

Lane—3.

The president, after publicly reading its caption, signed Senate bill No. 103, entitled "An act to organize the state penitentiaries, and to regulate the management of the convicts therein."

Senator Brown, chairman of committee on engrossed bills, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have carefully compared with the original Senate bill No. 320, "An act to amend article 826 of the Revised Civil Statutes so as to correct the conflict in the boundary line between Blanco and Kendall counties," and find the same correctly engrossed.

BROWN, *Chairman.*

The following message was received from the House:

House still refuses to concur in the Senate amendments to House joint resolution No. 2, "Proposing an amendment to the constitution," and asks for a committee of conference. Messrs. Baker, Gause and Coleman have been appointed as such committee, on part of the House, to meet a like committee on the part of the Senate.

And that Messrs. Finlay, Henderson, of Smith, and Jones, of Hunt, have been appointed a committee of conference on part of House to meet like committee on part of the Senate, on the disagreement between the two houses on House bill 187, "An act to provide for an occupation tax on the sale of spirituous, vinous and malt liquors, and for collection of the same."

Senator Hobby, under the rules, called up Senate bill No. 224, entitled "An act to amend article 539 of section 2 of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,'" which was taken up and read second time.

Senator Stewart offered the following:

Strike out "and not thereafter" where it occurs and add "*provided*

that such exceptions may be heard thereafter, in the discretion of the court before which the case may be pending."

Adopted.

Senator Gooch offered the following substitute:

"Article 539. The motion to set aside an indictment or information and all exceptions shall be filed at the first term of the court after the arrest, or the indictments or information shall be held to be sufficient to put the defendant on notice of the offense charged, or attempted to be charged, and all questions of insufficiency thereof, to wit: A motion to quash (and a motion in arrest of judgment) shall be regarded as waived. When a motion to quash or exceptions are filed as herein provided, the court shall decide the same without delay and at the first term of the court, if practicable.

Adopted by the following vote:

YEAS.

Buchanan,
Duncan,
Gooch,
Homan,
Houston,

Lane,
Lair,
McCormick,
McCulloch,
Moore,

Motley,
Ripetoe,
Swain,
Terrell,
Tilson—15.

NAYS.

Brown,
Burnett,
Davenport,
Edwards,

Grace,
Hobby,
Ledbetter,
Patton,

Stewart,
Shannon,
Storey—11.

Not voting—Burton, Guy, Martin.

Senator Edwards offered the following:

Add to substitute: "The courts of this state shall not be governed by any forms or rules or law on the subject of sufficiency of indictments; and all indictments to which the defendant has not taken exceptions as herein required, shall be held good and sufficient, the constitutional requirement that all felonies shall be prosecuted by indictment to the contrary notwithstanding."

Lost by the following vote:

YEAS.

Brown,

Edwards,

Stewart—3.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,

McCormick,
Moore,
Ripetoe,
Storey,
Swain,
Tilson—19.

Not voting—Lane, Martin, McCulloch, Motley, Patton, Shannon, Terrell.

Senator Patton offered the following amendment:

Amendment to substitute: strike out "both" and the succeeding line "and a motion in arrest of judgment."

Senator Grace moved to indefinitely postpone the bill, substitute and amend.

Lost by the following vote:

YEAS.

Burnett,
Burton,

Davenport,
Edwards,

Grace,
Hobby,

Ledbetter,
Martin,
McCulloch.

Motley,
Stewart,

Shannon.
Swain--13.

NAYS.

Brown,
Buchanan,
Duncan,
Gooch,
Guy,

Homan,
Houston,
Lane,
Lair,
McCormick,

Moore.
Patton,
Ripetoe,
Storey,
Tilson--15.

Not voting--Terrell.

Senator Brown moved to postpone the bill until to-morrow morning.
Lost by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Edwards,

Grace,
Hobby,
Ledbetter,
Martin,
McCulloch,

Ripetoe.
Stewart,
Shannon,
Swain--14.

NAYS.

Buchanan,
Duncan,
Gooch,
Guy,
Homan,

Houston,
Lane,
Lair,
McCormick,
Moore,

Motley.
Patton,
Storey,
Tilson - 14.

There being a tie vote, the president voted in the negative, and the bill was not postponed.

Senator Grace moved a call of the Senate.

Call sustained.

Roll called. Absent--Terrell.

Pending business went to the table.

Senator Homan called up Senate bill No. 177, entitled "An act to prohibit the sale, exchange or gift of intoxicating liquors within three miles of Frainesville High School, in Burleson county."

The absent senator appearing, the consideration of Senate bill No. 224 was resumed.

The amendment of Senator Patton was adopted and bill ordered engrossed by the following vote:

YEAS.

Buchanan,
Duncan,
Gooch,
Guy,
Homan,
Houston,

Lane,
Lair,
Martin,
McCormick,
Moore,

Motley,
Patton,
Storey,
Terrell,
Tilson--16.

NAYS.

Brown,
Burnett,
Burton,
Davenport,
Edwards,

Grace,
Hobby,
Ledbetter,
McCulloch.

Ripetoe.
Stewart,
Shannon,
Swain--13.

The consideration of Senate bill No. 177 was resumed.

The bill was read second time.

Senator Homan offered the following:

Add to the bill the following:

"Section --. The near approach of the close of the session creates an

imperative public necessity that the rules requiring this bill to be read on three several days be suspended."

Adopted and bill engrossed.

The rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Tilson--24.

NAYS—Burton.

Not voting—Edwards, Patton, Swain, Terrell.

Bill read third time and passed.

The president, after reading its caption, signed Senate bill No. 250, entitled "An act to create the thirty-second judicial district, prescribing the times of holding the courts therein and providing for the appointment of a district judge for that district."

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared, and find correctly enrolled and properly signed, Senate bill No. 250, "An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district," and have presented the same to the governor for his approval this day at 12:50 o'clock P. M.

GRACE, *Chairman.*

The following message was received from the House:

That the House has adopted the report of the conference committee on the disagreements between the two houses on House bill No. 132, "An act to require persons and corporations, to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to so pay, and to provide the manner and means of enforcing the provisions hereof."

Senator Houston called up Senate bill No. 236, entitled "An act to amend title 42, chapter 4 of an act entitled 'an act to adopt and establish the Revised Statutes of the State of Texas,'" which was taken up and read second time.

Senator Houston offered the following:

Amend by adding:

"Section The importance of this act to a large portion of the citizens of Texas, and the approach of the close of the session of the Legislature creates an imperative public necessity for the immediate passage of this act."

Adopted.

Senator Storey offered the following:

"Provided, That this act shall not apply to cases where a bond for cost has been given."

Lost, and bill ordered engrossed.

Senator Terrell moved that a committee of conference be appointed on the difference of the two houses on substitute for House joint resolution No. 2, "Proposing amendment to article 8 of the constitution."

Adopted, and the president appointed on said committee Senators Terrell, Hobby and Martin.

The president, after publicly reading their captions, signed the following bills, to wit:

House bill No. 102, entitled "An act defining the duties of commissioners' courts when sitting as a board of equalization;" House bill No. 276, entitled "An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide for the payment of the interest and principal of the same;" House bill No. 324, entitled "An act authorizing the payment of taxes of non-residents of counties to be made at the comptroller's office."

Senator Lane called up Senate bill No. 241, entitled "An act to amend articles 684 and 669 of the Penal Code," passed February 21, 1879, which was read second time.

Senator Lane offered the following amendment:

Amend by adding:

"Section The near approach of the close of the session of the Legislature makes it an imperative public necessity that the rule requiring this bill to be read on three several days be suspended, and it is so suspended."

Adopted, and bill ordered engrossed.

On motion of Senator Lane, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,	Hobby,	McCulloch,
Buchanan,	Homan,	Moore,
Burnett,	Houston,	Motley,
Davenport,	Lane,	Patton,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Shannon,
Gooch,	Martin,	Storey,
Guy,	McCormick,	Tilson—24.

NAYS.

Burton, Ripetoe -2.
Not voting—Swain, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Houston,	Motley,
Buchanan,	Lane,	Patton,
Davenport,	Ledbetter,	Storey,
Edwards,	Martin,	Terrell,
Gooch,	McCulloch.	Tilson--15.

NAYS.

Burnett,	Hobby,	Ripetoe,
Burton,	Homan,	Stewart,
Duncan,	Lair,	Shannon,
Grace,	McCormick,	Swain--14.
Guy,	Moore,	

Senator Edwards, from the committee of conference on the difference of the two houses on House bill No. 132, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of conference, appointed to confer with a like committee on the part of the House of Representatives, on disagreement be-

tween the two houses upon Senate amendments to House bill No. 132, "An act to require persons and corporations to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to pay said fees, and to provide the manner and means of enforcing the provisions hereof," have had said matter under consideration, and recommend that the Senate recede from Senate amendment to section five of said act.

EDWARDS,
LANE,
STOREY,
for Senate.
MCCOMB,
GAUSE,
COLEMAN,
for House.

The report of the committee was adopted.

The following bills were taken up and read first time.

Senate bill No. 315, entitled "An act to revive and validate land certificate No. 8016."

Senate bill No. 314, entitled "An act to revive and validate land certificate No. 6058."

Senate bill No. 226, entitled "An act to amend and consolidate the several acts incorporating the town of Gonzales," approved March 6, 1879, etc.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 103, "An act to organize the state penitentiaries, and to regulate the management of convicts therein;" and at 12:5 o'clock P. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Homan introduced a bill entitled "An act to prescribe the times of holding the district courts in the ninth judicial district.

On motion of Senator Shannon, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

Substitute for House bill No. 188, was taken up.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called.

Absent—Senators Burton, Grace, Lane, Lair, Terrell.

Bill went to the table.

House bill No. 302, entitled "An act legalizing the county lines of Duval county, and of the counties affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties," was taken up and laid over.

On motion of Senator Houston, the call was suspended, and the consideration of House bill No. 188, entitled "An act to protect the wool-growing interest of the State of Texas," was taken up and passed.

Substitute for House bill No. 23, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change," was taken up and read second time.

Senator McCormick offered the following amendment:

Amend engrossed rider by striking out "Brazoria and Matagorda," and insert the word "and" between the words "Marion" and "Gregg."

Adopted.

Senator Motley offered the following:

Strike out "Shelby county."

Adopted.

Senator Tilson offered the following:

Strike out "Bowie county" from the bill.

Adopted.

Senator Duncan offered the following:

Strike out "Upshur, Gregg, Camp and Smith counties" wherever they occur in bill and engrossed rider.

Adopted.

Senator Shannon, chairman of the committee on judicial districts (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 325, "An act prescribing the times of holding the district courts in the ninth judicial district," have considered the same, and I am instructed to report the same with accompanying amendments recommending its passage as amended.

SHANNON, *Chairman.*

The bill was taken up and read first time.

House bill No. 341, entitled "An act to prohibit the sale, giving away or otherwise disposing of intoxicating liquors or medicated bitters, or compounds producing intoxication, within five miles of the Southeast Texas Male and Female College, in Jasper county, and to provide a penalty for its violation," was taken up, read second time and passed to a third reading.

House bill No. 451, entitled "An act to amend 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' approved _____, 1879," was taken up, read second time and committee amendments adopted.

Senator Gooch offered the following:

Add to the list of exempted counties the following: "Cherokee."

Adopted.

Senator Houston offered the following:

Strike out "Tom Green."

Adopted.

Senator Tilson offered the following:

Insert "Bowie county" among list of exempt counties.

Adopted.

Senator Burton offered the following:

Add to the list of exempt counties "Fort Bend, Wharton and Waller."

Adopted.

Senator Shannon offered the following:

Add to the list of exempt counties the county of "Tarrant."

Adopted.

Senator Davenport offered the following:

Add to exempt counties, "Taylor, Callahan, Shackelford, Stephens, Eastland, Erath, Comanche and Palo Pinto."

Adopted.

Senator Duncan offered the following:

Add to list of exempt counties, "Smith, Gregg, Upshur and Camp."

Adopted.

Senator Martin offered the following:

Exempt "Limestone and Navarro."

Adopted, and bill passed to a third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Guy,

Hobby,
Homan,
Lair,
Martin,
McCormick,
Motley,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—18.

NAYS.

Brown,
Houston,
Lane,

Ledbetter,
McCulloch,

Moore,
Patton—7.

Not voting—Burton, Edwards, Terrell.

The consideration of Senate bill No. 23 was resumed.

Bill passed to a third reading.

Substitute for House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence and carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,' approved August 15, 1876," was taken up, read second time, committee amendments adopted and bill passed to a third reading.

The following House bills were taken up and read first time:

House bill No. 377, entitled "An act to declare valid and binding on the county of Wilson, certain sales of lots and blocks of the town of Floresville, in said county."

House bill No. 207, entitled "An act to amend articles 2403, 2404 and 2405 of the Revised Statutes."

Substitute for House bill No. 33, entitled "An act to amend articles 4767 of the Revised Civil Statutes."

A message was received from his excellency the governor, which was taken up, read and referred to judiciary committee No. 1.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 21, 1879.

To the honorable Senate and House of Representatives, in Legislature assembled:

I most respectfully call your attention to the annexed communication of the commissioner of the general land office, and recommend that the provision referred to in the Civil Code passed at this session, requiring the school lands to be divided by surveys be repealed. The expense will be enormous, and the thing when done will be nearly useless generally. It is too important to be left to the contingency of another bill of general

character being passed at this session, which might supersede it. I therefore recommend a direct repeal of it by a separate bill having that object directly in view.

O. M. ROBERTS, *Governor.*

GENERAL LAND OFFICE, }
AUSTIN, Texas, March 20, 1879. }

To his excellency O. M. Roberts, Governor of the State of Texas:

SIR—Permit me to call your attention to chapter 3, sales of university public free school and asylum lands, page 594, Revised Civil Code, and to the practical working of the same as it now stands.

Articles Nos. 4038 and 4039 require that all sections of lands, heretofore or hereafter set aside for university free schools and asylums, in organized counties, shall be surveyed into quarter sections, and the lines and corners marked, and field notes returned to this office. For this service the surveyors shall be entitled to three dollars per mile for distance actually run. There are of school lands within organized counties fifteen thousand sections. To cut each of these into quarter sections, and run and mark the corners and lines, will require six miles of surveying. We have thus a draft on the school fund as follows:

Fifteen thousand sections at \$18 each, \$270,000. Many of these sections are worthless, and some would be dearly purchased at the cost of subdividing.

In view of these figures, the operation of the law upon this office is insignificant but it may be well to note briefly the duties it entails. Article 4039 would send in a short time sixty thousand descriptions of surveys and sixty thousand field notes to this office, which are to be recorded in a well bound book, etc. This would require 120 volumes of record books at a cost of \$20 per volume, say \$2400. It would necessitate the employment of at least ten additional recording clerks, at say \$10,000 per annum.

Article 4042 directs the commissioner of the general land office to compile special maps of these surveys and send copies of such maps to the county surveyors. This would necessitate the employment of at least twenty additional draftsmen, at say \$20,000 per annum.

This article also requires the commissioner to send copies of these 60,000 field notes and special maps to the respective counties, and article 4047 requires the same to be sent to the commissioners, who are to appraise the land.

Article 4060 directs that written application shall be made to surveyor for the purchase of each quarter section, which he must record and (4061) forward to this office, where it shall be again recorded "in a well bound book."

I cannot attempt to estimate just how much additional work this act will require in this department, but feel safe in saying that over and above the present regular business, an additional appropriation of probably \$40,000 per annum would be needed to enable me to discharge the extra duties therein required, and probably a year would expire before any considerable portion of the land would be ready for sale.

If not exceeding my province, I would respectfully suggest to your excellency that the act of April 24, 1874, for the sale of these lands, with a few amendments, which the experience of this department and the treasury have demonstrated to be necessary, offers the best mode of sell-

ing these lands that I have yet heard suggested. These amendments, in brief, would be:

1. Have the appraisement of all the lands in each county made at one time and by one job of work. This would reduce the expense from \$36 00 per section to probably \$2 50 or \$3 00.

2. Wipe out the several threats of forfeiture contained therein and make one forfeiture, and provide how that shall be made complete and final.

3. Permit sales in such bodies as the purchaser may desire, not less than one hundred and sixty acres.

4. Prohibit appraisers from purchasing such lands, say within twelve months from completion of their duties.

5. Leave out all conditions as to settlement, etc., on the lands.

6. Should the value of the lands in any county increase, permit the governor to order a new appraisement of unsold sections.

7. If such a thing is possible, either in this law or the Criminal Code, punish parties for cutting or destroying the timber.

I have the honor to be, very respectfully,

W. C. WALSH, *Commissioner.*

Senate bill No. 300, entitled "An act to establish a state normal school," was taken up.

Senator Moore offered the following:

Strike out all after the word "Texas," and insert "that the board of education shall invite the different localities of the state desiring the location of such institution to compete for the same by publication in at least six newspapers of the state, and the place holding out the greatest inducements shall be the place where said institution shall be located."

(Senator Stewart in the chair.)

The amendment of Senator Moore was lost by the following vote:

YEAS.

Grace,	McCulloch,	Storey,
Guy,	Moore,	Swain,
Houston,	Patton,	Terrell,
Lane,	Shannon,	Tilson--13.
Lair,		

NAYS.

Brown,	Edwards,	Martin,
Buchanan,	Gooch,	McCormick,
Burnett,	Hobby,	Motley,
Burton,	Homan,	Ripetoe,
Duncan,	Ledbetter,	Stewart--15.

Not voting—Davenport.

The bill was then engrossed by the following vote:

YEAS.

Buchanan,	Hobby,	McCulloch,
Burnett,	Homan,	Moore,
Burton,	Lane,	Motley,
Duncan,	Ledbetter,	Ripetoe,
Edwards,	Martin,	Stewart--17.
Gooch,	McCormick,	

NAYS.

Brown,	Lair,	Swain,
Grace,	Patton,	Terrell,
Guy,	Storey,	Tilson--10.
Houston,		

Not voting—Davenport, Shannon.

Senator Burnett moved a suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Hobby,	Moore.
Burnett,	Homan,	Motley,
Burton,	Houston,	Ripetoe,
Duncan,	Lane,	Stewart,
Edwards,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCormick,	Tilson—23.
Guy,	McCulloch,	
NAYS.		
Brown,	Patton,	Storey—4.
Lair,		

Not voting—Davenport, Shannon.

Bill read third time and passed by the following vote:

YEAS.		
Buchanan,	Guy,	McCormick,
Burnett,	Hobby,	McCulloch,
Burton,	Homan,	Moore,
Duncan,	Lane,	Motley,
Edwards,	Ledbetter,	Ripetoe,
Gooch,	Martin,	Stewart—18.
NAYS.		
Brown,	Lair,	Swain,
Grace,	Patton,	Terrell,
Houston,	Storey,	Tilson—9.

Not voting—Davenport, Shannon.

Senator Storey called up Senate bill No. 68, entitled "An act to amend article 794 of the Code of Criminal Procedure of this state," which was taken up and read second time.

Senator Storey offered the following:

"Whereas, the present law entails a large and unnecessary expense on the counties, an imperative public necessity and emergency exists for the immediate passage of this act, it shall therefore take effect and be in force from and after its passage."

Adopted.

On motion of Senator Martin, Senator Burton was excused for the remainder of the evening.

Senator Duncan offered the following amendment to the pending bill:

"Change the title and section amended to article 794, chapter 3 of the Code of Criminal Procedure passed at this session of the Legislature."

Adopted.

Senator Storey offered the following:

A bill to be entitled "An act to amend article 794 of the Code of Criminal Procedure adopted at the present session of the Legislature."

Adopted and bill ordered engrossed.

(President in the chair.)

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Burton, Davenport, Stewart.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Not voting—Burton, Davenport.

Senator Lair, under the rules, called up House bill No. 375, entitled "An act to amend 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' approved February 1879," was taken up and read first time.

Senator Stewart (by leave) introduced a bill entitled "An act to amend article 436 of section 2 of 'an act to adopt and establish a Penal Code and Code of Criminal Procedure,'" passed at this session of the Legislature.

Read by caption and referred to judiciary committee No. 2.

Senator Terrell (by leave) introduced a bill entitled "An act to amend 'an act fixing the time of holding the courts in the seventeenth judicial district,' approved _____, so as to make no change in the time of holding courts in said district, except in the county of Williamson."

Read by caption and referred to committee on judicial districts.

The president, after reading its caption, signed Senate bill No. 125, entitled "An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county, and the issuance of county bonds and levy of tax therefor in settlement of bonds of said county issued under an act of the Legislature passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for purposes of internal improvements,'" and the judgments in the federal court recovered thereon.

Senator Grace, under the rules, called up Senate bill No. 228, entitled "An act to amend an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed February 21, 1879, was taken up and read a second time.

Senator Edwards offered the following:

"Section 2. That the late hour of the session creates an imperative public necessity that requires the suspension of the rules requiring this bill to be read on three several days, and it is so ordered."

Adopted and bill ordered engrossed.

On motion of Senator Edwards, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson---26.

NAYS—NONE.

Not voting—Burton, Grace, Terrell.

Bill read third time and passed.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and compared with the originals the engrossed copies of the following bills, viz:

Senate bill No. 107, entitled "An act to regulate the respective duties of district and county attorneys;" substitute for Senate bill No. 163, entitled "An act to establish a state board of health, to prescribe its powers and duties, to provide for the appointment of a superintendent of vital statistics, and to assign certain duties to local boards of health," and report them correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Stewart, Senate bill No. 121, entitled "An act supplemental to and amendatory of an act to enable part owners of land to obtain partition thereof, and for other purposes, passed March 5, 1840," was taken up and House amendments concurred in.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 125, "An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county, and the issuance of county bonds and levy of tax therefor in settlement of bonds of said county, issued under an act of the Legislature, passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for purposes of internal improvements,' and the judgments in the federal court recovered thereon," and at 5:30 o'clock P. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

House bill No. 337, entitled "An act to authorize counties, cities and towns to scale and fund their indebtedness and for raising means to pay the same," was taken up, read second time and passed to a third reading.

Senator Tilson moved a suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,

Davenport,
Duncan,
Edwards,

Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lair,
Ledbetter,

Martin,
McCormick,
McCulloch,
Moore,
Motley,

Ripetoe,
Stewart,
Shannon,
Storey,
Tilson—24.

NAYS—none.

Not voting— Lane, Patton, Swain, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Buchanan, Swain.

Senator Brown, chairman of committee on engrossed bills, asked leave to employ an additional clerk in the engrossing department.

Leave granted.

Senator Martin entered a motion to reconsider the vote passing Senate bill No. 300 (the state normal school).

Senator Terrell (by leave) introduced a bill entitled "An act to repeal so much of 'an act to adopt and establish the Revised Civil Statutes.'" "Read by caption and referred to judiciary committee No. 1.

Senator Martin called up Senate bill No. 325, entitled "An act prescribing the times of holding the district courts of the nineteenth judicial district."

Rules suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Bill read second time.

The amendments of the committee, which was as follows, were adopted:

Amend by inserting the following section to be No. 2, and section 2 to be No. 3:

"Section 2. All writs and process heretofore issued out of the district courts of said counties and made returnable to the terms of said courts as heretofore prescribed, shall be returnable to the terms of said courts as herein prescribed, and all such writs and process are hereby declared to be as valid as if the same had originally been made returnable at the terms herein specified."

Also add the following as section 4:

"Section 4. All laws and parts of laws in conflict with this act are,

hereby repealed, and the fact that under existing law the district court in Milam county will convene on the 31st day of March, 1879, and that an act has already passed the Legislature taking Burleson county from said ninth district, creates an emergency that this act take effect and be in force from and after its passage, and it is so enacted."

The bill was then ordered engrossed.

The rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Gooch,	Martin,	Storey,
Grace,	McCormick,	Swain,
Guy,	McCulloch,	Terrell,
Hobby,	Moore,	Tilson—27.

NAYS—none.

Not voting—Edwards.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Houston,	Motley,
Burnett,	Lane,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Stewart,
Gooch,	Martin,	Shannon,
Guy,	McCormick,	Storey,
Hobby,	McCulloch,	Terrell,
Homan,	Moore,	Tilson—24.

NAYS—none.

Not voting—Buchanan, Edwards, Swain.

On motion of Senator McCulloch, the Senate adjourned until 9:30 A. M. to-morrow.

FIFTY-NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 22, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and same adopted.

On motion of Senator Motley, W. N. Ramey, journal secretary, was excused until evening owing to sickness in his family.

The president, after reading its caption, signed Senate bill No. 121, entitled "An act supplemental to and amendatory of an act entitled 'an act to enable part owners of land to obtain partition thereof and for other purposes.'"

Senator Burnett presented a petition from many citizens of Madison county, "asking amendments to the local option law."

Referred to committee on state affairs.

Senator Shannon, chairman of the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 326, entitled "An act to amend 'an act fixing the time of holding the courts in the seventeenth judicial district, approved February 28, 1879, so as to make no change in the time of holding the courts in said district, except in the county of Williamson,'" have considered the same, and I am instructed to report the bill back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Shannon, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 322, entitled "An act to provide for the appointment of notaries public, cattle and hide inspectors, justices of the peace and constables in the unorganized counties of the State of Texas," have considered the same, and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *one of the Committee.*

Senator Terrell, chairman judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 324, entitled "An act to repeal article 2971 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed February, 1879, have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the accompanying amendment, and, as amended, to recommend its passage.

TERRELL, *Chairman.*

Amend by adding the following section:

"Section 2. The importance of the change affected by this law in affording proper protection to insurance companies, and the near approach of the close of the session creates a public necessity for the immediate passage of this law, and the constitutional rule requiring this act to be read on three several days, be and the same is hereby suspended."

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill, to be entitled "An act to repeal so much of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed during the present session of the Legislature, as relates to sales of university, public free school and asylum lands as is contained between articles 4038 and 4080 inclusive of said act," have considered the same.

Said articles require, before sale of said lands, that the sections shall be subdivided by actual survey into quarter sections. They amount to fifteen thousand sections, and the existing law would require to effect the subdivision into surveys an expenditure of \$270,000. Many of the sections would not be worth the cost of subdividing them. To carry the law as it stands into effect would require at least ten additional clerks in the land office, at a cost of ten thousand dollars a year, and would devolve on the commissioner of the land office the duty of making out and transmitting sixty thousand field notes and special maps to the several counties of the state. Your committee believe that no benefit corresponding with this outlay of money, in our present financial condition, will result

from the enforcement of the law as it is contained in the code. They therefore instruct me to report the accompanying bill back and to recommend its passage.

TERRELL, *Chairman.*

Senator Storey, chairman of the committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was re-referred substitute House bill No. 119, entitled "An act to amend sections 9 and 26 of an act to define the duties and powers, qualifications and liabilities of assessors of taxes, and to regulate their compensation," have again considered said substitute, and being still of the opinion that the ends sought to be attained by the passage thereof are secured by articles 4705 and 4724 of the Revised Civil Statutes, they adhere to their former report and instruct me to report the bill back and again recommend that the same do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your finance committee have considered substitute House bills Nos. 305 and 335, entitled "An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same," and instruct me to report it back with the accompanying amendments, and recommend that as amended it do pass.

STOREY, *Chairman.*

Committee amendments: After the word "state," in line five, section 1, insert the following: "for taxes assessed in the county where the land is situated, since the thirty-first day of December, 1876."

Add to end of section 6 the following: "Provided, that the former owner shall have two years from the date of said deed to redeem the same by paying to the purchaser double the amount paid for said land by the purchaser at such sale, together with all subsequent taxes paid by the purchaser with eight per centum interest on the amount of such subsequent taxes."

After the word "list," in line two, section 2, insert the following: "to call to his aid the county surveyor of his county, and, as near as may be, ascertain if any lands contained in said list do not, in fact, exist in said county, or are embraced in other surveys conflicting therewith, and upon which the taxes have been paid, and after deducting the same from said list he shall proceed."

At end of section 3 add: "Not to exceed one dollar for each survey, to be paid for only out of the proceeds of the sale of such survey."

Add to section 9: "And the name of the party to whom each tract or parcel was sold."

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate bill No. 121, "An act supplemental to and amendatory of 'an act to enable part owners of land to obtain partition thereof, and for other purposes,' passed March 5, 1840," and at 9:55 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills, have carefully examined and compared and find correctly enrolled and properly signed the following Senate bills, viz: Senate bill No. 158, "An act to make appropriation for the support of the Lunatic Asylum for the period beginning January 1, 1879, and ending February 28, 1879;" Senate bill No. 135, "An act for the relief of the Aransas road company;" Senate joint resolution No. 35, "Joint resolution granting leave of absence to Walter Acker," and have presented the same to the governor for his approval this day at 12:10 o'clock P. M.

GRACE, *Chairman.*

Senator Davenport introduced a bill entitled "An act to attach the county of Jones to the county of Taylor for judicial purposes."

Read by caption and referred to committee on judicial districts.

Senator Stewart introduced a bill entitled "An act to protect lands lying on or near county boundaries from double assessments."

Read by caption and referred to committee on finance.

A message was received from the House announcing the passage by that body of House bill No. 482, entitled "An act to amend article 436 of section 2 of 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' passed at the present session of the Legislature.

House bill No. 414, entitled "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668 inclusive of chapter 1, title 94 of the Revised Civil Statutes, adopted February 21, 1879," and that the House concurs in Senate amendments to House bill No. 188, entitled "An act to protect the wool-growing interests of the state."

The bills just reported from the House were taken up for reference, and were referred as follows:

House bill No. 482 was referred to judiciary committee No. 2; House bill No. 414 was referred to committee on finance and 50 copies of the bill ordered printed.

(Senator Shannon in the chair.)

Senator Ledbetter called up Senate bill No. 14, entitled "An act to provide the times and places of holding the court of appeals."

(President in the chair.)

The motion to reconsider the engrossment of this bill, entered on yesterday, was adopted.

Senator Duncan moved a call of the Senate.

Call sustained.

Roll called.

Absent—Ford.

On motion of Senator Ledbetter, Senator Ford was excused, and Senate declared full.

The motion to reconsider was then lost by the following vote:

YEAS.

Buchanan,
Burton,
Davenport,
Duncan,

Edwards,
Hobby,
Lane,
McCormick,

Motley,
Ripetoe,
Tilson—11.

NAYS.

Brown,
Burnett,
Gooch,

Grace,
Guy,
Homan,

Houston,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,

Patton,
Stewart,
Shannon,

Storey,
Swain,
Terrell—18.

Senator Ledbetter moved the previous question on the passage of the bill.

Motion seconded and main question ordered.

The bill was then read third time and passed by the following vote:

YEAS.

Burnett,
Gooch,
Grace,
Guy,
Homan,
Houston,

Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Patton,
Stewart,
Shannon,
Storey,
Swain—16.

NAYS.

Buchanan,
Burton,
Davenport,
Duncan,

Edwards,
Hobby,
Lane,
McCormick,

Motley,
Ripetoe,
Tilson—11.

Not voting—Brown, Terrell.

The president after reading their captions, signed the following bills: Senate bill No. 135, entitled "An act for the relief of the Aransas road company;" Senate bill No. 158, entitled "An act to make an appropriation for the support of the Lunatic Asylum, beginning January 1, 1879, and ending February 28, 1879;" Senate joint resolution No. 35, "Granting leave of absence from the state to Walter Acker."

Senator Tilson was excused for six days.

Senator Burton was indefinitely excused.

On motion of Senator Swain, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

President in the chair. Roll called; not a quorum present.

A quorum soon appeared, and the Senate proceeded to business.

House bill No. 341, entitled "An act to prohibit the sale, giving way, or otherwise disposing of intoxicating liquors or medicated bitters, or compounds producing intoxication, within five miles of the Southeast Texas Male and Female College, of Jasper county, and to provide a penalty for its violation," was taken up, read third time and passed.

Substitute for Senate bill No. 23, entitled "An act to change the civil and criminal jurisdiction of the county courts, etc.," was taken up.

Senator Duncan offered the following amendment:

Strike out "Upshur" and "Gregg" counties wherever they occur in the bill and engrossed rider.

Adopted.

Senator Motley offered the following as an amendment to his amendment of yesterday:

"Amend by striking out the amendment of yesterday exempting Shelby county from the provisions of the bill."

Adopted.

Senator Tilson offered the following:

Strike out "Cass" wherever it occurs in the bill.

Adopted.

The bill was read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Hobby,
Homan,
Houston,
Lane,

Lair,
Ledbetter,
Martin,
McCormick,
Moore,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain,
Tilson—17.

NAYS.

Davenport,
Gooch,

Motley,

Patton—4.

Not voting—Brown, Burton, Duncan, Edwards, Grace, Guy, McCulloch, Terrell.

Senator Martin withdrew his motion to reconsider the vote passing Senate bill No. 300, entitled "An act to establish a state normal school."

Substitute for House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence and to carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,'" was taken up, read third time and passed.

House bill No. 451, entitled "An act to amend 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas, approved , 1879.'"

Senator Motley offered the following:

Place "Rusk, Panola and Shelby" among the exempted counties.

Adopted.

Bill read third time and passed.

Senator Storey entered a motion to reconsider the vote by which House bill No. 338, "An act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers, and define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation," was lost.

On motion of Senator Terrell, the rules were suspended, and Senate bill No. 328, entitled "An act to repeal so much of 'an act to adopt and establish the Revised Civil Statutes,'" was taken up and read first time.

On motion of Senator Shannon, the rules were suspended, and bill placed on its second reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Edwards,
Gooch,
Hobby,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Brown, Burton, Duncan, Grace, Guy.

Bill read second time and ordered engrossed.

The rules were suspended, and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,

Burnett,
Davenport,

Edwards,
Gooch,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin.

McCormick,
McCulloch,
Moore,
Motley,
Patton,
Ripetoe.

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Burton, Duncan, Grace, Guy.

Bill read third time and passed.

On motion of Senator Terrell, the rules were suspended and Senate bill No. 324, entitled "An act to repeal article 297 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February, 1879," was taken up, read second time and bill postponed to Monday the twenty-fourth instant.

(President *pro tempore* in the chair.)

Senator Shannon entered a motion to reconsider the vote by which Senate bill No. 328 was passed.

House bill No. 375, entitled "An act to amend 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,' approved February, 1879," was taken up and read second time.

Senator Houston offered the following amendment:

Amend by striking out all after the word "examiners" in seventh line, and before the word "he" in ninth line.

(President in the chair.)

Senator Brown offered the following amendment:

Amend by adding at the end of article 398 the following:

"*Provided*, That nothing in this act shall be construed to forbid practitioners of the Thompsonian School of Medical Practice (commonly known as steam doctors or faith doctors) in good repute, from exercising their skill upon all citizens who freely prefer them to any physicians of the ordinary school."

Senator Motley moved to lay the pending amendment on the table, which was carried by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Gooch,
Grace,
Guy,
Homan,

Houston,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Stewart,
Storey,
Swain,
Terrell,
Tilson--20.

NAYS.

Brown,
Burnett,
Edwards,

Hobby,
Lane,

Martin,
Shannon--7.

Not voting—Burton, Ripetoe.

Senator Ripetoe was excused from voting.

Senator Motley moved to adjourn until 9:30 A. M. Monday.

Lost by the following vote:

YEAS.

Buchanan,
Burton,
Davenport,
Grace,

Houston,
Moore,
Motley,
Patton,

Ripetoe,
Storey,
Swain--11.

NAYS.

Brown,
Burnett,
Duncan,
Edwards,
Gooch,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Stewart,
Shannon,
Terrell,
Tilson---17.

Not voting—Guy.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully compared with the originals the following engrossed bills, viz :

Senate bill No. 123, entitled "An act to amend article 4759 of the Revised Civil Statutes of the State of Texas;" Senate bill No. 198, entitled "An act for the relief of the heirs of Lieutenant Samuel Wilson, deceased, who fell at Fannin's massacre, in the year 1836;" Senate bill No. 201, entitled "An act to provide for the taking and preservation of the testimony in capital cases, and the use of the testimony so taken in cases of appeal;" Senate bill No. 301, entitled "An act to provide for the organization and support of a normal school at Alta Vista College, in Waller county, for the preparation and training of colored teachers, and report all of them correctly engrossed."

BROWN, *Chairman.*

Senator Ripetoe moved to adjourn until 9:30 Monday morning.

Lost by the following vote:

YEAS.

Buchanan,
Grace,
Houston,
Moore,

Motley,
Patton,
Ripetoe.

Storey,
Swain,
Terrell---10.

NAYS.

Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Gooch,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,

Martin,
McCormick,
McCulloch,
Stewart,
Shannon---17.

Not voting—Burton.

The amendment of Senator Houston was lost by the following vote:

YEAS.

Brown,
Edwards,
Gooch,
Grace,

Guy,
Homan,
Houston,
Lane,

Martin,
Motley,
Shannon,
Tilson---12.

NAYS

Buchanan,
Burnett,
Davenport,
Duncan,
Hobby,
Lair,

Ledbetter,
McCormick,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Storey,
Swain,
Terrell--16.

Not voting—Burton.

Senator Storey offered the following:

Section 1, line five, after the word "practice," insert the words "for pay, or as a regular practitioner."

Adopted.

Also, the following:

Article 398, line two, after the word "departments," insert "for pay, or as a regular practitioner."

Adopted and bill passed to a third reading by the following vote:

YEAS.		
Buchanan,	Ledbetter,	Stewart,
Burnett,	McCormick,	Storey,
Duncan,	McCulloch,	Swain,
Hobby,	Moore,	Terrell,
Lair,	Patton,	Tilson--15.
NAYS.		
Brown,	Grace,	Martin,
Burton,	Guy,	Motley,
Davenport,	Homan,	Ripetoe,
Edwards,	Houston,	Shannon--14.
Gocch,	Lane,	

Senator Gooch introduced a bill entitled "An act to amend chapter 4 title 38 of the Revised Civil Statutes of the State of Texas," passed February 21, 1879, by creating articles 2266a and 2266b.

Read by caption and referred to judiciary committee No. 1.

On motion of Senator Burton, the Senate adjourned until 9:30 Monday morning.

SIXTIETH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 24, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Moore, the reading of the journals of Saturday was dispensed with and the same adopted.

(Senator Grace in the chair.)

On motion of Senator Hobby, Senator Stewart was excused for the morning.

Senator Terrell presented a memorial from many citizens of Chappell Hill, Washington county, Texas, "asking the location of the state normal school at that place, and indorsing the action of the Legislature in creating such a school."

Read and referred to the committee on educational affairs.

Senator Guy, chairman of committee on private land claims, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 311, entitled "A bill to be entitled 'an act for the relief of Wm. Judge,'" have considered the same, and I am instructed by a majority of of said committee to report said bill back to the Senate and to recommend its passage.

GUY, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 310, entitled "A bill to be entitled 'an act for the relief of J. S. Daugherty,'" have had the same under consideration, and find that said bill seeks relief for money alleged to have been illegally paid to the state

by said Daugherty, and asks that the comptroller be required to draw his warrant on the treasurer for the same in favor of said Daugherty, and your committee, believing they have no authority to act in the premises, instruct me to report said bill back and to ask that the same be referred to your committee on public claims and accounts. GUY, *Chairman*.

The report of the committee was adopted and the bill referred to committee on public claims and accounts.

Senator Shannon, chairman of committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 329, entitled "An act to attach the county of Jones to the county of Taylor for judicial purposes," have considered the same, and instruct me to report it back to the Senate and recommend its passage.

SHANNON, *Chairman*.

Senator Storey, from the conference committee on House bill No. 187 (the bell-punch bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of conference to whom the disagreement of the Senate and House on Senate amendments to House bill No. 187 was referred, have had the same under consideration, and have agreed as follows:

1. That section 1 shall be amended by striking out the words "one hundred," in line four, and inserting "two hundred and fifty."

2. Amend by adding to the end of section 1 as follows: "And the tax collector shall enter on his books, when paid, such specific occupation tax to the credit of the dealer, and such dealer shall not be compelled to pay any tax that shall be due as indicated by the register until said credit is exhausted; *provided*, that no dealer whose register tax shall be less than his specific tax when his license expires, shall be entitled to any further credit, rebate or refunding of said specific occupation tax."

The adoption of which your committee recommend.

L. J. STOREY,
W. R. SHANNON,
MARION MARTIN,
Senate Committee.

GEO. P. FINLAY,
J. B. HENDERSON,
House Committee.

On motion of Senator Duncan, the report of the committee was adopted.

Senator McCormick introduced a bill entitled "An act for the better protection of the harbors and ports of the State of Texas."

Read by caption and referred to committee on commerce and manufactures.

Senator Lair offered the following resolution:

Resolved, That the committee on military affairs be requested to make a report on House bill No. 394, entitled "An act concerning the organization of the state militia."

On motion of Senator Shannon, the resolution was adopted.

Senator Burnett offered the following resolution:

Resolved, That the Senate hold night sessions, beginning at 7:30 o'clock. Lies over under the rules.

Senator Terrell offered the following resolution:

Resolved, That this Legislature should not adjourn until the laws regulating the assessment and collection of taxes on many millions of acres of land situated in the unorganized counties, have been so changed as to secure the collection of several hundred thousand dollars now due the state, and that under the constitution the Senate is powerless to originate the necessary legislation; as all tax bills originate in the House.

Read and referred to the committee on finance.

Senator McCormick called up Senate bill No. 312 entitled "An act to amend and supplement the existing quarantine law of the state," which was taken up, read second time and ordered engrossed and 50 copies ordered printed.

(President in the chair.)

Senator Terrell called up Senate bill No. 326, entitled "An act to amend an act fixing the time of holding the courts in the seventeenth judicial district," approved....., so as to make no change in the time of holding courts in said district except in the county of Williamson," which was taken up and read first time.

On motion of Senator Terrell, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Ford,
Gooch,
Grace.

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick.

McCulloch.
Moore,
Motley,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--24.

NAYS--none.

Not voting—Duncan, Edwards, Homan, Patton.

Bill read second time and ordered engrossed.

On motion of Senator Hobby, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch.

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--25.

NAYS--none.

Not voting—Buchanan, Edwards, Gooch.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace.

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick.

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Swain,
Terrell--26.

NAYS—none.

Not voting—Edwards, Storey.

Senator Shannon withdrew his motion to reconsider the vote passing Senate bill No. 328, entitled "An act to repeal so much of an act to adopt and establish the Revised Civil Statutes," made on Saturday.

Senator McCulloch, under the rules, called up substitute for Senate bill No. 163, entitled "An act to create the state board of health and to define their powers and duties," which was taken up, read third time and passed.

Senator Moore called up Senate bill No. 198, entitled "An act for the relief of the heirs of Lieutenant Samuel Wilson, deceased, who fell at Fannin's massacre in 1836," was taken up, read third time and passed.

Senator Motley called up Senate bill No. 238, entitled "An act to prevent attorneys who may have represented the state in any proceeding from afterwards appearing as counsel adversely to the state in the same, or in any other proceeding involving the same subject matter, which was taken up, read second time and ordered engrossed.

The rules were suspended to place the bill on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton;
Davenport,
Duncan,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
McCulloch,
Motley,
Patton,
Ripetoe,
Shannon,
Swain—23.

NAYS—none.

Not voting—Buchanan, Edwards, Moore, Storey, Terrell.

Senator Storey moved to reconsider the vote passing the pending bill to its engrossment.

Senator Homan moved to postpone the further consideration of the bill until to-morrow morning.

Carried.

The following message was received from the House:

That the House has adopted the report of the conference committee on House Bill No. 187, "An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors, in quantities less than a quart, and to make an appropriation to carry the same into effect."

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined and compared with the originals the engrossed copies of the following bills, viz:

Senate bill No. 53, entitled "An act for the relief of the heirs of Silas Dinsmore, deceased."

Senate bill No. 68, entitled "An act to amend article 794 of the Code of Criminal Procedure of this state."

Senate bill No. 128, entitled "An act to prevent the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another without his consent."

Senate bill No. 207, entitled "An act supplementary to, and amenda-

tory of, an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Senate bill No. 228, entitled "An act to amend an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas, passed February 21, 1879.'"

Senate bill No. 236, entitled "An act to amend title 42, chapter 4 of an act entitled 'an act to adopt and establish the Revised Statutes of the State of Texas.'"

Senate bill No. 241, entitled "An act to amend articles 684 and 669 of the Penal Code, passed February 21, 1879."

Senate joint resolution No. 257, "Granting leave of absence to Hon. B. T. Estes, judge of the fifth judicial district of Texas."

Senate bill No. 272, entitled "An act further to provide for perpetuating testimony."

Senate bill No. 325, entitled "An act prescribing the times of holding the district courts of the ninth judicial district."

Senate bill No. 300, entitled "An act to establish a state normal school," and find said bills correctly engrossed. BROWN, *Chairman*.

The president, after publicly reading their captions, signed the following bills, to wit:

House bill No. 132, entitled "An act to require persons and corporations to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to so pay said fees, and to provide the manner and means of enforcing the provisions hereof;" and House bill No. 337, entitled "An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same."

Senator Patton called up Senate bill No. 128, entitled "An act to prevent the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another, without his consent," which was taken up and read third time.

Senator Patton offered the following amendment:

Strike out the caption and insert therefor: "An act to amend chapter 3 of 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,' by adding another article to be called article 680a, prohibiting the use of any dumb animal, the property of another, without the consent of the owner, and prescribing a penalty therefor."

Also, strike out the word and figure "Section 1," and insert therefor "Article 680a."

Adopted and bill passed.

A message was received from the House announcing the passage by that body of House bill No. 37, entitled "An act to define official misconduct in officers of the state, county and corporations, and prescribing punishments therefor."

Substitute for House bill No. 48, entitled "An act declaring the inclosing or keeping inclosed of any public domain a misdemeanor, and prescribing a punishment therefor."

House bill No. 71, entitled "An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities or towns in this state."

House concurs in Senate amendments to House bill No. 123, "An act to amend sections 6 and 9 of an act to define a lawful fence, and to

carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws," approved August 15, 1876.

That the House refuses to concur in Senate amendments to House bill No. 451, "An act to amend 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,'" approved , 1879.

House does concur in Senate amendments to House substitute for Senate bill No. 23, "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change.

Senator Ripetoe called up Senate bill No. 283, entitled "An act amendatory of and supplemental to chapter 3, title 78 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature," which was taken up and read second time.

Senator Storey offered the following amendment:

Line eleven, article 3714, fill the blank with "\$1800."

Adopted.

Senator Terrell offered the following:

Add to line eighteen, page 2, the words "and keep a complete index of the reports."

Adopted.

(President *pro tempore* in the chair.)

Senator Storey offered the following:

Line three, page 3, strike out after the word "shall" at the end of line five and insert "be empowered to issue instructions and regulations binding for observance on all officers and teachers, in all classes where the provisions of the school law may require interpretation, in order to carry out the designs expressed therein; also in cases that may arise in which the law has made no provision, and also, where necessity requires some rule in order that there may be no hardships to individuals, and no delay or inconvenience in the management of school affairs."

Adopted.

Senator Ledbetter offered the following:

In line twenty-seven insert "if" after the word "control" in section 3933.

Adopted.

Senator Storey offered the following substitute for division 6, article 3744:

At the end of line 30 insert "distribute the available school fund among the several organized school communities of his county as hereinafter provided."

Adopted.

Senator Patton offered the following:

In line sixteen, article 3745, for "fifty" insert "twenty-five," and in line seventeen, for "seventy-five" insert "fifty."

Adopted.

Senator Storey moved to reconsider the vote just taken.

Lost.

Senator Storey offered the following:

After the word "state," in line twenty-six, insert the words "having control of children."

Adopted.

Senator Terrell offered the following:

“Strike out article 3746.”

Adopted by the following vote:

Brown,
Burnett,
Burton,
Davenport,
Gooch,

YEAS.
Guy,
Hobby,
Houston,
Lane,
McCormick,

Ripetoe,
Shannon,
Swain,
Terrell--14.

Buchanan,
Duncan,
Edwards,

NAYS.
Homan,
Lair,

Ledbetter,
Storey--7.

Not voting—Ford, Grace, Martin, McCulloch, Moore, Motley, Patton.

Senator Terrell offered the following:

Article 3747—“The *bona fide* residents of this state” instead of “any citizen,” in line twenty-nine, page 6.

Adopted.

Senator Buchanan offered the following:

Amend by adding the following to article 3748: “7. That no similar petition has been signed by the petitioner for any other community for the scholastic year for which said community is then being organized. And should the seventh statement prove untrue as to any of the signers of said petition, the children under the control of such signer shall forfeit their interest in the school fund for the scholastic year for which such community is being formed.”

Adopted.

Senator Patton offered the following amendment:

Add to article 3749: “*Provided*, That no school shall be established within two and a half miles of any other public school, unless in a town or city, unless one be white and the other colored, and that no school shall have the benefit of the available school fund unless it has a daily attendance of at least fifteen scholars during the time said public school is taught.”

Senator Storey offered the following amendment to the amendment:

Strike out of Senator Patton’s amendment, the words “and that no school shall have the benefit of the available school fund unless it has a daily attendance of at least fifteen scholars during the time said public school is taught.”

Adopted.

Senator Homan moved to reconsider the vote just taken.

Lost.

The amendment of Senator Patton, as amended was then lost.

Senator Grace offered the following:

Article 3759. Strike out all of after the word “age” in line twenty-four, and insert “and it shall not be lawful for trustees or teachers to demand as a condition of admittance into school the payment of extra tuition for pupils of scholastic age.”

Adopted.

Senator Swain offered the following:

Article 3750, line twenty-six, after the word “require,” strike out all down to line thirty.

Senator Ledbetter offered the following amendment as a substitute for the pending amendment:

Section 3750, in line twenty-seven, strike out all after the word "than" and insert "two school communities for white children and two communities for colored children shall be organized."

Adopted by the following vote:

YEAS.		
Brown,	Guy,	Martin,
Burnett,	Hobby,	Motley,
Burton,	Homan,	Patton,
Davenport,	Houston,	Ripetoe,
Ford,	Lane,	Shannon-17.
Edwards,	Ledbetter,	
NAYS.		
Buchanan,	Lair,	Storey,
Duncan,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell 11.
Grace,	Moore,	

The amendment of Senator Ledbetter, just adopted as a substitute for the amendment of Senator Swain, was then adopted as an amendment to the bill by the following vote:

YEAS.		
Burnett,	Hobby,	McCormick,
Burton,	Homan,	Motley,
Davenport,	Houston,	Ripetoe,
Edwards,	Ledbetter,	Shannon,
Ford,	Martin,	Swain-15.
NAYS.		
Brown,	Guy,	Moore,
Buchanan,	Lane,	Patton,
Duncan,	Lair,	Storey,
Gooch,	McCulloch,	Terrell-13.
Grace,		

Senator Grace offered the following:

Amend article 3759, page 9: add after the word "age," line twenty-five, "Provided, that in no event shall the teacher holding first-class certificates receive from the public free school fund more than \$60 per month, and those holding second-class certificates, \$40 per month, and those holding third-class certificates, more than \$25 per month."

Adopted by the following vote:

YEAS.		
Burton,	Lane,	Moore,
Davenport,	Lair,	Patton,
Edwards,	Martin,	Shannon,
Gooch,	McCormick,	Swain,
Grace,	McCulloch,	Terrell-16.
Houston,		
NAYS.		
Brown,	Guy,	Motley,
Burnett,	Hobby,	Ripetoe,
Ford,	Ledbetter,	Storey-9.

Not voting—Buchanan, Duncan, Homan.

Senator Gooch offered the following:

Amend article 3754 by adding after last word in line fifteen, page 8, viz: "Provided, that no such contract shall authorize or permit any part of a school house belonging to the state for the benefit of free schools, to be used as a residence, but shall prohibit the same."

Adopted.

(President in the chair.)

Senator Terrell offered the following:

Strike out "3794."

Adopted by the following vote:

Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Grace,
Guy,
Hobby,

YEAS.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Patton,
Shannon,
Storey,
Swain,
Terrell—22.

NAYS.

Brown,

Ripetoe - 2.

Not voting—Burton, Edwards, Ford, McCulloch.

The president, after reading their captions, signed the following bills:
House bill No. 188, entitled "An act to protect the wool-growing interests of the State of Texas."

House bill No. 341, entitled "An act to prohibit the sale, giving away or otherwise disposing of intoxicating liquors or medicated bitters, or compounds producing intoxication, within five miles of the Southeast Texas Male and Female College, in Jasper county, Texas, and to provide a penalty for its violation."

Senator Burton moved to adjourn until 3 o'clock P. M.

Lost.

Senator Ledbetter offered the following:

Amend section 3748 by adding the following: "and the trustees of the community have the control of the public school house, and during the time in which no public school is being taught may rent out the house for such rent as can be obtained, such rent to be used to keep in repair such school house."

Adopted.

Senator Brown moved to adjourn until 3 o'clock P. M.

Lost.

Senator Gooch offered the following amendment:

Add to section 3749, article 20: "Persons living in the same community, who together may have as many as fifteen children within the scholastic age whom they desire to send to a private teacher or school in their community, shall be permitted to organize themselves into a 'private school community' to be named and numbered, and its just *pro rata* of the fund shall be set aside to it, and trustees of it be appointed, and the teacher employed by them shall receive the amount set aside to such private school community; *provided*, that no such private school community shall be organized in any locality at which there is not free school community or communities in which all children within the scholastic age can receive instruction."

On motion of Senator Duncan, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

The following House bills were taken up and referred, to wit:

House bill No. 71, entitled "An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities and towns in this state."

Referred to the committee on education.

House bill No. 48, entitled "An act declaring the closing and keeping inclosed of any public domain a misdemeanor, and prescribing a punishment therefor."

Referred to the committee on public lands.

House bill No. 37, entitled "An act to define official misconduct of officers of the state, county and corporations, and prescribing punishment therefor."

Referred to judiciary committee No. 2.

Senator Storey moved to postpone the regular business of the evening session and take up and continue the unfinished business of the morning session, being Senate bill No. 283, with the amendment of Senator Gooch pending.

Lost by the following vote:

	YEAS.	
Brown,	Edwards,	Gooch—3.
	NAYS.	
Buchanan,	Lane,	Motley,
Burnett,	Lair,	Patton.
Davenport,	Ledbetter.	Ripetoe,
Grace,	Martin,	Shannon,
Guy,	McCormick,	Storey,
Homan,	McCulloch,	Terrell—20.
Houston,	Moore,	

Not voting—Burton, Duncan, Ford, Hobby, Swain.

Senator Edwards moved to reconsider the vote "prohibiting teachers and trustees demanding extra tuition as a condition of admittance into school."

Withdrawn.

Senator Storey offered the following:

Add to article 3759, after the word "age," line twenty-four, "*Provided further*, That any private school being taught by a teacher holding a certificate of qualification may be considered as a public school community, and the children within the scholastic age attending such private school shall receive the benefit of his or her *pro rata* share of the school fund."

Adopted.

On motion of Senator Davenport, Senator Terrell was excused for the evening.

The pending bill was then ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

	YEAS.	
Brown,	Burton,	Guy,
Buchanan,	Gooch,	Hobby,
Burnett,	Grace,	Homan,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Shannon,
Storey,
Swain--22.

NAYS--none.

Not voting—Davenport, Duncan, Edwards, Ford, Houston.

Bill read third time and passed.

House bill No. 302, entitled "An act legalizing the county lines of Duval county and of counties affected thereby as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties," was taken up, read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Barton,
Davenport,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain--24.

NAYS--none.

Not voting—Duncan, Ford, Houston.

House bill No. 375, entitled "An act to amend an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas approved February _____, 1879," was taken up, read third time and passed.

Substitute for House bill No. 33, entitled "An act to amend article 4767 of the Revised Civil Statutes," was taken up, read second time, and, on motion of Senator Ledbetter, was postponed until to-morrow evening.

House bill No. 377, entitled "An act to declare valid and binding on the county of Wilson certain sales of lots and blocks of the town of Floresville in said county," was taken up, read second time and passed to a third reading.

House bill No. 207, entitled "An act to amend articles 2403, 2404 and 2405 of the Revised Statutes," was taken up and read second time.

On motion of Senator Shannon, the substitute reported by the committee was adopted, and bill passed to a third reading.

House bill No. 451, entitled "An act to amend an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas, approved _____, 1879," was taken up.

On motion of Senator Houston, the Senate recessed from its amendment striking out "Tom Green county."

On motion of Senator Burnett, the Senate insisted on its other amendments.

A message was received from the House announcing the passage by that body of House bill No. 50, entitled "An act authorizing the commissioner of the general land office to approve the bounty land certificate issued to the heirs of William Fishbaugh (deceased), who fell at the Alamo."

Substitute for House bill No. 119, entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes, and to regulate their compensation.'"

On motion of Senator Hobby, this bill was referred to judiciary committee No. 1.

Substitute for House bills Nos. 305 and 335, entitled "An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same," was taken up and read first time.

Senator Shannon called up Senate bill No. 322, entitled "An act to provide for the appointment of notaries public, cattle and hide inspectors, justices of the peace and constables in the unorganized counties of the State of Texas," which was taken up and read first time.

On motion of Senator Shannon, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,	Guy,	McCulloch,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Duncan,	Lane,	Shannon,
Edwards,	Lair,	Storey,
Gooch,	Martin,	Swain--22.
Grace,		

NAYS—none.

Not voting—Davenport, Ford, Ledbetter, McCormick, Moore.

Bill read second time and ordered engrossed.

Senator Shannon moved that the bill be placed on its third reading.

Carried by the following vote:

YEAS.

Brown,	Grace,	Martin,
Buchanan,	Guy,	McCulloch,
Burnett,	Hobby,	Motley,
Burton,	Homan,	Patton,
Davenport,	Houston,	Ripetoe,
Duncan,	Lane,	Shannon,
Ford,	Lair,	Storey,
Gooch,	Ledbetter,	Swain--24.

NAYS—none.

Not voting—Edwards, McCormick, Moore.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Hobby,	McCulloch,
Buchanan,	Homan,	Moore,
Burnett,	Houston,	Motley,
Burton,	Lane,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Grace,	McCormick,	Swain--25.
Guy,		

NAYS—none.

Not voting—Edwards, Gooch.

Senator Storey called up Senate bill No. 94, entitled "An act to create a lien in favor of proprietors of livery or other public stables, and to provide for the manner in which same may be enforced," which was taken up, read second time and ordered engrossed.

Senator Swain called up Senate bill No. 36, entitled "An act providing for the transportation of convicts under contract from the counties in which they are convicted to the penitentiary," which was taken up, read third time and passed by the following vote:

YEAS.		
Buchanan,	Hobby,	McCormick.
Burnett,	Homan,	Moore,
Ford,	Houston,	Motley,
Gooch,	Lane,	Shannon,
Grace,	Lair,	Storey,
Guy,	Ledbetter,	Swain--18.
NAYS.		
Brown,	Davenport,	Ripetoe--4.
Burton,		

Not voting—Duncan, Edwards, Martin, McCulloch, Patton.

Senator Brown called up Senate joint resolution No. 220, "Proposing amendments to article 16 of the constitution of the state by adding thereto section 58," which was taken up and read second time

Senator Lane moved a call of the Senate.

Call sustained.

Roll called. Absent—Davenport, Edwards, McCulloch.

The pending business went to the table.

Senator Buchanan called up Senate bill No. 196, entitled "An act to regulate the practice of medicine, surgery and pharmacy, and to repeal an act to be entitled 'an act to regulate the practice of medicine, approved August 31, 1876, and all other laws in conflict herewith.'"

The absent senators appearing, the consideration of Senate joint resolution No. 220 was resumed and resolution ordered engrossed by the following vote:

YEAS.		
Brown,	Houston,	Moore.
Burnett,	Lane,	Patton,
Gooch,	Lair,	Stewart,
Grace,	Ledbetter,	Shannon,
Hobby,	Martin,	Storey,
Homan,	McCulloch,	Swain--18.
NAYS.		
Buchanan,	Duncan,	McCormick,
Burton,	Ford,	Motley,
Davenport,	Guy,	Ripetoe--9.

Not voting—Edwards.

The consideration of Senate bill No. 196 was resumed.

Senator Duncan introduced a substitute for the pending bill.

(Senator Edwards in the chair.)

Senator McCulloch moved to have 50 copies of the substitute printed. Adopted.

Senator Burnett called up Senate bill No. 278, entitled "An act to prevent the sale, exchange or gift of intoxicating liquors within five miles of every direction of Troy Institute, in Bell county," which was read second time.

Senator Homan offered the following:

Strike out "of" before "every," in caption, and insert "in."

Adopted.

Add the following section:

"Section An imperative public necessity exists that the rules requiring this bill to be read on three several days be suspended."

Adopted, and bill ordered engrossed.

On motion of Senator Homan, the rules were suspended and bill placed to its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch.

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCormick,
McCulloch,
Moore,
Patton,
Shannon,
Storey,
Swain—24.

NAYS—NONE.

Not voting—Duncan, Motley, Ripetoe.

Bill read third time and passed.

Senator Shannon moved to adjourn until 7:30 P. M. to-night.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Grace.

Guy,
Hobby,
Homan,
Lane,
Lair,
Martin,

McCormick,
McCulloch,
Moore,
Ripetoe,
Shannon,
Swain—18.

NAYS.

Brown,
Burton,
Edwards,
Not voting—Motley.

Ford,
Houston,
Ledbetter,

Patt.m,
Storey---8.

NIGHT SESSION.

The Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

A quorum soon appearing, the Senate proceeded to business.

On motion of Senator Hobby, Senator Houston was excused during the night session.

Senator Burton called up Senate bill No. 321, entitled "An act to authorize the Austin Canal, Irrigation and Manufacturing Company to construct a dam across the Colorado river," which was read first time.

Senator Burton moved to suspend the rules to place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncon,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--23.

NAYS—none.

Not voting—Edwards, Ford, Lair.

Bill read second time.

Senator Burton offered the following amendment:

Amend by adding the following as a new section:

"Section Whereas, the present session of the Legislature is near adjournment with a large number of bills of a public nature pending, there is an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and it is therefore enacted that said rule is hereby suspended."

Adopted and bill ordered engrossed.

On motion of Senator Burton, the rules were further suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,	Guy,	Moore,
Burnett,	Hobby,	Motley,
Burton,	Homan,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Gooch,	McCormick,	Swain,
Grace,	McCulloch,	Terrell--24.

NAYS--none.

Not voting--Buchanan, Edwards, Lair.

Bill read third time and passed.

Senator Davenport called up Senate bill No. 53, entitled "An act for the relief of the heirs of Silas Dunsmore, deceased," which was taken up, read third time and passed.

Senator Ford called up Senate bill No. 292, entitled "An act to authorize the construction of a ship channel from Corpus Christi across Mustang Island, and to donate land for the same," which was read second time and ordered engrossed.

On motion of Senator Ford, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,	Grace,	McCormick,
Burnett,	Guy,	Moore,
Burton,	Hobby,	Motley,
Davenport,	Homan,	Ripetoe,
Duncan,	Lane,	Shannon,
Ford,	Ledbetter,	Storey,
Gooch,	Martin,	Swain -21.

NAYS--Terrell.

Not voting--Brown, Edwards, Lair, McCulloch, Patton.

Bill read third time and passed by the following vote:

YEAS.

Burton,	Lane,	Motley,
Duncan,	Ledbetter,	Ripetoe,
Ford,	McCormick,	Shannon,
Guy,	McCulloch,	Storey--14.
Hobby,	Moore,	

NAYS.

Brown,	Davenport,	Swain,
Buchanan,	Grace,	Terrell--8.
Burnett,	Homan,	

Not voting--Edwards, Gooch, Lair, Martin, Patton.

Senator Gooch called up Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land, in a manner that will

distinguish community from separate property," which was read second time and ordered engrossed.

Senator Grace called up Senate bill No. 212, entitled "An act granting Mrs. Florence Whitis the right to make a change in Laurel street in the city of Austin," which was taken up and read second time.

Senator Terrell offered the following amendment:

"Section The late hour in the session of which this bill receives action and the convenience of the public and owners of adjacent property, which will be subserved by the passage of this act, creates a public necessity for the suspension of the rule which requires this bill to be read on three several days."

Adopted.

Senator Brown moved to postpone till to-morrow.

Lost and bill ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Burton,	Lane,	Ripetoe,
Duncan,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Gooch,	McCormick,	Swain,
Grace,	McCulloch,	Terrell—23.
Guy,	Moore,	

NAYS.

Brown,	Davenport—2
Not voting—Edwards, Lair.	

Bill read third time and passed.

Senator Guy called up Senate bill No. 201, entitled "An act to provide for the taking and preservation of the testimony in capital cases, and the use of the testimony so taken in cases of appeal."

The motion of Senator McCormick to reconsider the engrossment of this bill was pending.

The question to reconsider was carried by the following vote:

YEAS.

Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burton,	Homan,	Ripetoe,
Duncan,	Ledbetter,	Swain,
Ford,	Martin,	Terrell—17.
Grace,	McCulloch,	

NAYS.

Burnett,	Lane,	Shannon,
Davenport,	McCormick,	Storey—8
Gooch,	Motley,	

Not voting—Edwards, Lair.

Senator Terrell offered the following:

"Said testimony shall be used in preparing a statement of facts, but only so much shall be sent up as the presiding judge may deem necessary to present the case properly to the court of appeals."

Senator Davenport moved the previous question on the bill and pending amendment.

Motion seconded and main question ordered.

Senator Terrell's amendment was lost by the following vote:

	YEAS.	
Burton, Grace, Guy, Lane,	Martin, McCulloch, Moore, Patton,	Shannon, Storey, Terrell--11.

	NAYS.	
Brown, Buchanan, Burnett, Davenport, Duncan,	Ford, Gooch, Hobby, Homan, Ledbetter,	McCormick, Motley, Ripetoe, Swain--14.

Not voting—Edwards, Lair.

The bill was then ordered engrossed by the following vote:

	YEAS.	
Brown, Buchanan, Duncan, Ford, Grace,	Guy, Hobby, Homan, Lane, Martin,	McCulloch, Moore, Patton, Terrell--14.

	NAYS.	
Burnett, Burton, Davenport, Gooch,	Ledbetter, McCormick, Motley, Ripetoe,	Shannon, Storey, Swain--11.

Not voting—Edwards, Lair.

Senator Duncan called up Senate bill No. 196 (to regulate the practice of medicine, etc., and repeal the present law on the subject).

Senator Duncan withdrew his substitute offered this evening and introduced another in lieu thereof.

Senator Motley moved to print.

Lost.

Senator Ledbetter made the point of order that the substitute was not in order as it was not germane to the original bill.

Overruled and substitute adopted.

Senator Storey offered the following amendment:

“That this act shall take effect and be in full force from and after the first day of January, A. D. 1880.”

Senator Motley offered the following:

Amend by adding: “*Provided*, that no tramp shall ever be permitted to practice pharmacy.”

Senator Homan moved the previous question.

Motion seconded and main question ordered.

Senator Motley’s amendment lost.

Senator Storey’s amendment adopted and bill ordered engrossed by the following vote:

	YEAS.	
Buchanan, Duncan, Ford, Gooch, Grace, Guy,	Hobby, Homan, Lane, Martin, McCormick, McCulloch,	Moore, Patton, Ripetoe, Storey, Terrell--18.

	NAYS.	
Brown, Burnett, Burton,	Davenport, Ledbetter, Motley,	Shannon, Swain--8.

Not voting—Edwards, Lair.

Senator Hobby called up Senate bill No. 324, entitled "An act to repeal article 2971 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed February....., 1879, which was taken up and amendment of the committee adopted.

Senator Patton offered the following:

Add after the word "repealed," (in so far only as it applies to personal property,) "such goods, wares and merchandise."

Adopted and bill ordered engrossed.

On motion of Senator Hobby, the rules were suspended, and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell—23.

NAYS—none.

Not voting—Edwards, Grace, Lair, Patton.

Bill read third time.

Senator Gooch offered the following amendment:

Amend the caption by adding to it, viz: "In so far as it relates to goods, wares and merchandise."

Adopted and bill passed.

Senator Homan called up Senate bill No. 289, entitled "An act for the relief of Thomas Humphreys and Lucy Andrews," which was read second time.

Senator Martin offered the following:

"The fact that this session of the Legislature is near its close, and that the public domain is being rapidly taken up by locations, creates an emergency and public imperative necessity for the immediate passage of this act and the suspension of the rules requiring bills to be read on three several days; and it is therefore enacted that said rule be suspended and that this act be in force from its passage."

Adopted and bill ordered engrossed.

Senator Martin moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Grace,

Guy,
Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell---24.

NAYS—none.

Not voting—Edwards, Lair.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Ford,
Grace,

Guy,
Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick.

McCulloch,
Motley,
Patton,
Ripetoe,
Storey
Swain,
Terrell--21.

NAYS—none.

Not voting—Duncan, Edwards, Gooch, Lair, Moore, Shannon.

Senator Burton moved that the Senate adjourn till 9:30 o'clock to-morrow morning.

Lost.

Senator Lane called up Senate bill No. 304, entitled "An act supplementary of an act entitled 'an act amendatory of an act fixing the times of holding the courts of the twenty-third judicial district,' approved February 12, 1879."

Bill read second time.

Senator Lane offered a substitute for the bill.

Substitute adopted.

The bill was then ordered engrossed.

Senator Lane moved to suspend the rules to place the bill upon its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Lane,
Ledbetter,
McCormick,
McCulloch.

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--24.

NAYS—none.

Not voting—Edwards, Lair, Martin, Tilson.

The bill was then read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--23.

NAYS—none.

Not voting—Duncan, Edwards, Grace, Lair, Tilson.

Senator Ledbetter called up Senate bill No. 314, entitled "An act to revive and validate land certificate No. 6058."

The bill was read second time.

Senator Homan offered the following amendment:

"Section The near approach of the close of the session creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended, and they are suspended."

Adopted.

The bill was then ordered engrossed.

Senator McCormick moved to suspend the rules to place the bill upon its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Guy,	Moore,
Burnett,	Hobby,	Motley,
Burton,	Homan,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Ledbetter,	Shannon,
Ford,	McCormick,	Storey,
Grace,	McCulloch,	Terrell—21.

NAYS—none.

Not voting—Brown, Edwards, Gooch, Lair, Martin, Swain, Tilson.

The bill was then read third time and passed.

On motion of Senator Burnett, the Senate adjourned till 9:30 o'clock to-morrow morning.

SIXTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 25, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley the reading of the journals of yesterday was dispensed with and the same accepted.

Senator Moore, chairman of the committee on commerce and manufactures, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on commerce and manufactures, to whom was referred Senate bill No. 332, a bill to be entitled "An act for the better protection of harbors and ports of the State of Texas," have duly considered the same, and instruct me to report the same back to the Senate and recommend its passage.

MOORE, *Chairman.*

Senator Houston, chairman of committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House bill No. 304, "An act to repeal 'an act to encourage irrigation and navigation,' approved August 21, 1876," and I am instructed to report same back to the Senate and to recommend that it do not pass, for the reason that its passage would materially retard the development of a large section of the state and work a serious injury to the interests of the whole state.

HOUSTON, *Chairman.*

Senator Guy, chairman of committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, having duly considered the petition of Johnson Hensley, of Waller county, for relief, find that said Hensley came to Texas before the Texas revolution, and has continuously resided in this state since that time, and is justly entitled to the relief

asked; and that due publication was made of his intention to apply at this session of the Legislature for relief. The committee therefore, recommend the passage of the accompanying bill granting to said Hensley a certificate for 1280 acres of land.

GUY, *Chairman.*

Senator Stewart introduced a bill entitled "An act amendatory of and supplementary to an act entitled 'an act to consolidate in one act and amend the several acts incorporating the city of Houston in Harris county, approved January 23, 1874, and the several acts amendatory thereof.'"

Read by caption and referred to judiciary committee No. 2.

The resolution of Senator Burnett of yesterday with regard to holding night sessions was taken up.

Senator Storey moved to amend by inserting "on Monday, Wednesday and Friday nights."

Accepted by Senator Burnett, but withdrawn for the present.

Senator Edwards introduced a bill entitled "An act to amend sections 47 chapter 2 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879.

Read by caption and referred to judiciary committee No. 1.

A message was received from the House announcing the passage by that body of Senate joint resolution No. 215, requiring senators and representatives in congress to use their influence in securing a loan from the general government of four batteries of artillery to the adjutant general.

Substitute for Senate bill No. 288, entitled "An act amendatory of an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts, approved February 22, 1879, and repealing an act supplemental thereto, approved March 8, 1879."

And that the House concurs in Senate amendments to House bill No. 375, "An act to amend an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," approved February, 1879.

House concurs in Senate amendments to House bill No. 451, "An act to amend an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas, approved, 1879."

Senator Martin called up the report of the finance committee on the Toby claim, moved to adopt the same, and then moved a call of the Senate.

Call sustained.

Roll called. Absent—Ford and Gooch.

Pending business went to the table.

Senator McCormick called up Senate bill No. 315, entitled "An act to revive and validate land certificate No. 8016," which was read second time.

Senator Homan offered the following section:

"The near approach of the close of the session creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended."

Adopted and bill ordered engrossed.

On motion of Senator McCormick, the rules were suspended and bill placed on its third reading by the following vote.

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace.

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch.

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell—26.

NAYS—none.

Not voting—Ford, Houston, Swain.

Bill read third time and passed.

Senator Houston was excused for a few minutes.

Senator McCulloch called up Senate bill No. 244, entitled "An act to amend an act entitled 'an act to provide for the judicial forfeitures of charters and prescribing the duties of the attorney general in relation thereto, approved August 21, 1876,' by providing a mode for enforcing its provisions," which was read second time.

Senator Patton offered the following:

Amend by adding, "And this section to be called section 2 and to read as follows:

"Section 2. Whereas, the present session of the Legislature is near its close, there is an imperative public necessity which requires that the rule that every bill shall be read on three days be suspended that this bill may pass at this session, and it is so suspended."

Adopted, and bill ordered engrossed.

Senator Patton moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

YEAS.

Burnett,
Duncan,
Edwards,
Gooch,
Grace,
Guy,
Hobby,
Homan,

Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell--22.

NAYS.

Brown,

Buchanan--2.

Not voting—Burton, Davenport, Ford, Lane, Swain.

Bill read third time and passed.

Senator Moore called up Senate bill No. 296, entitled "An act to authorize the issuance of land certificates to those, or the heirs of those who participated in the Dawson massacre, near the Salado, in September, 1842," which was read second time and ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,

Burton,
Davenport,
Duncan,

Gooch,
Grace,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,

McCormick,
Moore,
Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain,
Terrell--24.

NAYS---none.

Not voting—Edwards, Ford, Houston, Lair, McCulloch.
Bill read third time and passed.

The absent senators appearing the call was suspended and the consideration of the Toby claim was resumed.

(Senator Houston in the chair).

Senator Martin's motion to adopt the report of the finance committee on the Toby claim was lost by the following vote:

YEAS.

Brown,
Ford,
Grace,
Guy,
Hobby.

Lane,
Martin,
McCormick,
McCulloch.

Ripetoe,
Stewart,
Storey,
Swain--13.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,

Gooch,
Homan,
Houston,
Lair,
Ledbetter,

Moore,
Motley,
Shannon,
Terrell--14.

Senators Duncan and Patton were excused from voting on this question by the Senate.

Senator Ledbetter, chairman of the committee on education (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on education, to whom was referred House bill No. 71, "An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities and towns in this state," have had the same under consideration, and a majority of said committee have instructed me to report the same back and recommend that it do pass.

LEDBETTER, *Chairman.*

Senator Storey (by leave) introduced a bill entitled "An act to provide for the sale or exchange of the alternate sections of school lands belonging to this state in certain cases."

Read by caption and referred to judiciary committee No. 1.

House bill No. 50, entitled "An act authorizing the commissioner of the general land office to approve the bounty land certificate issued to the heirs of William Fishbaugh, deceased, who fell at the Alamo," was taken up and referred to the committee on private land claims.

Senator McCormick called up Senate bill No. 312, entitled "An act to amend and supplement the existing quarantine law of the State of Texas," which was read third time and postponed until the evening session.

Senator Motley called up Senate bill No. 262, entitled "An act to grant to Jackson Doyle six hundred and forty acres of land," which was read second time and ordered engrossed.

On motion of Senator Motley, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Grace,
Guy,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—26.

NAYS—none.

Not voting—Davenport, Ford, Hobby.

Bill read third time and passed.

Senator Stewart called up Senate bill No. 295, entitled "An act to create the office of registrar general, and define the duties, powers and compensation of such officer," which was read second time.

Senator Stewart offered the following amendment:

Strike out the words "the registrar general" wherever they occur, and insert in lieu thereof the words "state registrar."

Adopted.

Also, the following:

Strike out "registrar general's office," in line six and seven of section 4, and insert in lieu thereof these words: "state registrar's office."

Adopted.

Also, the following:

In line twelve insert "\$10,000."

Adopted.

Also, the following:

On page 3, line three, strike out "general land office and commissioner of general land office," and insert in lieu thereof "capitol" and "governor," so that it will read: "in the capitol building as the governor may designate."

Adopted.

(President in the chair.)

Senator Lane offered the following:

Amend by striking out from the word "thereof," in line sixteen, section 5, all that follows, down to the word "upon," in line eighteen.

Adopted.

Senator Houston offered the following:

Amend section 9, by adding the following: "*Provided*, that the record of conveyances and instruments provided for herein, shall not be made unless the same shall have been previously recorded in the county where the property to be affected thereby is situated; and *provided, further*, that certified copies of the same from the records of the registrar general's office, shall be admissible in evidence only under the same restrictions and limitations as provided for the admission of such certified copies from county records, and then only when the county record of the instrument or instruments, certified copies of which are sought to be used, have been burned or destroyed.

Adopted.

Senator Lane offered the following:

Amend by adding, after the last word in section 8, in line four, the following, to wit: "And in all cases where instruments in writing, authorized by law to be recorded, have been recorded in the proper county and

the county records thereof shall have been destroyed, and the original instrument so recorded, or lost, then a certified copy of the same from the records of the registrar general may be admitted to record in the county clerk's office, and to have the same force and effect as the original so lost."

Adopted, and bill ordered engrossed.

On motion of Senator Stewart the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore.
Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell---25.

NAYS—Patton.

Not voting—Brown, Duncan, McCormick.

Senator Storey offered the following amendment:

Amend section 9: Strike out all down to the last proviso and insert for the word "provided" the word "that."

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Gooch,

Grace,
Guy,
Ledbetter,
McCulloch,
Motley,

Patton,
Ripetoe,
Shannon,
Storey---14.

NAYS.

Davenport,
Duncan,
Hobby,
Houston,

Lair,
Martin,
McCormick.

Stewart,
Swain,
Terrell---10.

Not voting---Burton, Ford, Lane, Moore, Patton.

The bill was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,

Ledbetter,
Motley,
Patton,
Ripetoe,
Stewart---15.

NAYS.

Burnett,
Burton,
Davenport,
Gooch,

Lair,
Martin,
McCormick,
McCulloch,

Shannon,
Storey,
Swain,
Terrell---12.

Not voting—Moore.

The president, after reading its caption, signed substitute for Senate bill No. 23, when Senator Grace offered the following motion:

That the leave of the House be requested for the withdrawal for correction of substitute for Senate bill No. 23, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change."

Motion adopted.

Senator Shannon called up Senate bill No. 223 entitled "An act to validate bounty certificates of Joseph Hawkins," which was read second time and ordered engrossed.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and compared with the originals the engrossed copies of the following Senate bills and find them correctly engrossed, viz:.

Senate bill No. 31, entitled "An act to create and provide for execution liens on lands."

Senate bill No. 177, entitled "An act to prohibit the sale, exchange or gift of intoxicating liquors within three miles of Frainville High School, in Burleson county."

Substitute for Senate bill No. 213, entitled "An act to amend article 264 of the new Penal Code."

Senate bill No. 224, entitled "An act to amend article 539 of section 2 of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas.'"

Senate bill No. 251, entitled "An act to amend article 988 of the Code of Criminal Procedure passed by the Sixteenth Legislature."

Substitute for Senate bill No. 303, entitled "An act to provide for the dissolution and surrender of the charter of the city of Terrell, in Kaufman county, Texas, and to provide for the payment of the debts due by said city."

Senate bill No. 326, entitled "An act to amend an act fixing the time of holding the district courts in the seventeenth judicial district, which was approved February 28, 1879, so as to make no changes in the time of holding court in said district, except in the county of Williamson."

Senate bill No. 328, entitled "An act to repeal so much of an act to adopt and establish the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature, as relates to sales of university, public free school and asylum lands as is contained between articles 4038 and 4080 inclusive of said act."

BROWN, *Chairman.*

Senator Storey called up Senate bill No. 265, entitled "An act authorizing any person, being a citizen of the State of Texas, who may have been entitled to land for military services in the army of the late republic of Texas, under any law in force at that or any subsequent date, and who may have failed to obtain the same to bring his action in the district court, etc.," which was read second time and ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Ford,
Gooch,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Storey,
Swain,
Terrell - 22.

NAYS.

Davenport,

Duncan--2.

Not voting—Brown, Edwards, Martin, Ripetoe, Shannon.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Edwards,
Ford,

Guy,
Hobby,
Houston,
Lane,
Ledbet'er,

McCulloch,
Ripetoe,
Stewart,
Storey,
Swain---15.

NAYS.

Burnett,
Davenport,
Duncan,
Gooch,

Grace,
Homan,
Lair,
Martin,

Moore,
Motley,
Patton,
Terrell---12.

Not voting—McCormick, Shannon.

(Senator Storey in the chair).

Senator Patton called up substitute for Senate bill No. 196, entitled "An act to regulate the practice of pharmacy, etc.," which was read third time.

Senator Brown offered the following:

Amend by adding to section 2: "Nothing in this act shall be construed as authorizing pharmacutists under its provisions to prescribe medically for patients."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Ford,
Grace,

Guy,
Hobby,
Houston,
Lair,
McCulloch,

Moore,
Patton,
Ripetoe,
Storey,
Terrell---16.

NAYS.

Davenport,
Gooch,

Homan,
Ledbetter,

Motley,
Shannon---6.

Not voting—Burton, Edwards, Lane, Martin, McCormick, Stewart, Swain.

Senator Shannon offered the following:

"*Provided*, That this act shall not apply to druggists or clerks of druggists, who have been continuously engaged in the business of compounding medicines or filling prescriptions for the period of one year prior to the taking effect of this act."

Lost by the following vote:

YEAS.

Burnett,
Davenport,

Homan,
Shannon,

Storey,
Terrell---6.

NAYS.

Brown,
Buchanan,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Swain---21,

Not voting—Burton, Edwards.

The bill was then passed by the following vote:

	YEAS.	
Brown,	Hobby,	McCulloch,
Buchanan,	Homan,	Motley,
Duncan,	Lane,	Patton,
Ford,	Lair,	Ripetoe,
Gooch,	Ledbetter,	Stewart,
Guy,	McCormick,	Storey--18.
	NAYS.	
Burnett,	Grace,	Shannon,
Burton,	Houston,	Swain,
Davenport,	Martin,	Terrell--10.
Edwards,		

Not voting—Moore.

Senator Edwards called up Senate bill No. 236, entitled "An act to amend title 42, chapter 4, of 'an act to adopt and establish the Revised Statutes of the State of Texas,'" which was read third time and passed.

Senator Terrell called up Senate bill No. 288, entitled "An act amendatory of 'an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts,' approved February 22, 1879, and repealing 'an act supplemental thereto,' approved March 8, 1879," which was read first time.

Senator Hobby moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

	YEAS.	
Brown,	Grace,	McCulloch,
Buchanan,	Guy,	Moore,
Burton,	Hobby,	Patton,
Davenport,	Homan,	Stewart,
Duncan,	Houston,	Shannon,
Edwards,	Lair,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCormick,	Terrell--24.
	NAYS—none.	

Not voting—Burnett, Lane, Ledbetter, Motley, Ripetoe.

Bill read second time and ordered engrossed.

On motion of Senator Davenport, the rules were further suspended and bill was placed on its third reading by the following vote;

	YEAS.	
Brown,	Grace,	Moore,
Buchanan,	Guy,	Motley,
Burnett,	Hobby,	Patton,
Burton,	Homan,	Ripetoe,
Davenport,	Houston,	Stewart,
Duncan,	Lane,	Shannon,
Edwards,	Lair,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCulloch,	Terrell--27.
	NAYS—none.	

Not voting—Ledbetter, McCormick.

Bill read third time and passed by the following vote:

	YEAS.	
Brown,	Burton,	Duncan,
Buchanan,	Davenport,	Edwards,

Ford,
Gooch,
Grace,
Guy,
Hobby,
Homan,
Houston,

Lane,
Lair,
Martin,
McCulloch,
Moore,
Motley,
Patton.

Ripetoe.
Stewart,
Shannon.
Storey,
Swain,
Terrell--26.

NAYS—none.

Not voting—Burnett, Ledbetter, McCormick.

Senator Buchanan called up Senate bill No. 242, entitled "An act to amend article 1179 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" which was read second time and ordered engrossed.

Senator Burnett called up Senate bill No. 118, entitled "An act extending the landlord's lien for rents to owners of residences, store-houses and other buildings," which was read second time.

Senator Burnett offered the following:

"An act to amend title 58 of the Revised Statutes of the State of Texas, passed February 21, 1879."

Adopted.

Also the following:

After the word "that," in line one, add "title 58 of the Revised Statutes of this state, passed February 21, 1879, be amended by adding articles 3122a and 3122b, viz: 3122a."

Adopted.

Also the following:

On page 1, line ten, strike out the words "section 2" and insert the following words: "Article 3122b."

Adopted.

Also, on page 1, lines seventeen and eighteen, strike out these words: "the act entitled 'an act concerning rents,' approved April 4, 1874, the object of this act," and insert "this chapter, the object of this and the preceding article."

Adopted.

Also the following: Strike out section 3 and insert the following as a substitute:

"Section 3. Whereas, there is now no law in force fully conferring and protecting rent liens of owners of buildings used as residences or for carrying on business, and this session of the Legislature is near its adjournment, there is an emergency for the immediate passage of this act and an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, which rule is suspended, and it is enacted that this act be in force from its passage."

Adopted.

Senator Homan offered the following:

Strike out "execution," in article 3122a, and insert "forced sale."

Adopted and bill ordered engrossed.

(President in the chair.)

On motion of Senator Burnett, the rules were suspended and the pending bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett.

Davenport,
Duncan,
Edwards,

Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,

Ledbetter,
Martin,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—27.

NAYS—none.

Not voting—Burton, McCormick.

Bill read third time and passed by the following vote :

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell—24.

NAYS—none.

Not voting—Burton, Grace, Hobby, McCormick, Swain.

Senator Burton called up Senate bill No. 333, entitled "An act for the relief of Johnson Hensley, of Waller county," which was read first time.

Senate bill No. 329, entitled "An act to attach the county of Jones to the county of Taylor for judicial purposes," was taken up and read first time.

Senate bill No. 311, entitled "An act for the relief of Wm. Judge," was taken up and read first time.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 25, 1879. }

To the honorable Senate of the State of Texas, in session assembled:

I respectfully ask your advice and consent to the following appointments, to wit:

W. W. Lang, for assistant superintendent of the penitentiary.

Benton Randolph, Sanford Gibbs, I. M. Wynne, to be directors of the penitentiary, being residents in and near Huntsville, in Walker county, Texas.

O. M. ROBERTS, Governor.

Senator Burnett moved that the Senate go into executive session just after the morning call on to-morrow.

Carried.

On motion of Senator Terrell, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

House bill No. 377, entitled "An act to declare valid and binding on the county of Wilson certain sales of lots and blocks of the town of Floresville, in said county," was taken up, read third time and passed.

Substitute for House bill No. 33, entitled "An act to amend article 4767 of the Revised Civil Statutes," was taken up, read second time and passed to a third reading.

Substitute for House bills Nos. 305 and 305, entitled "An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not rendered the same," was taken up and read second time.

The amendments of the committee were considered and adopted *seriatim*.

The first amendment of the committee was adopted by the following vote:

YEAS.		
Brown,	Hobby,	Patton,
Buchanan,	Lane,	Stewart,
Burnett,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCulloch,	Swain--17.
Guy,	Motley,	
NAYS.		
Burton,	Homan,	McCormick,
Duncan,	Houston,	Moore,
Grace,	Lair,	Ripetoe--9.

Not voting—Davenport, Gooch, Terrell.

The second, third, fourth and fifth amendments of the committee were then adopted and bill passed to a third reading.

House bill No. 71, entitled "An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities or towns in this state," was taken up and read first time.

House bill No. 304, entitled "An act to encourage irrigation and navigation," approved August 21, 1876, was taken up and read first time.

The chair, after publicly reading its caption, signed Senate joint resolution No. 215, "Requesting senators and representatives in congress to use their influence in securing a loan from the general government of four batteries of artillery."

Senate bill No. 312, entitled "An act to amend and supplement the existing quarantine law of the State of Texas," was taken up.

Senator Stewart offered the following:

Amend section 4090 by adding these words: "*provided*, that Houston, in Harris county, shall be considered a coast town within the meaning of this act."

Adopted by the following vote:

YEAS.		
Brown,	Guy,	McCulloch,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Davenport,	Houston,	Ripetoe,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Gooch,	McCormick,	Swain--24.
NAYS--NONE.		

Not voting—Burton, Grace, Lane, Moore, Terrell.

Also the following:

"Section 2. No quarantine officer of this state shall be empowered to draw more than ten dollars per day for such service, and all contracts made by any town, city or county authorities for a greater amount shall be disallowed by the comptroller."

YEAS.

Brown,
Buchanan,
Burnett,
Ford,
Gooch,
Guy,
Hobby,
Homan,

Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain—22

NAYS.

Davenport, Duncan—2.
Not voting—Burton, Edwards, Grace, Lane, Terrell.

Also the following:

Amend by adding: "Section 3. All quarantine officers, whether of towns, cities, counties or state, shall be authorized to administer oaths to any person suspected of violating any quarantine regulation; and any person swearing falsely, upon conviction thereof, before any court of competent jurisdiction, may be punished therefor, as in other cases made and provided."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain—25.

NAYS—NONE.

Not voting—Grace, Lane, Lair, Terrell.

Also the following:

"Section The near approach of the close of the session creates an imperative public necessity that the rules requiring this bill to be read on three several days be suspended, and they are so suspended; and the near approach of the sickly season creates an emergency which requires this bill to take effect from its passage, and it is so enacted."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain—25.

NAYS—NONE.

Not voting—Davenport, Lane, McCulloch, Terrell.

The bill was then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,

Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain--25.

NAYS--none.

Not voting--Brown, Davenport, McCulloch, Terrell.

Senator Edwards called up Senate bill No. 228, entitled "An act to amend 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879," which was read third time and passed.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate joint resolution No. 215, "Joint resolution requesting senators and representatives in congress to use their influence in securing loan from general government of four batteries of artillery to adjutant general," and at 3:30 o'clock P. M. presented the same to the governor for his signature. GRACE, *Chairman.*

Senator Ford called up Senate bill No. 281, entitled "An act supplemental of an act entitled 'an act to fix the times of holding the district courts of the twenty-fifth judicial district,'" which was read second time and ordered engrossed.

On motion of Senator Ford, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain--25.

NAYS--none.

Not voting--Brown, Edwards, Stewart, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain--23.

NAYS--none.

Not voting--Brown, Buchanan, Burnett, Edwards, Storey, Terrell.

Senator Gooch called up substitute for Senate bill No. 233, entitled "An act to provide for the payment of sums due county school superintendents and directors, for services rendered prior to the year ending August 31, 1876," which was read second time.

The substitute of the committee adopted by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain—19.

NAYS.

Grace,
Martin,

McCormick,
Moore.

Stewart—5.

Not voting—Brown, Buchanan, Edwards, Ford, Terrell.
Bill ordered engrossed.

Senator Guy called up Senate bill No. 80, entitled "An act to amend sections 9 and 36 of an act entitled 'an act to provide for the election of justices of the peace, and to define their powers and jurisdiction,' approved August 17, 1876," which was read second time, and on motion of Senator Shannon, indefinitely postponed.

Senator Homan called up Senate bill No. 238, "An act to prevent attorneys who may have represented the state in any proceeding from afterward appearing as counsel adversely to the state in the same or any other proceeding involving the same subject matter," which was taken up.

Senator Storey offered the following:

Amend section 1 by striking out the words "or in any other proceeding involving the same subject matter," and insert the words "or any other prosecution for the same overt act or omission."

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch.

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain--24.

NAYS—none.

Not voting—Brown, Burton, Edwards, Martin, Terrell.

Also the following:

Amend section 2: strike out all after line five and insert "the district or county court of his county or district, as the case may be, during his term of office or in any subsequent criminal prosecution against the same defendant for the same overt act or omission; *provided*, that district or county attorneys after they vacate their offices may appear as counsel in cases where from any cause they were disqualified to represent the state in that particular case."

Adopted.

On motion of Senator Storey the rule requiring the roll called in this case was dispensed with.

The bill was then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,

Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain-26.

NAYS—none.

Not voting—Brown, Martin, Terrell.

Senator Houston called up Senate bill No. 216, entitled "An act specifying fees for sale of real estate for delinquent taxes," which was read second time and ordered engrossed.

Senator Houston called up Senate bill No. 252, entitled "An act to amend chapter 2 of title 15, and chapter 1 of title 16, in the Code of Criminal Procedure of an act entitled 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' which was read second time.

Also, Senate bill No. 253, entitled "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' which was read second time.

Senator Lane called up Senate bill No. 134, entitled "An act to require the owner of surveys to patent fee therefor before filing the field notes of the same in the general land office," which was read second time.

Senator Lane offered the following amendment:

"Section The near approach of the close of the session makes it an imperative public necessity that the rules be suspended requiring the bill to be read on three several days, and it is so enacted."

Adopted, and bill ordered engrossed.

On motion of Senator Lane, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—27.

NAYS—none.

Not voting—Burton, Martin.

Bill read third time and passed.

Senator Lair called up Senate bill No. 28, entitled "An act to make bail bonds and recognizances in criminal cases a lien on the real estate of the obligors on same, to provide for registration and to prevent the discharge of defendants until said lien is recorded," which was read second time.

Senator Duncan moved to adopt substitute.

Senator Swain moved to indefinitely postpone bill and substitute.

Lost by the following vote:

YEAS.

Davenport,
Edwards,
Grace,
Houston.

Martin,
Moore,
Motley,
Stewart,

Shannon,
Storey,
Swain,
Terrell—12.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,

McCormick,
McCulloch,
Patton,
Ripetoe--14

Not voting--Brown, Ford, Gooch.

The substitute was then adopted.

Senator Burton offered the following:

Amend line four, section 1, by striking out all after word "the" to the word "on," and insert "judgments final."

Lost.

The Senate refused to engross the bill by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Ford,

Guy,
Hobby,
Homan,
Houston,

Lair,
McCormick,
Patton--11.

NAYS.

Burton,
Davenport,
Edwards,
Grace,
Lane,

Ledbetter,
Martin,
McCulloch
Moore,
Motley,

Stewart,
Shannon,
Storey,
Swain,
Terrell--15.

Not voting--Brown, Gooch, Ripetoe.

Senator Motley entered a motion to reconsider the vote on the report of the finance committee on the Toby claim.

(President in the chair.)

Senator Ford (by leave) presented a memorial from citizens of Maverick county "against the passage of a bill in the House detaching Zavilla county from Maverick county and attaching it to Uvalde county for judicial purposes," giving several reasons for the same.

Referred to committee on counties and county boundaries.

Senator Terrell entered a motion to reconsider the vote by which substitute for Senate bill No. 28 was lost.

Senator Homan presented a petition from Liberty Grange, in Burleson county, "asking the passage of a law requiring ginners and millers to enclose their mills and gins with a substantial fence to keep all stock out; that ginners be held responsible for all damage done to cotton while in their possession, etc; that millers be held responsible for sacks and grain delivered unto them, and that the toll of millers be regulated by law."

Referred to the committee on state affairs.

Also, a memorial from the county judge of Washington county, by order of the county commissioners' court, with regard to taxes due said county from railroad, and asking the passage of a general or special law to empower the county to sue for said taxes.

Referred to judiciary committee No. 1.

Senator Lane introduced a bill entitled "An act granting a land certificate of 640 acres to each of the indigent pensioners enrolled under the act approved July 28, 1876."

Read by caption and referred to committee on state affairs.

Senator Ledbetter called up Senate joint resolution No. 205, "Authorizing the governor of the State of Texas to lease certain grounds belonging to the capitol grounds of the state, in the city of Austin," which was read second time and ordered engrossed.

Senator Motley moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Homan,	Moore,
Burnett,	Houston,	Motley,
Burton,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Ford,	Ledbetter,	Storey,
Gooch,	Martin,	Swain,
Guy,	McCormick,	Terrell—23.
Hobby,	McCulloch,	

NAYS—none.

Not voting—Brown, Davenport, Edwards, Grace, Patton, Ripetoe.
Bill read third time.

Senator Motley offered the following:

“Section The near approach of the end of the session and the want of a proper law upon this subject creates an imperative public necessity and emergency that the rules be suspended, and that this act be passed at once, and take effect from and after its passage, and it is so enacted.”

Adopted by the following vote:

YEAS.		
Buchanan,	Hobby,	McCormick,
Burnett,	Homan,	McCulloch,
Burton,	Houston,	Moore,
Davenport,	Lane,	Motley,
Duncan,	Lair,	Patton,
Ford,	Ledbetter,	Shannon,
Gooch,	Martin,	Storey—22.
Guy,		

NAYS—Grace.

Not voting—Brown, Edwards, Ripetoe, Stewart, Swain, Terrell.
The resolution was then passed by the following vote:

YEAS.		
Buchanan,	Homan,	Moore,
Burnett,	Houston,	Motley,
Davenport,	Lane,	Patton,
Duncan,	Lair,	Shannon,
Ford,	Ledbetter,	Storey,
Gooch,	Martin,	Swain,
Guy,	McCormick,	Terrell 23.
Hobby,	McCulloch,	

NAYS—Grace.

Not voting—Brown, Burton, Edwards, Ripetoe, Stewart.

Senator Martin called up Senate bill No. 284, entitled “An act to amend article 3367 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature,” which was read first time.”

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Buchanan,	Duncan,	Hobby,
Burnett,	Ford,	Homan,
Burton,	Grace,	Houston,
Davenport,	Guy,	Lane,

Lair,
Martin,
McCormick,
McCulloch,

Moore.
Motley,
Patton,
Stewart,

Shannon,
Storey,
Swain,
Terrell—24.

NAYS—none.

Not voting—Brown, Edwards, Gooch, Ledbetter, Ripetoe.
Bill read second time.

Senator Storey offered the following:

“Whereas, the present session of the Legislature is near its close, an imperative public necessity and emergency exists for the immediate passage of this act, it shall therefore take effect and be in force from and after its passage.”

Adopted.

Senator Homan offered the following:

Insert after the word “Texas” the following: “And the name of such notary.”

Lost by the following vote:

YEAS.

Burnett,
Burton,
Duncan,

Guy,
Homan,
Lane,

McCormick,
Patton—8.

NAYS.

Buchanan,
Davenport,
Gooch,
Grace,
Hobby,

Houston,
Lair,
Ledbetter,
McCulloch,
Moore,

Stewart,
Shannon,
Storey,
Swain,
Terrell—15.

Not voting—Brown, Edwards, Ford, Martin, Motley, Ripetoe.
Bill ordered engrossed.

Senator Storey moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—25.

NAYS—none.

Not voting—Brown, Edwards, Houston, Motley.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—23.

NAYS.

Homan,

Ledbetter—2.

Not voting—Brown, Davenport, Edwards, Motley.

The president, after reading their caption, signed the following bills:

House bill No. 375, entitled "An act to amend an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas," approved February, 1879.

House bill No. 302, entitled "An act legalizing the county lines of Duval county and of counties affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties."

Substitute for House bill No. 123, entitled "An act to amend sections 6 and 9 of 'an act to define a lawful fence and carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws, approved August 15, 1876.'"

Senator Duncan called up Senate bill No. 201, entitled "An act to provide for the taking and preservation of the testimony in capital cases, and the use of the testimony so taken in cases of appeal," which was read third time and passed by the following vote:

YEAS.

Buchanan,
Duncan,
Ford,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch.

Moore,
Patton,
Stewart,
Storey,
Swain,
Terrell—18.

NAYS.

Burnett,
Burton,
Edwards.

Gooch,
Ledbetter,
McCormick.

Ripetoe,
Shannon—8.

Not voting—Brown, Davenport, Motley.

Senator McCormick called up Senate bill No. 332, entitled "An act for the better protection of harbors and ports of the State of Texas," which was read first time.

On motion of Senator McCormick, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,
Guy.

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick.

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey—25.

NAYS—none.

Not voting—Brown, Edwards, Swain, Terrell.
Bill read second time.

Senator Gooch offered the following:

"Section 2. The near approach of the end of the session and the want of a proper law upon the subject, creates an imperative public necessity and emergency that the rules be suspended and that this act be passed at once and take effect from and after its passage; and it is so enacted."

Adopted and bill ordered engrossed.

On motion of Senator McCormick, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell---28.

NAYS—none.

Not voting—Brown.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell 27.

NAYS—none.

Not voting—Brown, Patton.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 25, 1879. }

To the honorable Senate and House of Representatives in Legislature Assembled:

I herewith submit to your honorable bodies a list of the acts and joint resolutions of the present Legislature, passed up to the present time, that have become laws. Two others being in the office not yet acted on. The first in the list was approved by Governor Hubbard.

Respectfully,

O. M. ROBERTS, Governor.

CAPTIONS OF BILLS PASSED BY THE SIXTEENTH LEGISLATURE.

S. B. No. 1.—An act to amend section 3 of an act entitled "An act to provide for the holding of district courts when the judge thereof is absent, or is from any cause disabled or disqualified from presiding," approved August 15, 1876.

Approved January 17, A. D. 1879.

S. B. No. 11.—An act to amend an act entitled "An act fixing the times of holding the district courts of the seventh judicial district of the State of Texas," approved August 16, 1876.

Approved January 24, A. D. 1879.

H. B. No. 17.—An act making an appropriation for the mileage and per diem pay of the members, and per diem pay of the officers and employes of the Sixteenth Legislature.

Approved January 24, A. D. 1879.

S. B. No. 27.—An act prescribing the times of holding the district courts in the third judicial district.

Approved January 25, A. D. 1879.

H. B. No. 18.—An act prescribing the times of holding the district courts in the fourteenth judicial district.

Approved January 30, A. D. 1879.

H. B. No. 12.—An act making an appropriation to defray the contingent expenses of the Sixteenth Legislature.

Approved February 1, A. D. 1879.

H. B. No. 135.—An act to make an appropriation to pay the postage and expressage of the comptroller's office for six months, commencing January 1, 1879, and ending June 30, 1879.

Approved February 3, A. D. 1879.

H. B. No. 2.—An act to repeal an act entitled "An act to levy a tax on the privilege of keeping or harboring dogs and to provide for the assessment and collection of the same."

Approved February 10, A. D. 1879.

S. B. No. 38.—An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas.

Approved February 10, A. D. 1879.

S. B. No. 139.—An act amendatory of an act entitled "an act fixing the times of holding the district courts of the twenty-third judicial district," approved August 9, 1876.

Approved February 12, A. D. 1879.

S. B. No. 15.—An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and subcontractors, or agents, to pay their wages when due, and to provide a lien for such wages.

Approved February 18, A. D. 1879.

S. B. No. 21.—An act to provide for designating, surveying and sale of three million and fifty thousand acres of the unappropriated public domain for the erection of a new state capitol and other necessary public buildings at the seat of government, and to provide a fund to pay for surveying said lands.

Approved February 20, A. D. 1879.

H. B. No. 3.—An act to diminish the civil and criminal jurisdiction of the county court of Leon county, and to conform the jurisdiction of the district court of said county to such change.

Approved February 6, A. D. 1879.

H. J. R. No. 4.—Joint resolution on yellow fever.

Approved January 28, A. D. 1879.

H. J. R. No. 23.—Joint resolution in regard to Aransas Pass bar.

Approved February 8, A. D. 1879.

S. J. R. No. 61.—Joint resolution granting leave of absence from the state to Hon. Allen Blacker, judge of the twentieth judicial district.

Approved February 10, A. D. 1879.

S. J. R. No. 145.—Joint resolution instructing the senators and requesting the representatives of Texas in congress to favor commercial relations with Mexico.

Approved February 14, A. D. 1879.

H. J. R. No. 21.—Joint resolution authorizing and directing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the state to her university lands in McLennan and Hill counties, and to remove all clouds upon said title.

Approved February 19, A. D. 1879.

H. B. No. 9.—An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879.

Approved February 21, A. D. 1879.

S. B. No. 98.—An act to fix the fees of the department of state in certain cases.

Approved February 21, A. D. 1879.

S. B. No. 176.—An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts.

Approved February 22, A. D. 1879.

S. B. No. 67.—An act prescribing the times of holding the district courts in the twenty-fourth judicial district.

Approved February 24, A. D. 1879.

H. B. No. 255.—An act to reorganize the fourth judicial district of the State of Texas, and to fix the times for holding courts in the different counties composing the same.

Approved February 24, A. D. 1879.

S. B. No. 214.—An act to set aside the public lands embraced within the territorial limits of the county of Greer to educational purposes, and for the payment of the public debt.

Approved February 25, A. D. 1879.

S. B. No. 132.—An act to legalize the sale of real estate, which belonged to Stephens county, in and near the town of Breckenridge, Stephens county, Texas.

Approved February 24, A. D. 1879.

S. J. R. No. 202.—Joint resolution making an appropriation to pay interest on the bonded debt of the state to the first day of March, A. D. 1879.

Approved February 21, A. D. 1879.

H. B. No. 141.—An act making appropriations for the support of the state government for the time beginning January 1, 1879, and ending February 28, 1879.

Approved February 26, A. D. 1879.

H. B. No. 151.—An act to create the thirty-first judicial district of the State of Texas and to organize the same.

Approved February 27, A. D. 1879.

H. B. No. 151.—An act to create the thirty-first judicial district of the State of Texas and to organize the same.

Approved February 27, A. D. 1879.

S. B. No. 143.—An act to attach certain counties therein named to the twenty-fifth judicial district.

Approved March 1, A. D. 1879.

S. B. No. 59.—An act to reorganize the seventeenth judicial district of the State of Texas.

Approved February 28, A. D. 1879.

S. B. No. 60.—An act to amend an act entitled "An act to fix the times for holding the terms of the district courts for the seventeenth judicial district, including the county of McCulloch," approved July 29, 1876.

Approved February 28, A. D. 1879.

S. B. No. 184.—An act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas.

Approved March 1, A. D. 1879.

S. B. No. 42.—An act to provide for the care and protection of the East Texas Penitentiary.

Approved March 5, A. D. 1879.

S. B. No. 77.—An act to regulate and control the assessment of taxes on real estate.

Approved March 8, A. D. 1879.

H. B. No. 8.—An act for the preservation of oysters and oyster beds, and for protecting the rights of persons to the same, and affixing penalties.

Approved March 8, A. D. 1879.

H. B. No. 217.—An act to release certain inhabitants in the county of Lamar in this state from the payment of taxes assessed and now due for the year 1878 in consequence of a great public calamity.

Approved March 8, A. D. 1879.

S. B. No. 231.—An act amendatory of and supplemental to an act entitled "an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the times of holding the courts therein and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts," approved _____, 1879.

Approved March 8, A. D. 1879.

S. B. No. 19.—An act to authorize the levy and collection of a special tax in counties where it may be necessary to construct or to complete or to complete payment for court houses and jails.

Approved March 11, A. D. 1879.

H. B. No. 446.—An act to authorize the mayor and board of aldermen of the town of Waxahachie to transfer its stock in the Waxahachie Tap railway.

Approved March 11, A. D. 1879.

H. B. No. 266.—An act to authorize the county of Galveston to sell the shares of the capital stock of the Gulf, Colorado and Santa Fe railway company owned by said county.

Approved March 8, A. D. 1879.

H. B. No. 258.—An act to amend section 17 of an act to incorporate the Gulf, Colorado and Santa Fe railway company and to grant land in aid of the construction of the same, passed March 28, 1873.

Approved March 8, A. D. 1879.

H. B. No. 70.—An act to amend section 2 of "an act to define the eighth judicial district, and to fix the times of holding the courts therein, approved August 11, 1876."

Approved March 13, A. D. 1879.

S. B. No. 6.—An act regulating the election of clerks of the district and county courts in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore or now holding both of said offices.

Approved March 13, A. D. 1879.

House bill No. 160.—An act to repeal "an act to provide annual pensions for the surviving soldiers of the Texan revolution, and the surviving signers of the declaration of Texan independence, and the surviving widows of such soldiers and signers," approved July 28, 1876.

Approved March 13, A. D. 1879.

H. B. No. 10.—An act to amend section 4 of an act entitled "an act to amend an act entitled 'an act to provide for the supplying of lost records in the several counties in this state, approved April 14, 1874,' approved July 13, 1876."

Approved March 13, A. D. 1879.

H. B. No. 137.—An act to repeal an act entitled "an act to authorize and require all forced sales of real estate and sales of negroes made by executors and administrators in the county of Travis to be made on Congress avenue, at the southeast corner of block No. 70," approved November 28, 1857.

Approved March 13, A. D. 1879.

H. J. R. No. 27.—Joint resolution instructing our senators and requesting our representatives in congress to ask of the United States government payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878; and the payment of the unexpended balance of seven million seven hundred and fifty thousand eight hundred and ten dollars (\$7,750,810), left with the United States government by this state for the payment of the debt of the late republic of Texas.

Approved March 13, A. D. 1879.

S. B. No. 210.—An act to reorganize the third judicial district and prescribe the times of holding the district courts in the third and seventh judicial districts.

Approved March 19, A. D. 1879.

S. B. No. 141.—An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of the Grand Lodge of Texas.

Approved March 19, A. D. 1879.

H. B. No. 347.—An act to amend section 2 of the charter of the

corporation of Victoria, and to provide for certain changes caused thereby.

Approved March 19, A. D. 1879.

Sub. H. B. No. 342.—An act to provide for the building, making and completion of such works and improvements at the East Texas Penitentiary, at Rusk, as may be necessary and proper to put the same into operation, and to make an appropriation to carry out the provision of this act.

Approved March 19, A. D. 1879.

H. J. R. No. 47.—Joint resolution authorizing the commissioner of insurance, statistics and history to select geological specimens for exhibition by the International and Great Northern railroad company for the purpose of displaying the rich and various products of Texas.

Approved March 20, A. D. 1879.

Sub. H. B. No. 36.—An act authorizing and requiring the commissioner of the general land office to issue patents to certain lands granted to the Bayland Orphans' Home, situated on Galveston Bay, Harris county, Texas.

Approved March 20, A. D. 1879.

H. B. No. 67.—An act to amend an act, entitled "An act defining what money and property is subject to taxation or exemption, and the mode of listing the same." Approved August 21, 1876.

Approved March 20, A. D. 1879.

H. B. No. 138.—An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act, approved August 30, 1856.

Approved March 20, A. D. 1879.

H. B. No. 95.—An act to amend "an act regulating elections," approved August 23, 1876.

Approved March 20, A. D. 1879.

H. J. R. No. 35.—Joint resolution instructing senators in congress and requesting representatives to protest to federal government against Indians being allowed to come into Texas.

Approved March 20, A. D. 1879.

S. B. No. 245.—An act to authorize the commissioner of the general land office to contract for the lithographic printing of maps of the various counties of this state and to provide for the sale of the same, and to make an appropriation to carry this act into effect.

Approved March 20, A. D. 1879.

H. B. No. 68.—An act to amend "an act to prohibit the exchange or gift of intoxicating liquors in any county, justices' precincts, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violation."

Approved March 20, A. D. 1879.

H. B. No. 15.—An act for the relief of all persons whose lands have been sold for taxes and bought in by the state.

Approved March 22, A. D. 1879.

S. B. No. 250.—An act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district.

Approved March 22, A. D. 1879.

H. B. No. 280.—An act for the relief of the heirs of Alexander S. Green, deceased, late of Brazoria county, State of Texas, and Matthew Dockery, now a citizen of Lavaca county, State of Texas.

Approved March 22, A. D. 1879.

H. B. No. 88.—An act for the relief of Mrs. M. A. C. Wilson, widow of Wm. F. Wilson.

Approved March 22, A. D. 1879.

H. B. No. 102.—An act defining the duties of commissioners' courts when sitting as a board of equalization.

Approved March 22, A. D. 1879.

H. B. No. 276.—An act to authorize counties to take up their outstanding bonds and to issue others in lieu thereof, and to provide by special tax for the payment of interest and principal of the same.

Approved March 22, A. D. 1879.

H. B. No. 324.—An act authorizing the payment of taxes of non-residents of counties to be made at the comptroller's office.

Approved March 22, A. D. 1879.

S. B. No. 127.—An act to provide for the holding of special terms of the district courts when and where the same may be necessary.

Approved March 22, A. D. 1879.

S. B. No. 125.—An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county, and the issuance of county bonds and levy of tax therefor in settlement of bonds of said county, issued under an act of the Legislature, passed September 1, 1856, entitled "An act to permit the county of Brazoria to levy a special tax for purposes of internal improvements," and the judgments in the federal court recovered thereon.

Approved March 22, A. D. 1879.

H. B. No. 89.—An act in relation to assignments for the benefit of creditors, and to regulate the same and the proceedings thereunder.

Approved March 24, A. D. 1879.

S. B. No. 103.—An act to provide for the organization of the state penitentiaries, and to regulate the management of the convicts therein.

Approved March 24, A. D. 1879.

H. B. No. 327.—An act to better secure the collection of taxes.

Approved March 24, A. D. 1879.

S. B. No. 121.—An act supplemental to and amendatory of "an act to enable part owners of land to obtain partition thereof, and for other purposes," passed March 5, 1840.

Approved March 24, A. D. 1879.

S. J. R. No. 35.—Joint resolution granting leave of absence to Walter Acker.

Approved March 24, A. D. 1879.

Sub. H. B. No. 188.—An act to protect the wool-growing interests of the State of Texas.

Approved March 25, A. D. 1879.

H. B. 337.—An act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same.

Approved March 25, A. D. 1879.

H. B. No. 132.—An act to regulate the issuance and delivery of land patents and to secure the payment of fees due thereon.

Approved March 25, A. D. 1879.

S. B. No. 158.—An act to make appropriation for the support of the lunatic asylum for the period beginning January 1, 1879, and ending February 28, 1879.

Approved March 25, A. D. 1879.

S. B. No. 20.—An act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas.

S. B. No. 54.—A bill to be entitled "An act to adopt and establish the Revised Civil Statutes of the State of Texas."

H. J. R. No. 24.—In regard to Pelican Island.

On motion of Senator Grace, the Senate adjourned until 9:30 A. M. tomorrow.

SIXTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 26, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of yesterday was dispensed with, and the same adopted.

On motion of Senator Buchanan, Senator Storey was excused for the remainder of the week.

Senator Burnett introduced a bill entitled "An act to amend article 425 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' " passed February 21, 1879.

Read by caption and referred to judiciary committee No. 2.

Senator Lane introduced a bill entitled "An act to amend article 1058 of the Code of Criminal Procedure, passed at the present session of the Legislature."

Read by caption and referred to committee on finance.

Senator Hobby introduced a bill entitled "An act prescribing the times of holding the district courts in the first judicial district and regulating the returns of process therein."

Read by caption and referred to the committee on judicial districts.

On motion of Senator Burnett, the Senate went into executive session.

IN SENATE.—The president *pro tempore* in the chair.

On motion of Senator Edwards, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

Senator Stewart (by leave) introduced a bill entitled "An act for the relief of actual occupants of the public lands."

Read by caption and referred to the committee on public lands.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on enrolled bills have examined and compared the following bills, and find them correctly engrossed, viz :

Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish separate from community property."

Senate bill No. 94, entitled "An act to create a lien in favor of proprietors of livery or other public stables, and to provide for the manner in which the same may be enforced."

Senate bill No. 196, entitled "An act to regulate the practice of pharmacy."

Senate substitute for House bill No. 207, entitled "An act to amend article 2405 of the Revised Civil Statutes."

Senate bill No. 212, entitled "An act granting to Mrs. Florence Whitis the right to make a change in Laurel street in the city of Austin."

Senate joint resolution No. 220, "Proposing amendment to article 16 of the constitution of the state, by adding thereto section 58."

Senate bill No. 278, entitled "An act to prevent the sale, exchange or gift of intoxicating liquors within five miles in every direction of Troy Institute in Bell county."

Senate bill No. 289, entitled "An act for the relief of Thomas Humphries and Lucy Andrews."

Senate bill No. 292, entitled "An act to authorize the construction of a ship channel from Corpus Christi, across Mustang island, and to donate land for the same"

Senate bill No. 304, entitled "An act supplemental to an act fixing the times of holding the district courts of the twenty-third judicial district," approved February 12, 1879.

Senate bill No. 314, entitled "An act to revive and validate land certificate No. 6058."

Senate bill No. 321, entitled "An act to authorize the Austin Canal, Irrigation and Manufacturing Company to construct a dam across the Colorado river."

Senate bill No. 322, entitled "An act to provide for the appointment of notaries public, cattle and hide inspectors, justices of the peace and constables in the unorganized counties of the State of Texas."

Senate bill No. 324, entitled "An act to repeal article 2971 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' " passed February, 1879. *BROWN, Chairman.*

Senator Shannon, chairman of the committee on judicial districts (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on judicial districts, to whom was referred Senate bill

No. 338, entitled "An act prescribing the times of holding the district courts in the first judicial district, and regulating the returns of process therein," have considered the same, and I am instructed to report it back to the Senate and recommend its passage. SHANNON, *Chairman*.

Senator Burnett moved that the Senate go into executive session.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called. Absent—Lane, Ledbetter, Patton, Terrell.

Substitute for House bill No. 305 and 335; entitled "An act to provide for the redemption of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same," was taken up, read third time and passed.

House bill No. 71, entitled "An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities or towns in this state," was taken up, read second time and passed to a third reading.

On motion of Senator Homan, 50 copies of this bill were ordered printed.

House bill No. 304, entitled "An act to repeal 'an act to encourage irrigation and navigation,' approved August 21, 1876," was taken up and read second time.

Senator Houston moved to adopt the report of the committee, which was adverse to the passage of the bill.

Lost by the following vote:

YEAS.		
Brown,	Ford,	Houston,
Davenport,	Hobby,	McCulloch—6.
NAYS.		
Buchanan,	Homan,	Moore,
Burnett,	Lair,	Motley,
Burton,	Ledbetter,	Ripetoe,
Duncan,	Martin,	Stewart,
Gooch,	McCormick,	Shannon—16.
Grace,		

Not voting—Edwards, Guy, Lane, Patton, Storey, Swain, Terrell.
(Senator Ledbetter in the chair.)

The absent senators having returned the call was suspended, and the consideration of the motion of Senator Burnett to go into executive session was resumed.

The motion was lost by the following vote:

YEAS.		
Brown,	Grace,	McCulloch.
Burnett,	Hobby,	Ripetoe,
Davenport,	Houston,	Swain—11.
Edwards,	McCormick,	
NAYS.		
Buchanan,	Lane,	Motley,
Duncan,	Lair,	Patton,
Ford,	Ledbetter,	Stewart,
Gooch,	Martin,	Shannon,
Guy,	Moore,	Terrell—16.
Homan,		

Not voting—Burton.

The president, after publicly reading their captions, signed the following bills:

House bill No. 377, entitled "An act to declare valid and binding on the county of Wilson certain sales of lots and blocks of the town of Floresville, in said county."

House bill No. 451, entitled "An act to amend an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas, approved , 1879."

The consideration of House bill No. 304 "To repeal the act to encourage irrigation and navigation," was resumed.

The Senate refused to pass it to third reading by the following vote:

YEAS.

Buchanan,
Burnett,

Grace,
Homan,

Lair,
McCormick--6.

NAYS.

Brown,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Houston,
Lane,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Ripetoe,
Stewart,
Shannon--17.

Not voting—Burton, Hobby, Patton, Storey, Swain, Terrell.

Senator McCulloch called up Senate joint resolution No. 74, proposing an amendment to the constitution of the State of Texas, regulating suffrage.

Senator Stewart moved a call of the Senate.

Call sustained.

Roll called. Absent—Hobby, Swain, Terrell.

Pending business went to the table.

Senator Patton called up Senate bill No. 253.

The absent senators appearing the Senate was declared full and the consideration of Senate joint resolution No. 74 was resumed.

The following message was received from his excellency the governor, which was taken up and read.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 26, 1879. }

To the honorable Senate and House of Representatives in Legislature assembled:

GENTLEMEN—I respectfully call your attention to article 3956 of the Civil Code, providing that "no patent shall be issued upon any claim, unless a map of the county, in which the same is situated, shall have been returned to the general land office by the county surveyor of the county." The county surveyors do not make and return county maps to the general land office, and the thing is at present impracticable under existing circumstances in many of the counties, that have never returned maps as thus required.

County maps for the last twenty-five or thirty years have been made in the general land office and sent to the counties, and that is the only place where they can be made without great expense and great danger of injurious mistakes.

At an early day, when the general land office was being organized, such a law was necessary to give information of the locality of the Spanish and Mexican grants, in the counties then organized, and thereby prevent patents from being issued upon surveys, conflicting with said older grants. It has long since answered its original purpose, and has

become obsolete. Practically, maps of counties are made in the general land office by the surveys returned, and as they are returned there by the county surveyors before lands in such counties are patented, and that would be the case whether maps were returned by the county surveyors or not.

This section being re-enacted in the Civil Code may cause questions to be raised about the legality of issuing patents without a strict compliance with it. If a strict and literal compliance be held to be necessary as a condition precedent to the issuing of patents, it will stop the issuing of patents in many of the organized counties.

I therefore recommend its immediate repeal by the Legislature.

O. M. ROBERTS, *Governor.*

On motion of Senator Burnett, the message was referred to the committee on public lands.

Senate joint resolution No. 74 (the pending business), was read the second time.

Senator Shannon moved the indefinite postponement of the resolution, pending amendments, etc.

Lost by the following vote:

YEAS.		
Davenport,	Martin,	Ripetoe,
Duncan,	McCormick,	Stewart,
Homan,	Patton,	Shannon--10.
Ledbetter,		

NAYS.		
Brown,	Guy,	McCulloch,
Buchanan,	Hobby,	Moore,
Edwards,	Houston,	Motley,
Gooch,	Lane,	Swain,
Grace,	Lair,	Terrell--15.

Not voting—Burnett, Burton, Ford.

Senator Burton offered the following as an amendment to the first amendment of the committee:

Amend by striking out "ninety" and inserting in lieu thereof "five."

Lost by the following vote:

YEAS.		
Burton,	Grace,	Patton,
Duncan,	Homan,	Ripetoe--8.
Ford,	McCulloch,	

NAYS.		
Brown,	Hobby,	McCormick,
Buchanan,	Houston,	Moore,
Burnett,	Lane,	Motley,
Davenport,	Lair,	Stewart,
Edwards,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell--23.
Guy,		

Not voting—Shannon.

The first amendment of the committee was then lost by the following vote:

YEAS.		
Brown,	Lane,	Moore,
Buchanan,	Lair,	Motley,
Gooch,	McCormick,	Swain,
Hobby,	McCulloch,	Terrell--13.
Houston,		

NAYS.

Burnett,
Burton,
Davenport,
Duncan,
Edwards,

Ford,
Grace,
Homan,
Ledbetter,
Martin,

Patton,
Ripetoe,
Stewart,
Shannon—14.

Not voting—Guy.

The second committee amendment to insert "or certificate" after the word "receipt," in line sixteen of the bill.

Adopted.

Senator Gooch offered the following as an amendment to the third amendment of the committee:

Amend by striking out the words "two years" and insert the words "the next preceding two years."

Lost.

The third amendment of the committee was lost.

The following messages were received from his excellency the governor, which were taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 26, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public:

J. C. Kidd, of Houston county, in place of J. Sherer, declined.

Jas. P. Parker, Jr., of Leon county, instead of A. J. Parker, Jr., whose initials were incorrect.

J. A. Morris, of Cooke county, instead of Jas. A. Bolton, declined.

V. G. Frost, of Parker county, instead of D. G. Frost, whose initials were incorrect.

A. A. Burek, of Milam county, instead of A. A. Burek, of Burleson county; mistake in name of county.

Respectfully,

O. M. ROBERTS, *Governor*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 26, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public:

J. R. Lec, Newton county.

J. W. Sanders, James R. Lee, O. R. Sholors, Jasper county.

H. J. M. Bridge, Menard county.

George S. Hamilton, Matagorda county.

George Ricks, Liberty county.

H. M. Cook, A. B. Hardin, Leon county.

R. M. Forbes, De Witt county.

J. M. Fullinwider, J. R. Peel, Montgomery county.

W. E. Field, B. T. Palmer, Caldwell county.

R. L. Bassett, (withdrawn) Ben. S. Rogers, William H. Vinson, Robert L. Bassett, Washington county.

C. J. E. Graham, C. G. Caldwell, G. A. Ball, Bastrop county.

D. P. Marr, Atascosa county.

James Peeler, Milam county.

F. H. Rohre, Calhoun county.

A. J. Harvey, Waller county.
 C. Cahill, R. J. Denny, Nueces county.
 John F. F. Doherty, Coryell county.
 L. N. Frank, Erath county.
 J. C. Swift, Coleman county.
 James Graham, Johnson county.
 John Durst, Harrison county.
 John S. Menefee, Jackson county.
 Joseph Styles, Bowie county.
 Sam R. Henderson, Brazos county.
 James O. Luby, Duval county.
 W. C. Griffin, Hill county.

Respectfully, O. M. ROBERTS, *Governor.*

Senator Shannon moved that the Senate go into executive session in the morning, just after the morning call.

Adopted.

On motion of Senator Grace, the Senate adjourned until 9:30 A. M. to-morrow.

SIXTY-THIRD DAY.

SENATE CHAMBER, }
 AUSTIN, TEXAS, March 27, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Hobby, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Hobby, Senators Patton and Gooch were excused for the morning so as to perform important committee duty.

A message was received from the House announcing the passage by that body of Senate bill No. 68, entitled "An act to amend article 794 of the Code of Criminal Procedure of this state."

Senator Guy, chairman of the committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred Senate bill No. 318, entitled "A bill to be entitled 'an act to legalize certain land certificates therein named,'" have considered the same and find that notice by publication as required by law has been duly given of the presentation of this claim, and a majority of your committee, after having examined the proofs filed in this case, instruct me to report said bill back to the Senate and to recommend its passage. GUY, *Chairman.*

Senator Lane, chairman of the committee on public lands, submitted the following report.

Hon. J. D. Sayers, President of the Senate:

Your committee on public lands, to whom was referred the message of his excellency the governor in relation to the repeal of article 3955 of the Civil Code, have had the same under consideration, and instruct me to report back the accompanying bill with the recommendation that it do pass. LANE, *Chairman.*

The bill just reported was taken up and read first time.

Senator Shannon offered the following resolution:

Resolved by the Senate, the House of Representatives concurring, That the Sixteenth Legislature adjourn without day, Monday, the 31st day of March, 1879, at 12 o'clock m.

Senator Terrell moved to refer the resolution to the committee on finance.

Withdrawn, and the resolution lies over under the rules.

Senator McCulloch introduced a bill entitled "An act to promote the science of medicine and surgery by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof."

Read by caption and referred to the committee on statistics, public health, etc.

Senator Hobby introduced a bill entitled "An act for the relief of the Sabine Pass and Northwestern railway company."

Read by caption and referred to committee on internal improvements.

Senator Lane introduced a bill entitled "An act to provide for the printing, binding and distributing of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, adopted and established at the present session of the Legislature."

Read by caption and referred to committee on state affairs.

Senator Grace moved that the Senate go into executive session.

Senator Duncan moved a call of the Senate.

Call sustained.

Roll called. Absent—Brown, Martin.

The pending business went to the table.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 27, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask the following correction, that J. C. Kidd be appointed notary public for Harris instead of Houston county.

Respectfully, O. M. ROBERTS, Governor.

Senator Moore called up Senate bill No. 338, entitled "An act prescribing the times of holding the district courts in the first judicial district, and regulating the returns of process therein," which was taken up and read first time.

On motion of Senator Hobby, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Terrell—24.

NAYS—none.

Not voting—Duncan, Ford, Martin, Swain.

Read a second time and ordered engrossed.

On motion of Senator Hobby, the rules were suspended and bill placed on its third reading by the following vote :

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--25.

NAYS—NONE.

Not voting—Davenport, Lane, Martin.

Bill read third time and passed.

Senator Lane, chairman of the committee on public lands (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on public lands, to whom was referred Senate bill No. 341, entitled "An act for the relief of actual occupants of the public lands," have had the same under consideration, and instruct me to report the same back and recommend that it do pass. LANE, Chairman.

Senator Edwards, from the committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance, to whom was referred Senate bill No. 340, entitled an act to amend article 1058 of the Code of Criminal Procedure passed at the present session of the Legislature, have duly considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

EDWARDS, for Committee.

(Senator Edwards in the chair.)

The absent senators appearing, the Senate was announced full.

The motion to go into executive session was adopted, and the Senate accordingly went into executive session.

IN SENATE.—On motion of Senator Burnett, the confirmations of the Senate made in executive session were ordered spread on the journals.

In obedience to this order the following is entered:

That the Senate did advise and consent to all of the appointments by his excellency the governor, by communication dated March 26, of notaries public for the counties of Newton, Jasper, Menard, Matagorda, Liberty, Leon, DeWitt, Montgomery, Caldwell, Washington, Bastrop, Atascosa, Milam, Calhoun, Waller, Nueces, Coryell, Erath, Coleman, Johnson, Harrison, Jackson, Bowie, Brazos, Duval and Hill, except that of R. L. Bassett, which was sent in by error, he having been previously confirmed; and also confirmed the appointment of Benton Randolph, Sanford Gibbs and J. M. Wynne to be directors of the penitentiary.

Senator Stewart called up Senate bill No. 253, entitled "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" when the substitute of Senator Houston, entitled "An act to amend chapter 3, title 42 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" "

passed February 21, 1879, was adopted and bill as substituted ordered engrossed.

On motion of Senator Houston, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--24.

NAYS—none.

Not voting—Buchanan, Ford, McCormick, Moore.

Bill read third time and passed.

Senator Shannon called up Senate bill No. 185, entitled "An act to provide against the evils resulting from the sale of intoxicating liquors in the State of Texas," which was read second time.

Senator Homan offered this amendment:

"Section 3. The near approach of the close of the session creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended, and they are suspended."

Adopted and bill ordered engrossed.

Senator Homan moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--25.

NAYS—none.

Not voting—Buchanan, Ford, Moore.

Bill read third time and postponed for further consideration.

Senator Patton called up Senate bill No. 340, entitled "An act to amend article 1058 of the Code of Criminal Procedure, passed at the present session of the Legislature," which was read first time.

On motion of Senator Patton, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick.

McCulloch,
Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Terrell--25.

NAYS—none.

Not voting—Ford, Grace, Swain.

Bill read second time and ordered engrossed.

On motion of Senator Patton, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Motley,
Burton,	Houston,	Patton,
Duncan,	Lane,	Ripetoe,
Edwards,	Lair,	Stewart,
Ford,	Ledbetter,	Shannon,
Gooch,	Martin,	Swain,
Grace,	McCormick,	Terrell—26.
Guy,	McCulloch,	

NAYS—none.

Not voting—Brown, Davenport.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Motley,
Burton,	Houston,	Patton,
Duncan,	Lane,	Ripetoe,
Edwards,	Lair,	Stewart,
Ford,	Ledbetter,	Shannon,
Gooch,	Martin,	Swain,
Grace,	McCormick,	Terrell—26.
Guy,	McCulloch,	

NAYS—none.

Not voting—Brown, Davenport.

On motion of Senator Ledbetter, Senator Swain was added to the committee on finance.

Senator Swain called up Senate bill No. 341, entitled "An act for the relief of actual occupants of the public lands," which was read first time.

Senator Burnett moved that the rules be suspended to place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Motley,
Burton,	Houston,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Shannon,
Gooch,	Martin,	Swain,
Grace,	McCormick,	Terrell—26.
Guy,	McCulloch,	

NAYS—none.

Not voting—Brown, Ford.

Bill read second time and ordered engrossed.

On motion of Senator Burnett, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,	Gooch,	Houston,
Burnett,	Grace,	Lane,
Burton,	Guy,	Lair,
Edwards,	Hobby,	Ledbetter,
Ford,	Homan,	Martin,

McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe.

Stewart,
Shannon—23.

NAYS—none.

Not voting—Brown, Davenport, Duncan, Swain, Terrell.

Bill read third time and passed by the following vote :

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

McCormick,
McCulloch,
Moore,
Motley,
Ripetoe,
Stewart,
Shannon,
Terrell—24.

NAYS—none.

Not voting—Brown, Martin, Patton, Swain.

Senator McCormick entered a motion to reconsider the vote passing Senate bill No. 312, "An act to amend the existing quarantine law of the state."

Senator Homan called up, by unanimous consent, Senate bill No. 185 (the Ohio liquor law).

Senator Terrell offered the following amendment:

Strike out "section 5" of the bill.

Senator Homan offered the following substitute for the pending amendment:

Insert after the word "act" in line three, section 5, the words: "with the purpose of evading the provisions of this act."

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,

Gooch,
Hobby,
Homan,
Lair,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Shannon,
Swain,
Terrell—18.

NAYS.

Edwards,
Grace,

Houston,
Ledbetter,

Patton,
Stewart—6.

Not voting—Brown, Guy, Lane, Ripetoe.

(President in the chair).

The amendment of Senator Homan, as substituted for the amendment of Senator Terrell, was then adopted as an amendment to the bill by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,

Hobby,
Homan,
Lair,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Ripetoe,
Shannon,
Swain,
Terrell—19.

NAYS.

Grace,
Houston,

Lane,
Ledbetter,

Patton,
Stewart—6.

Not voting—Brown, Edwards, Guy.

Senator Terrell offered the following:

Strike out "section 14."

Senator Gooch offered the following as a substitute for the amendment of Senator Terrell:

Strike out in section 14 the following words: "and such fines, costs and damages shall constitute a lien upon such real estate until paid," and all after "that," in section 14.

Adopted by the following vote:

YEAS.

Buchanan,	Gooch,	McCulloch,
Burnett,	Homan,	Moore,
Burton,	Lane,	Motley,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon—17.
Edwards,	Martin,	

NAYS.

Hobby,	McCormick,	Terrell—5.
Houston,	Swain,	

Not voting—Brown, Ford, Grace, Guy, Patton, Ripetoe.

The substitute was then lost as an amendment to the bill by the following vote (it taking two-thirds to adopt):

YEAS.

Buchanan,	Gooch,	Martin,
Burton,	Homan,	Motley,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Shannon—13.
Edwards,		

NAYS.

Burnett,	Ledbetter,	Stewart,
Hobby,	McCormick,	Swain,
Houston,	Moore,	Terrell—9.

Not voting—Brown, Ford, Grace, Guy, McCulloch, Patton.

Senator Gooch moved to strike out the words "as well as exemplary damages."

Lost by the following vote:

YEAS.

Gooch,	Lair,	Terrell—3.
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NAYS.

Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Motley,
Burton,	Houston,	Patton,
Davenport,	Lane,	Stewart,
Duncan,	Martin,	Shannon,
Edwards,	McCormick,	Swain—20.
Ford,	McCulloch,	

Not voting—Brown, Grace, Guy, Ledbetter, Ripetoe.

Senator Ledbetter offered the following:

Amend by adding the following to section 14:

"*Provided*, that the counties of Bastrop, Fayette and Lee be exempt from the operations of this act."

Senator Edwards offered the following as an amendment to the pending amendment:

Add, to amend the counties of Nacogdoches, Sabine, San Augustine, Houston and Angelina.

Accepted by Senator Edwards.

Senator Hobby moved the previous question on the bill and pending amendments.

Motion seconded and main question ordered by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Hobby,
Homan,

Lane,
Lair,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Swain--15.

NAYS.

Davenport,
Duncan,
Edwards,

Ford,
Gooch,
Houston,

Ledbetter,
Stewart,
Terrell--9.

Not voting—Brown, Grace, Guy, Ripetoe.

The amendment of Senator Ledbetter, as amended by the amendment of Senator Edwards, was lost by the following vote:

YEAS.

Edwards,

Ledbetter--2.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Swain,
Terrell--22.

Not voting—Brown, Ford, Grace, Ripetoe.

Bill passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Gooch,
Hobby,

Homan,
Lane,
Lair,
McCormick,
McCulloch,

Moore,
Motley,
Ripetoe,
Shannon,
Swain--16.

NAYS.

Davenport,
Edwards,
Ford,
Grace,

Houston,
Ledbetter,
Martin,

Patton,
Stewart,
Terrell--10.

Not voting—Brown, Guy.

The president, after reading their captions, signed the following bills:

Senate bill No. 68, entitled "An act to amend section 794 of the Code of Criminal Procedure of this state."

House substitute for Senate bill No. 288, entitled "An act amendatory of an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, describing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts," approved February 22, 1879.

Senator Grace, chairman of the committee on military affairs (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on military affairs, to whom was referred House bill No. 394, entitled "An act to repeal chapters 1, 2 and 3 of title 64 of the

Civil Code, adopted February 21, 1879," have instructed me to report the same back with the recommendation that it do not pass, for the following reasons, viz:

First—By the terms of section 46, article 16 of the constitution of the state, the Legislature is required to provide by law for organizing and disciplining the militia of the state in such manner as they may deem expedient, not inconsistent with the constitution and laws of the United States.

Second—The constitution of the United States authorizes congress to pass laws regulating the militia of the States; congress enacted such laws as were contemplated by the constitution, requiring the organization of the militia in each of the states.

Third—The requirement of the constitution of this state is mandatory, as well as the acts of congress. It is incumbent upon the Legislature to enact a law organizing and disciplining the militia of the state, no option being left the Legislature as to whether or not a militia law shall be enacted under the constitution of this state. The act adopted at this session of the Legislature was carefully prepared and incorporated in the Civil Code by the commission on codes.

The bill passed by the House of Representatives in repealing chapter 1 and 2 destroys all the powers of the governor and adjutant general. Those two chapters simply define what shall constitute the militia of the state, and define the powers of the governor as commander-in-chief of the military forces of the state; also, the powers and duties of the adjutant general, as well as creating the office of adjutant general, or is rather a re-enactment of the old law.

Chapter 3, attempted to be repealed by said bill, pertains exclusively to the organizing and disciplining of the reserved militia. Your committee are of the opinion that with some few amendments to said chapter an efficient militia system can be had for the state. The committee will suggest such amendments as will relieve the law of some of its objectionable features.

Therefore, your committee report back the accompanying bill as a substitute for said House bill No. 394, and recommend its adoption.

GRACE, *Chairman.*

Senator Lane, chairman of committee on public lands (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public lands, to whom was referred House bill No. 48, entitled "An act declaring the enclosing or keeping enclosed of any public domain a misdemeanor, and prescribing a punishment therefor," have had the same under consideration, and unanimously instruct me to report the same back with the recommendation that it do not pass for the following reasons, viz:

1. That many counties in this state have leased their school lands for a period from ten to twenty years, and this bill would subject the lessees of such land to indictment and conviction.

2. That it is not good policy to forbid and prevent the counties from leasing their school lands.

3. That the better policy of the government is to require of the persons enclosing such lands annual rent therefor, thus increasing our state revenue.

LANE, *Chairman.*

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate bill No. 68, "An act to amend article 794 of the Code of Criminal Procedure of this state," and at 12:40 o'clock p. m. presented the same to the governor for his signature.

GRACE, *Chairman.*

On motion of Senator Terrell, the Senate adjourned until 9:30 A. M. to-morrow by the following vote:

YEAS.

Buchanan,
Burton,
Davenport,
Gooch,
Grace,
Guy,
Homan,

Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Swain,
Terrell—19.

NAYS

Burnett,
Duncan,
Edwards,

Ford,
Hobby,

Houston,
Lane—7.

Not voting—Brown, Stewart.

SIXTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 28, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Davenport, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Davenport, Senators Gooch and Patton were excused for the day to attend to important committee duty.

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered Senate bill No. 337, "An act granting a land certificate of six hundred and forty acres to each of the indigent pensioners enrolled under the act approved July 28, 1876," and I am instructed to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred Senate bill No. 345, "To provide for printing, binding and distributing the Revised Statutes, etc," instruct me to report the same back back to the Senate with the recommendation that it be referred to the committee on public printing.

HOUSTON, *Chairman.*

The report of committee was adopted, and bill referred to the committee on public printing.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following reports :

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 336, entitled "An act amendatory of and supplementary to an act entitled 'an act to consolidate into one act and amend the several acts incorporating the city of Houston, Harris county,'" approved January 23, 1874, and the several acts amendatory thereof, and I am instructed by the committee to report the bill back to the Senate and to recommend that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 193, entitled "An act to amend an act entitled 'an act regulating interest,' approved August 21, 1876," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 having considered Senate bill No. 339, entitled "An act to amend article 425 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879," a majority of the committee instruct me to recommend the passage of the bill.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 293, and I am instructed by the committee to report the bill back to the Senate and to recommend that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 206, entitled "An act to prevent officers of the different asylums of the state from misapplying supplies," and I am instructed by the committee to report the bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 84, entitled "An act concerning incorporated cities and towns," and I am instructed by the committee to report the bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined and compared and find correctly engrossed the following Senate bills, to wit:

No. 33.—An act to amend act 4767 of the Revised Civil Statutes of the State of Texas.

No. 134.—An act to require the owner of surveys to pay the patent fee therefor, before filing the field notes of the same in the general land office.

No. 205.—Joint resolution authorizing the governor of the State of Texas to lease certain grounds belonging to the capitol grounds in the city of Austin.

No. 216.—An act specifying fees of collectors of taxes for sale of real estate for delinquent taxes.

No. 217.—An act to prevent certain public officers from using their offices to advance their private interests.

No. 223.—An act to validate the bounty certificate of Joseph Hawkins.

No. 233.—An act to provide for the payment of claims due county superintendents and directors for services rendered for the years prior to August 31, 1876.

No. 238.—An act to prevent attorneys who may have represented the state in any proceeding from afterwards appearing as counsel adversely to the state in the same or any other proceeding involving the same subject matter.

No. 242.—An act to amend article 1179, of "an act to adopt and establish the Revised Civil Statutes of the State of Texas."

No. 244.—An act to amend an act entitled "an act to provide for the judicial forfeiture of charters, and prescribing the duties of the attorney general in relation thereto," approved August 21, 1876, by providing a mode for enforcing its provisions.

No. 265.—An act authorizing any person being a citizen of the State of Texas, who may have been entitled to land for military services in the army of the late Republic of Texas, under any law in force at that or a subsequent date, and who may have failed to obtain the same, to bring his action in the district court of Travis county for a decree of said claim authorizing the commissioner of the general land office to issue a certificate therefor.

No. 281.—An act supplemental to an act entitled "an act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas," approved February, 1879.

No. 283.—An act amendatory of and supplemental to chapter 3 title 78 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature.

No. 284.—An act to amend article 3367 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature.

No. 312.—An act to amend and supplement the existing quarantine law of the State of Texas, title 83 of the Revised Statutes.

No. 315.—An act for the relief of the heirs of Ira Ingram (deceased).

No. 332.—An act for the better protection of harbors and ports of the State of Texas.
BROWN, *Chairman.*

Senator McCulloch, chairman of the committee on statistics of industries, public health, etc., submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on statistics of industry, public health and history of Texas, to whom was referred Senate bill No. 343, entitled "An act to promote the science of medicine and surgery by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof," have had the same under consideration, and I am instructed to report the same back and recommend that it do pass.

McCULLOCH, *Chairman.*

On motion of Senator Lair, fifty copies of the bill just reported were ordered printed.

Senator Grace, from judiciary committee No. 2, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 63, entitled "An act concerning sales of property under execution," and a majority of said committee authorize me to report the same back with the recommendation that it pass. GRACE, *Chairman.*

Senator Guy, chairman of committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on private land claims, to whom was referred House bill No. 50, being "An act authorizing the commissioner of the general land office to approve the bounty land certificate issued to the heirs of Wm. Fishbaugh, deceased, who fell at the Alamo," report that having examined the same find that due publication has been made of the application in this case, and on full and satisfactory proof being heard of the justice of the claim, your committee have instructed me to report the same favorably and recommend the passage of the bill.

GUY, *Chairman.*

Senator McCormick (by leave) withdrew his motion, made on yesterday, to reconsider the vote by which Senate bill No. 312, entitled "An act to amend the law regulating quarantine," was passed.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1 have considered Senate bill No. 162, to be entitled "An act to provide a method for determining what claims, locations, surveys, grants and titles to lands are forfeited to the State," and instruct me to report it back and recommend that it do not pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill to be entitled "An act to amend title 47 chapter 2 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed during the present session, have considered the same and instruct me to report the same back and recommend its passage.

The act is intended to secure a prompt report, by all officers authorized to approve claims against the state, to the comptroller of public accounts, and authorizes him to prescribe the time within which reports shall be made. This is necessary to aid future legislatures in estimating more accurately the condition of the finances of the state. In the present condition of affairs it is impossible for the Legislature to do more than approximate the amount of outstanding claims allowed and not presented to the comptroller.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 334, entitled "An act to provide for the sale or exchange of the alternate sections of school lands belonging to this state, in certain cases," have considered the same, and instruct me to report it back and recommend that it do not pass.

TERRELL, *Chairman.*

Senator Homan, from judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered House bill No. 482,, "An act to amend article 436 of section 2 of 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas, passed at the present session of the Legislature'" and a majority of said committee instruct me to report, recommending that it do not pass.

HOMAN, for majority.

(Senator Homan in the chair.)

Senator Edwards introduced a bill entitled "An act for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state, and to supply deficiencies in the revenue and to provide the mode and maner of the sale of said bonds to the several counties in this state."

Read by caption and referred to the committee on finance.

The joint resolution of Senator Shannon, offered on yesterday, "To adjourn on the 31st inst. *sine die*," was taken up.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Senator Lane.

Pending business went to the table.

Senator Grace offered the following concurrent resolution:

Joint resolution.

Resolved, That a joint committee consisting of two members from the Senate, with a like number from the House of Representatives, be appointed by each body. The duty of said joint committee shall be to select from the bills now pending before both the Senate and House of Representatives such of them as they shall deem of most importance to the interests of the state and report the same back to both houses, and when so reported said bills shall take precedence before all other bills in the order in which they are recommended by said committee, and shall be considered until they are either adopted or rejected.

The absent senator appearing, the consideration of the resolution to adjourn was resumed.

(President in the chair.)

Senator Grace made the point of order that as a resolution to adjourn on the thirty-first inst. had heretofore been offered in the Senate and indefinitely postponed, that this resolution was out of order.

Overruled.

Senator Moore offered the following amendment:

Strike out "Monday, thirty-first March," and insert "Monday, the seventh day of April."

Accepted as an amendment to the pending resolution.

Senator Lair offered the following as a substitute for the pending resolution:

Resolved, That the Legislature do adjourn *sine die* on the tenth day of April, 1879, at 12 o'clock m.

Senator Moore (by consent) then withdrew his amendment to the original resolution.

Senator Houston moved the previous question on the original resolution and substitute.

Motion seconded and main question ordered.

The substitute of Senator Lair was lost by the following vote:

	YEAS.	
Burnett, Edwards, Hobby,	Homan, Lair, Ledbetter,	Martin, Moore--8.
	NAYS.	
Brown, Buchanan, Davenport, Duncan, Ford, Gooch,	Grace, Guy, Houston, Lane, McCormick, McCulloch,	Motley, Patton, Stewart, Shannon, Swain, Terrell--18.

Not voting—Burton, Ripetoe.

The original resolution of Senator Shannon was then lost by the following vote:

	YEAS.	
Davenport, Duncan, Guy,	Homan, Lair, McCulloch,	Motley, Ripetoe, Shannon--9.
	NAYS.	
Brown, Buchanan, Burnett, Burton, Edwards, Ford, Gooch,	Grace, Hobby, Houston, Lane, Ledbetter, Martin,	McCormick, Moore, Patton, Stewart, Swain, Terrell--19.

Senator Terrell called up Senate bill No. 342, entitled "An act to repeal 3955 of the Revised Civil Code," passed at this session of Legislature, which was read second time and ordered engrossed.

(Senator Buchanan in the chair.)

On motion of Senator Lane, the rules were suspended and bill placed on its third reading by the following vote:

	YEAS.	
Brown, Buchanan, Burnett, Burton, Duncan, Edwards, Ford, Gooch,	Grace, Guy, Hobby, Homan, Houston, Lane, Lair, Ledbetter,	Martin, Motley, Patton, Ripetoe, Stewart, Shannon, Swain, Terrell--24.
	NAYS--none.	

Not voting—Davenport, McCormick, McCulloch, Moore.

Bill read third time and passed.

Senator Brown called up Senate bill No. 223, entitled "An act to validate bounty certificate of Joseph Hawkins," which was read third time and passed.

Senator Burnett called up House bill No. 394, entitled "An act to repeal chapters 1, 2 and 3 of title 64 of the Civil Code, adopted February 21, 1879," which was read first time.

Senator Burton called up Senate bill No. 333, entitled "An act for the relief of Johnson Hensley, of Waller county," which was read second time.

Senator Burton offered the following amendment:

“Section Whereas, the present session of the Legislature is near adjournment, and it is important that this bill be passed at this session, there is an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended.”

Senator Homan offered the following as a substitute for the pending amendment:

“Section The fact that the public interests require that the business before this Legislature should be rapidly disposed of creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended, and they are suspended.”

Accepted by Senator Burton.

Senator Terrell offered the following as a substitute for the pending amendment:

“The large number of bills now pending, all of which cannot receive consideration if read on three several days, connected with the fact that the growing impatience of a portion of the Senate to adjourn, threatens such action at any time, creates an imperative public necessity that the rule be suspended requiring that this bill be read on three several days.”

Withdrawn, and the substitute of Senator Homan adopted.

Senator Brown offered the following:

“Amend by striking out section 2” (the emergency clause).

Senator Terrell made the point of order that the amendment was out of order.

Point of order sustained.

Senator Terrell (by leave) presented the memorial of Brush, White and Wm. Raatz for an appropriation to pay an account for sundry articles purchased for work done for Capt. Voight as superintendent of the public buildings and grounds, for \$247 27 during the years 1875 and 1876.

Referred to committee on public claims and accounts.

Senator Brown moved to reconsider the vote adopting the amendment to the pending bill, creating “the emergency clause.”

Lost and bill ordered engrossed.

On motion of Senator Burton, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch

Moore.
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--22.

NAYS.

Brown,

Motley--2.

Not voting—Duncan, Grace, Houston, McCormick.

Bill read third time and passed.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined and compared with the originals and find correctly engrossed the following Senate bills, viz:

No. 118.—An act to amend title 58 of the Revised Civil Statutes of the State of Texas, passed February 21, 1879.

No. 262.—An act to grant to Jackson Doyle a headright of six hundred and forty acres of land.

No. 296.—An act to authorize the issuance of land certificates to those or the heirs of those volunteers who participated in the Dawson massacre, near the Salado, in September, 1842.

No. 338.—An act prescribing the times of holding the district courts in the first judicial district and regulating the return of process therein.

BROWN, *Chairman.*

Senator Davenport called up House bill No. 482, entitled "An act to amend article 436 of section 2 of 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,' " passed at the present session of the Legislature, which was read first time.

On motion of Senator Gooch, the rules were suspended and bill placed on its second reading by the following vote :

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCormick,
McCulloch,
Moore,
Motley,
Stewart,
Terrell—22.

NAYS.

Brown,
Patton,

Ripetoe,

Swain—4.

Not voting—Burton, Shannon.

Bill read second time.

Senator Houston moved to adopt the majority report of the committee, which was adverse to its passage.

Lost and bill passed to a third reading by the following vote :

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Ripetoe,
Stewart,
Shannon,
Terrell—22.

NAYS.

Buchanan,
Davenport,

Houston,

Patton—4.

Not voting—Grace, Swain.

Senator Brown, submitted the following as his reasons for voting no on the bill just passed.

Mr. President: I vote no because I do not recognize any public imperative necessity to determine the question whether a man shall take his case to one justice's court or another in his county. W: M. BROWN.

(President in the chair.)

On motion of Senator Gooch, the rules were further suspended, and bill placed on its third reading by the following vote:

	YEAS.	
Burnett, Burton, Davenport, Duncan, Edwards, Ford, Gooch, Guy,	Hobby, Homan, Houston, Lane, Lair, Ledbetter, Martin, McCormick,	McCulloch, Moore, Motley, Ripetoe, Stewart, Shannon, Swain, Terrell---24.
	NAYS.	
Brown, Not voting—Grace.	Buchanan,	Patton---3.

Bill read third time and passed by the following vote:

	YEAS.	
Brown, Burnett, Burton, Duncan, Edwards, Ford, Gooch,	Guy, Hobby, Lair, Ledbetter, Martin, McCulloch, Moore,	Motley, Ripetoe, Stewart, Shannon, Swain, Terrell---20.
	NAYS.	
Buchanan, Davenport, Grace, Not voting—Homan.	Houston, Lane,	McCormick, Patton---7.

Senator Burnett, from the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined and compared Senate bill No. 185, entitled "An act to provide against the evil resulting from the sale of intoxicating liquors in the State of Texas."

Senate bill No. 253, entitled "An act to amend chapter 3 of title 42 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed February 21, 1879.

Also, Senate bill No. 295, entitled "An act to create the office of state registrar, and to define the duties, powers and compensation of such officer," and find said bills correctly engrossed.

BURNETT, *for committee.*

On motion of Senator McCormick, Senator Houston was indefinitely excused from next Wednesday after the morning session.

On motion of Senator Lair, Senator Duncan was excused indefinitely from next Monday evening.

Senator Swain (by request), introduced a "Joint resolution for the appointment of a commission of three to investigate and report upon invasions from Mexico."

Referred to committee on state affairs.

Senator Burton entered a motion to reconsider the vote passing Senate bill No. 185 (the Ohio liquor law) passed on yesterday.

Senator Hobby made the point of order that the motion was out of order as the bill was not in the possession of the Senate.

Point of order sustained.

Senator Gooch appealed from the decision of the chair.

Withdrawn.

Senator Edwards offered the following resolution:

Resolved, That the Senate request the House of Representatives to return to the Senate Senate bill No. 185, entitled "An act to provide against the evils resulting from the sale of intoxicating liquors in the State of Texas."

Senator Hobby moved to lay the pending resolution on the table.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called; Senate full.

Senator Hobby's motion to lay on the table was lost by the following vote:

Buchanan,
Davenport,
Duncan,
Guy,
Hobby,

YEAS.

Homan,
Lair,
McCormick,
Moore,

Motley,
Ripetoe,
Shannon,
Swain--13.

Brown,
Burnett,
Burton,
Edwards,
Ford,

NAYS.

Gooch,
Grace,
Houston,
Lane,
Ledbetter,

Martin,
McCulloch,
Patton,
Stewart,
Terrell--15.

Senator Hobby moved to indefinitely postpone the resolution.

Senator Houston moved the previous question on the motion to indefinitely postpone, and on the original resolution.

Motion seconded and main question ordered by the following vote:

Brown,
Buchanan,
Burton,
Edwards,
Gooch,
Grace,

YEAS.

Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Swain,
Terrell--18.

Burnett,
Davenport,
Duncan,

NAYS.

Ford,
Guy,
Homan,

McCormick,
Shannon--8.

Not voting--Hobby, Martin.

The motion to indefinitely postpone was lost by the following vote:

Buchanan,
Davenport,
Duncan,
Guy,
Hobby,

YEAS.

Homan,
Lair,
McCormick,
McCulloch,

Moore,
Motley,
Shannon,
Swain--13.

Brown,
Burnett,
Burton,
Edwards,
Ford,

NAYS.

Gooch,
Grace,
Houston,
Lane,
Ledbetter,

Martin,
Patton,
Ripetoe,
Stewart,
Terrell--15.

The resolution of Senator Edwards was then adopted by the following vote:

Brown,
Burton,

YEAS.

Edwards,
Ford,

Gooch,
Grace,

Houston,
Lane,
Ledbetter,

Martin,
Patton,
Ripetoe,

Stewart,
Terrell--14.

NAYS.

Buchanan,
Burnett,
Davenport,
Duncan,
Guy,

Hobby,
Homan,
Lair,
McCormick,
McCulloch,

Moore,
Motley,
Shannon,
Swain--14.

There being a tie vote, the president voted in the affirmative and declared the resolution adopted.

Senator Terrell entered a motion to reconsider the vote by which Senate bill No. 253 was passed on yesterday.

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered House bill No. 37, entitled "An act to define official misconduct in officers of the state, county and corporations, and prescribing punishments therefor," and the committee are of the opinion that the ends sought to be accomplished by this bill have been fully attained by the provisions of the Civil and Criminal Codes, and they instruct me to report the bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, March 28, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask the following correction in the name of one of the pilot commissioners for the port of Galveston:

Andrew Munn instead of Anderson Munn.

Respectfully, O. M. ROBERTS, *Governor.*

Senator Brown moved to adjourn until 9:30 A. M. to-morrow.

Senator Edwards moved to adjourn until 3 o'clock P. M. this evening.

Adopted, and the Senate adjourned until 3 P. M.

AFTERNOON SESSION.

President in the chair. Roll called; quorum present.

Senate substitute for House bill No. 33, entitled "An act to amend article 4767 of the Revised Civil Statutes of the State of Texas," was taken up and read third time.

Senator Gooch offered the following amendment:

Strike out "\$20,000" and insert "\$15,000."

(President *pro tempore* in the chair).

The amendment of Senator Gooch was lost by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,

Duncan,
Gooch,
Homan,
Lair,

McCormick,
Patton,
Shannon,
Swain--12.

NAYS.

Burton,
Edwards,
Ford,
Guy,
Hobby,

Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Terrell - 13.

Not voting—Grace, Houston, Lane.

Senator Ripetoe moved to reconsider the vote by which the resolution of Senator Edwards, asking the return of Senate bill No. 185 by the House, was adopted.

Senator Ledbetter made the point of order that the motion to reconsider was out of order as the resolution had been sent to the House, and was out of the control of the Senate.

Point of order sustained.

A message was received from the House announcing the return of Senate bill No. 185 (the Ohio liquor law).

Senator Gooch moved to reconsider the vote by which the Senate passed Senate bill No. 185.

Senator McCormick moved to lay the motion to reconsider on the table.

Senator Terrell moved a call of the Senate.

Call sustained.

Roll called. Absent—Grace, Lane, Houston.

Senator Ledbetter moved to adjourn until 9:30 A. M. to-morrow.

The vote on which resulted as follows:

YEAS.

Burton,
Edwards,
Ford,
Gooch,
Grace,

Ledbetter,
Martin,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Terrell—13.

NAYS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,

Guy,
Hobby,
Homan,
Lair,

McCormick,
McCulloch,
Moore,
Swain—13.

Not voting—Houston, Lane.

There being a tie vote, the president voted in the affirmative and declared the Senate adjourned until 9:30 A. M. to-morrow.

SIXTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 29, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ledbetter, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Shannon, Senator Guy was excused for the day on account of sickness.

On motion of Senator Houston, Senator Homan was excused indefi-

nately after to-morrow, in consequence of pressing and important business demanding his attention.

On motion of Senator Gooch, Senator Motley was excused until Monday next.

Senator Davenport introduced a bill entitled "An act to authorize and provide for the settlement of the matters in controversy between the State of Texas and the Texas and Pacific railway company, in the suit brought by the State of Texas to forfeit the land grant of said company."

Read by caption and referred to committee on internal improvements.

Senator Duncan, under the rules, called up Senate bill No. 152, entitled "An act to authorize counties, towns and cities to compromise existing railroad bonded indebtedness, and to issue new bonds at a lower rate of interest in lieu thereof," which was read second time:

On motion of Senator Duncan, the bill was laid on the table.

Senator Edwards called up Senate bill No. 252, entitled "An act to amend chapter 2 of title 15, and chapter 1 of title 16, in the Code of Criminal Procedure, of an act entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,'" which was taken up and ordered engrossed.

The president, after publicly reading its caption, signed House bill No. 187, entitled "An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect" (the bell-punch bill).

(Senator McCulloch in the chair.)

Senator Ford called up Senate bill No. 50, entitled "An act to amend section 1 of an act entitled 'an act to provide for the transferring of all criminal cases in which indictments have been found, to the proper court having jurisdiction thereof,' approved August 12, 1876," which was read second time.

Senator Ford called up House bill No. 50, entitled "An act authorizing the commissioner of the general land office to approve the bounty land certificate issued to the heirs of William Fishbaugh (deceased), who fell at the Alamo," which was read the first time.

Senator Grace called up Senate bill No. 311, entitled "An act for the relief of William Judge," which was read second time and ordered engrossed.

Senator Edwards, from the committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 346, entitled "An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of this state, and supply deficiencies in the revenue, and to provide the mode and manner of the sale of bonds to the several counties of this state," have had the same under consideration, and I am instructed by a majority of said committee to report same back with the recommendation that it do pass.

EDWARDS, *for Committee.*

Senator Gooch called up Senate bill No. 329, entitled "An act to attach the county of Jones to the county of Taylor for judicial purposes," which was read second time and ordered engrossed.

On motion of Senator Davenport, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Davenport,
Edwards,
Ford,
Gooch,
Grace,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--21.

NAYS—none.

Not voting—Brown, Burton, Duncan, McCormick.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Davenport,
Edwards,
Ford,
Gooch,
Grace,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--21.

NAYS—none.

Not voting—Brown, Burton, Duncan, McCormick.

Senator McCulloch called up Senate bill No. 339, entitled "An act amendatory of and supplementary to an act entitled 'an act to consolidate into one act and to amend the several acts incorporating the city of Houston in Harris county,' approved January 23, 1874, and the several acts amendatory thereof," which was read first time.

On motion of Senator Hobby, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Buchanan,
Davenport,
Edwards,
Ford,
Gooch,
Grace,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--21.

NAYS—none.

Not voting—Burton, Duncan, McCormick.

Bill read second time and ordered engrossed.

Senator Hobby moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

YEAS.

Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell--22.

NAYS—none.

Not voting—Brown, Grace, McCormick.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burton,
Davenport,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore.
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell—21.

NAYS—none.

Not voting—Brown, Duncan, Homan, Lane.

On motion of Senator Edwards, Senate bill No. 346, entitled "An act to provide for the issuance and sale of bonds for retiring the outstanding bonds of this state, and supply deficiencies in the revenue, and provide for the mode and manner of the sale of bonds to the several counties of this state," was called up, bill read first time and 100 copies of the bill ordered printed for the use of the Senate.

Senator Homan called up House bill No. 71, entitled "An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities and towns in this state," which was read third time and passed.

Senator Houston called up Senate bill No. 217, entitled "An act to prevent certain public officers from using their offices to advance their private interests," which was read third time and passed.

Senator Lair called up House bill No. 394, entitled "An act to repeal chapters 1, 2 and 3 of title 64 of the Civil Code, adopted February 21, 1879," with Senate substitute for the same, which was read second time.

Senator Grace moved to adopt the Senate substitute in lieu of the House bill.

(President in the chair.)

Senator Davenport offered the following amendment to the House bill:

In House bill strike out the words "chapters 1, 2 and 3" and insert the words "chapter 3."

Adopted.

The Senate substitute was lost and House bill passed to a third reading.

Senator Ledbetter called up Senate bill No. 185 (the Ohio liquor law), with the motion of Senator McCormick to lay on the table the motion of Senator Gooch to reconsider the vote passing the bill pending.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called, and Senate full.

The motion to lay on the table the motion to reconsider was lost by the following vote:

YEAS.

Buchanan.
Davenport,
Duncan,

Hobby,
Homan,
McCormick,

Shannon,
Swain-- 8.

NAYS.

Brown,
Burton,
Edwards,
Ford,
Gooch,
Grace,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Patton,
Stewart,
Terrell—16.

Not voting—Ripetoe.

Senator Edwards moved the previous question on the motion to reconsider.

Motion seconded and the main question ordered.

The motion to reconsider was then carried by the following vote:

YEAS.

Brown,
Burton,
Edwards,
Ford,
Gooch,
Grace,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Patton,
Ripetoe,
Terrell—16.

NAYS.

Buchanan,
Davenport,
Duncan,

Hobby,
Homan,
McCormick,

Shannon,
Swain --8.

Not voting—Stewart.

Senator Stewart stated that he was paired with Senator Motley, who was absent; that he would have voted "aye" on the motion to reconsider and Senator Motley would have voted "no."

On motion of Senator Edwards, Senator Brown was excused for the remainder of the day in consequence of sickness in his family.

Senator Homan offered the following amendment:

Strike out proviso to section 13 and insert: "None of the provisions of this act shall apply to the selling, furnishing or using of beer, wine or cider unmixed with alcoholic liquors, nor to the use of liquors of any description at private residences or at social gatherings, when not done with the purpose of evading the provisions of this act."

Adopted by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Ford,
Hobby,
Homan,

Lair,
Martin,
McCormick,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Swain,
Terrell—16.

NAYS.

Edwards,
Grace,

Houston,
Lane,

Ledbetter,
McCulloch—6.

Not voting—Burton, Gooch.

Senator Gooch offered the following amendment:

Section 12, strike out the following words: "or having leased the same for other purposes, shall knowingly permit intoxicating liquors to be sold in such building or premises that have caused the intoxication, in whole or in part, of any person."

Lost by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Gooch,
Hobby,

Homan,
Lane,
Lair,
McCormick,
Patton,

Ripetoe,
Stewart,
Shannon,
Swain,
Terrell—15.

NAYS.

Burton,
Edwards,
Ford,

Grace,
Houston,
Ledbetter,

Martin,
McCulloch,
Moore---9.

Senator Burton moved to recommit the bill to the committee on state affairs.

Carried by the following vote:

	YEAS.	
Burton,	Houston,	Moore.
Edwards,	Lane,	Patton,
Ford,	Ledbetter,	Stewart,
Grace,	Martin,	Terrell--12.
	NAYS..	
Buchanan,	Hobby,	McCormick,
Davenport,	Homan,	Ripetoe,
Duncan,	Lair,	Shannon,
Gooch,	McCulloch,	Swain--12.

There being a tie vote, the president voted in the affirmative and declared the bill recommitted.

The president presented to the Senate and the officers of the Senate and their families an invitation from Dr. Rainey, superintendent of the Blind Asylum, to attend a concert to be given at that institution on to-night, by the pupils of the same.

Senator Edwards (by leave) introduced a bill to be entitled "An act to fix the pay of members of the Legislature when convened in extra session within one day after adjournment of a regular or called session."

Read by caption and referred to the committee on retrenchment and reform.

Senator Lane called up substitute for House bill No. 48, entitled "An act declaring the inclosing or keeping inclosed of any public domain a misdemeanor, and prescribing a punishment therefor," with adverse report of the committee.

The report of the committee was adopted and bill lost.

Senator Patton, chairman of the committee on public claims and accounts (by leave) submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have considered the memorial (No. 98) of citizens of Travis county, asking for the payment of accounts in favor of White & Brush for material furnished for the capitol and capitol grounds, per request of Chas. Voight, superintendent of capitol and capitol grounds, for the sum of \$160 75, and the claim of Wm. Raatz for the sum of \$86 50 for labor on and material furnished for conservatory on capitol grounds, per request Chas. Voight, as above stated, and they direct me to report the claims back with the recommendation that the committee on finance provide for their payment in the bill making deficiency appropriations.

PATTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have duly considered Senate bill No. 310, styled "An act for the relief of J. S. Daugherty," and they find that the said J. S. Daugherty and one Connallee and Ammerman, under demand of the commissioner of the general land office of the state, did illegally pay into the land office the sum of fifteen dollars for the issuing of each of the patents Nos. 32, 33, 34, 53, volume 22, first-class, to Eastland county for school purposes; the law then in force providing that no fees should be charged for such patents, and they direct me to recommend that the bill be amended by inserting between the words "Daugherty" and "for" the words: "for the use of J. S.

Daugherty, Connallee and Ammerman," and that the bill, so amended, do pass. PATTON, Chairman.

Senator Patton called up Senate bill No. 318, "An act to amend an act entitled 'an act to legalize certain land claims therein named,'" which was read first time.

(Senator Duncan in the chair.)

Senator Stewart called up Senate bill No. 216, entitled "An act specifying fees of collectors of taxes for sale of real estate for delinquent taxes," which was read third time and passed by the following vote:

YEAS.

Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Ripetoe,
Stewart,
Shannon,
Terrell—21.

NAYS.

McCormick,

Swain—2.

Not voting—Patton.

On motion of Senator Edwards, Senator Burton was excused indefinitely from Monday next.

On motion of Senator Terrell, the Senate adjourned until 9:30 A. M. Monday.

SIXTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, March 31, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ripetoe, the reading of the journals of Saturday was dispensed with and the same adopted.

Senator Terrell, chairman of the conference committee on substitute for House joint resolution No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate, and Hon. John H. Cochran, Speaker of the House of Representatives:

The undersigned, who were appointed a committee of conference on the part of the Senate and House of Representatives to consider Senate joint resolution, a substitute for Senate joint resolution No. 29 and House joint resolution No. 2, in relation to tax on farm products, have considered the same, and being unable to agree, respectfully ask to be discharged, and recommend the appointment of a committee of free conference.

A. W. TERRELL,
EDWIN HOBBY,
MARION MARTIN,

Committee on part of Senate.

BAKER,
W. R. GAUSE,

COLEMAN,

Committee on part of House.

On motion of Senator Terrell, a committee of free conference was appointed on the differences of the two houses on the joint resolution just reported upon.

The president appointed Senators Terrell, Hobby and Martin on said free conference committee.

Senator Terrell introduced a bill entitled "An act for the relief of R. B. Renick, Jr."

Read by caption and referred to judiciary committee No. 2.

Senator McCormick introduced a bill entitled "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879."

Read by caption and referred to committee on commerce and manufactures.

Senator Guy introduced a bill entitled "An act to amend article 1173 of the Revised Civil Statutes, passed by the Sixteenth Legislature."

Read by caption and referred to judiciary committee No. 2.

Senator Terrell called up Senate bill No. 318, entitled "An act to legalize certain land claims therein named," which was read second time, and on motion of Senator Terrell was temporarily postponed.

The following message was received from the House announcing that by a resolution of the House the Senate is respectfully requested to meet the House in joint session on Tuesday evening at 7:30 o'clock, for the purpose of receiving the portrait of the late Gen. Thomas J. Rusk, presented to the state by Mr. John S. Morton, and that by the committee of arrangements Senator Ford has been selected to present said picture, and that Representative Coleman has been selected to receive it:

Senator Houston offered the following resolution:

Resolved, That the invitation of the House of Representatives requesting the presence of the Senate in joint session on the occasion of the presentation of the portrait of Gen. Thomas J. Rusk be accepted, and that the Senate attend on Tuesday evening at the appointed hour.

Resolution adopted.

Senator Buchanan called up Senate bill No. 346, entitled "An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state, and to supply deficiencies in the revenue, and to provide for the mode and manner of the sale of said bonds to the several counties in this state," which was read second time.

On motion of Senator Gooch, the bill was postponed until to-morrow after the morning call.

Senator Davenport called up Senate bill No. 138, entitled "An act to amend 'an act to amend article 766 of the Penal Code,' approved May 17, 1873," which was read second time and ordered engrossed.

(Senator Buchanan in the chair.)

Senator Edwards called up Senate bill No. 116, entitled "An act to amend section 12 of 'an act to establish and provide for the support and maintenance of an efficient system of public free schools,' approved August 16, 1876," with substitute therefor.

Bill read second time.

Senator Edwards offered the following amendments to the substitute:

Amend by striking out the caption and bill down to the word "one," line five, and insert in lieu thereof:

"An act to amend article three thousand, seven hundred and four (3704) of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879."

"Section 1. *Be it enacted by the Legislature of the State of Texas,* That article four thousand, seven hundred and four (4704) of the above recited act be so amended as to read hereafter as follows:"

Also the following:

"Section The fact that this bill should pass and take effect before the general appropriation act is passed, creates an imperative public necessity that the rules be suspended and an emergency that this bill take effect at once, and it is ordered that the rules requiring that this bill be read on three several days be suspended, and it is further enacted that this act take effect from and after its passage."

(President in the chair.)

Senator Patton moved to postpone the bill with substitute and amendments until Saturday next.

The vote upon which resulted as follows:

YEAS.		
Buchanan,	Homan,	Patton,
Davenport,	Houston,	Ripetoe.
Ford,	McCormick,	Stewart,
Grace,	McCulloch,	Shannon--13.
Guy,		
NAYS.		
Brown,	Lane,	Moore,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell--13.
Hobby,		

There being a tie vote, the president voted in the negative and declared the bill not postponed.

On motion of Senator Edwards, the bill was postponed until Wednesday next.

On motion of Senator Edwards, Senator Motley was excused until Wednesday in consequence of sickness in his family.

Senator Ford called up House bill No. 50, entitled "An act authorizing the commissioner of the general land office to approve the bounty land certificate issued to the heirs of William Fishbaugh, deceased, who fell at the Alamo," which was read second time and passed to a third reading.

Senator Storey entered a motion to reconsider the vote ordering the engrossment of Senate bill No. 138.

Senator Hobby called up the motion of Senator Storey just entered to reconsider the engrossment of Senate bill No. 138.

The motion to reconsider was adopted.

The following message was received from the House:

That the House has adopted the report of the conference committee on disagreements of the two houses on House joint resolution No. 2 and Senate substitute joint resolution No. 29 in relation to tax on farm products, and that Messrs. Taylor, of Marion, Baker, and Smith, of Titus, have been appointed a committee of free conference upon part of the House.

Senator Storey offered the following amendment:

Amend the caption so as to read "An act to amend articles 747 and 748 of the Penal Code," adopted at the present session of the Legislature.

Adopted.

Also the following:

Strike out articles "766" and "766a," in line three, and insert articles "747" and "748."

Adopted.

Also the following:

In line seven, strike out the words "article 766" and insert "article 747."

Adopted.

Also the following:

Amend section 2 by inserting after the word "that," in line one, the words "article 748 and all other."

Adopted and bill ordered engrossed.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, {
AUSTIN, March 31, 1879. }

To the honorable, the Senate of Texas, in Legislature assembled:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment, to wit:

A. S. B. Broadus to be district judge of the thirty-second judicial district.
O. M. ROBERTS, Governor.

Senator Gooch moved that the Senate go into executive session tomorrow just after the morning call.

Adopted.

Senator Houston called up Senate joint resolution No. 92, "Amending section 24 of article 3 of the constitution of the State of Texas," which was read second time and ordered engrossed.

On motion of Senator Edwards, the engrossment of the bill was reconsidered.

Senator Edwards moved to adopt the substitute for the resolution.

Carried and joint resolution ordered engrossed.

Senator Gooch called up Senate bill No. 31, entitled "An act to create and provide for execution liens on land," which was read third time and passed.

Senator Moore called up Senate bill No. 334, entitled "An act to provide for the sale or exchange of the alternate sections of school lands belonging to this state in certain cases," which was read first time.

On motion of Senator Storey, 50 copies of the bill were ordered printed.

Senator Ripetoe called up House bill No. 394, entitled "An act to repeal chapters 1, 2 and 3 of title 64 of the Civil Code, adopted February 21, 1879," which was read third time.

Senator Patton offered the following amendment:

Strike out caption of bill and insert therefor "An act to repeal chapter 3 of title 64 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Hobby,
Houston,
Lair,
Ledbetter,
Martin,
Moore,

Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--19.

NAYS.

Grace,

McCulloch,

Stewart--3.

Not voting—Guy, Lane, McCormick.

The bill was then passed by the following vote:

YEAS.

Brown,	Gooch,	Ripetoe,
Buchanan,	Houston,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Edwards,	Moore,	Terrell—17.
Ford,	Patton,	

NAYS.

Grace,	Hobby,	Stewart—5.
Guy,	McCulloch,	

Not voting—Lane, Martin, McCormick.

House bill No. 37, entitled "An act to define official misconduct in officers of the state, county and corporations, and prescribing punishment therefor," was taken up and read first time with adverse report of committee.

On motion of Senator Shannon, the report of the committee was adopted and bill lost.

Senator Duncan called up Senate bill No. 28, entitled "An act to give forfeitures *nisi* on bail bonds and recognizances in criminal cases the force and effect of judgments."

A motion to reconsider the vote by which the bill failed to pass to engrossment, pending.

The vote referred to was reconsidered by the following vote:

YEAS.

Brown,	Guy,	McCulloch,
Buchanan,	Hobby,	Moore,
Duncan,	Homan,	Patton,
Ford,	Lair,	Ripetoe,
Gooch,	McCormick,	Terrell—15.

NAYS.

Davenport,	Lane,	Shannon,
Edwards,	Ledbetter,	Storey,
Grace,	Martin,	Swain—11.
Houston,	Stewart,	

The Senate then refused to engross the bill by the following vote:

YEAS.

Brown,	Guy,	McCormick,
Buchanan,	Hobby,	McCulloch,
Duncan,	Homan,	Moore,
Ford,	Lair,	Patton—13.
Gooch,		

NAYS.

Davenport,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Grace,	Ripetoe,	Swain,
Houston,	Stewart,	Terrell—13.
Lane,		

The following bills were taken up and read first time, viz:

Senate bill No. 63, entitled "An act concerning sales under execution."

Senate bill No. 84, entitled "An act concerning incorporated cities and towns."

Senate bill No. 162, entitled "An act to provide a method for determining what claims, locations, surveys, grants and titles to lands are forfeited to the state."

Senate bill No. 198, entitled "An act to amend an act entitled 'an act regulating interest, approved August 21, 1876.'"

Senate bill No. 206, entitled "An act to prevent officers of the different asylums of the state from misapplying supplies."

Senate bill No. 293, entitled "An act to amend article 226, title 5, chapter 1 of the Code of Criminal Procedure, passed in 1879."

Senate bill No. 310, entitled "An act for the relief of J. S. Daugherty."

Senator Duncan (by leave) introduced a bill entitled "An act to regulate freight charges on all railroads in this state."

Read by caption and referred to the committee on internal improvements.

Also the following bills were read first time:

Senate bill No. 335, entitled "An act to amend title 47, chapter 2 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved February 21, 1879."

Senate bill No. 337, entitled "An act granting a land certificate of 640 acres to each of the indigent pensioners enrolled under the act approved July 28, 1876."

Senate bill No. 339, entitled "An act to amend article 425 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879."

(Senator Duncan in the chair.)

Senate joint resolution No. 220, "Proposing amendment to article 16 of the constitution of the state by adding thereto section 58," was taken up, read third time and passed by the following vote:

YEAS.

Brown,
Davenport,
Edwards,
Gooch,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch.

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain--21.

NAYS.

Buchanan,
Duncan,

Ford,

McCormick--4.

Senator Terrell, on motion of Senator Shannon, was excused from voting on the passage of this bill.

Senator Guy submitted the following as his reasons for voting aye on this joint resolution:

I am opposed, as an individual, to this proposed amendment to the constitution. I think this matter should be left to legislative discretion. But adhering to my original determination to give the people, so far as my vote is concerned, a chance to speak out in all propositions to materially amend this organic law, I vote yea. R. S. GUY.

Senator Ripetoe endorsed and adopted the same reasons for his vote on the joint resolution just passed as those given by Senator Guy.

Senator Terrell (by leave) introduced a joint resolution proposing an amendment to article 5 of the constitution of the state which relates to the judiciary.

Referred to committee on constitutional amendments.

Senate substitute for House bill No. 33, entitled "An act to amend article 4767 of the Revised Civil Statutes of the State of Texas," was taken up.

Senator Gooch offered the following amendment:
Strike out "twenty thousand" and insert "fifteen thousand" wherever it appears.

Lost by the following vote:

YEAS.		
Brown.	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Davenport.	Lair,	Stewart,
Duncan,	McCormick,	Shannon—13.
Gooch,		
NAYS.		
Edwards,	Lane,	Ripetoe,
Ford,	Ledbetter,	Storey,
Grace,	Martin,	Swain,
Guy,	McCulloch,	Terrell—13.
Houston,		

The bill was then passed.

Senator Brown, chairman of committee on engrossed bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined Senate bill No. 342, entitled "An act to repeal article 3955 of the Revised Civil Code, passed at this session of the Legislature," and find it correctly engrossed.

BROWN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined Senate bill No. 333, entitled "An act for the relief of Johnson Hensley, of Waller county," and find the said bill correctly engrossed.

BROWN, *Chairman.*

Senator Hobby moved to reconsider the vote adopting the motion to go into executive session to-morrow just after the morning call.

Carried.

Senator Grace moved to go into executive session immediately.

Lost.

Senator Homan moved to go into executive session at 3 o'clock p. m.

Withdrawn.

Senator Martin moved to reconsider the vote by which the Senate refused to go into executive session immediately.

Carried.

Senator Martin then moved to go into executive session at once.

Adopted.

IN SENATE.—(President in the chair.)

On motion of Senator Hobby, the secretary was instructed to spread upon the journals the confirmations of the Senate as made in executive session just held.

In obedience to that order it is stated that Hon. A. S. Broadus was confirmed as judge of the thirty-second judicial district of the state, and J. C. Kidd as notary public for Harris county, Texas.

On motion of Senator McCulloch the Senate adjourned until 9 o'clock A. M. to-morrow.

SIXTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 1, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

A quorum soon appearing the Senate proceeded to business.

On motion of Senator Houston, the reading of the journals of yesterday was dispensed with and same adopted.

On motion of Senator Davenport, Senator McCulloch was excused for two days, commencing to-morrow.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following report :

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have considered Senate bill No. 350, entitled "An act to amend article 1173 of Revised Statutes passed by the Sixteenth Legislature," and I am instructed by the committee to report said bill back to the Senate and recommend its passage.

STEWART, *Chairman.*

Senator Edwards, from the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance, to whom was referred House bill No. 414, entitled "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1, title 94, of the Revised Civil Statutes," adopted February 21, 1879, have carefully considered the same, and a majority of your committee instruct me to report the bill back to the Senate with the accompanying amendments, and as amended to recommend its passage.

EDWARDS, *for the Committee.*

Amendments:

Strike out all of section 2, relating to article 4663, and substitute in lieu thereof the following: "That article 4663, of the above recited chapter, Civil Statutes, shall be and the same is hereby repealed."

In line twenty-five, section 3, insert after the word "dollars" the words "or less;" in section 3 strike out all the words following the word "dollars" in line twenty-seven and coming between the word "from" in engrossed rider No. 2.

Strike out the first proviso in engrossed rider No. 2.

Add to engrossed rider No. 2 the following proviso: "*Provided further*, that before any such commercial traveler, drummer, salesman or solicitor shall make any sales, take or receive any orders in any county of this state, he shall exhibit to the collector of such county the receipt of the comptroller for the state taxes as herein provided and shall have paid said collector the sum of ten dollars for the county."

On page 4, in line two, strike out the words "From every keeper of a public ferry, five dollars."

On page 4, strike out line three.

On page 4, in lines seventeen and eighteen, strike out these words: "that a co-partnership or firm shall pay only one tax."

On page 4, strike out the proviso commencing in line twenty-one and ending in line twenty-four.

On page 4, in line twenty-five, strike out these words: "having no permanent home in this state," and insert in lieu thereof the words: "traveling from place to place in the practice of his profession."

In line twenty-six, page 4, strike out the word "thirty" and insert in lieu thereof the word "fifty."

On page 4 strike out all the words commencing with the word "for" in line twenty-seven, and ending with the word "each" in line one, page 5, and insert in lieu thereof the following: "From every dentist, ten dollars; but a dentist shall be liable to county occupation tax only in the county of his residence."

On page 5 insert after the word "table," at the end of line two, "the devil among the tailors."

On page 5 strike out the word "one dollar" in line five, and insert after the word "bet," at the end of line four, the following: "Where the distance ran does not exceed four hundred and forty yards, twenty-five dollars."

On page 5 insert after the word "horse," in line six, the words: "For all other horse races, ten dollars for each and every horse entered."

On page 5 add after line six the following: "For every person or persons who sell pools on horse races, five dollars for each and every day they may so sell said pools."

On page 5, line three, after the word "dollars" add the following: "On all persons keeping or using for profit any hobby-horse or flying jenny, or device of that character with or without name, twenty dollars for each county where the same are kept or used."

On page 5, in line twenty, insert after the words "five dollars" the following: "For each day they may perform."

On page 5, after the word "quarter" in line twenty-one add the following: "For every exhibition where acrobatic feats are performed for profit, not connected with a circus, ten dollars for each performance. For every slight of hand performance, or exhibition of legerdemain, ten dollars."

Insert after the word "bulls" as it occurs the second time in line twenty-eight, page 5, this language: "Or between bears and dogs."

On page 6, line six, insert after the word "purposes" the words "or for the support or aid of literary associations."

On page 7, in line one, insert after the word "profit" the following: "or upon which any money or thing of value is bet or paid."

On page 6, line nineteen, strike out the words "three hundred" and insert in lieu thereof the words "one thousand."

On page 7, line one, strike out the word "fifteen" and insert in lieu thereof the word "fifty."

On page 7 strike out all the words concerning barbers commencing with the word "from," in line five, and ending with the word "works" in line seven.

On page 7, line fifteen, strike out the words "engaged in selling" and insert in lieu thereof the words "canvassing for the sale of," and in line sixteen strike out the words "three hundred," and insert the word "twenty," and in line seventeen strike out the word "twenty" and insert the word "ten."

On page 7, section 3, strike out all the words commencing with the word "from" in line twenty-three, and ending with the word "tax" in line thirty-one, and insert in lieu thereof the words, "from each office or

place where any express company, having an agent, receives or delivers its freight, there shall be collected annually a tax of ten dollars for the state, and the agent managing said office or receiving or delivering said freight shall be held responsible for the payment of said tax."

On page 8, section 3, strike out all the words following the word "tax" in line three, and all the words in line 4, and insert in lieu thereof the following: "Of two per centum on the gross earnings of said person, firm or association of persons."

On page 9, section 4, after the word "act" in line eight, insert the following: "Upon which the annual tax is more than ten dollars."

Add to section 6, page 10, the following proviso: "*Provided*, that nothing contained in this act is intended to affect the liability which, in the absence of this statute, would be incurred under any penal enactment of this state."

In section 3, page 6, insert between lines eight and nine the following: "For every hack, buggy or other vehicle let for hire, not connected with a livery stable, three dollars;" "for every wagon yard not connected with a livery, feed or sale stable, ten dollars."

Strike out section 9, engrossed rider, and insert in lieu thereof the following:

"Section 9. The comptroller shall cause occupation tax receipts for each occupation to be printed with his signature, for all occupations payable to the collectors, annual receipts for those that are paid annually, and quarterly receipts for all that can be paid quarterly; said receipts shall state the name of the occupation, and the amount of the tax, and have blanks for the year, month, and name of license, and also have a blank space for signature of the collector. These receipts shall each have a stub attached stating briefly the substance of the attached receipt, and shall be bound in books, and he shall forward to each collector a proper number of said receipts, and charge him with the amount represented therein, and cause him to account therefor. The collector, whenever collecting any occupation tax, shall fill the blanks in the receipt and the stub by writing therein the time for which he collects, and the name of the license, and shall sign the receipt and stub officially, and no person shall pursue any occupation unless he has a receipt signed as herein provided by the comptroller and collector, and every person, firm or corporation, keeping an office or having a local place of business, shall keep posted up in a conspicuous place his or their said license."

Strike out, in line three of engrossed rider No. 2, the words "two hundred," and insert in lieu thereof the words "one hundred."

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 348, entitled "An act to authorize and provide for the settlement of the matters in controversy between the State of Texas and the Texas and Pacific railroad company in the suit brought by the State of Texas to forfeit the land grant of said company," have had the same under consideration, and I am instructed to report the bill back to the Senate with the accompanying substitute, with the recommendation that the substitute should pass.

SHANNON, *Chairman.*

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred a bill entitled "An act to provide for the payment of the outstanding indebtedness and the future debts of the several counties in this state," have considered the same and instruct me to report it back and recommend its passage.

TERRELL, *Chairman.*

Senator Buchanan introduced a bill entitled "An act to amend articles 4746 and 4747 of the Revised Civil Statutes, adopted at the present session of the Legislature."

Read by caption and referred to committee on finance.

Senator Storey introduced a bill entitled "An act to provide for the assessment and collection of taxes on land and other property in unorganized counties, and for the enforcement of the same.

Read by caption and referred to committee on finance.

Senator Shannon, under the rules, called up Senate bill No. 348, entitled "An act to authorize and provide for the settlement of the matters in controversy between the State of Texas and the Texas and Pacific railway company, in the suit brought by the State of Texas, to forfeit the land grant of said company," with substitute for the same, which was read first time.

On motion of Senator Edwards, fifty copies of the substitute were ordered printed.

Senator Swain called up House bill No. 414, entitled "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1 title 94 of the Revised Civil Statutes," adopted February 21, 1879, which was read first time.

On motion of Senator Storey, fifty copies of the bill with Senate committee amendments, etc., were ordered printed.

Senator Terrell called up Senate bill No. 242, entitled "An act to amend article 1179 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" which was read third time and passed.

Senator Ford called up House bill No. 50, entitled "An act authorizing the commissioner of the general land office to approve the bounty land certificate issued to the heirs of William Fishbaugh (deceased), who fell at the Alamo," which was read third time and passed.

Senator Gooch, from judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration House bill No. 237, entitled "An act for the better protection of timber," and a majority of the committee instruct me to report it back with the accompanying amendments and, as amended, recommend that it do pass.

GOOCH, *Chairman.*

Committee amendments: Section 3 shall read as follows:

"Section 3. All persons who float any logs or timber in this state, shall on the first day of April, first day of July, first day of September, and the first day of January, of each year or within fifteen days after said dates, make a written report under oath, showing the number of logs cut or floated during the next preceding three months, the survey or surveys of land from which they were cut, or carried, and the number cut from each, and a description of the brand placed thereon, and shall file the same with the county clerk of the county in which the timber was cut; and such clerk shall record the same in a book kept for that pur-

pose, and index it and receive therefor the sum of fifty cents from the party presenting the same."

Section 4 shall read as follows:

"Section 4. That a certificate under the hand of the county clerk, containing the description of a log brand and the name of the owner thereof, with a transfer on the back of it, signed and acknowledged by such owner or proved as other instruments for record, shall be *prima facie* evidence that the person to whom the transfer is made, owns the logs described thereon."

That section 5 shall read as follows:

"Section 5. That any person who shall buy or sell any timber or log floating, or that has been floated in this state before the same has been branded, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than ten dollars for each log or piece of timber so purchased, sold or traded for.

"That any person who shall float any unbranded log or timber for market, or who shall fail to make the reports required by this act or any person who shall brand any log or timber of another without his authority, or any person who shall deface any brand on any log or timber otherwise than when it is in the act of being sawed or manufactured into lumber or other commodity for use in building, or any person not an employe of the owner who shall, without the written consent of the owner, take into possession any branded or unbranded log or timber cut for floating or sawing, or any sawed timber, lumber or shingles floating in any of the waters of this state, or deposited upon the banks of any river or stream in this state, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding two hundred dollars for each offense. That by 'lumber' is meant lumber attached or bound together in some way for floating, and not loose lumber, and by 'shingles' is meant shingles in bunches or bundles, and not loose shingles."

That section 6 read as follows:

"Section 6. That the courts of the county in which the timber or lumber was deposited in the water, or in which it was unlawfully taken into possession, or unlawfully defaced, sold, purchased or branded as the case may be, shall have jurisdiction of the violation of the act or omission complained of or constituting an offense under this act."

"Section 7. That the near approach of the end of the session creates an imperative public necessity that the rule be suspended requiring this bill to be read on three several days, and it is therefore suspended."

On motion of Senator Gooch, the bill just reported was taken up and read first time.

On motion of Senator Gooch, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Gooch,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell--21.

NAYS--none.

Not voting—Edwards, Ford, Grace, Martin.

Bill read second time.

The amendments of the Senate committee were then adopted and bill passed to a third reading.

Senator Gooch moved to further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport.
Duncan,
Gooch,
Guy,
Hobby.

Houston,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore.

Patton,
Ripetoe,
Stewart.
Shannon,
Storey,
Swain,
Terrell--21.

NAYS--none.

Not voting--Edwards, Ford, Grace, Martin.

Bill read third time.

Senator Gooch offered the following amendment:

Amend caption by adding after last words, "and lumber."

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Edwards.
Gooch,
Grace,
Guy.

Hobby,
Houston,
Lair,
Ledbetter,
McCormick.
McCulloch,
Moore.

Patton,
Ripetoe.
Stewart,
Shannon,
Storey,
Swain.
Terrell--21.

NAYS--none.

Not voting--Davenport, Ford, Lane, Martin.

The bill was then passed.

On motion of Senator Gooch, Senator Brown was excused for the day on account of sickness in his family.

Senator Terrell offered the following resolution:

"WHEREAS, under the present judiciary article in the constitution it is impossible for the supreme court to dispose of the business in that court, and no joint resolution proposing an amendment having yet passed both houses;

Resolved, That a special committee of five be appointed on the part of the Senate to act in conjunction with a like committee on the part of the House, to report a joint resolution submitting to the vote of the people a new judiciary article to the constitution.

On motion of Senator Lane, the resolution was taken up and adopted.

The special order being Senate bill No. 346, entitled "An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state and to supply deficiencies in the revenue and to provide the mode and manner of the sale of said bonds to the several counties in this state," was taken up.

The president after publicly reading their captions, signed House bill No. 482, entitled "An act to amend article 436 of section 2 of 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,'" passed at the present session of the Legislature.

House bill No. 71, entitled "An act to further regulate and render more efficient, the maintenance and management of the public free schools and institutions of learning in cities and towns in this state."

(President *pro tempore* in the chair.)

Under the resolution of Senator Terrell, adopted this morning, the chair appointed the following as the committee on the part of the Senate: Senators Terrell, Edwards, Stewart, McCormick and Lane.

Senator Gooch offered the following amendment to the pending bill.

“Amend by striking out section 15.”

(Senator Ledbetter in the chair.)

On motion of Senator Terrell, Governor Throckmorton was invited to a seat within the bar of the Senate.

(President *pro tempore* in the chair.)

Senator Edwards moved a call of the Senate on the pending bill.

Call sustained.

Roll called. Absent—Ford, Guy.

On motion of Senator Burnett the call was suspended.

The amendment of Senator Gooch was then lost by the following vote:

YEAS.		
Gooch,		McCormick—2.
. NAYS.		
Buchanan, Burnett, Davenport, Duncan, Edwards, Grace, Hobby,	Houston, Lair, Ledbetter, Martin, McCulloch, Moore, Motley,	Patton, Ripetoe, Stewart, Shannon, Storey, Swain, Terrell—21.

Not voting—Ford, Guy, Lane.

Senator Gooch offered the following:

In section 15, line seven, after the word “revenue,” insert “two hundred thousand dollars may be issued for deficiency which has accrued since Aprii, 1876.”

Senator Patton offered the following as a substitute for the amendment of Senator Gooch:

In section 15, line nine, for “\$50,000” insert “\$200,000,” and for “month,” substitute “year,” and in line ten, after the word “section,” add “except such warrants as have or may hereafter be drawn for claims hereafter due by the state.”

Lost.

Senator Gooch then withdrew his amendment.

Senator Edwards offered the following:

Section 7, line, strike out “\$1,373,000” and insert “\$1,573,000.”

Adopted.

Also the following:

Section 9, line twenty, fill blanks with “five.”

Adopted.

Senator Ledbetter offered the following:

Section 3, line four, strike out “sines” and insert “series,” and in line nine, section 3, strike out “sines” and insert “series.”

Adopted.

Senator Storey offered the following:

Amend section 11, line fourteen, fill blank with “five.”

Adopted.

On motion of Senator Edwards, the bill was postponed until 3 o'clock this evening.

Senator Terrell called up House joint resolution No. 32 and Senate joint resolution No. 74; "Regulating suffrage, etc." which were taken up.

Senator Stewart offered the following:

In line eighteen, strike out "poll" and insert therefor "state and county."

Senator Terrell offered the following as a substitute for the amendment of Senator Stewart:

Amend by striking out the sixth sub-division of article 6 as proposed in the joint resolution of the Senate, and insert in lieu thereof the following:

"All persons (under sixty years of age) who shall fail to exhibit to the officers holding an election his tax receipt or the certificate of the collector of taxes, showing that he has paid at least days preceding the time at which he offers to vote, all taxes which were due from him for the year preceding the year in which such election may be held; *provided*, that no person shall vote who, if challenged, shall refuse to take the following oath, viz:

"I do swear that I have not given or received, nor do I expect to give or receive any money, treat or other things of value, by which my vote or any vote affected or expected to be affected at this election, nor have I given or promised any reward or made any threat by which to prevent any person from voting at this election."

Senator Martin moved a call of the Senate.

Call sustained.

Roll called. Absent—Ford, Stewart.

Pending business went to the table.

Senator Guy called up Senate bill No. 350, entitled "An act to amend article 1173 of the Revised Civil Statutes passed by the Sixteenth Legislature, which was read first time.

Senator Guy moved that the rules be suspended and bill placed on its second reading.

Carried by the following vote:

YEAS.		
Buchanan,	Houston,	Motley,
Burnett,	Lane,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Stewart,
Gooch,	Martin,	Shannon,
Grace,	McCormick,	Storey,
Guy,	McCulloch,	Swain,
Hobby,	Moore,	Terrell—24.

NAYS—none.

Not voting—Edwards, Ford.

Bill read second time and ordered engrossed.

On motion of Senator Guy, the rules were further suspended, and bill placed on its third reading by the following vote:

YEAS.		
Buchanan,	Houston,	Motley,
Burnett,	Lane,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Stewart,
Gooch,	Martin,	Shannon,
Grace,	McCormick,	Storey,
Guy,	McCulloch,	Swain,
Hobby,	Moore,	Terrell—24.

NAYS—none.

Not voting—Edwards, Ford.

Bill read third time and passed.

The absent senators appearing, the Senate was announced full and the consideration of House joint resolution No. 32, and Senate joint resolution No. 74 (regulating suffrage, etc.) was resumed.

Senator Burnett offered the following:

“*Provided*, no poll tax for general revenue shall ever be imposed.”

Lost by the following vote:

YEAS.		
Burnett,	Lane,	Ripetoe,
Grace,	Martin,	Swain--7.
Hobby,		
NAYS.		
Buchanan,	Houston,	Patton,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Ford,	McCulloch,	Storey,
Gooch,	Moore,	Terrell--17.
Guy,	Motley,	

Not voting—McCormick.

Senator Edwards stated he was paired with Senator Burton—he would vote “nay” and Senator Burton “yea” on this amendment.

The substitute of Senator Terrell for the amendment of Senator Stewart was then adopted by the following vote:

YEAS.		
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Grace,	McCormick,	Swain,
Guy,	McCulloch,	Terrell--23.
Hobby,	Moore,	

NAYS—none.

Senator Edwards was paired with Senator Burton. Senator Edwards would have voted “nay” and Senator Burton “yea” on this amendment.

Senator Gooch was paired with Senator Homan. Senator Gooch would have voted “nay” and Senator Homan “yea” on this question.

The substitute of Senator Terrell for the amendment of Senator Stewart was then adopted as an amendment to the resolution.

Senator Terrell offered the following:

Amend by inserting the word “thirty” before “days” in my amendment to sixth subdivision.

Adopted.

Senator Storey offered the following:

Strike out “the first Monday” and insert “the first Tuesday in July, A. D. 1879.”

Adopted.

Senator Shannon offered the following:

Strike out the words “under sixty years of age.”

Adopted.

Senator Storey moved to reconsider the vote adopting his amendment just adopted.

Carried and amendment withdrawn.

Senator Storey then offered the following:

Strike out "the first Monday" and insert "the first Tuesday in September, A. D. 1879."

Adopted:

Senator Martin offered the following:

"No poll-tax shall be levied except for school purposes."

Lost by the following vote:

YEAS.		
Burnett, Duncan, Ford,	Grace, Hobby, Martin,	McCormick, Ripetoe---8.
NAYS.		
Buchanan, Davenport, Gooch, Guy, Houston,	Lair, Ledbetter, McCulloch, Moore, Motley,	Patton, Shannon, Storey, Swain, Terrell---15.

Not voting—Lane, Stewart.

Senator Edwards was paired.

Senator Patton moved to adjourn until 7 o'clock P. M.

Lost by the following vote:

YEAS.		
Davenport, Ford, Gooch,	Houston, Martin, Motley,	Patton, Stewart---8.
NAYS.		
Buchanan, Burnett, Duncan, Grace, Guy, Hobby,	Lane, Lair, Ledbetter, McCormick, McCulloch,	Moore, Ripetoe, Storey, Swain, Terrell---16.

Not voting—Shannon, Edwards.

Senator Swain moved the previous question on the engrossment of the resolution.

Motion seconded and main question ordered.

The resolution (Senate joint resolution No. 74) was then ordered engrossed by the following vote:

YEAS.		
Buchanan, Duncan, Ford, Grace, Guy,	Hobby, Houston, Lair, Ledbetter, McCulloch,	Motley, Storey, Swain, Terrell---14.
NAYS.		
Burnett, Davenport, Gooch,	McCormick, Moore, Patton,	Ripetoe, Stewart, Shannon---9.

Not voting—Lane, Martin.

Senator Edwards was paired with Senator Burton, who would have voted "aye" and Senator Burton "no."

Senator Houston moved to adjourn until 7 o'clock P. M.

Lost by the following vote, (it taking a two-third vote to adopt.)

YEAS.		
Buchanan, Burnett, Davenport,	Ford, Hobby, Houston,	Lair, Martin, Moore,

Motley,
Patton,
Ripetoe,

Stewart,
Storey,

Swain,
Terrell—16.

NAYS.

Duncan,
Edwards,
Gooch,
Grace,

Guy,
Lane,
Ledbetter,

McCormick,
McCulloch,
Shannon—10.

Senator Hobby called up Senate bill No. 343, entitled "An act to promote the science of medicine and surgery, by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof," which was read first time.

On motion of Senator Duncan, the Senate adjourned until 3 o'clock, P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

On motion of Senator Stewart, the Senate adjourned until 7 o'clock P. M.

NIGHT SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

Senate bill No. 114, entitled "An act to provide for the payment of the outstanding indebtedness and the future debts of the several counties in this state," was taken up and read first time.

Senator Edwards (by leave) introduced a bill entitled "An act to amend article 4544, title 92 of the Revised Civil Statutes."

Read by caption and referred to committee on insurance, statistics and history.

Senator Patton, chairman of committee on public claims and accounts (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have had under consideration House bill No. 400, entitled "An act for the relief of S. A. Owens and Mary L. Tarlton, and to authorize the repayment of certain moneys to them improperly collected by the state," and at the request of the proposed beneficiaries under the provisions of the bill, and for the reason that they propose to offer before the committee testimony which cannot likely be had at this session of the Legislature, your committee direct me to report the said bill back to the Senate with the recommendation that no further action be taken on the same during the present session of the Legislature.

PATTON, *Chairman.*

On motion of Senator Gooch the report of the committee was adopted.

Senator Burnett (by leave) introduced a bill entitled "An act to fix, in favor of contractors, sub-contractors and material men, liens on railroads for labor done thereon or material furnished therefor, and to provide for the speedy and efficient enforcement of said liens."

Read by caption and referred to judiciary committee No. 2.

On motion of Senator Duncan, the Senate took recess until 7:45 P. M.

7:45 P. M.

Recess expired; Senate reconvened. Roll called; quorum present.

A message was received from the House announcing that the House was ready to receive the Senate in joint session to receive the portrait of the Hon. Thos. J. Rusk, presented to the state by the artist John S. Morton, Esq.

On motion of Senator Edwards, the Senate proceeded to the hall of the House of Representatives for the purpose just indicated.

JOINT SESSION.

Roll of Senate called; quorum present.

Roll of House called; quorum present.

Hon. Guy M. Bryan introduced Hon. John S. Ford, who, on the part of the doner, presented the portrait of Gen. Thos. J. Rusk to the Legislature of Texas, in a forcible and patriotic address well suited to the occasion.

Hon. B. M. Baker introduced Hon. W. S. Coleman, who received the portrait on the part of the Legislature of the State in an eloquent address.

The Hon. Ashbel Smith was introduced by Hon. W. S. Coleman, and made an appropriate address well befitting the occasion.

The Hon. John H. Cochran introduced his excellency O. M. Roberts, governor of the state, who spoke in glowing terms of the distinguished citizen, soldier and statesman, Gen. T. J. Rusk.

On motion of Senator Grace, Hon. Peyton F. Edwards, of Nacogdoches, addressed the Legislature on the occasion in a suitable and appropriate manner.

Representative Baker offered the following resolution, which was read, and on motion of Mr. Baker was adopted by the House.

On motion of Senator Martin, it was adopted by the Senate.

The resolution is as follows:

Resolved, That the Sixteenth Legislature of the State of Texas returns the most sincere thanks of the state to John S. Morton, Esq., for the most excellent portrait of the Texan patriot and statesman, Gen. Thomas J. Rusk.

Resolved further, That the portrait of Gen. Rusk be suspended in the capitol and carefully preserved, to the end that his face may be always as familiar to posterity as history will make his deeds.

On motion of Senator Grace, the Senate returned to its chamber.

IN SENATE.—Roll called; quorum present.

On motion of Senator Grace, the Senate adjourned until 9 o'clock A. M. to-morrow.

SIXTY-EIGHTH DAY.

SENATE CHAMBER.

AUSTIN, TEXAS, April 2, 1879. {

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and same adopted.

Senator Brown was excused for to-day in consequence of sickness in his family.

Senator Stewart, chairman of judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 358, entitled "An act to fix in favor of contractors and sub-contractors, and material men, liens on railroads for labor done thereon and material furnished therefor, and to provide for the speedy and efficient enforcement of said liens," and having duly considered said bill, respectfully return the same with the recommendation that it do pass.

STEWART, *Chairman.*

Senator Houston offered the following resolution:

Resolved, that the secretary of the senate be directed to procure as at the request of the Senate copies of the addresses delivered in joint session the evening of first of April, A. D. 1879, by Senator Ford and Representative Smith on the occasion of the presentation of the portrait of General T. J. Rusk to the State of Texas; and when so procured to cause the same to be published in the journals that they may be thereby perpetuated and transmitted for the profit and instruction of those who are to come after us.

Senator Edwards offered the following amendment:

"Amend so as to have 500 copies each of the addresses of the senator from Cameron and representative from Harris county published for distribution."

Amendment adopted.

The resolution, as amended, was then adopted.

Senator Lane, under the rules, called up Senate bill No. 298, entitled "An act granting an extension of time to the Rockport, Fulton and Laredo railroad company for the construction of the road," which was read second time and ordered engrossed.

Senator Lair presented the resignation of the secretary of the Senate, which was accepted.

On motion of Senator Grace the Senate proceeded to the election of a successor to Major Chalmers, whose resignation had just been accepted.

The president announced that nominations were in order.

Senator Storey nominated J. P. C. Whitehead, Esq., (the present reading secretary).

Senator Duncan nominated W. A. Fields, Esq., (the present first assistant secretary of the Senate).

Senators Grace and Moore were appointed tellers.

Senator Duncan withdrew the name of Assistant Secretary Fields.

The Senate proceeded to ballot with the following result:

Mr. Whitehead received twenty-three votes and Mr. Fields received one vote (which was only complimentary, as he was not a candidate).

The president declared Mr. J. P. C. Whitehead duly and legally elected secretary of the Senate.

The secretary elect then came forward and was duly qualified.

Senator Storey, chairman of the committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 356, entitled "An act to provide for the assessment and collection of taxes on land and other property in unorganized counties and for the enforcement

of the same," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Senator Ledbetter called up Senate bill No. 346, entitled "An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state, and to supply deficiencies in the general revenue, and to provide the mode and manner of the sale of said bonds to the several counties in this state."

(Senator Houston in the chair.)

Senator Edwards offered the following:

Insert in line fifteen, page 4, after the word "state," "after having made a contract as required in this section."

Adopted.

Senator Gooch offered the following:

Page 3, lines ten, eleven and twelve: strike out the words in line ten, after the words "they shall be," down to the word "provided;" in line twelve, and insert "sold under the direction of the governor."

Adopted.

Senator Storey offered the following:

Amend line eleven, page 3: Insert after the word "some" the following: "through the comptroller of the state or such other agents as he may deem necessary."

Adopted.

Senator Edwards offered the following:

"Section 16. The bonds created by and issued under this act, shall be received by the comptroller and treasurer in lieu of money in payment of the principal arising from any sale of lands belonging to the public free schools, university and asylums, and said bonds, when received, shall be placed to the credit of said special funds."

Adopted.

Also the following:

Add after the word "for," in line twelve, page 3, the words "and accrued interest."

Adopted.

Amend line twenty-four, page 5: Strike out the words "issued or sold to any such" and insert "exchanged for the bonds of any."

Adopted.

Add after the last word of amendment of Senator Storey, section 3, the following:

"But no such agent shall receive more than one-fourth of one per cent. on the amount sold by him for making any such sale."

Adopted.

Senator Swain offered the following:

"Strike out lines thirteen and fourteen in section 16."

Lost.

Senator Duncan offered the following:

Amend line six, page 2, by inserting after the words and figures of "July, 1879," these words, "at the option of the state."

Senator Patton offered the following as a substitute for the amendment of Senator Duncan:

Insert after the word "bonds" in line five, page 2, "of the denomination of \$100 and \$1000," and in line six, after "1879," insert the words

“and of the denomination of \$5 00 and \$10 00, at the option of the state.”

Lost.

The amendment of Senator Duncan was then lost.

Senator Duncan offered the following:

In line nineteen, page 4, after the words “eight hundred thousand” insert “payable at the option of the government thirty years from the first day of July, 1879,” and insert same language in line twenty, same page, after figures \$200,000.

Lost.

Senator Storey offered the following:

Amend line one, page 6: Strike out “any event allow therefor” and insert “no event shall the bonds be so paid out or exchanged at less than.”

Adopted.

Senator Burnett moved to reconsider the vote by which the amendment of Senator Patton was lost.

Carried.

Senator Gooch offered the following as an amendment to the amendment of Senator Patton:

In amendment, after word payable, insert “in thirty years and redeemable.”

Adopted and the pending amendment as amended was again lost.

Senator Gooch offered the following:

Page 8, line seven, after words “with bonds” insert “except the amount of such warrants as are or may be drawn, or the deficiency appropriation to the aggregate of two hundred thousand dollars.”

Adopted.

Senator Terrell offered the following:

Amend page 4, line five, by inserting after the word “governor” the words “acting in conjunction with the comptroller and treasurer,” and in line six insert “they” for word “he.”

Adopted.

Also, the following:

Strike out all after the word “year,” in line eight, page 1, down to “and,” in line ten, and insert in lieu thereof the following: “on presentation at the treasury.”

Lost by the following vote:

	YEAS.	
Buchanan,	Guy,	Lair,
Davenport,	Houston,	Terrell--6.
	NAYS.	
Burnett,	Lane,	Ripetoe,
Duncan,	Ledbetter,	Stewart,
Edwards,	Martin,	Shannon,
Ford,	McCormick,	Storey,
Gooch,	Motley,	Swain--17.
Grace,	Patton,	

Not voting—Hobby, Moore.

Senator Gooch offered the following:

“And shall keep a duplicate list of the bonds and coupons destroyed, stating the number, series and amount of both bonds and coupons destroyed, and sign the same, and one copy thereof shall be deposited in the office of the comptroller of public accounts, and one in that of the

secretary of state, and such redemption and destruction shall be noted by the custodians of the registry made thereof at the time of their issuance."

Adopted.

Senator Patton offered the following:

"Strike out section 17."

Senator McCormick offered the following:

In lines thirteen and fourteen on page 8, section 16 of the printed bill, strike out the words "being issued at a rate of one-half of one per cent. less than it would be if made taxable."

Lost by the following vote:

YEAS.		
Burnett, Ledbetter,	Martin, McCormick,	Ripetoe--5.
NAYS.		
Buchanan, Davenport, Duncan, Edwards, Ford, Gooch, Grace,	Guy, Hobby, Houston, Lane, Lair, Moore, Motley,	Patton, Stewart, Shannon, Storey, Swain, Terrell--20.

The amendment of Senator Patton was then adopted by the following vote:

YEAS.		
Buchanan, Burnett, Davenport, Duncan, Ford,	Gooch, Hobby, Lair, Moore, Patton,	Ripetoe, Shannon, Storey, Swain--14.
NAYS.		
Edwards, Grace, Guy, Houston,	Lane, Ledbetter, Martin, McCormick.	Motley, Stewart, Terrell--11.

(President in the chair.)

The president, after reading its caption, signed House bill No. 50, entitled "An act authorizing the commissioner of the general land office to approve the bounty land certificates issued to the heirs of William Fitzbaugh, deceased, who fell at the Alamo."

Senator Duncan, from the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined and compared and find correctly engrossed Senate bill No. 350, "An act to amend article 1173 of the Revised Civil Statutes passed by the Sixteenth Legislature," also Senate joint resolution No. 74, "Joint resolution proposing an amendment to the constitution of the State of Texas."

DUNCAN, *for Committee.*

Senator Edwards offered the following:

Strike out "entered of record," line nine, page 3, and insert "registered;" and strike out the words "and recorded," in line ten, same section.

Adopted.

Senator Storey offered the following:

Amend line twenty-eight, section 7, by inserting after the word "select," the following, viz: "or at the treasury of the state, at the option of the holder."

Adopted.

Senator Gooch offered the following:

Amend page 2, section 2, line seven after the word "rate" strike out the word "of" and insert in lieu thereof the words "not higher than."

Lost by the following vote:

YEAS.		
Buchanan,	Guy,	Patton,
Burnett,	Hobby,	Shannon,
Duncan,	Lair,	Swain—10.
Gooch,		

NAYS.		
Davenport,	Lane,	Motley,
Edwards,	Ledbetter,	Ripetoe,
Ford,	Martin,	Stewart,
Grace,	McCormick,	Storey,
Houston,	Moore,	Terrell—15.

Senator Terrell moved to reconsider the vote adopting the last amendment of Senator Storey.

Carried and the amendment again adopted.

Senator Ford moved to reconsider the vote by which section 17 was stricken out.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Ford.

Pending business went to the table.

The absent senator appearing, the Senate was announced full, and the consideration of the pending bill was resumed.

The motion of Senator Ford to reconsider was then carried by the following vote:

YEAS.		
Edwards,	Lane,	Ripetoe,
Ford,	Ledbetter,	Stewart,
Grace,	Martin,	Storey,
Guy,	McCormick,	Terrell—14.
Houston,	Motley,	

NAYS.		
Buchanan,	Gooch,	Patton,
Burnett,	Hobby,	Shannon,
Davenport,	Lair,	Swain—11.
Duncan,	Moore,	

The motion of Senator Patton to strike out section 17 was then lost by the following vote:

YEAS.		
Buchanan,	Gooch,	Patton,
Burnett,	Hobby,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Moore,	Swain—12.

NAYS.		
Edwards,	Lane,	Motley,
Ford,	Ledbetter,	Ripetoe,
Grace,	Martin,	Storey,
Guy,	McCormick,	Terrell—13.
Houston,		

The bill was then ordered engrossed by the following vote:

YEAS.

Burnett,
Edwards,
Ford,
Grace,
Guy,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
Moore.

Motley,
Stewart,
Shannon,
Storey,
Swain--16.

NAYS.

Stewart,
Buchanan,
Davenport,
Not voting—Ripetoe.

Duncan,
Gooch,
Hobby,

McCormick,
Patton,
Terrell- 9.

Senator Burnett called up Senate bill No. 358, entitled "An act to fix in favor of contractors and subcontractors and material men liens on railroads for labor done thereon and material furnished therefor, and to provide for the speedy and efficient enforcement of said liens," which was read first time and fifty copies ordered printed.

Senator Patton called up Senate bill No. 318, entitled "An act to legalize certain land claims therein named," which was taken up and the Senate refused to pass the bill to its engrossment.

Senator Edwards offered the following resolution:

Resolved, That the comptroller of public accounts be requested to furnish to the Senate a statement of the condition of the accounts of each tax collector in this state, relating to the collection of taxes for the years 1876 and 1877; and that said report shall show specifically what taxes were assessed for each of said years and turned over to each collector, and amount of same collected and reported, and amount paid into the treasury, and amount collected and not reported or so paid in.

Resolution adopted.

Senator Storey called up Senate bill No. 356, entitled "An act to provide for the assessment and collection of taxes on lands and other property in unorganized counties, and for the enforcement of the same," which was read first time.

Senator Storey moved to suspend the rules to place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Houston,
Lair,
Ledbetter,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell—21.

NAYS—none.

Not voting—Lane, Martin, McCormick, Stewart.

Bill read second time.

Senator Storey offered the following:

Add to section 6 "or if demanded by the owner."

Adopted, and bill ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lair,
Ledbetter,
McCormick,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell--21.

NAYS—none.

Not voting—Duncan, Lane, Martin, Stewart.

Bill read third time.

Senator Buchanan offered the following:

“Amend by striking out section 6.”

Adopted.

On motion of Senator Davenport, Assistant Secretary W. A. Fields was excused from Saturday next until to-day week.

The pending bill was then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell--22.

NAYS.

Grace,

Houston--2.

Not voting—Hobby.

Senator Gooch, from the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and compared the following bills and find them correctly engrossed:

Substitute for Senate joint resolution No. 92, entitled “Joint resolution amending section 24, article 3 of the constitution.”

Senate bill No. 138, entitled “An act to amend articles 747 and 748 of the Penal Code adopted at the present session of the Legislature.”

Senate bill No. 311, entitled “An act for the relief of Wm. Judge.”

Senate bill No. 329, entitled “An act to attach the county of Jones to the county of Taylor for judicial purposes.”

Senate bill No. 336, entitled “An act amendatory of and supplementary to an act entitled ‘an act to consolidate in one act and amend the several acts incorporating the city of Houston in Harris county, approved January 23, 1874, and the several acts amendatory thereof.’”

Senate bill No. 252, entitled “An act to amend chapter 2 of title 15 and chapter 1 of title 16 in the Code of Criminal Procedure of an act entitled ‘an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas.’” Gooch, for Committee.

Senator Ledbetter moved to adjourn until 9:30 A. M. to-morrow.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,

Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
Moore.
Motley,
Patton,
Ripetoe.
NAYS—none.

Stewart,
Shannon,
Storey,
Swain,
Terrell—24.

Not voting—Hobby.

SIXTY-NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 3, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and the same adopted.

A message was received from the House announcing as follows:

That the House has adopted the following concurrent resolution:

Resolved, That the House of Representatives of the Sixteenth Legislature, the Senate concurring, do adjourn *sine die* on Monday, April fourteenth, at 12 o'clock m.

The House concurs in Senate amendments to House bill 394, "An act to repeal chapters 1, 2 and 3 of title 64 of the Civil Code," adopted February 21, 1879.

That the House has adopted the following resolution:

WHEREAS, Under the present judiciary article in the constitution it is impossible for the supreme court to dispose of the business in that court and no joint resolution proposing an amendment has yet passed both houses

Resolved, That a special committee of five be appointed on the part of the House to act in conjunction with a like committee on the part of Senate to report a joint resolution, submitting to the vote of the people a new judiciary article to the constitution; and that Messrs. Jones, of Hunt, Coleman, Gause, McComb, Frost, Finlay, Taylor, of Marion, Johnston, of Leon, Wurzbach and English have been appointed a committee upon the part of the House.

Senator Moore, chairman of committee on commerce and manufactures, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on commerce and manufactures, to whom was referred Senate bill No. 352, "An act to be entitled 'an act to amend article 3649 of the Revised Civil Statutes,' passed February 21, 1879," have carefully considered the same, and instruct me to report the bill back to the Senate and recommend its passage.

MOORE, *Chairman.*

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration Senate concurrent resolution, "to require the state treasurer, when any of the state's moneys, bonds or warrants are to be deposited, paid out, sold or received in or through any public or private bank or banking institution, to do such

business with such bank or banking institution that are known to be solvent and reliable, and that will transact such business for the state without charge, or for the least amount of percentage," and I am instructed by the committee to report the resolution back to the Senate with the following amendments: Strike out the word "agreeing," in the caption, and insert in lieu thereof, the word "concurring." Strike out all after the word "percentage," at the end of the fourth line from the bottom; and as so amended to recommend its adoption.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 355, entitled "An act to amend articles 4746 and 4747 of the Revised Civil Statutes adopted at the present session of the Legislature," have duly considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do pass.

STOREY, *Chairman.*

The president, after reading its caption, signed House bill No. 394, entitled "An act to repeal chapters 1, 2 and 3 of title 64 of the Civil Code," adopted February 21, 1879.

Senator Stewart called up Senate joint resolution No. 9, "Proposing an amendment to article 1 section 11 of the constitution," with a substitute, which was read second time.

Senator Stewart moved to adopt the substitute of the committee.

Adopted.

Senator Burnett offered the following:

Strike out the word "twice" and insert "once."

Lost by the following vote:

YEAS.		
Burton, Lair,	Martin,	Moore—4.
NAYS.		
Buchanan, Davenport, Duncan, Edwards, Ford, Gooch,	Grace, Guy, Hobby, Lane, Ledbetter, McCormick,	Ripetoe, Stewart, Shannon, Storey, Swain, Terrell—18.

Not voting—Motley, Patton.

Senator Storey offered the following:

Amend by striking out the word "affidavit."

Adopted.

Senator Edwards offered the following as a substitute for the substitute of the committee:

"All prisoners shall be bailable by sufficient sureties, unless charged with felonious homicide, when the proof is evident. But this shall not be so construed as to prevent bail after indictment found upon examination in such manner as may be prescribed by law."

Senator Gooch offered the following as an amendment to the pending substitute of Senator Edwards:

Before the words "felonious homicide," insert the letter "a."

Adopted.

Senator Ledbetter moved to postpone the pending bill until day after to-morrow.

Lost.

Senator Edwards then withdrew his substitute.

Senator Duncan offered the following:

Insert after "homicide" "or any capital felony."

Adopted, and joint resolution ordered engrossed.

Senator Swain called up House bill No. 414, entitled "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668 inclusive, of chapter 1 title 94 of the Revised Civil Statutes, adopted February 21, 1879," which was read first time.

Senator Swain moved that the rules be suspended and bill placed on its second reading.

Lost by the following vote (it taking a four-fifth vote to suspend).

YEAS.

Buchanan,
Burnett,
Duncan,
Gooch,
Hobby,

Lair,
Ledbetter,
Martin,
Moore,
Motley,

Patton,
Ripetoe,
Swain,
Terrell---14.

NAYS.

Davenport,
Edwards,
Ford,
Grace,

Guy,
Lane,
McCormick,

Stewart,
Shannon,
Storey---10.

Senator Gooch (by leave) introduced a joint resolution requesting our senators and representatives in congress to use their influence to secure the passage of what is known as the inter-state commerce bill, introduced by Hon. John H. Reagan, of Texas, or of some other having the same object in view.

Referred to the committee on internal improvements.

The president placed before the Senate the resolution reported from the House this morning "appointing a joint committee to prepare a new judiciary article to the constitution."

On motion of Senator Ledbetter, the Senate adopted the resolution referred to, and the president appointed on said committee, on the part of the Senate, Senators Terrell, Edwards, Stewart, McCormick and Lane.

Senator Edwards moved to add five more senators to the committee just appointed.

Adopted.

Senator Edwards moved to reconsider the vote just taken.

Motion withdrawn, and the following senators were added to the committee, under the motion of Senator Edwards just adopted, to wit: Senators Hobby, Shannon, Storey, Buchanan and Gooch.

Senator Buchanan called up Senate bill No. 335, entitled "An act to amend articles 4746 and 4747 of the Revised Civil Statutes, adopted at the present session of the Legislature," which was read first time.

Senator Storey called up joint resolution "amending section 18 article 3 of the constitution," which was read second time and ordered engrossed.

(Senator Stewart in the chair.)

Senator Burnett called up Senate bill No. 339, entitled "An act to amend article 425 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879," which was read second time and ordered engrossed.

Senator Burnett moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Lane,	Patton,
Burnett,	Lair,	Ripetoe,
Davenport,	Ledbetter,	Stewart,
Duncan,	Martin,	Shannon,
Edwards,	McCormick,	Storey,
Gooch,	Moore,	Swain,
Guy,	Motley,	Terrell—21.

NAYS—Grace.

Not voting—Ford, Hobby.

Bill read third time and passed.

A message was received from the House announcing the passage by that body of the following bills:

House bill No. 75, entitled "An act to amend section 21, section 37 and section 38 of 'an act to provide for the election of justices of the peace, and to define their powers and jurisdiction,' approved August 17, 1876."

House bill No. 78, entitled "An act to amend section 16 of 'an act regulating elections,' approved August 23, 1876."

House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising and for the protection of stockraisers,' approved August 23, 1876."

House bill No. 101, entitled "An act to refund to any person all moneys that have been paid into the state treasury on any note or obligation given for university lands and not properly credited to the same."

The bills just reported from the House were taken up and referred as follows:

House bill No. 75 referred to judiciary committee No. 1.

House bill No. 78 referred to judiciary committee No. 2.

House bill No. 99 referred to committee on stock and stockraising.

House bill No. 101 referred to committee on finance.

Senator Ford called up Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish separate from community property," which was read third time and passed.

Senator Grace called up Senate bill No. 311, entitled "An act for the relief of William Judge," which was read third time and passed.

Senator Lair called up Senate bill No. 343, entitled "An act to promote the science of medicine and surgery by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof," which was read second time.

On motion of Senator Davenport, the pending bill was postponed until to-morrow.

(President in the chair.)

Senator McCormick called up Senate bill No. 352, entitled "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879," which was read first time.

(Senator McCormick in the chair.)

Senator Edwards, chairman of committee on insurance, statistics and history, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on insurance, statistics and history, to whom was referred Senate bill No. 357, "An act entitled 'an act to amend article

4544, title 92, of an act to adopt and establish the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature," have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass.

EDWARDS, *Chairman.*

On motion of Senator Patton, the Senate went into executive session.

IN SENATE.—(President in the chair.)

Senator Ledbetter moved that the secretary be instructed to enter upon the journals the confirmations made by the Senate in the executive session just held.

In obedience to which order it is stated that the Senate confirmed Andrew Munn, as pilot commissioner of the port of Galveston (the name, Anderson Munn, heretofore acted upon, not being the correct name), and W. W. Lang, as assistant superintendent of the penitentiary.

On motion of Senator Duncan, the Senate adjourned until 9:30 A. M. to-morrow.

SEVENTIETH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 4, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ripetoe, the reading of the journals of yesterday was dispensed with and same adopted.

On motion of Senator Edwards, Senator Gooch was excused until Tuesday morning next.

A message was received from the House announcing the passage by that body of House bill No. 412, entitled "An act making appropriations for deficiencies, beginning September 1, 1876, and ending February 28, 1879, and for previous years."

House bill No. 497, entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature."

Senate bill No. 207, entitled "An act supplementary to and amendatory of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Senate bill No. 46, entitled "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas."

House concurs in Senate amendments to House bill No. 237, "An act for the better protection of timber."

The House refuses to concur in Senate substitute for substitute House bill No. 33, "An act to amend article 4767 of the Revised Civil Statutes," asks for a committee of conference, and Messrs. Gaither, McComb, Merritt and King have been appointed a committee on part of the House.

The House concurs in Senate amendments to substitute House bills 305 and 335, "An act for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same."

The following bills just reported from the House were taken up and referred to appropriate committees, to wit:

House bill No. 497, to judiciary committee No. 2.

House bill No. 412, to the committee on finance.

On motion of Senator Grace, a committee of conference was appointed on the differences of the two houses on substitute for House bill No. 33, entitled "An act to amend article 4767 of the Revised Civil Statutes of the State of Texas," reported from the House this morning.

The president appointed as said committee on the part of the Senate, Senators Grace, Duncan and Ledbetter.

On motion of Senator Stewart, Senator Brown was excused for the day in consequence of sickness in his family.

Senator Motley, chairman of the committee on state asylums, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on asylums, in obedience to a resolution of the Senate, appointed a sub-committee with power to send for papers and examine witnesses; as soon thereafter as possible said sub-committee, in conjunction with a like sub-committee on the part of the House of Representatives, proceeded to examine into the management, conduct and affairs of the Lunatic Asylum. The sub-committee have made a thorough examination of the books and have visited the asylum and satisfied themselves as to the treatment, comfort and convenience of the insane confined therein.

We find that the affairs of the asylum have been for the past two years economically administered. For instance, while in other institutions for insane, the number of medical officers is one to each one hundred patients, in this asylum, where there are three hundred patients, there are only two medical officers. In addition to this, in other institutions, the services of a clerk, treasurer and frequently an apothecary are required and paid salaries; here all this work is performed by the superintendent and assistants. Again, while in other institutions the allowance is one attendant for every ten patients, in this we have one attendant for eighteen patients. In other institutions, in addition to these regular attendants, the services of a supervisor are deemed necessary, whose duty is to exercise supervision over the other attendants; here this service is performed by the matron and steward.

We find that the cost to the state per capita per annum of each patient is \$173, while the average cost per capita per annum throughout the United States is \$267, a difference of \$94 per capita in favor of the present management.

In the matter of improvement, we find that under the present superintendency accommodations have been made for two hundred patients, at a cost per capita of about \$250, while the average cost throughout the United States is \$2100, making a difference in favor of the Texas institution of \$1850. For example, in the State of New York the cost of accommodations per capita is \$3100; here we see a difference in favor of Texas of \$2850.

Rumors have been afloat that cruelties have been practiced; that patients were confined in dark rooms; that straight jackets were the order of the day. Your committee have specially investigated these rumors, although they had not the respectability of complaints, and we emphatically deny the truth or foundation of such rumors. Dark rooms do not exist within the walls of the asylum; there are no straight jackets, nor are restraints of any kind practiced, except in a very light degree. The

number of cures and the hygienic condition of this institution compare most favorably with others of the kind throughout the United States. The treatment of the patients is kind and considerate, and a person ignorant of the character of the building visiting the Texas asylum could not tell that he was within the confines of a lunatic asylum.

In view of the above facts and others not necessary to be specifically enumerated, we can safely say that the institution for the insane of Texas is accomplishing as much and more for the money expended than any other of a similar character in the United States. Your committee are of the opinion that Dr. D. R. Wallace, the present superintendent, is the right man in the right place. Your committee think that the highest interests of the state demand that no changes be made, either in the management or the superintendency; that the present incumbents have in a remarkable degree shown their efficiency and fidelity. In the whole investigation your committee were unable to find a solitary instance of abuse of trust or authority on the part of the superintendent, assistant managers, matron, steward or employes. On the contrary, we find that every action of the officials has been characterized by kindness and consideration. Harmony prevails throughout every department, and in conclusion we think it due the present superintendent that we embody in this report our hearty endorsement of the management, conduct and affairs of the lunatic asylum for the past two years.

MORLEY, *Chairman Senate Committee.*

LARKIN, *Chairman House Committee.*

The president, after reading its caption, signed House bill No. 237, entitled "An act for the better protection of timber."

Senator Terrell offered the following resolution:

Resolved, the House concurring, That since the joint committee appointed on the part of the Senate and House to prepare a new judiciary article have been unable to meet and deliberate on account of the sessions of the House, which are held during the night as well as day, that the said committee be excused during afternoon sessions from attendance on both houses until their report is made.

Senator Storey offered the following as a substitute for the pending resolution:

Resolved, That the senators appointed on the joint committee of the two houses on constitutional amendments be excused from attending at the evening sessions of the Senate whenever the committee of the House will agree to meet the Senate committee, and that the House be notified of the adoption of this resolution.

On motion of Senator Terrell, the pending resolution and substitute were laid over until to-morrow morning.

Senator Stewart (by leave) introduced a bill entitled "An act to amend the second section of 'an act to regulate the respective duties of district and county attorneys, approved August 21, 1876.'"

Read by caption and referred to judiciary committee No. 2.

Senator Grace, under the rules, called up Senate bill No. 310, entitled "An act for the relief of J. S. Daugherty," which was read second time.

The amendments of the committee were adopted and the bill ordered engrossed.

Senator Shannon, chairman of committee on internal improvements (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on internal improvements, to whom was referred Senate joint resolution No. 359, "Instructing our senators and requesting our representatives in congress to use their influence to secure the passage of what is known as the inter-state commerce bill, introduced by Hon. Jno. H. Reagan, of Texas, or of some other having the same object in view," have considered the same, and I am instructed to report it back to the Senate and recommend its passage. SHANNON, *Chairman*.

Senator Hobby called up House bill No. 414, entitled "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1, title 94 of the Revised Civil Statutes," adopted February 21, 1879, which was read second time.

Senator Stewart moved to postpone the bill until next Tuesday, which was carried by the following vote:

YEAS.		
Davenport, Duncan, Edwards, Ford, Grace,	Guy, Lane, McCormick, McCulloch, Patton,	Stewart, Shannon, Storey, Terrell—14.
NAYS.		
Buchanan, Burnett, Gooch,	Hobby, Lair, Ledbetter,	Martin, Moore, Motley—9.

Not voting—Storey.

Fifty copies of the bill, with amendments, were ordered printed again.

Senator Lane called up Senate bill No. 337, entitled "An act granting a land certificate of 640 acres to each of the indigent pensioners enrolled under the act approved July 28, 1876," which was read second time.

Senator Gooch offered the following amendment.

"Strike out that part of the bill which exempts the certificates or land from taxation."

Senator Swain moved to postpone the bill to Thursday next.

Senator Shannon moved to postpone the bill until Wednesday next just after the morning call, and make it the special order for that time, and from day to day until disposed of, and that fifty copies of the bill be printed for the use of the Senate.

The motion of Senator Swain was lost by the following vote:

YEAS.		
Buchanan, Lair, Martin,	McCulloch, Moore, Patton,	Storey, Swain, Terrell—9.
NAYS.		
Burnett, Davenport, Duncan, Edwards, Ford,	Gooch, Grace, Guy, Lane, Ledbetter,	McCormick, Motley, Stewart, Shannon—14.

Not voting—Hobby, Ripetoe.

Senator Edwards made the point of order that as one motion to postpone had been voted down, Senator Shannon's motion is out of order.

Point sustained.

(Senator Duncan in the chair.)

The amendment of Senator Gooch to the pending bill was then adopted.

Senator Ford offered the following:

Insert after the word "signers," in line eleven, the following: "or who may make proof of being entitled to a pension in pursuance of said law and the provisions of this act."

Adopted.

Senator Shannon moved to postpone the bill until Wednesday next, and make it the special order for that time, and from day to day until disposed of, and that fifty copies of the bill be printed for the use of the Senate.

Adopted.

Senator McCormick called up Senate bill No. 352, entitled "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879," which was read a second time.

Senator Stewart moved to postpone the bill until to-morrow, just after the morning call.

Carried.

Senator Gooch, from the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have had under consideration and examination the following resolution and bills, and have found the same correctly engrossed:

Senate joint resolution No. 234, entitled "Joint resolution amending section 11 of article 1 of the constitution of the State of Texas."

Senate joint resolution No. 234, entitled "Joint resolution amending section 18 article 3 of the constitution."

Senate bill No. 339, "An act to amend article 425 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed February 21, 1879.

Gooch, for Committee.

Senator Patton, chairman of committee on public claims and accounts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have considered "Resolution authorizing the committee on public claims and accounts to ascertain and report whether there is an unpaid balance due General Leslie Combs by the State of Texas," and direct me to report that the near approach of the close of the present session of the Legislature and the urgent necessity for the enactment of certain laws of general importance render it improper, if not impracticable, for the present Legislature to enter upon the investigation by said resolution authorized and required, and they further direct me to report the resolution back with the recommendation that it do lie upon the table.

PATTON, Chairman.

On motion of Senator Gooch, the report of the committee was adopted.

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have had under consideration the "memorial of Eggleston & Bro. asking that appropriation be made to pay certain claims against the state for supplies furnished Capt.

J. L. Hall's command," and direct me to report the same back with the request that it be referred to the committee on finance.

PATTON, *Chairman.*

The report of the committee was adopted and bill referred to the committee on finance.

Senator Terrell, chairman of the committee of conference on the differences of the two houses on Senate substitute for House joint resolution No. 2 "proposing amendments to article 8 of the constitution," (the smoke house tax question), submitted the following as the report of said committee:

Hon. J. D. Sayers, President of the Senate, and Hon. John H. Cochran Speaker of the House of Representatives:

Your committee of free conference, to whom was referred House substitute for House joint resolution No. 2, and the Senate joint resolution being a substitute for Senate joint resolution No. 29, have duly considered the matters of disagreement between the two houses concerning both resolutions, and respectfully report the accompanying substitute and recommend its passage:

While the substitute does not meet the approval of all the members of the committee, it is acquiesced in by all in view of the fact that before it can become a part of the organic law it must be approved by the people at the ballot box. Some change in the constitution on the subject of tax exemptions of farm products is, it is believed, almost universally demanded, and in the judgment of your committee no proposed change can receive the requisite majority in both houses, which does not submit to a vote of the people a total exemption of farm products while in the hands of the producer.

TERRELL,

HOBBY,

MARTIN,

for Senate.

TAYLOR, of Marion,

BAKER,

SMITH, of Titus,

for House.

THE SUBSTITUTE OF THE CONFERENCE COMMITTEE.

Substitute for the Senate substitute for Senate joint resolution No. 29, and for the House substitute for House joint resolution No. 2, recommended by committee of free conference, viz: joint resolution amending article 8 of the constitution of the State of Texas by adding a new section to be section 19:

SECTION 1. *Be it Resolved by the Legislature of the State of Texas,* That article 8 of the constitution of the State of Texas, be amended by adding a new section to be styled section 19, to read as follows:

Section 19. Farm products in the hands of the producer and family supplies for home and farm use, are exempt from all taxation, until otherwise directed by a two-thirds vote of all the members elect to both houses of the Legislature.

And be it further resolved, That the governor be requested to submit to the vote of the electors of the state the foregoing proposed amendment to the constitution, at an election to be ordered on the first Tuesday in September, A. D. 1879, in accordance with the provisions of article 17 of the state constitution.

(President in the chair.)

Senator Duncan moved that the report of the committee and substitute be postponed until the first day of May next.

Lost by the following vote:

YEAS.		
Davenport,		Duncan—2.
NAYS.		
Buchanan,	Ledbetter,	Ripetoe,
Burnett,	Martin,	Stewart,
Ford,	McCormick,	Shannon,
Gooch,	McCulloch,	Storey,
Guy,	Moore	Swain.
Hobby,	Motley,	Terrell—19.
Lair,		

Not voting—Edwards, Grace, Lane, Patton.

Senator Terrell moved a call of the Senate.

Call sustained.

Roll called. Absent—Edwards, Grace, Lane, Patton.

Pending business went to the table.

Senator Duncan called up Senate bill No. 46, entitled "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas."

Senator Gooch moved a call of the Senate.

Call sustained.

Roll called. Absent—Grace, Patton.

During the call the pending bill went to the table.

Senator McCulloch called up Senate bill No. 343, entitled "An act to promote the science of medicine and surgery by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof."

The absent senators appearing, the Senate was announced full and the consideration of the report of the conference committee on the differences of the two houses on Senate substitute for House joint resolution No. 8 was resumed.

The report of the committee was adopted by the following vote:

YEAS.		
Buchanan,	Lane,	Motley,
Burnett,	Lair,	Ripetoe,
Edwards,	Ledbetter,	Stewart,
Ford,	Martin,	Shannon,
Gooch,	McCormick,	Storey,
Guy,	McCulloch,	Swain,
Hobby,	Moore,	Terrell—21.
NAYS.		
Davenport,	Grace,	Patton—4.
Duncan,		

The undersigned Senators presented the following to be entered as the reasons for their votes just cast:

We vote yea, though our preference for a more limited exemption was made known by reasons therefor spread on the journals at a former day of the session. Assessments are made of property on hand on the first day of January of each year. By that time the poorer farmers of the state and farm tenants have sold their farm produce, and if any profit has been made by the year's labor, however small, it is on hand in the

shape of money or other property, and must still be taxed, while the wealthier farmer only, who can afford to hold his produce for a higher price, is benefitted by the exemption. We believe an exemption of such an amount only as would be required to meet the average necessities of a Texas family, is all that reflecting people require. A given amount of money must be raised from some source to meet the necessities of the state, and the exemption of the entire cotton, sugar and wheat crop of Texas in the hands of the wealthy planters who are able to hold it, only increases the taxes on small farmers and the poor. Such is our individual view, though since finding that we are in a minority we will not oppose the substitute as reported by the free conference committee, as it must at last receive the approval of the people before it becomes a part of the constitution.

A. W. TERRELL,
MARION MARTIN,
W. D. LAIR,
J. W. MOORE.

The consideration of Senate bill No. 46, which had gone to the table during the call, was now resumed.

Senator Motley offered the following amendment:

Amend report of House committee by striking out "second judicial district."

Withdrawn.

Senator Duncan moved that the Senate do not concur in House amendment adding second judicial district to the bill.

(President *pro tempore* in the chair).

The motion of Senator Duncan was adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Ford,
Guy,
Lair,

Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Shannon,
Terrell—16.

NAYS.

Davenport,
Edwards,
Gooch,

Grace,
Hobby,
Lane,

Storey,
Swain—8.

Not voting—Patton.

Senator Terrell presented the following as his reasons for voting aye on this motion:

"I vote yea, because the matter is local, pertaining to one district. While I believe that a district attorney should be provided for every district in which there are inefficient county attorneys, I defer in this matter to the opinion of the local senator, believing that the interests of the state can be protected in a committee of conference."

Senator Duncan offered the following amendment:

Amend the printed amendment offered by the House to section 2 of the bill by adding to said amendment these words: "Who shall hold his office until the next general election, at which time and at each succeeding general election, a district attorney shall be elected."

Adopted.

Senator Martin offered the following:

Amend: "Do not concur in House amendments," in the insertion in the bill of the thirteenth judicial district.

Adopted.

The other House amendments concurred in.

The consideration of Senate bill No. 343 was resumed.

Senator Lane offered the following:

Amend by adding the following: "Section The near approach of the close of the session, makes it an imperative public necessity that the rule requiring this bill to be read on three several days be suspended, and it is therefore so enacted."

Adopted.

Senator Davenport moved to indefinitely postpone the bill.

Lost by the following vote:

YEAS.		
Burnett,	Grace,	Shaannon--5.
Davenport,	Stewart,	
NAYS.		
Buchanan,	Lane,	Motley,
Edwards,	Lair,	Patton,
Ford,	Ledbetter,	Storey,
Gooch,	McCormick,	Swain,
Guy,	McCulloch,	Terrell--17.
Hobby,	Moore.	

Not voting—Duncan, Martin, Ripetoe.

Senator McCulloch offered the following:

Amend by striking out "be it resolved," wherever it occurs in the bill, and insert "be it enacted."

Adopted, and bill ordered engrossed by the following vote:

YEAS.		
Buchanan,	Lane,	McCulloch,
Edwards,	Lair,	Moore,
Ford,	Ledbetter,	Motley,
Gooch,	Martin,	Patton,
Guy,	McCormick,	Storey--16.
Hobby,		

NAYS.		
Burnett,	Stewart,	Swain,
Davenport,	Shannon,	Terrell- 9.
Grace,		

Not voting—Duncan, Ripetoe.

On motion of Senator Patton, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Buchanan,	Hobby,	Moore,
Burnett,	Lane,	Motley,
Davenport,	Lair,	Patton,
Edwards,	Ledbetter,	Ripetoe,
Ford,	Martin,	Storey,
Gooch,	McCormick,	Swain,
Guy,	McCulloch,	Terrell--21.

NAYS.		
Grace,	Stewart,	Shannon--3.

Not voting—Duncan.

Bill read third time and passed by the following vote:

YEAS.		
Buchanan,	Lane,	McCulloch,
Edwards,	Lair,	Motley,
Gooch,	Ledbetter,	Patton,
Guy,	McCormick,	Storey--13.
Hobby,		

NAYS.

Burnett,
Davenport,
Duncan,
Ford,

Grace,
Martin,
Moore,
Ripetoe.

Stewart,
Shannon,
Swain,
Terrell—12.

A message was received from the House announcing the passage by that body of Senate bill No. 324, entitled "An act to repeal article 2971 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February _____, 1879."

Senate bill No. 225, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Trinity county and to conform the jurisdiction of the district court of said county to said change."

And that the House has adopted the report of the committee of free conference on the disagreements of the two houses on Senate joint resolution No. 29 and House joint resolution No. 2, and that the substitute recommended by said committee of free conference has passed by two-thirds of all the members elected to the House.

On motion of Senator Terrell, Senate bill No. 324, just reported from the House with amendments, was referred to the committee on insurance, history and statistics.

Senator Storey (by leave) introduced a bill, entitled "An act to allow the heirs of Thomas Toby to sue the state."

Read by caption and referred to judiciary committee No. 1.

The following messages were received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 4, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public from counties of the twenty-fifth senatorial district:

J. D. Easton, Z. T. Fulmore, W. P. Gaines, Osceola Archer, Irwin Eggleston, H. B. Barnhart, W. S. Hotchkiss, J. W. Lawrence, P. De Cordova, Jas. E. Rector, E. W. Shauds, Edward Summerrow, Albert Brown, W. von Rosenberg, N. S. Walton, Flavias Everett, W. B. Raney, Jas. M. Thornton, Jas. D. Sheeks, James R. Johnson, Travis county.

L. M. Mays, John W. Posey, Sidney Seymour, Samuel C. Taylor, J. A. Montgomery, George W. Logan, J. P. Magill, H. B. Shepard, Duncan G. Smith, J. A. Muir, Barclay Martin, W. E. Bouchelle, J. E. Stiles, James Elliott, R. W. Dodd, R. H. Price, John McCamley, J. W. Hodges, John Threadgill, D. V. Grant, Williamson county.

A. G. Walker, Columbus Townsend, Woods Miller, Alvin Anderson, Richard Hill, Reuben Senterfit, W. B. Abney, James A. Hamman, John A. Huling, Whitfield Chalk, Lampasas county.

T. P. Hall, E. J. Moses, C. C. Stewart, Thomas Vaughn, J. J. Haynes, Tilman Faubion, Randolph Lawrence, T. E. Hammond, Burnet county.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 4, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following corrections of appointments of notaries public:

Henry P. Downman, of Waller county, in place of Henry P. Dowman.

J. F. Templeton, of Cherokee county, in place of J. A. Templeton
 Wm. Scurlock, of Johnson county, in place of Wm. Scarlock.

C. Y. Kouns, of Johnson county, in place of C. Z. Kouns.

Sam Davis, of Hunt county, in place of B. R. Wilson, deceased.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
 AUSTIN, April 4, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public:

J. W. Hale, Wise county (postponed action).

J. T. White, Smith county.

J. S. Wilson, C. W. Noyes, Collin county.

John J. Mullins, Clay county.

A. F. Brigance, Grimes county.

T. W. Redman, Uvalde county.

Wade Horton, Montague county.

William Charlton, Kaufman county.

M. D. Kirkpatrick, Cameron county.

W. B. Rhode, R. F. Skrehat, Lavaca county.

N. B. Patterson, Delta county.

W. A. McDowell, Jackson county.

C. W. Hartup, Calhoun county.

P. T. Norwood, J. A. Lindsay, A. B. Flint, Marion county.

C. Palmore, Cass county.

Respectfully,

O. M. ROBERTS, *Governor.*

Senator Lair moved that the Senate go into executive session on to-morrow just after the morning call.

Adopted.

Senator Guy entered a motion to reconsider the vote by which Senate bill No. 343, "Providing subjects for anatomical dissection, scientific discovery," etc., was passed.

On motion of Senator Terrell, the Senate adjourned until 9:30 o'clock A. M. to-morrow.

SEVENTY-FIRST DAY.

SENATE CHAMBER,
 AUSTIN, TEXAS, April 5, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Hobby, the reading of the journals of yesterday was dispensed with and same adopted.

On motion of Senator Edwards, Senator Stewart was excused indefinitely from Monday next.

On motion of Senator Hobby, Senator Swain was excused for six days from Monday next.

On motion of Senator Swain, Senator Tilson was excused for six days from Monday next.

Senator Motley, chairman of committee on state asylums, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on asylums beg leave to report that, in compliance with a resolution adopted by the Senate and House of Representatives, authorizing the appointment of a joint sub-committee, with power to send for papers and examine witnesses, said sub-committee was appointed and proceeded, as soon thereafter as practicable, to investigate the management, conduct and affairs of the institution of learning for the blind, and have submitted to your committee, by report, the result of their investigation; and your committees instruct us to submit the following for the consideration of the Senate and House of Representatives:

The financial management of the institution has been an honest and efficient one. Every monetary transaction connected with the management is explicitly and satisfactorily shown by the books of the superintendent; the purpose and the result of every expenditure is patent.

Perfect harmony prevails in every department of the institution, and among the pupils happiness reigns supreme. The superintendent, Dr. Rainey, and the unfortunate blind under his charge, seem bound together by a silken cord of love—he actuated by the most tender motives of parental solicitude—they by those feelings of gratitude and love which should govern children in their domestic relations. This state of affairs is truly commendable, and is apparent to all who visit this home of the blind of Texas.

We would call the attention of the Legislature to the following facts, as reported by the sub-committee: • “We find upon examination that the institution is not large enough for the proper management of the affairs pertaining to the different departments. The kitchen, wherein cooking is done for over ninety persons, is only thirteen feet square; this room is almost entirely filled by an enormous hotel cooking stove and utensils. The only available space for laundry is a small frame building, 10x20 feet, wherein are congregated wash tubs, old fashioned boilers, a smoothing-iron stove, a bedstead for drying purposes and the dirty clothes for over ninety persons. In addition, in wet weather, for over a week at a time, it is impossible to dry the clothing. We submit that the building is entirely unsuited for the purposes. Music is a constituent element in the perfection of the education of the blind; there is no room for piano tuning; there are no commodious music rooms. We find for instance, one room serving the purposes of an office for the superintendent, music room for teacher and practice, class singing and bed room; other rooms are as badly crowded. Costly musical instruments, from force of necessity, are placed in open halls, where they are liable to abuse and the practice on which disturbs the literary teachers. The palings around the enclosure are sadly in need of repairs.”

We might go on and enumerate a hundred inconveniences arising from the necessarily crowded state of things; but we have enumerated enough to show that the institution should be enlarged. To place the institution on a basis which would warrant a comparison with similar institutions in the older states, more than fifty thousand dollars would be necessary; but, in view of the present financial embarrassment of the state, we recommend that \$7500 be appropriated to build a school room, laundry, kitchen, and other improvements, the need for which is so pressing. There should be no hesitancy in appropriating this amount, for we believe that on it depends the efficiency of the school. In conclusion,

your committee deem it necessary to state that they would be recreant to their trust and remiss in their duty did they not fail to note the fact that they are fully impressed with the conviction that the present superintendent and his subordinates have discharged, with marked ability and fidelity, the high and responsible trust confided to their care. By their superb management, they have made the Blind Asylum an honor to the state; they have made it an asylum for the blind in every sense of the word. We feel no hesitancy in asserting that there is not a child in the institution who does not prefer the pleasures and associations of the place to those of their own home, however pleasant the latter may be. There is a bond of sympathy between them as indissoluble as adamant, and the links of which are as firm as steel. Your committee cannot refrain from expressing their firm conviction that when those charged with the management of these state charities discharge their trusts with efficiency and fidelity they are entitled to appreciative testimonials from us, the representatives of the people. Your committee are of the opinion that sound policy, and the good of these unfortunates, forbid any changes in the management, unless for inefficiency, negligence or lack of integrity; that it is the highest duty of the state to provide for the education and culture of the unfortunate and to render them as comfortable and happy as their condition in life will admit. To make this institution what the state desires some money will be required; and your committee have recommended a specific amount, which at the best will no more than provide for those improvements, absolutely necessary.

MOTLEY,

Chairman Senate Committee..

LARKIN,

Chairman House Committee.

Senator Lair offered the following resolution:

Resolved, That the secretary of the Senate be required, after the adjournment of the Sixteenth Legislature, to make out an alphabetical list of all the unfinished business of the present session and file the same with the secretary of state, taking his receipt therefor. Also an alphabetical list of all Senate bills that may have become laws, and forward one to each of the members of the Senate. He is hereby further required to superintend the printing of the journals, correct the proof and make a complete index of the journal; and upon completion of the journal and laws, general and special, of this session to forward a copy of each to every member of the Senate; and for this purpose the secretary of the Senate shall be, and is hereby, continued in office for sixty days after the adjournment.

LAIR.

Resolution read and adopted.

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration House bill No. 303, "An act to repeal joint resolution No. 9, approved August 28, 1876," and we find that the joint resolution sought to be repealed has already been repealed by the adoption of the Revised Civil Statutes; I am, therefore, instructed by the committee to recommend that the bill do not pass.

STOREY, *Chairman.*

Report of the committee adopted and bill lost.

On motion of Senator Lair, the Senate went into executive session.

IN SENATE.—(Senator Stewart in the chair).

Senator Burnett moved to spread on the journals the confirmations of the Senate, just made in executive session.

Accordingly the following is entered:

That the Senate, in executive session, did advise and consent to all of the appointments by his excellency the governor of notaries public for the counties of the twenty-fifth senatorial district, and also for the following counties:

Smith, Collin, Clay, Grimes, Uvalde, Montague, Kaufman, Cameron, Lavaca, Delta, Jackson, Calhoun, Marion and Cass.

And, also of Henry P. Downman, of Waller county, in place of Henry P. Dowman.

Wm. Scurlock, of Johnson county, in place of Wm. Scarlock.

C. Y. Kouns, of Johnson county, in place of C. Z. Kouns.

Sam Davis, of Hunt county, in place of B. R. Wilson, deceased.

Senate bill No. 352, entitled "An act to amend article 3649 of the Revised Civil Statutes," passed February 21, 1879, was taken up and ordered engrossed.

Senator Swain called up House resolution on adjournment *sine die*.

On motion of Senator Shannon, the resolution was postponed until Friday next.

Senator Patton, from committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have carefully examined Senate bill No. 182, entitled "An act amendatory of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, town or city in the state that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved June 24, 1876," and report that they find it correctly engrossed.

PATTON, *for Committee.*

Senator Duncan, from committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills, to whom was referred Senate bill No. 345, "An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state and to supply deficiencies in the revenue, and to provide the mode and manner of the sale of said bonds to the several counties in this state."

Senate bill No. 356, "An act to provide for the assessment and collection of taxes on lands and other property in unorganized counties and for the enforcement of the same."

Senate bill No. 298, "An act granting an extension of time to the Rockport, Fulton and Laredo railroad company for the extension of its road."

Senate bill No. 310, "An act for the relief of J. S. Daugherty," have carefully examined and compared the same and find the same correctly engrossed.

DUNCAN, *for Committee.*

Senator Tilson called up substitute for Senate joint resolution No 92, amending "section 24 article 3 of the constitution," which was read third time and passed by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Ford,
Grace,
Guy,
Hobby,
Lane,

Lair,
Martin,
McCormick,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson---22.

NAYS—Burnett.

Not voting—Edwards, Gooch, Ledbetter.

Senator Buchanan called up Senate bill No. 355, entitled "An act to amend articles 4746 and 4747 of the Revised Civil Statutes, adopted at the present session of the Legislature," which was read a second time and ordered engrossed.

Senator Martin entered a motion to reconsider the vote by which substitute for Senate joint resolution No. 92 was passed.

Senator Burnett called up Senate bill No. 358, entitled "An act to fix in favor of contractors and sub-contractors and material men liens on railroads for labor done thereon and material furnished therefor, and to provide for the speedy and efficient enforcement of said liens," which was read second time.

Senator Burnett offered the following amendment:

Section 1, lines two and three, strike out the words "paid for performance of labor" and insert in lieu thereof the following: "performed any contract for labor."

Adopted and bill ordered engrossed.

On motion of Senator Burnett, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Guy,
Hobby,

Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—21.

NAYS—none.

Not voting—Buchanan, Gooch, Grace, Lane, Martin.

Bill read third time and passed by the following vote:

YEAS.

Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Grace,
Guy,
Hobby,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson---23.

NAYS—none.

Not voting—Buchanan, Gooch, Terrell.

Senator Davenport called up Senate bill No. 348, entitled "An act to authorize and allow railroad companies to surrender their rights to reservation of the public domain," which was read second time.

Senator Moore offered the following amendment:

Amend by adding after the word "railroads" in the twenty-sixth line, the following:

"*And it is also provided,* That where locations have been made on any such reservation from the public domain by others than the railroad companies, for the benefit of which said reservation was made, and said locations have been patented by the state, such patents so issued by the state shall be deemed a legal and valid title to the lands upon which said patents have issued."

Senator Patton moved to postpone the bill and pending amendment until Monday next after the morning call.

Carried.

Senator Edwards called up Senate bill No. 346, entitled "An act to provide the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state and to supply deficiencies in the revenue, and to provide the mode and manner of the sale of said bonds to the several counties in this state," which was read third time.

Senator Duncan moved a call of the Senate.

Call not sustained.

Senator Edwards offered the following amendment:

"Section The fact that a portion of said bonds should be sold on or before the first day of July, 1879, creates an emergency that requires this act to take effect at once, and it is therefore declared that this act shall take effect and be in force from and after its passage."

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Edwards,
Ford,
Grace,
Hobby,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Motley,
Ripetoe,
Stewart,
Storey,
Terrell,
Tilson---18.

NAYS.

Buchanan,
Davenport,

Duncan,
Guy,

Patton,
Swain---6.

Not voting—Moore, Shannon.

Senator Patton offered the following amendment:

"Strike out section 17 of the bill."

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Hobby.

Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Tilson---18.

NAYS.

Brown,
Ford,
Grace,

Guy,
McCormick,

Ripetoe,
Terrell---7.

Not voting—Moore.

Bill passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,

Davenport,
Edwards,
Ford,

Grace,
Hobby,
Lane,

Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,

Shannon,
Storey,
Swain,
Tilson—22.

NAYS.

Guy,
Not voting—Duncan.

McCormick,

Terrell—3.

Senator Motley called up Senate bill No. 50, entitled "An act to amend section 1 of an act entitled 'an act to provide for the transferring of all criminal cases, in which indictments have been found, to the proper court having jurisdiction thereof,' approved August 12, 1876," with adverse report of the committee.

On motion of Senator Motley, the report of the committee was adopted and bill lost.

Senator Terrell (by leave) withdrew the resolution offered by him on yesterday, with regard to excusing joint committee on preparing new judiciary article

Senator Storey (by leave) withdrew his substitute for same offered on yesterday.

(The president in the chair.)

A message was received from the House announcing the passage by that body of House bill No. 402, entitled "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of 'an act to adopt and establish the Revised Statutes of the State of Texas.'"

House bill No. 445, entitled "An act to provide for the assessment and collection of the taxes on land and other property, situated in unorganized counties, and for the enforcement of the same."

Senate bill No. 49, entitled "An act to give effect to section 2, article 9 of the constitution, regulating the manner of removing and locating county seats."

Senate bill No. 52, entitled "An act to protect the rights of pre-emption settlers who have heretofore or may hereafter enlist in the frontier battalion or other military forces of the state," and Senate bill No. 53, entitled "An act for the relief of the heirs of Silas Dunmore (deceased).

The House bills just reported from the House were taken up and referred as follows:

House bill No. 402 to judiciary committee No. 1.

House bill No. 445 to committee on finance.

The president, after publicly reading their captions, signed the following bills:

Substitute for House bills 305 and 335, entitled "An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same."

Substitute for Senate joint resolution No. 29 and House joint resolution No. 2, "Amending article 8 of the constitution of the State of Texas by adding a new section, to be section 19."

Senate substitute for House bill No. 207, entitled "An act to amend articles 2403, 2404 and 2405 of the Revised Statutes."

Senate bill No. 225, entitled "An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court of said county to said change."

And Senate bill No. 207, entitled "An act supplemental to, and amen-

datory of, an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.

(Senator Swain in the chair.)

Senator Guy called up Senate bill No. 138, entitled "An act to amend 'an act to amend article 766 of the Penal Code,' approved May 17, 1873," which was read third time and passed.

Senator Grace called up Senate bill No. 310, entitled "An act for the relief of J. S. Daugherty," which was read third time and passed by the following vote:

YEAS.		
Brown,	Lair,	Patton,
Ford,	Ledbetter,	Ripetoe,
Grace,	Martin,	Stewart,
Guy,	McCulloch,	Shannon,
Hobby,	Moore,	Storey,
Lane,	Motley,	Swain—18.
NAYS.		
Buchanan,	Davenport,	Tilson—4.
Burnett,		

Not voting—Duncan, Edwards, McCormick, Terrell.

Senator Hobby called up Senate joint resolution No. 9, "Amending section 11 of article 1 of the state constitution."

Senator Lane offered the following amendment:
Amend by striking out the word "information."
Adopted.

Senator Duncan offered the following:

After "other felonious homicide," when it last occurs, insert "or capital felony."

Adopted.

Senator Stewart offered the following:

Strike out the words "by an indictment" so that the bill will read, "who may be charged with felonious homicide."

Adopted.

Amend after the sentence "charged with felonious homicide and other capital felony" the words "and where the proof is evident."

Adopted by the following vote:

YEAS.		
Brown,	Lane,	Motley,
Buchanan,	Lair,	Patton,
Burnett,	Ledbetter,	Ripetoe,
Duncan,	Martin,	Stewart,
Edwards,	McCormick,	Shannon,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—22.
Hobby,		
NAYS.		
Davenport,	Storey,	Swain—3.
Not voting—Ford,		

The resolution was then lost by the following vote:

YEAS.		
Buchanan,	Hobby,	Moore,
Burnett,	Lane,	Motley,
Duncan,	Lair,	Ripetoe,
Edwards,	Martin,	Stewart,
Ford,	McCulloch,	Shannon,
Grace,	McCormick,	Swain—19.
Guy,		

NAYS.

Brown,
Davenport,Ledbetter,
Patton,Terrell,
Tilson—6.

The following message was received from the House announcing that the House concurs in Senate amendments to House amendments to Senate bill No. 46, "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas."

The House recedes from its amendment adding "thirteenth district;" and that the House insists upon its amendment adding the "second judicial district," and asks for a free conference.

Messrs. McComb, Johnston of Shelby, and Gause have been appointed as such committee on part of the House.

And that the House has passed Senate substitute for House bill No. 207, "An act to amend article 2405 of the Revised Civil Statutes."

Senator Martin called up his motion to reconsider the vote passing Senate joint resolution No. 92 (increasing the pay of legislators after sixty days to five dollars per day).

The motion to reconsider was lost by the following vote:

YEAS.

Burnett,
Edwards,
Lane,Lair,
Ledbetter,
Martin,Stewart,
Shannon—8.

NAYS.

Brown,
Davenport,
Duncan,
Ford,
Grace,Guy,
McCormick,
Moore,
Patton,
Ripetoe.Storey,
Swain,
Terrell,
Tilson—14.

Not voting—Buchanan, Hobby, McCulloch, Motley.

Senator Martin entered the following as his protest against the passage of the resolution the Senate has just refused to reconsider :

I vote yea to reconsider the vote for the reason that it is my opinion that I am interested in the result of the resolution which proposes to increase my own pay from two dollars to five dollars per day; and article 3, section 22 of the constitution reads as follows: "A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house of which he is a member, and shall not vote thereon;" and for the further reason that we have during the entire session voted to *reduce* the salary and pay of all other officers and employes of the government; and therefore I am opposed to *increasing* our own pay. MARION MARTIN.

Senator Grace submitted the following majority report of the conference committee on substitute for Senate bill No. 33:

Hon. J. D. Sayers, President of the Senate and Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee of conference to whom was referred Senate substitute for House bill No. 33, have carefully considered the matter of difference between the two houses, concerning said Senate substitute for said House bill No. 33, and a majority of said committee respectfully report the said bills back and recommend the passage of House bill No. 33, instead of said Senate substitute, and would suggest that said House bill be so amended as not to conflict with section 9 of the act entitled "An act to provide for the levy and collection of an occupation tax on the sale of

spirituous, vinous and malt liquors in quantities less than a quart, and to make an appropriation to carry the same into effect," passed at the present session of the Legislature.

GRACE,
DUNCAN,
for Senate.

GAITHER,
KING,
MERRITT,
McCOMB,
for House.

Senator Ledbetter submitted the following as a minority report from the same committee :

Hon. J. D. Sayers, President of the Senate :

The undersigned, one of the conference committee on Senate substitute for House bill No. 33, entitled "An act to amend article 4767 of an act to adopt the Civil Statutes of the State of Texas," can not agree with the majority of said committee, and for the following reasons: The law as it now stands on the Civil Statutes, and as it will remain for this session, in relation to the compensation of assessors of taxes, allows to the assessor five per cent. on the first \$20,000 of state taxes and two per cent. on all sums assessed over that sum, and three per cent. on the first ten thousand dollars of county taxes and two per cent. on all taxes assessed over that sum.

The House bill proposes to give the collector of taxes five per cent. on the first \$10,000, three per cent. on the next \$20,000, and two per cent. on the remaining amount for the state, and one-half this amount for taxes collected for the county, this makes a large difference in the compensation of the assessors and the collectors. The Senate bill proposes to give the collector five per cent. on the first \$20,000 and two per cent. on the remaining amount collected of state taxes, and three per cent. on the first \$10,000 of county taxes and two per cent. on the remaining amount of county taxes collected.

The Senate bill makes the compensation of the collectors conform to the fees allowed assessors, which I think approximates the correct standard.

I prefer the Senate bill to the House bill for the further reason that I believe the compensation allowed collectors under the Senate bill to be about just compensation for their services.

LEDBETTER, *for Minority.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have examined Senate bill No. 340, entitled "An act to amend article 1058 of the Code of Criminal Procedure of the State of Texas," passed at the present session of the Legislature; Senate bill No. 341, entitled "An act for the relief of actual occupants of the public lands," and find them correctly engrossed.

BROWN, *Chairman.*

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on enrolled bills have carefully examined and find cor-

rectly enrolled and properly signed, Senate bill No. 207, "An act supplementary to and amendatory of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas;' also Senate bill No. 225, "An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court of said county to said change," and at 11:30 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman*.

(President in the chair.)

Senators Motley, Edwards and Duncan were appointed by the president as a committee of conference on the differences of the two houses on Senate bill No. 46 (the district attorney bill).

Senator Grace called up reports of conference committee on substitute for House bill No. 33, just submitted to the Senate.

Senator Duncan (by leave) introduced a bill entitled "An act to amend section 5 of final title of 'an act to adopt and establish the Civil Statutes of the State of Texas, passed at the present session of the Legislature, said section relating to county boundaries.'"

Read by caption and referred to judiciary committee No. 1.

On motion of Senator Duncan, the Senate adjourned until 3 o'clock this afternoon.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

The consideration of the majority report of the conference committee on House bill No. 33 was resumed.

Senator Martin moved the adoption of the minority report of the conference committee.

Senator Stewart (by leave) introduced a joint resolution "authorizing the appointment of an agent to collect moneys due the State of Texas by the United States government."

Referred to committee on finance.

Senator Brown entered a motion to reconsider the vote by which Senate joint resolution No. 9 was lost.

Senator Ford offered the following resolution:

WHEREAS, It is the duty of states to pay due respect to the memory of those who have served them faithfully; and,

Whereas, The men composing the Texas army and who won the battle of San Jacinto are entitled to the gratitude of the people of Texas and of the lovers of freedom throughout the world; and,

Whereas, The Senate of the State of Texas has learned with pain and regret that O. H. Wilcox, one of the heroes of San Jacinto, departed this life to-day at 2 o'clock P. M.; be it therefore

Resolved, That this Senate adjourn until 9 o'clock A. M. Monday next as a mark of respect to the deceased.

The resolution was read and adopted.

The Senate accordingly adjourned until 9 o'clock A. M. Monday.

SEVENTY-SECOND DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, April 7, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Tilson, Senator Davenport was excused indefinitely from Monday next, the fourteenth instant.

Senator Hobby, from committee on insurance, statistics and history, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on insurance, statistics and history, to whom was referred Senate bill No. 324, "An act to repeal article 2991 of the Revised Civil Statutes," together with House amendments thereto, have instructed me to report the bill back and recommend that the Senate concur in said amendment.

HOBBY, *for Committee.*

Senator Burnett introduced a joint resolution entitled "Joint resolution proposing an amendment to section 14 of article 8 of the constitution, and to repeal section 16 of said article."

Referred to committee on constitutional amendments.

Senator Davenport introduced the following resolution:

Be it resolved, That the assistant sergeant-at-arms be retained in office thirty days after adjournment, and that it be his duty to make a complete inventory of all furniture and other articles in the Senate chamber and pertaining thereto, and to take a receipt for same from the superintendent of public buildings and grounds and deposit one copy with the secretary of state.

Resolved further, That said sergeant-at-arms shall help the secretary in any way that he shall see fit to direct.

On motion of Senator Storey, the resolution was laid over one day.

Senator Duncan, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 363, "An act to amend section 10 of final title of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' said section relating to county boundaries," have considered the same, and a majority of said committee instruct me to return the bill to the Senate with the recommendation that it do pass.

DUNCAN, *for Committee.*

On motion of Senator Motley, Capt. W. N. Ramey, journal secretary, was excused for the day on account of sickness.

Substitute for Senate bill No. 348, "An act to authorize and allow railroad companies to surrender their rights to reservations of the public domain," being the special order, was taken up, the pending question being the amendment of Senator Moore, which was read as follows:

Amend by adding after the word "railroads" in the twenty-sixth line, the following: "*And it is also provided,* that where locations have been made on any such reservation from the public domain by others than the

railroad companies for the benefit of which said reservation was made, and said locations have been patented by the state, such patents so issued by the state shall be deemed a legal and valid title to the lands upon which said patents have issued."

Senator Moore (by leave) withdrew his amendment.

Senator Lair offered the following amendment:

"And that all such lands so surrendered, shall only be applied and used for public free schools, and the payment of the public debt, except such, if any, as may be selected for the construction of a state capitol building."

Senator Patton offered the following as a substitute for Senator Lair's amendment:

Add after words "suit," in line fourteen, "and it is hereby specially provided that the lands that may be relinquished under the provisions of this act, shall be subject to location only under the provisions of the act reserving from location lands forfeited to the state, approved August 13, 1876."

Senator Lair accepted the substitute of Senator Patton, and withdrew his own amendment.

The amendment of Senator Patton was then adopted, and the bill ordered engrossed.

On motion of Senator Shannon, the rules were suspended to place the bill on its third reading by the following vote :

YEAS.

Brown,	Homan,	Moore,
Buchanan,	Lane,	Motley,
Burnett,	Lair,	Patton,
Davenport,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson--21.

NAY--Duncan.

Not voting--Hobby, Ripetoe.

The bill was then read third time.

Senator Shannon offered the following amendment:

"Section . . . , The near approach of the close of the session creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended."

Adopted unanimously.

Senator Duncan moved to postpone the bill until Wednesday next, but withdrew his motion.

Senator Terrell offered the following amendment:

Strike out the words "and also the right to acquire more than sixteen sections of land per mile," on first page.

Adopted by the following vote:

YEAS.

Brown,	Hobby,	McCulloch,
Buchanan,	Homan,	Moore,
Burnett,	Lane,	Patton,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Ford,	Martin,	Terrell,
Grace,	McCormick,	Tilson--21.

NAYS--Edwards.

Not voting--Guy, Motley, Ripetoe.

Senator Storey offered the following amendment:

Seventh line from last line, amend by inserting after the word "force," the following: "not to exceed sixteen sections of land per mile."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell--22.

NAYS—NONE.

Not voting—Ford, Motley.

The bill was then passed.

Senator Homan (by leave) introduced a bill to be entitled "An act to amend section 2 of an act entitled 'an act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district,' approved March 22, 1879."

Referred to committee on judicial districts.

The president, after publicly reading their captions, signed the following bills, viz:

Senate bill No. 52, "An act to protect the rights of pre-emption settlers who have heretofore or may hereafter enlist in the frontier battalion or other military forces of the state."

Senate bill No. 53, "An act for the relief of Silas Dinsmore, deceased."

Senator Storey (by leave) introduced a bill to be entitled "An act to attach the county of Concho to the twentieth judicial district and to fix the time for holding district court therein."

Referred to judiciary committee No. 1.

Senator Homan (by leave) introduced a memorial of the citizens of Washington county, asking the repeal of the law creating the office of public weigher, which was read and referred to judiciary committee No. 1.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 52, "An act to protect the rights of pre-emption settlers who have heretofore or may hereafter enlist in the frontier battalion, or other military forces of the state."

Senate bill No. 53, "An act for the relief of the heirs of Silas Dinsmore, deceased," and have this day at 9:35 o'clock A. M. presented the same to the governor for his signature. GRACE, *Chairman.*

Senator Edwards (by leave) offered the following resolution:

Resolved, That the secretary of the senate be required to procure and publish a list of the captions of all of the bills of the present Legislature that have become laws, and that five hundred copies of said list be printed.

Adopted.

Senator Hobby called up Senate bill No. 324, "An act to repeal article 2971 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February, 1879," with the House amendments thereto.

On motion of Senator Hobby, the House amendments were concurred in.

Senator Lane called up Senate bill No. 298, entitled "An act granting an extension of time to the Rockport, Fulton and Laredo railroad company, for the construction of its road," which was read third time and passed by the following vote:

YEAS.		
Brown,	Lane,	Motley,
Edwards,	Lair,	Patton,
Ford,	Ledbetter,	Ripetoe,
Grace,	Martin,	Shannon,
Guy,	McCormick,	Storey,
Hobby,	McCulloch,	Tilson--20.
Homan,	Moore,	
	NAYS—Terrell.	

Senator Duncan, from judiciary committee No. 1, to whom was referred Senate bill No. 363, "An act to amend section 10 of final title of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' said section relating to county boundaries," have considered the same and a majority of said committee instruct me to return the bill to the Senate with the recommendation that it do pass.

DUNCAN, *for Committee.*

Senator Terrell, from the joint committee of conference of the two houses, to take into consideration amendments to the judiciary article of the constitution, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your joint committee, appointed by joint resolution to act with a like committee on the part of the House to take into consideration amendments to the judiciary articles of the constitution, have met the House committee in joint session and considered said amendments, and have agreed upon a constitutional amendment to article 5 of the constitution which the joint committee unanimously instructed us to report to the House of Representatives with the recommendation that it do pass as a substitute for Senate joint resolution Nos. 2 and 105, and said substitute has been this day reported to the House of Representatives in accordance with said instructions.

A. W. TERRELL,

Chairman Senate Committee.

JONES, of Hunt,

Chairman House Committee.

Senator McCormick called up Senate bill No. 352, "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879," which was read third time and passed.

Senator Moore called up Senate bill No. 297, "An act to authorize the adjutant general to sell or exchange inferior arms and munitions of war on hand and not in use by the state," which was read a second time and ordered engrossed.

On motion of Senator Storey, the rules were suspended to place the bill on its third reading, by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Ford,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Tilson--21.

NAYS--none.

Not voting—Duncan, Edwards, McCormick, Terrell.

The bill was then read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Edwards,
Ford,
Grace,
Guy,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson--22.

NAYS--none.

Not voting—Burnett, Duncan, McCormick.

Senator Shannon, chairman of the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts have considered Senate bill No. 366, to amend section 2 of "An act to create the thirty-second judicial district," and I am instructed to recommend its passage.

SHANNON, *Chairman.*

On motion of Senator Buchanan, Senate bill No. 49, "An act to give effect to section 2, article 9 of the constitution, regulating the manner of removing and locating county seats," was taken up together with the House amendments to same, and the House amendments concurred in.

Senator McCulloch called up Senate joint resolution No. 234, "Amending section 18 of article 3 of the constitution," and same read third time and lost by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Ford,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Tilson--18.

NAYS.

Burnett,
Edwards,

Homan,
Martin,

McCormick,
Terrell--6.

Senator Grace was excused for fifteen minutes.

Senator McCormick gave notice of motion to reconsider the vote by which Senate joint resolution No. 234 was lost.

A message was received from the House announcing the passage of substitute for House bill No. 90, entitled "An act to amend title 29, chapter 6, article 1235 of the Revised Civil Statutes passed at the present session of the Legislature."

Senator Lair called up Senate bill No. 252, "An act to amend chapter 2 of title 15, and chapter 1 of title 16 in the Code of Criminal Procedure

of an act, entitled 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas.'

Bill read third time and passed.

(Senator Homan in the chair.)

Senator Motley called up Senate bill No. 166, "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act, approved August 30, 1856," which was read second time and ordered engrossed.

Senator Ripetoe called up Senate bill No. 366, "An act to amend section 2 of an act entitled 'an act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district,' approved March 22, 1879," and the bill was read first time.

On motion of Senator Burnett, the rule was suspended to place the bill on its second reading by the following vote:

YEAS.

Brown,	Lane,	Motley,
Burnett,	Lair,	Patton,
Duncan,	Ledbetter,	Ripetoe,
Edwards,	Martin,	Shannon,
Ford,	McCormick,	Storey,
Guy,	McCulloch,	Terrell,
Homan,	Moore,	Tilson—21.

NAYS—none.

Not voting—Buchanan, Davenport, Hobby.

The bill was read second time and ordered engrossed.

On motion of Senator Burnett, the rule was further suspended to place the bill on its third reading by the following vote:

YEAS.

Brown,	Lane,	Motley,
Burnett,	Lair,	Patton,
Davenport,	Ledbetter,	Ripetoe,
Duncan,	Martin,	Shannon,
Edwards,	McCormick,	Storey,
Ford,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—22.
Homan,		

NAYS—none.

Not voting—Buchanan, Hobby.

The bill was then read third time and passed by the following vote:

YEAS.

Brown,	Homan,	Motley,
Burnett,	Lane,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—21.

NAYS—none.

Not voting—Buchanan, Hobby, Moore.

Senator Terrell, chairman of judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No.

365, entitled "An act to attach the county of Concho to the twentieth judicial district, and to fix the time of holding the district court therein," have considered the same, and instruct me to report the same back and recommend its passage.
 TERRELL, *Chairman.*

Senator Storey called up the bill just reported (Senate bill No. 365), and same was read first time.

On motion of Senator Storey, the rule was suspended to place the bill on its second reading by the following vote:

YEAS.

Brown,	Hobby,	Motley,
Burnett,	Homan,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Terrell,
Guy,	McCulloch.	Tilson--21.

NAYS—none.

Not voting—Buchanan, McCormick, Moore.

Bill then read second time and ordered engrossed.

On motion of Senator Storey, the rule was further suspended to place the bill on its third reading by the following vote:

YEAS.

Brown,	Homan,	Motley,
Burnett,	Lane,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson--22.
Hobby,		

NAYS—none.

Not voting—Buchanan, Moore.

The bill was then read third time and passed by the following vote:

YEAS.

Brown,	Homan,	Motley,
Burnett,	Lane,	Patton,
Davenport,	Lair,	Ripetoe,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson--22.
Hobby,		

NAYS—none.

Not voting—Buchanan, Moore.

Senator Terrell called up Senate bill No. 363, "An act to amend section 10 of final title of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature, said section relating to county boundaries," which was read first time.

On motion of Senator Duncan, the rule was suspended to place the bill on its second reading by the following vote:

YEAS.

Brown,	Edwards,	Hobby,
Burnett,	Ford,	Homan,
Davenport,	Grace,	Lane,
Duncan,	Guy,	Lair,

Ledbetter,
Martin,
McCormick,
Motley,

Patton,
Ripetoe,
Shannon,

Storey,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Buchanan, Moore.

The bill was then read second time and ordered engrossed.

On motion of Senator Duncan, the rule was further suspended to place the bill on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson—21.

NAYS—none.

Not voting—Buchanan, McCormick, McCulloch, Moore.

The bill was then read third time and passed.

Senator Storey called up Senate bill No. 309, "An act to amend article 4556 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature," which was read first time.

On motion of Senator Storey, the rule was suspended to place the bill on its second reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Motley,
Patton,
Ripetoe,
Storey,
Terrell,
Tilson—21.

NAYS—none.

Not voting—Brown, Ford, Moore, Shannon.

The bill was then read a second time and ordered engrossed.

On motion of Senator Storey, the rule was further suspended to place the bill on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Grace,
Guy,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Brown, Ford, Moore.

The bill was then read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Edwards,
Grace,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
McCulloch,
Motley,

Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson—18.

NAYS.

Homan, Martin, McCulloch—3.
 Not voting—Brown, Davenport, Ford, Moore.

On motion of Senator Duncan, the motion to adopt the minority report of the conference committee on Senate substitute for House bill No. 33, "An act to amend article 4767 of the Revised Civil Statutes," was taken up.

Senator Duncan moved a call of the Senate, which was seconded and roll called. Absent—Brown, Buchanan, Edwards, Grace, Hobby.

On motion of Senator Davenport, the Senate adjourned until 9 o'clock to-morrow morning

SEVENTY-THIRD DAY.

SENATE CHAMBER, }
 AUSTIN, TEXAS, April 8, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by elder R. M. Gano, of the Christian church.

On motion of Senator Moore, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Edwards, chairman of committee on constitutional amendments, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, to whom was referred Senate joint resolution No. 367, entitled "Joint resolution proposing an amendment to section 14 of article 8 of the constitution, and to repeal section 16 of said article," respectfully return the same with the recommendation of a majority of the committee that it pass.

EDWARDS, *Chairman.*

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered House bill No. 402, to be entitled "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" and instruct me to report it back and recommend its passage.

TERRELL, *Chairman.*

Senator Edwards introduced a joint resolution entitled "Joint resolution prescribing the mode and manner of submitting constitutional amendments to the vote of the people."

Referred to committee on constitutional amendments.

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate joint resolution No. 364, entitled "A joint resolution authorizing the governor to appoint an agent to collect moneys due the State of Texas by the United States," have carefully considered the same, and I am instructed by the committee to report the resolution back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 445, entitled "An act to provide for the assessment and collection of the taxes on land and other property situated in unorganized counties, and for the enforcement of the same," have duly considered the bill, and I am instructed by the committee to report the same back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Senator Guy introduced a bill to be entitled "An act to encourage the settlement and organization of unorganized counties."

Referred to committee on public lands.

On motion of Senator Terrell, fifty copies of House bill No. 402, "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of an act to adopt and establish the Revised Statutes of the State of Texas" were ordered printed.

On motion of Senator Ledbetter, fifty copies of House bill No. 445, "An act to provide for the assessment and collection of taxes on land and other property situated in unorganized counties, and for the enforcement of the same," were ordered printed.

On motion of Senator Tilson, substitute for House bill No. 90, "An act to amend title 29, chapter 6, article 1235 of the Revised Civil Statutes, passed at the present session of the Legislature," was taken up and read first time.

Senator Motley, chairman of Senate committee of conference on the the difference between the two houses on Senate bill No. 46, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of conference on the part of the Senate to confer with a like committee on the part of the House upon the matters of difference between the House and Senate upon Senate bill No. 46, "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas," have met said committee and considered said matters of difference and failed to agree, and respectfully report the same back and recommend that a committee of free conference between the two houses be appointed to consider the same.

MOTLEY,
DUNCAN,
EDWARDS,

On the part of the Senate.

McCOMB,
JOHNSON,
SCOTT,

On the part of the House.

The following message was received from the House announcing that the House has adopted the report of the conference committee on the disagreements arising between the two houses on Senate bill No. 46, "An act to provide for the election of district attorneys in certain judicial districts in the State of Texas," and Messrs. McComb, Johnston of Shelby and Scott have been appointed a committee of free conference on the part of the House.

On motion of Senator Motley, a committee of free conference consist-

ing of Senators Motley, Duncan and Edwards, was appointed on the above bill (Senate bill No. 46).

On motion of Senator Burnett, Senate joint resolution No. 367, "Proposing an amendment to section 14 of article 8 of the constitution, and to repeal section 16 of said article," was taken up and read first time.

On motion of Senator Burton, Senator Ripetoe was excused from tomorrow morning until the 16th inst.

On motion of Senator Davenport, the resolution offered by him on yesterday, as to duties of the assistant sergeant-at-arms after adjournment of the Legislature, was taken up and adopted.

Senator Ford presented a petition of General William Steele, late adjutant general of the state, asking that he be reimbursed for the difference between warrants sold by him, and moneys on hand and paid into the treasury at the time he was relieved from duty.

Read and referred to committee on finance.

Senator Guy called up his motion made on the fourth instant to reconsider the vote by which Senate bill No. 343, "An act to promote the science of medicine and surgery by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof," was passed, and the same was reconsidered by the following vote:

YEAS.

Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Grace,

Guy,
Homan,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—21.

NAYS.

Buchanan,

Hobby---2.

Not voting—Burton, Lane, Ripetoe.

Senator McCulloch offered the following amendment:

Amend by striking out "county asylum or infirmary or public hospital" wherever these words occur in the bill.

Adopted by the following vote:

YEAS.

Burnett,
Burton,
Duncan,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,
Moore,

Motley,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson--20.

NAYS.

Brown,

Davenport,

Patton—3.

Not voting—Buchanan, Edwards, Ford, Martin.

Senator Brown offered the following amendments:

Amend section 1, line four, by inserting after the word "relation" the words "or other person."

Amend section 1, line six, by inserting after the word "kin" the words "or other person who will assume the burial."

Amend section 2, line thirty-one, by inserting after the word "notice" the words "and upon failure of other persons."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,

Edwards,
Ford,
Gooch,
Hobby,
Lane,

Martin,
Ripetoe,
Shannon,
Storey,
Tilson—16.

NAYS.

Homan.
Lair,
Ledbetter,
Not voting—Grace, Guy, Moore.
The bill was then lost by the following vote:

McCormick,
McCulloch,
Motley,
Moore.

Patton,
Terrell--8.

YEAS.

Brown,
Duncan,

Motley,

Patton--4.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Gooch,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson--19.

Not voting—Ford, Grace, Guy, Moore.

Senator McCulloch entered a motion to reconsider the vote by which the bill was lost, and, on his motion, the motion to reconsider was postponed until to-morrow by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Davenport,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Martin,
McCormick,

McCulloch,
Moore,
Ripetoe,
Storey,
Terrell,
Tilson--19.

NAYS.

Burton,
Duncan,

Edwards,
Lair,

Motley,
Shannon--6.

Not voting—Ledbetter, Patton.

A message was received from the House, announcing the passage by that body of Senate bill No. 325, "An act to prescribe the times of holding the district courts in the ninth judicial district," with amendments.

Senate bill No. 312, "An act to amend and supplement the existing quarantine laws of the State of Texas," with amendments.

Substitute to Senate bill No. 303, "An act to provide for the surrender and dissolution of the charter of the city of Terrell, in Kaufman county, Texas, and to provide for the payment of the debts due by said city."

Senator Storey, from the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate joint resolution No. 347, being "Joint resolution for the appointment of a commission of three to investigate and report upon invasions from Mexico," and I am instructed by the committee to recommend that the resolution do pass.

STOREY, *Chairman.*

Senator Hobby, chairmain of judiciary committee No. 2, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred House bill No. 78, "An act to amend section of an act regulating elections, approved August 23, 1876," have considered the same, and a majority of the committee have instructed me to report the bill back to the Senate and recommend its passage.

HOBBY, *for Committee.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered House bill No. 497, to be entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature," and a majority of said committee instruct me to report it back and recommend its passage.

HOBBY, *for Committee.*

On motion of Senator McCormick, the Senate concurred in the House amendments to Senate bill No. 312 relative to the quarantine laws of the state.

Senator Edwards (by leave) offered the following resolution:

Resolved, That the committee on printing be authorized to employ temporarily a sufficient number of clerks to copy the laws that take effect from and after their passage for the printer.

Senator Hobby offered the following amendment to the resolution:

Amend the resolution by inserting after the word "passage" the following words: "And amendatory of the Revised Civil Statutes, and Criminal Code and Code of Criminal Procedure."

Amendment adopted, and the resolution, as amended, was then adopted.

The following message was received from his excellency the governor and read, and, on motion of Senator Duncan, the message and bill referred to judiciary committee No. 1.

EXECUTIVE OFFICE, STATE OF TEXAS, {
AUSTIN, April 7, 1879: }

To the honorable Senate of the State of Texas in Legislature assembled:

GENTLEMEN:--I herewith return to your honorable body the bill entitled "An act supplemental to and amendatory of an act entitled 'to revise the civil statutes of the State of Texas,'" without my approval, together with my objections to it becoming a law, as follows, to wit: "It modifies and amends one or more sections of said act recited in the caption without referring to or re-enacting that, or any other section, contrary to the 36th section of the 3d article of the constitution of the State of Texas."

Respectfully,

O. M. ROBERTS, *Governor.*

The president, after publicly reading their captions, signed Senate bill No. 49, "An act to give effect to section 2, article 9 of the constitution, regulation the manner of removing and locating county seats," and Senate bill No. 324, "An act to repeal article 2971 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February, 1879."

On motion of Senator Homan, the Senate concurred in the House amendments to Senate bill No. 325, "An act to prescribe the times of holding the district courts in the ninth judicial district."

Senator Hobby called up House bill No. 414, "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666 and 4668, inclusive, of chapter 1, title 94 of the Revised Civil Statutes, adopted February 21, 1879."

On motion of Senator Patton, the consideration of the bill was postponed until to-morrow morning just after morning call.

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 412, entitled "An act making appropriation for deficiencies, beginning September 1, 1876, and ending February 28, 1879, and for previous years," have duly considered the same, and I am instructed by the committee to report the bill back to the Senate with the accompanying amendments, and, as amended, to recommend its passage. STOREY, *Chairman.*

Amendments: Under the head "adjutant general's office," strike out the proviso.

Under the head "pensions," strike out the proviso, and insert in lieu thereof the following: "*provided*, that a board consisting of the comptroller, commissioner of the general land office and attorney general shall pass upon all such pension claims as said board, or either of them, shall have good reason to believe to be fraudulent or procured by false testimony or personification, and shall defer payment of such claim until the same shall have been investigated, established and approved by said board in such manner as they may prescribe, and that said board act as one."

Under the head "miscellaneous" add the following:

For Earnest Krohn, beef for Blind Asylum up to January 1, 1879..	\$62 43
For Joseph Ludsinger, beef, for Deaf and Dumb Asylum, up to February 28, 1879.....	288 00
For Brush, White & Raatz, goods furnished superintendent of public buildings, up to February 12, 1879.....	247 27
For A. & F. C. Eans, cedar trees planted in public grounds up to January 23, 1876.....	307 25
For G. W. Erwin, furnishing water for plants and trees in public grounds from March 10 to October 15, 1875, balance...	452 00
For Lee Blocker, porter to Attorney General Clark.....	112 50
Thomas J. Durant, for costs expended as attorney for the state, up to December 8, 1873.....	90 60
For Dr. C. B. Comb, services as health officer at Brazos de Santiago, Texas, from September 1, 1878, to November 16, 1878,	\$898 67
For guards on the Morgan line steamers and English steamers, goods quarantined at Brazos de Santiago, Texas, prior to December 5, 1878:	
William Clark.....	40 00
Alphonio Cantee.....	40 00
Pedra Vega.....	40 00
A. B. Barton.....	40 00
Josheph Champion.....	40 00
Wm. Lightburn.....	40 00
Wm. H. Putegnat.....	40 00
A. C. Howell.....	40 00
Total.....	\$320 00

For guards on schooners <i>Manantice</i> and <i>Annie</i> from November 7 to November 16, inclusive, during quarantine:	
Jose Rodriguez.....	\$40 00
A. B. Barton.....	40 00
A. C. Howell.....	40 00
Total.....	\$120 00
For Geo. H. L. Weber, health officer at Brazos de Santiago, Texas, for the year 1876.....	
	\$515 00
For E. B. Frost, services as boatman at Brazos de Santiago, Texas, for the year 1876, during quarantine.....	
	\$257 50
For payment of services of detective and attorneys employed by the governor in the detection and prosecution of land forgers, to be drawn from the treasury on warrants, based on certificates of the governor, as follows:	
For Thos. E. Sneed, attorney.....	\$5,000 00
For Amos E. Foster, detective.....	7,500 00
or so much thereof as may be necessary.	
For pay of teachers of public free schools, and for services of school directors, principals and county superintendents of public free schools, prior to July 1, 1878:	
For teachers.....	\$60,000 00
For directors, principals and superintendents.....	50,000 00

Payment of warrants on last two items to be deferred and bear interest as prescribed by law, payable at the option of the state at any time within five years from the passage of this act.

On motion of Senator Storey, fifty copies of the bill (House bill 412), with the amendments of the committee, were ordered printed.

On motion of Senator Storey, fifty copies of House bill No. 445, "An act to provide for the assessment and collection of taxes on land and other property situated in unorganized counties and for the enforcement of the same," were ordered printed.

Senator Hobby (by leave) submitted the following report from judiciary committee No. 2:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 361, entitled "An act to amend the second section of 'an act to regulate the respective duties of district and county attorneys,' approved August 21, 1876," respectfully return the same and a majority of the committee recommend its passage.

Hobby, for Committee.

On motion of Senator Lane, Senate substitute for House bill No. 33, together with the majority and minority reports of the committee of conference thereon was taken up, the pending question being the motion to adopt the minority report.

The minority report was adopted by the following vote:

YEAS.

Burton,
Ford,
Guy,
Hobby,
Lane,

Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Ripetoe,
Storey,
Terrell--13.

NAYS.

Brown,
Buchanan,
Burnett,
Duncan,

Gooch,
Homan,
Lair,
McCormick,

Patton.
Shannon.
Tilson--11.

Not voting—Davenport, Edwards, Grace.

Senator Ledbetter moved that the Senate adhere to its substitute to the bill.

Senator Duncan moved a call of the Senate, which was seconded and roll called.

Absent—Grace.

The Senate not being full, the pending business went to the table.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 343, entitled "An act to promote the science of medicine and surgery by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof."

Senate bill No. 348, entitled "An act to authorize and allow railroad companies to surrender their rights to reservations of the public domain."

Senate bill No. 352, entitled "An act to amend article 3649 of the Revised Civil Statutes," passed February 21, 1879.

Senate bill No. 355, entitled "An act to amend articles 4746 and 4747 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' adopted at the present session of the Legislature."

Senate bill No. 358, entitled "An act to fix in favor of contractors and sub-contractors and material men liens on railroads for labor done thereon, or material furnished therefor, and to provide for the speedy and efficient enforcement of said liens," and find them correctly engrossed.

BROWN, *Chairman.*

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 49, "An act to give effect to section 2, article 9 of the constitution, regulating the manner of removing and locating county seats;" Senate bill No. 324, "An act to amend articles 2931 and 2971 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature," and at 10:20 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Buchanan called up Senate bill No. 355, "An act to amend 'an act to amend article 766 of the Penal Code,' approved May 17, 1873."

The Senate being announced full, the consideration of Senate substitute for House bill No. 33, and the reports of the conference committee thereon, was resumed, the pending question being that the Senate do adhere to its substitute.

Senator Hobby moved to reconsider the vote adopting the minority report of the committee.

Carried, and the report of the minority of the committee again adopted by the following vote:

	YEAS.	
Burton,	Lane,	Moore,
Edwards,	Ledbetter,	Ripetoe,
Ford,	Martin,	Storey,
Guy,	McCulloch,	Terrell—14.
Hobby,	Motley,	

	NAYS.	
Brown,	Gooch,	McCormick,
Buchanan,	Grace,	Patton,
Burnett,	Homan,	Shannon,
Davenport,	Lair,	Tilson---13.
Duncan,		

Senate bill No. 355 was again taken up, read third time and passed.

Senator Moore called up Senate bill No. 334, to be entitled "An act to provide for the sale or exchange of the alternate sections of school lands belonging to this state in certain cases," which was read second time.

Senator Terrell offered the following amendment, which was adopted:

"Section, That no exchange shall be authorized or effected under this act until a value shall be fixed (under oath), by the county commissioners in each county on each school section, and also upon each section surveyed with it, and a like valuation shall be fixed (under oath) by each county surveyor, of said lands. Said valuations shall be reduced to writing, and after being sworn to as herein provided, shall be filed in the office of the county clerk, and a certified copy thereof shall be forwarded to the governor. In no case shall said exchange of school lands be made for lands of less value, nor shall the officers herein authorized to effect said exchange make the same until the receipt of said sworn valuations, and they shall prosecute further enquiry if they have reasons to believe that the same have been improperly valued."

(Senator Lane in the chair.)

The Senate refused to order the bill to engrossment, and the same was lost by the following vote:

	YEAS.	
Brown,	Martin,	Terrell—5.
Lane,	Storey,	

	NAYS.	
Buchanan,	Gooch,	McCormick,
Burnett,	Grace,	Moore,
Burton,	Hobby,	Patton,
Davenport,	Homan,	Ripetoe,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Tilson---19.
Ford,		

Not voting—Guy, McCulloch, Motley.

Senator Ripetoe called up Senate bill No. 361, to be entitled "An act to amend the second section of 'an act to regulate the respective duties of district and county attorneys,' approved August 21, 1876," read first time.

Senator Story called up the motion heretofore entered to reconsider the vote by which Senate bill No. 234 was lost.

The motion to reconsider was adopted.

Senator Terrell offered the following amendment which was lost.

In last sentence insert "while governor" in lieu of the words "during the term for which he is elected governor."

Senate joint resolution No. 234, proposing an amendment to section 18 article 3 of the constitution, was then passed by the following vote;

YEAS.

Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Gooch,
Grace,

Guy,
Hobby.
Lane,
Lair,
Ledbetter,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Tilson—21.

NAYS.

Burnett,
Edwards,

Homan,
Martin,

Terrell—5.

Not voting—Ford.

The president, after publicly reading the caption, signed Senate bill No. 325, entitled "An act to prescribe the times of holding the district courts in the ninth judicial district."

Senator Edwards (by leave) introduced a bill, to be entitled "An act to amend title 48 chapter 5 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879."

Referred to judiciary committee No. 1.

Senator Gooch (by leave) introduced a bill to be entitled "A joint resolution to amend section 4 article 3 of the constitution of the State of Texas."

Referred to committee on constitutional amendments.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 309, entitled "An act to amend article 4556 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature;" Senate bill No. 365, entitled "An act to attach the county of Concho to the twentieth judicial district, and to fix the time for holding district courts therein;" Senate bill No. 366, entitled "An act to amend section 2 of an act entitled 'an act to create the thirty-second judicial district, prescribing the times of holding the district courts therein, and providing for the appointment of a district judge for said district,' approved March 22, 1879;" Senate bill No. 166, entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act approved August 30, 1856;" Senate bill No. 297, entitled "An act to authorize the adjutant general to sell or exchange inferior arms and munitions of war on hand and not in use by the state;" Senate bill No. 363, entitled "An act to amend section 10 of final title of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature, said section relating to county boundaries," and find said bills correctly engrossed.

BROWN, Chairman.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 325, "An act to prescribe the times of holding the district courts in the ninth judicial district," and have presented the same to the governor for his approval this day at 12:25 o'clock P. M. GRACE, *Chairman.*

Senate joint resolution No. 347, entitled "A joint resolution for the appointment of a committee of three to investigate and report upon invasions from Mexico," was taken up, read first time and fifty copies ordered printed for the use of the Senate.

Senator Edwards, for judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, having had under consideration Senate bill No. 370, entitled "An act to amend title 48 chapter 5 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" a majority of said committee instruct me to report said bill back to the Senate with the recommendation that it do pass.

EDWARDS, *for Committee.*

On motion of Senator Edwards, the pending business was postponed and the bill just reported, to wit: Senate bill No. 370, to be entitled "An act to amend title 48 chapter 5 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879," was taken up and read first time.

On motion of Senator Edwards, the rules were suspended to put the bill on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Ford.

Bill read second time and ordered engrossed.

On motion of Senator Edwards the rules were further suspended by the following vote, to place the bill on its third reading:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,

Guy,
Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Grace, Homan, Ford.

Bill read third time and passed.

(President in the chair.)

The following bills were taken up and read first time:

House bill No. 78, to be entitled "An act to amend section sixteen (16) of an act regulating elections, approved August 23, 1876."

House bill No. 497, to be entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature."

Senate bill No. 357, to be entitled "An act to amend article 4544, title 92, of the Revised Civil Code."

Senate joint resolution No. 364, entitled "A joint resolution authorizing the governor to appoint an agent to collect moneys due the State of Texas by the United States."

Senate bill No. 359, entitled "A joint resolution requesting our senators and representatives in Congress to use their influence to secure the passage of what is known as 'the inter-state commerce bill,' introduced by the Hon. John H. Reagan, of Texas, or of some other bill having the same object in view."

Senate bill No. 323, to be entitled "An act to amend article 2754 of the Revised Civil Code, approved February, 1879."

Senate bill No. 51, to be entitled "An act for the encouragement of agriculture, and to provide for the collection and preservation of agricultural statistics."

On motion of Senator Tilson, the Senate adjourned until 9:30 A. M. to-morrow.

SEVENTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 9, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Homan, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Motley, Captain William N. Ramey, the journal secretary, was excused for the day on account of sickness.

On motion of Senator Patton, Senator Hobby was excused indefinitely from next Monday.

Senator Motley, chairman of Senate committee of free conference on Senate bill No. 46, "An act to provide for the election of a district attorney in certain judicial districts of the State of Texas," submitted the following report:

Hon. J. D. Sayers, President of the Senate:

A minority of your committee of free conference, to whom was referred the disagreement between the two houses concerning the House amendment to Senate bill No. 46, "A bill to provide for the appointment of district attorneys in certain judicial districts of the State of Texas," beg leave to report that they do not agree with the majority of said committee in recommending that the Senate concur in the House amendment inserting the second judicial district as a district to hereafter have a district attorney. We believe that the greatest good to the greatest number will be secured by the present system of county attorneys, and we

are satisfied that more than three-fourths of the said second judicial district do not desire a change.

MOTLEY,
for Senate Committee.
SCOTT,
for House Committee.

Senator Duncan, from the same committee, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

A majority of your committee of free conference, to whom was referred the disagreement between the two houses concerning House amendment to Senate bill No. 46, "A bill to provide for the appointment of district attorneys in certain judicial districts of the State of Texas," said amendment being to provide for the appointment of a district attorney in the second judicial district, beg leave to report that a majority of your committee recommend the concurrence of the Senate in said House amendment.

EDWARDS,
DUNCAN, *Senate.*
JOHNSON, *House.*
MCCOMBS, *Majority.*

Senator Grace offered the following concurrent resolution:

Resolved, That a committee of three be appointed by the president of the Senate to act with a like committee from the House of Representatives—the duty of which joint committee shall be to wait upon the court of appeals and learn of said court what room they need for the transaction of the business coming before them; and said committee to report back to the two houses what action the Legislature should have in providing the necessary room for said court.

Adopted, and Senators Grace, Guy and Burnett appointed as said committee on the part of the Senate.

The president of the Senate, after publicly reading their captions, signed Senate bill No. 303, "An act to provide for the surrender and dissolution of the charter of the city of Terrell, in Kaufman county, Texas," and Senate bill No. 312, "An act to amend and supplement the existing quarantine law of the State of Texas."

Senator Burnett called up Senate joint resolution No. 367, entitled "Joint resolution proposing an amendment to section 14 of article 8 of the constitution, and to repeal section 16 of said article."

The joint resolution was read second time.

On motion of Senator Storey, Senator Buchanan was excused for the day, on account of sickness.

Senator Burton offered the following amendment:

Amend by striking out "two years" wherever it occurs in the joint resolution and insert "four years."

Lost.

The resolution was then ordered engrossed by the following vote:

YEAS.

Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,

McCormick,
McCulloch,
Patton,
Shannon,
Tilson--17.

NAYS.

Davenport, Moore, Terrell---5.
 Martin, Storey,
 Not voting—Grace, Motley.

(President *pro tempore* in the chair.)

Senator Burton called up House bill No. 402, "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of 'an act to adopt and establish the Revised Statutes of the State of Texas.'"

The bill was taken up and read first time:

On motion of Senator Lair, the rule was suspended to place the bill on its second reading by the following vote:

YEAS.

Brown,	Guy,	McCulloch,
Burnett,	Hobby,	Moore;
Burton,	Homan,	Motley,
Davenport,	Lane,	Patton,
Edwards,	Lair,	Terrell,
Ford,	Ledbetter,	Tilson---20.
Grace,	Martin,	

NAYS.

Duncan,	McCormick,	Storey---5.
Gooch,	Shannon,	

The bill was then read second time.

A message was received from the House announcing the passage by that body of Senate bill No. 338, "An act prescribing the times of holding the district courts in the first judicial district, and regulating the returns of process therein," and Senate bill No. 332, "An act to provide for the appointment of notaries public, cattle and hide inspector, justices of the peace and constables in the unorganized counties of the State of Texas," and that the House has adopted report of conference committee on difference arising between the Houses on Senate substitute for House bill 33, "An act to amend article 4767 of the Revised Civil Statutes," and asks for a free conference, and that Messrs. McComb, English, Jones of Hunt and Reeves have been appointed a committee of free conference on part of the House, in accordance with the suggestions of said report.

The consideration of House bill No. 402 was resumed.

Senator Gooch offered the following amendment:

"Strike out article 1401."

Senator Storey offered the following amendment:

Amend article 1401, line two, page 3: insert after the word "residents" the words "or before the court trying the case."

(Senator Burnett in the chair.)

Senator Duncan offered the following as a substitute for Senator Storey's amendment:

Strike out the words "the county judge," in line one, page 3, and insert "a justice of the peace."

(President *pro tempore* in the chair.)

Senator Duncan withdrew his amendment.

Senator Storey's amendment was then adopted.

Senator Storey offered the following amendment:

Strike out all of the article after the word "cost" in line three, page 3, and insert the following: "Which affidavit may be contested by any officer of the court or party to the suit, whereupon it shall be the duty of the court trying the case, if in session, or the county judge of the county

in which the suit is pending, to hear evidence and to determine the right of the party under the act to his appeal."

Adopted.

Senator Gooch's amendment striking out article 1401, was then lost by the following vote:

	YEAS.	
Burnett,	Gooch,	McCulloch,
Duncan,	McCormick,	Patton—6.
	NAYS	
Brown,	Guy,	Moore,
Burton,	Hobby,	Shannon,
Davenport,	Lane,	Storey,
Edwards,	Lair,	Terrell,
Ford,	Ledbetter,	Tilson—17.
Grace.	Martin,	

Not voting—Homan, Motley.

Senator Gooch offered the following amendment:

"Strike out article 1420."

Adopted.

Senator Duncan moved that the vote by which Senator Storey amended article 1401 be reconsidered, and withdrew his motion.

Senator Duncan re-offered his amendment as follows:

Strike out the words "the county judge," in line one, page 3, and insert "a justice of the peace."

Lost.

Senator Storey offered the following amendment:

Amend line twenty-three, article 1420*b*, by striking out the words "from the adjournment of the court," and insert the words "after a demand for payment."

Adopted.

Senator Gooch offered the following amendment:

Line twenty-eight, page 3, after the words "shall not prevent the district clerk," insert "county clerk or justice of the peace."

Adopted.

Senator Ledbetter offered the following amendment:

Substitute for article 1438 in the bill: "Article 1438. A party who is required to give security for costs may file with the clerk an affidavit that he is too poor to pay the costs of court, and is unable to give security therefor; and it shall thereupon be the duty of the clerk to issue process and to perform all other services required of him in the same manner as if security had been given; *provided*, the clerk shall have the right to contest, by proof or otherwise, the inability of the party to pay the costs, or his inability to give security for the same."

Senator Gooch offered the following amendment to Senator Ledbetter's substitute for article 1438:

Add to substitute: "Said contest to be tried by the judge or justice of the court at the next term after the filing of the contest."

Accepted by Senator Ledbetter.

Senator Guy offered the following amendment to the substitute:

Amend by inserting in line seventeen, after the word "clerk," the words: "or justice of the peace."

Also accepted by Senator Ledbetter.

Senator Ledbetter's amendment was then adopted.

Senator Storey moved to reconsider the vote adopting Senator Gooch's amendment to line twenty-eight, page 3.

Motion carried, and Senator Gooch's amendment was again adopted by the following vote:

YEAS.

Burnett,
Duncan,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Lair,

McCormick,
McCulloch,
Patton,
Shannon--13.

NAYS.

Burton,
Davenport,
Edwards,

Ledbetter,
Martin,
Storey,

Terrell,
Tilson--8.

Not voting—Brown, Grace, Moore, Motley.

Senator Gooch offered the following amendment:

Lines twenty-seven and twenty-eight, page 3, strike out "to the supreme court."

Adopted.

Senator Edwards offered the following amendment:

Amend caption by inserting the word "civil," and in line five, page 1, insert the word "civil" before the word "statutes."

Adopted.

Senator Lane offered the following amendment:

Amend by inserting between lines seventeen and eighteen, on page 6, the following: "Issuing each license to attorney, and recording proceedings thereon, five dollars; filing and recording declaration of intention to become a citizen of the United States, two dollars; issuing certificate of naturalization, two dollars and fifty cents."

Adopted.

Senator Terrell offered the following amendment:

Add after "suit," in line three, page 5: "*provided*, that if the party cast in the suit has filed his oath of inability to pay costs during the progress of the cause, or be unable to pay costs, the county judge shall be allowed by the commissioners' court such compensation as they may deem proper, not to exceed three dollars for each such case."

Adopted.

Senator Burton offered the following amendment:

Amend page 6, line twenty-two, by striking out all after the word "determine."

Adopted.

Senator Storey offered the following amendment:

Strike out the words "justice of the peace," in line twenty-eight, page 3.

Lost.

Senator Burnett offered the following amendment:

Page 8, line four, after the word "process," add the following: "sheriffs and constables shall receive."

Senator Tilson offered the following amendment:

Page 6, add to article 2392 after the word "determine" the words "not to exceed the sum of \$300 per annum."

Senator Lane offered the following as a substitute for Senator Tilson's amendment:

Amend by adding after the word "determine" in line twenty-two, page

6, "not to exceed \$300 in all counties of population under twenty thousand, and not to exceed \$500 in counties of population of twenty thousand and over."

Accepted by Senator Tilson.

Senator Gooch offered the following amendment to Senator Lane's amendment:

Strike out of the amendment all after the words "\$300."

Lost by the following vote:

YEAS.		
Brown,	Duncan,	Lair,
Burnett,	Gooch,	McCormick,
Davenport,	Homan,	Shannon---9.
NAYS.		
Edwards,	Lane,	Motley,
Ford,	Ledbetter,	Patton,
Grace,	Martin,	Storey,
Guy,	McCulloch,	Terrell,
Hobby,	Moore,	Tilson---15.

Not voting—Burton.

Senator Lane's amendment was then adopted by the following vote:

YEAS.		
Brown,	Lane,	Motley,
Duncan,	Ledbetter,	Patton,
Ford,	Martin,	Storey,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—16.
Hobby,		

NAYS.		
Burnett,	Edwards,	Lair,
Burton,	Gooch,	McCormick,
Davenport,	Homan,	Shannon—9.

Senator Storey offered the following amendment:

Amend article 1420a, line eighteen: Strike out the words "and justices of the peace."

Adopted.

Senator Patton moved to reconsider the vote by which the last amendment of Senator Storey was adopted.

Carried.

Senator Storey's amendment was then adopted.

Senator Burton offered the following amendment:

Amend line twenty-eight, page 7, by striking out "\$200" and insert "\$300;" also in line thirty-one, by striking out "one dollar" and insert in lieu thereof "two dollars."

Lost.

The bill was then passed to a third reading by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Burton,	Homan,	Motley,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Terrell,
Ford,	Martin,	Tilson--20.
Guy,	McCulloch,	
NAYS.		
Burnett,	McCormick,	Patton--4.
Gooch,		

Not voting—Grace.

On motion of Senator Terrell, the rule was suspended to place the bill on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Dayenport,
Edwards,
Ford,
Guy,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—22.

NAYS.

Duncan,

Gooch—2.

The bill was then read third time and passed by the following vote:

YEAS.

Burton,
Davenport,
Edwards,
Ford,
Guy,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Storey,
Terrell,
Tilson—17.

NAYS.

Brown,
Burnett,
Duncan,

Gooch,
McCormick,

Patton,
Shannon—7.

Not voting—Grace.

A message was received from the House announcing that that body had adopted the majority report of the free conference committee on the differences between the Senate and House on Senate bill No. 46, "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas."

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, substitute for Senate bill No. 303, "An act to provide for the dissolution and surrender of the charter of the city of Terrell, in Kaufman county, Texas, and to provide for the debts due by said city;" Senate bill No. 312, "An act to amend and supplement the existing quarantine law of the State of Texas," and at 10 o'clock A. M. have presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Brown, chairman of committee on engrossed bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 370, entitled "An act to amend title 48 chapter 5 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879," and find it correctly engrossed.

BROWN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate joint resolution No. 367, proposing an amendment to section 14 of article 8 of the

constitution and to repeal section 16 of said article, and find the same correctly engrossed.

BROWN, *Chairman.*

Senator Storey (by leave) introduced a bill to be entitled "An act to amend article 4761 of the Revised Civil Statutes," adopted at the present session of the Legislature.

Referred to committee on finance.

Also a bill to be entitled "An act to amend article 106 of the Penal Code," adopted at the present session of the Legislature.

Referred to committee on finance.

The president appointed Senators Ledbetter, Grace and Duncan a committee of free conference to confer with a like committee on the part of the House, as to differences arising between the two houses on Senate substitute for House bill No. 33.

Senator Edwards, chairman of committee on constitutional amendments (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments, to whom was referred Senate joint resolution No. 368, entitled a "Joint resolution prescribing the mode and manner of submitting constitutional amendments to a vote of the people," have had the same under consideration, and instruct me to return the same to the Senate with the recommendation that it do pass.

EDWARDS, *Chairman.*

On motion of Senator Edwards, fifty copies of said Senate joint resolution No. 368 were ordered printed for the use of the Senate.

Senator Edwards (by leave) introduced the following bills:

A bill to be entitled "An act to amend article 4466 of an act to adopt and establish the Revised Civil Statutes of the State of Texas."

Referred to committee on retrenchment and reform.

A bill to be entitled "An act to amend article 97 of an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas."

Referred to judiciary committee No 1.

Senator Motley moved to adopt the minority report of the committee of free conference on House amendment to Senate bill No. 46, entitled "An act to provide for the election of district attorneys in certain judicial districts of the State of Texas."

Senator Storey moved the previous question on the minority and majority reports of said conference committee.

Seconded and the main question ordered by the following vote :

YEAS.

Davenport,
Duncan,
Gooch,
Grace,
Guy,
Hobby,
Homan,

Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—20.

NAYS.

Brown,
Burnett,

Burton,
Edwards,

Ford—5.

The minority report was then lost by following vote :

YEAS.

Burton,
Guy,
Lair,

Ledbetter,
Martin,
Moore,

Motley,
Shannon—8.

NAYS.

Brown,
Burnett,
Davenport,
Duncan,
Ford,
Gooch,

Grace,
Hobby,
Homan,
Lane,
McCormick,

McCulloch,
Patton,
Storey,
Terrell,
Tilson—16.

Not voting—Edwards.

The question recurring upon the adoption of the majority report, it was adopted by the following vote :

YEAS.

Brown,
Burnett,
Davenport,
Duncan,
Ford,
Gooch,

Grace,
Hobby,
Homan,
Lane,
Lair,
McCormick,

McCulloch,
Patton,
Storey,
Terrell,
Tilson—17.

NAYS.

Burton,
Guy,

Ledbetter,
Motley,

Shannon—5.

Not voting—Edwards.

Senator Edwards stated, as his reason for not voting, that he was paired with Senator Ripetoe, who is absent; that he would have voted yea, and Senator Ripetoe would have voted nay, if present.

Senator Burton (by leave), introduced a bill to be entitled "An act to amend an act entitled an act to fix the fees of the department of state in certain cases, approved, 1879."

Referred to judiciary committee No. 1.

Senator Grace entered a motion to reconsider the vote by which the resolution continuing the assistant sergent-at-arms in office for thirty days after adjournment of the Senate, was passed on yesterday.

Senator Shannon moved to adjourn until 3 o'clock this evening.

Lost.

On motion of Senator Duncan, Assistant Secretary W. A. Fields was excused until to-morrow on account of pressing business.

On motion of Senator Edwards, the Senate adjourned until 9:30 o'clock to-morrow morning.

SEVENTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 10, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and same adopted.

Senator McCormick presented the memorial of Hon. Chas. H. Leonard, mayor of Galveston, in behalf of the city, "asking that the city of Galveston be reimbursed for expenses incurred in carrying out quarantine regulations from 1870 to 1877, under state laws for that purpose, and for which the state has made no appropriation."

Referred to committee on finance.

Senator Brown, from the committee on retrenchment and reform, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on retrenchment and reform, to whom was referred Senate bill No. 375, entitled "An act to amend article 4466 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" have had the same under consideration, and instruct me to report it to the Senate recommending its passage.

BROWN, *for Committee.*

Senator Homan, from the committee on public lands, submitted the following as a majority report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public lands have considered Senate bill No. 369, "An act to encourage the settlement and organization of unorganized counties," and a majority of the committee instruct me to return it to the Senate, with the accompanying amendments, with the recommendation that it pass as amended.

HOMAN, *for majority.*

Amendments: Add to section 3 the following: "And the certificates authorized by this act to be issued shall be held to be in lieu of all other grants to which any of said one hundred and fifty families might otherwise be entitled under the pre-emption laws of this state."

Add the following section to the bill:

"Section 4. The near approach of the close of the session creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended, and they are suspended."

Senator Storey, chairman of the committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 372, entitled "An act to amend article 4761 of the Revised Civil Statutes, adopted at the present session of the Legislature," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 373, entitled "An act to amend article 106 of the Penal Code of the State of Texas, passed at the present session of the Legislature," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 330, entitled "An act to protect lands lying on or near county boundaries from double assessment," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

Senator Duncan introduced a bill entitled "An act to amend section 4 of an act entitled 'an act creating the office of district attorney in certain judicial districts of the state,' passed at the present session of the Legislature."

Read by caption and referred to judiciary committee No. 1.

The president, after publicly reading their captions, signed the following bills, to-wit:

Senate bill No. 322, entitled "An act to provide for the appointment of notaries public, cattle and hide inspectors, justices of the peace and constables in the unorganized counties."

Senate bill No. 338, entitled "An act prescribing the times of holding the district courts in the first judicial district and regulating the returns of process therein."

Senator Gooch (under the rules) called up Senate joint resolution No. 359, "Requesting our senators and representatives in congress to use their influence to secure the passage of what is known as the inter-state commerce bill, introduced by Hon. John H. Reagan, of Texas, or of some other having the same object in view," which was read second time and ordered engrossed.

Senator Gooch moved to suspend the rules and place the resolution on its third reading.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Shannon,
Storey,
Terrell,
Tilson---23.

NAYS—none.

Not voting—Homan, Motley.

Resolution read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--22.

NAYS--none.

Not voting—Ford, Homan, Lair.

Senator Grace called up his motion entered on yesterday to reconsider the vote by which the resolution "retaining the assistant sergeant-at-arms thirty days after adjournment for certain purposes," was adopted.

Senator Lair moved to lay the motion to reconsider on the table.

Lost by the following vote:

YEAS.

Davenport,
Duncan,
Homan,

Lair,
McCormick,
McCulloch,

Moore,
Patton,
Terrell--9.

NAYS.

Brown,
Burnett,
Burton,
Edwards,
Gooch,

Grace,
Guy,
Hobby,
Lane,
Ledbetter,

Martin,
Shannon,
Storey,
Tilson--14.

Not voting—Ford, Motley.

Senator Storey moved the previous question on the motion to reconsider.

The motion seconded and main question ordered.

The motion to reconsider carried by the following vote :

YEAS.

Brown, Burnett, Edwards, Gooch, Grace,	Lane, Ledbetter, Martin, Moore,	Motley, Shannon, Storey, Terrell—13.
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NAYS.

Burton, Davenport, Duncan, Ford,	Guy, Hobby, Homan, Lair,	McCormick, McCulloch, Patton, Tilson—12.
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Senator Gooch moved to refer the resolution to the committee on finance.

Lost by the following vote:

YEAS.

Burnett, Gooch,	Grace, Lane,	Shannon, Tilson--6.
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NAYS.

Brown, Burton, Davenport, Duncan, Guy, Hobby,	Homan, Lair, Ledbetter, Martin, McCormick, McCulloch,	Moore, Motley, Patton, Storey, Terrell—17.
--	--	--

Not voting—Edwards, Ford.

Senator Brown offered the following amendment:

Amend by striking out "thirty" and inserting "five" days.

Senator Gooch moved to postpone the resolution and amendment until to-morrow morning.

Lost.

Senator Ledbetter offered the following as an amendment to the pending amendment of Senator Brown:

Strike out "five" and insert "ten" days."

Senator Duncan moved the previous question on the resolution and pending amendments.

Motion seconded and main question ordered.

The amendment of Senator Ledbetter was lost by the following vote:

YEAS.

Burnett, Ledbetter, Moore,	Motley, Patton,	Storey, Tilson--7.
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NAYS.

Brown, Burton, Davenport, Duncan, Ford, Gooch,	Grace, Guy, Hobby, Homan, Lair,	Martin, McCormick, McCulloch, Shannon, Terrell—16.
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Not voting—Edwards, Lane.

The amendment of Senator Brown was then lost by the following vote:

YEAS.

Brown,
Burnett,
Edwards,Gooch,
Grace,
Martin.Shannon,
Storey,
Tilson--9.

NAYS.

Burton,
Davenport,
Duncan,
Ford,
Hobby,Homan,
Lair,
Ledbetter,
McCormick,
McCulloch,Moore,
Motley,
Patton,
Terrell---14.

Not voting—Guy, Lane.

The resolution was then adopted by the following vote:

YEAS.

Burton,
Davenport,
Duncan,
Ford,
Guy,Hobby,
Homan,
Lair,
McCormick,McCulloch,
Patton,
Storey,
Terrell---13.

NAYS.

Brown,
Burnett,
Edwards,
Gooch,Grace,
Lane,
Ledbetter,
Martin,Moore,
Motley,
Shannon,
Tilson---12.

Senator Grace entered the following protest against the passage of this resolution:

"I protest against the adoption of this resolution for that no assistant to secretary of the senate has ever heretofore been employed to aid him in arranging, proofing and indexing the journals of the Senate. That the secretary is retained after the session adjournment for sixty days at \$5 per day for the purpose of arranging, proofing and indexing the journals—a much longer time than is necessary for any one competent man to perform the labor. That one man can perform the labor of inventorying the property belonging to the Senate chamber in six hours at furthest in one day. Therefore this resolution makes a useless waste of \$150 of the money belonging to the state."

A message was received from the House announcing the passage by that body of Senate bill No. 366, "An act to amend section 2 of an act entitled 'an act to create the thirty-second judicial district, prescribing the times of holding the district courts therein and providing for the appointment of a district judge for said district,' approved March 22, 1879."

Senate bill No. 365, entitled "An act to attach the county of Concho to the twentieth judicial district and to fix the time for holding the district court therein."

Senate bill No. 270, entitled "An act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge railroad company."

Senate bill No. 181, entitled "An act to reorganize the sixteenth judicial district and to provide for the time of holding courts therein."

Senate bill No. 304, entitled "An act supplementary of an act entitled 'an act fixing the time of holding the courts of the twenty-third judicial district,' approved February 12, 1879."

Senate bill No. 281, entitled "An act supplemental of an act entitled 'an act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas,' approved February _____, 1879," with amendments.

Senate bill No. 326, entitled "An act to amend an act fixing the time of holding the courts in the seventeenth judicial district, approved, 'so as to make no change in the time of holding courts in said district, except in the county of Williamson,'" with amendments.

House bill No. 465, entitled "An act to amend 'an act to incorporate the city of San Antonio, and grant a new charter to said city,'" and to repeal "An act to incorporate the city of San Antonio, approved July 17, 1856," and "An act to amend the act to incorporate the city of San Antonio, approved February 11, 1860," approved August 13, 1870.

On motion of Senator Terrell, the House amendments to Senate bill No. 326, just reported from the House, were concurred in.

On motion of Senator Ford, the Senate concurred in House amendments to Senate bill No. 281, just reported from the House.

Senator Duncan, from judiciary committee No. 1, (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 377, "An act to amend section 4 of an act entitled 'an act creating the office of district attorney in certain judicial districts of the state,' passed at the present session of the Legislature," beg leave to report the bill back and recommend its passage.

DUNCAN, *for Committee.*

House bill No. 465, just reported from that body, was taken up and referred to judiciary committee No. 2.

Senator Terrell, chairman of judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill to be entitled "An act to amend article 97 of an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas," passed during the present session of the Legislature, have considered the same, and instruct me to report it back with recommendation that it do pass. The amendment re-enacts the section as it now stands, but extends the penalties for misapplication of public money to those collectors of taxes or of other funds which belong to the state, who retain the same in their possession for thirty days after receiving notice from the comptroller of public accounts to pay the same over to the treasurer.

TERRELL, *Chairman.*

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined the Senate amendments to House bill No. 402, and find said amendments correctly engrossed.

BROWN, *Chairman.*

Substitute for House bill No. 90, entitled "An act to amend title 29, chapter 6, article 1235 of the Revised Civil Statutes, passed at the present session of the Legislature," was taken up and read second time.

Senator Hobby offered the following amendment:

Amend by adding this proviso:

"*Provided*, That if there be no newspaper published in the judicial district, then the citation shall be published in the nearest judicial district, in the county where the suit is instituted, in which a newspaper is published."

Adopted and bill passed to a third reading.

The following message was received from the House stating that the House concurs in Senate amendments to House bill No. 402, "An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

Senator Hobby called up Senate bill No. 369, entitled "An act to encourage the settlement and organization of the unorganized counties," which was read first time.

(Senator Duncan in the chair.)

On motion of Senator Guy, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--20.

NAYS.

Burnett,
Grace,

Lair,

Moore--4.

Not voting—Burton.

Bill read second time.

The first committee amendment was adopted.

The second committee amendment (emergency clause) was adopted by the following vote:

YEAS.

Burton,
Davenport,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Tilson--20.

NAYS.

Brown,
Burnett,

Duncan,
Lair,

Terrell--5.

Senator Gooch offered the following amendment:

Section 1, after the words "one hundred and fifty families," insert the following: "having an average taxable capital of five hundred dollars."

Senator Homan offered the following as a substitute for the pending amendment and section 1 of the bill:

"SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That whenever one hundred and fifty heads of families, having an average taxable capital of five hundred dollars, shall hereafter locate and settle in one colony with their families, upon the lands of any unorganized county of this state, they shall be entitled to demand and receive from the state thirty-seven and one-half sections of land of six hundred and forty acres each, to be located in accordance with the general laws of the state."

Adopted, and the substitute then adopted as an amendment to the bill.

On motion of Senator Davenport, the bill was recommitted to committee on public lands.

On motion of Senator Storey, Senator Buchanan was excused for the day on account of sickness.

Senator Davenport called up Senate bill No. 377, entitled "An act to amend section 4 of an act entitled 'an act creating the office of district attorney in certain judicial districts of the state,' passed at the present session of the Legislature," which was read first time.

On motion of Senator McCormick, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Burton.

Bill read second time and ordered engrossed.

On motion of Senator McCormick, the rules were further suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—23.

NAYS—none.

Not voting—Burton, Moore.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—23.

NAYS—none.

Not voting—Burton, Moore.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 322, "An act to provide for the appointment of notaries public, cattle and hide inspectors, justices' of the peace and constables in the unorganized counties of the State of Texas."

Senate bill No. 338, "An act prescribing the times of holding the district courts in the first judicial district and regulating the return of pro-

cess therein," and at 11:20 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Edwards called up Senate bill No. 375, entitled "An act to amend article 4466 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" which was read first time.

On motion of Senator Edwards, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--22.

NAY—Brown.

Not voting—McCormick, Moore.

Bill read second time.

Senator Edwards offered the following amendment:

"Section 2. The late hour of the session creates an imperative public necessity that the rules requiring this bill to be read on three several days be suspended, and it is so ordered; and the fact that the salary is now fixed at too high a figure creates an emergency that this take effect at once. And it is further enacted, that this bill take effect and be in force from and after its passage."

Adopted and bill ordered engrossed.

Senator Edwards moved that the rules be further suspended and bill be placed on its third reading.

Carried by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Shannon,
Storey,
Terrell,
Tilson--23.

NAY—Brown.

Not voting—Motley.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--25.

NAYS—none.

Senator Homan called up Senate bill No. 374, entitled "An act to amend article 97 of 'an act to adopt and establish a Penal Code and Code

of Criminal Procedure for the State of Texas," which was read first time.

Senator Edwards moved that the rules be suspended, and bill placed on its second reading.

Carried by the following vote:

YEAS.

Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—22.

NAYS—NONE.

Not voting—Brown, Davenport, Homan.
Bill read a second time.

Senator Storey offered the following amendment:

Amend by inserting after the words "bank check," the words: "or postoffice orders."

Adopted.

Senator Patton offered the following:

"*Provided*, that this act shall not be construed to prevent collectors of taxes from paying warrants drawn by the comptroller of public accounts on the treasurer in favor of officers living in their district or county as provided by law."

Adopted.

Senator Hobby offered the following:

Add subdivision sixth—

"Sixth. The willful failure of any officer to pay into the state treasury at the time prescribed by law whatever funds he may have on hand."

Change subdivision "sixth" to "seven."

Adopted.

Senator Edwards offered the following:

"Section 2. The late hour of the session creates an imperative public necessity that the rule requiring that this bill be read on three several days be suspended, and it is so ordered."

Adopted and bill ordered engrossed.

Senator Edwards moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—21.

NAY—Brown.

Not voting—Grace, Homan, McCormick.

Bill read third time and passed by the following vote:

YEAS.

Burnett,
Davenport,

Duncan,
Edwards,

Gooch,
Hobby,

Lane,
Lair,
Ledbetter,
Martin,

McCulloch.
Moore,
Motley,
Patton,

Shannon,
Storey,
Terrell,
Tilson—18.

NAYS.

Brown,
Burton,

Ford,

Guy—4.

Not voting—Grace, Homan, McCormick.

(President in the chair.)

Senator Lane called up Senate bill No. 372, entitled "An act to amend article 4761 of the Revised Civil Statutes, adopted at the present session of the Legislature," which was read first time.

On motion of Senator Storey, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Shannon,
Storey,
Terrell,
Tilson--22.

NAYS—none.

Not voting—Brown, Burton, Motley.

Bill read second time.

Senator Gooch offered the following amendment:

In section 1, after words "comptroller of public accounts," add "or by law."

Adopted.

Senator Edwards offered the following amendment:

Add to section: "and the collector of taxes shall finally settle with the comptroller and pay into the treasury all funds in his hands arising from taxes assessed for the previous year, and all occupation taxes collected to date, on or before the first day of May of each year."

Senator Martin offered the following amendment to Senator Edwards' amendment:

Amend by inserting "first of July" in lieu of the "first day of May."

Adopted.

The amendment of Senator Edwards, as amended, was then adopted.

Senator Gooch offered the following amendment:

"*Provided*, that nothing in this article shall prevent the collector from paying state warrants drawn in favor of his district or county, in such manner as may be allowed or prescribed by law."

Adopted and bill ordered engrossed.

On motion of Senator Edwards, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Burnett,
Davenport,
Edwards,
Ford,
Gooch,
Guy,
Hobby,

Homan,
Lane,
Lair,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--20

NAYS—Burton.

Not voting—Brown, Duncan, Grace, Ledbetter.

Bill read third time and passed by the following vote:

YEAS.

Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Lair,
Martin,
McCormick,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson---21.

NAYS—none.

Not voting—Brown, Duncan, Grace, Ledbetter.

On motion of Senator Burnett, the Senate adjourned until three o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

Senator Davenport moved to adjourn until 9 o'clock A. M. to-morrow. Carried.

SEVENTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 11, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Hobby, Senator Duncan was excused indefinitely from Monday next.

On motion of Senator Storey, Senator Buchanan was excused for the day on account of sickness.

Senator Edwards introduced a joint resolution granting leave of absence to W. B. Wall, county judge of Houston county.

Referred to committee on state affairs.

Senator Lair called up House resolution to adjourn *sine die* on the fourteenth instant.

Senator Burnett offered the following amendment:

Strike out "Monday, 14" and insert "April 22."

Senator Duncan offered the following as a substitute for the amendment of Senator Burnett:

Strike out "14" and insert "April 30."

Lost.

Senator Ledbetter moved to postpone the pending resolution and amendment to Monday next.

Senator Edwards moved to postpone the resolution and amendment to Thursday next.

Lost.

Senator Ledbetter's motion to postpone to Monday next was lost by the following vote:

YEAS.		
Brown,	Gooch,	Ledbetter,
Burton,	Grace,	Patton,
Duncan,	Houston,	Terrell--11.
Edwards,	Lane	
NAYS.		
Burnett,	Lair,	Motley,
Davenport,	Martin,	Shannon,
Guy,	McCulloch,	Storey,
Hobby,	Moore,	Tilson--13.
Homan,		

Not voting—Ford.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called. Absent—Ford.

Pending business went to the table.

On motion of Senator Edwards, Senator McCormick was excused for the morning.

The president, after publicly reading their captions, signed Senate bill No. 181, entitled "An act to reorganize the sixteenth judicial district and to provide for the time of holding courts therein."

Senate bill No. 46, entitled "An act to provide for the election of a district attorney in certain judicial districts of the State of Texas."

Senate bill No. 270, entitled "An act granting further time to the Corpus Christi, San Diego and Rio Grande railroad company."

Senate bill No. 281, entitled "An act supplemental of an act entitled 'an act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas,' approved February, 1879."

Senate bill No. 326, entitled "An act to amend 'an act fixing the time of holding the courts in the seventeenth judicial district,' approved, so as to make no change in the time of holding courts in said district, except in the county of Williamson."

Senate bill No. 365, entitled "An act to attach the county of Concho to the twentieth judicial district and to fix the time of holding district courts therein."

Senate bill No. 366, entitled "An act to amend section 2 of an act entitled 'an act to create the thirty-second judicial district, prescribing the time of holding the courts therein and providing for the appointment of a district judge for said district,' approved March 22, 1879."

Senator Terrell, chairman of the judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 376, entitled "An act to amend an act entitled an act to fix the fees of the department of state in certain cases, approved, 1879," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do not pass.

TERRELL, *Chairman.*

Senator Lane, for the majority of the judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 362, entitled "An act to allow the heirs of Thomas Toby to sue the state," have carefully considered the same, and I am instructed by the committee to report the bill back to the Senate with the following amendments: 1. Strike out in section 2 the words "but not by writ of error." 2. Strike out section 3. And as so amended to recommend its passage.

LANE, *for majority of Committee.*

Senator Lane, chairman of committee on public lands, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on public lands have had under consideration Senate bill No. 369, entitled "An act to encourage the settlement and organization of unorganized counties," and direct me to report the same back with the recommendation that it do not pass.

LANE, *Chairman.*

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your finance committee have had under consideration House bill 101, "An act to refund to any person all moneys that have been paid into the state treasury on any note or obligation given for university lands and not properly credited to the same."

The committee find that this bill was intended to secure the payment out of the treasury of \$62 44, paid by a citizen of Texas to the state treasurer in 1861; that said payment was not the full amount required by law of said citizen; that the treasurer refused to give the citizen credit for the same, but did not give him a private memorandum certificate to the effect that the credit would be given when the balance due the state was paid. We find further, that no entry whatever was made in the treasury department of this payment, and the committee believe that this money ever found its way into the treasury of the state, for the reason that the payment required to complete the installment was not made while the then treasurer was in office; I am therefore instructed by the committee to recommend that the bill do not pass.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs, to whom was referred Senate joint resolution No. 319, "Requesting our members in congress to bring to the consideration of that body the subject of establishing a line of vessels between the port of Galveston and the Mexican ports on the gulf," have carefully considered the same, and I am instructed by the committee to report the resolution back to the Senate with recommendation that it pass.

STOREY, *for Committee.*

Hon. J. D. Sayers, President of the Senate :

Your committee on finance, to whom was referred Senate bill No. 48, entitled "An act to amend 'an act to provide for a speedy assessment and collection of taxes upon land and real estate, in cases where such property has been subject by law to taxation, but the assessment thereof has been omitted,'" have duly considered the same, and your committee find that the legislation sought in this bill has already been considered in

House bills on the same subject. I am therefore instructed by the committee to report the bill back to the Senate with the recommendation that it lay on the table.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your committee on finance to whom was referred Senate bill No. 22, entitled "An act to amend section three of 'an act to regulate taxation and fix the rate of the same,'" have carefully considered the same, and your committee find that the legislation sought by this bill has been considered in House bills on the same subject; I am therefore instructed by the committee to report the bill back to the Senate with the recommendation that it lay on the table.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your finance committee have had under consideration Senate bill No. 44, entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes and to regulate their compensation,' approved August 21, 1878," and your committee find that legislation on the same subject and to the same end, has been considered in House bills; I am therefore instructed by the committee to report the bill back to the Senate with the recommendation that it lay on the table.

STOREY, *Chairman.*

Senator Ledbetter called up House bill No. 412, entitled "An act making appropriations for deficiencies beginning September 1, 1878, and ending February 28, 1879, and for previous years," which was read first time.

House bill No. 445, entitled "An act to provide for the assessment and collection of taxes on land and other property situated in unorganized counties and for the enforcement of the same," was taken up and read first time.

The Senate being announced full, the consideration of the adjournment resolution was resumed.

Senator Duncan raised the point of order that the adjournment resolution was not properly before the Senate, as it was taken up without a suspension of the rules, which had not been done.

Overruled.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have examined Senate joint resolution No. 359, requesting our senators and representatives in Congress to use their influence to secure the passage of what is known as the interstate commerce bill introduced by Hon. John H. Reagan, and find it correctly engrossed.

BROWN, *Chairman.*

Senator Hobby moved the previous question on the adjournment resolution of the House with pending amendment.

Motion seconded and main question ordered.

Senator Barnett's amendment was adopted by the following vote:

YEAS.

Burnett,
Davenport,
Guy
Hobby,
Homan,

Lair,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Shannon,
Storey,
Tilson—14.

NAYS.

Brown,
Burton,
Duncan,
Edwards,

Ford,
Gooch,
Grace,
Houston,

Lane,
Ledbetter,
Terrell—11.

The House resolution, as amended, was then adopted by the following vote:

YEAS.

Burnett,
Davenport,
Grace,
Guy,
Hobby,
Homan,

Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Shannon,
Storey,
Tilson—16.

NAYS.

Brown,
Burton,
Duncan,

Edwards,
Ford,
Gooch,

Houston,
Lane,
Terrell—9.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed the following Senate-bills, to wit:

Senate bill No. 46, "An act creating the office of district attorney in certain judicial districts of the state;"

Senate bill No. 181, "An act to reorganize the sixteenth judicial district of the State of Texas and to provide for the times of holding court therein;"

Senate bill No. 270, "An act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge railroad company;"

Senate bill No. 291, "An act supplemental to an act entitled 'an act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas,' approved February, 1879;"

Senate bill No. 326, "An act to amend 'an act fixing the time of holding the courts in the seventeenth judicial district,' approved February 28, 1879, so as to make no change in time of holding courts in said district, except in the county of Williamson;"

Senate bill No. 365, "An act to attach the county of Concho to the twentieth judicial district and to fix the time for holding district courts therein;"

Senate bill No. 366, "An act to amend section 2 of an act entitled 'an act to create the thirty-second judicial district, prescribing the times of holding the district courts therein and providing for the appointment of a district judge for said district,' approved March 22, 1879," and at 9:45 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Ledbetter moved to reconsider the vote adopting House resolution of adjournment.

Senator Shannon moved to lay the motion to reconsider on the table.

Senator Hobby moved the previous question on the motion to lay on the table.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called and Senate full.

The motion of Senator Hobby for the previous question was seconded and main question ordered.

The motion of Senator Shannon to lay the motion to reconsider on the table was lost by the following vote:

YEAS.		
Burnett,	Homan,	Motley,
Davenport,	Lair,	Patton,
Guy,	McCulloch,	Shannon,
Hobby,	Moore,	Tilson--12.
NAYS.		
Brown,	Gooch,	Ledbetter.
Burton,	Grace,	Martin,
Duncan,	Houston,	Storey,
Edwards,	Lane,	Terrell--13.
Ford,		

Senator Edwards moved to postpone the motion to reconsider. Lost by the following vote:

YEAS.		
Brown,	Ford,	Lane,
Burton,	Gooch,	Ledbetter,
Duncan,	Grace,	McCulloch,
Edwards,	Houston,	Terrell--12.
NAYS.		
Burnett,	Lair,	Patton,
Davenport,	Martin,	Shannon,
Guy,	Moore,	Storey,
Hobby,	Motley,	Tilson--13.
Homan,		

Senator Homan moved the previous question on the motion of Senator Ledbetter to reconsider the vote adopting the adjournment resolution. Motion seconded and main question ordered.

The motion to reconsider was lost by the following vote:

YEAS.		
Brown,	Ford,	Lane,
Burton,	Gooch,	Ledbetter,
Duncan,	Grace,	McCulloch,
Edwards,	Houston,	Terrell--12.
NAYS.		
Burnett,	Lair,	Patton,
Davenport,	Martin,	Shannon,
Guy,	Moore,	Storey,
Hobby,	Motley,	Tilson--13.
Homan,		

The special order being Senate bill No. 337, entitled "An act granting a land certificate of six hundred and forty acres to each of the indigent pensioners enrolled under the act approved July 28, 1876," was taken up and read second time.

(Senator Gooch in the chair.)

A message was received from the House announcing the passage by that body of Senate bill No. 262, entitled "An act to grant Jackson Doyle six hundred and forty acres of land;" and House bill No. 395 entitled "An act to limit the terms of the district court of Marion county."

House bill No. 395, just received from the House, was taken up and referred to judiciary committee No. 1.

Senator Lane offered the following amendment:

Amend by adding after the word "certificate," in fourteenth line of section 3, the following, viz:

"*Provided*, That should the said commissioner have any grounds to believe, or be advised that the applicant is physically able to support himself, or that he is not truly in indigent circumstances as defined in this act, or that the applicant was fraudulently or illegally enrolled as indigent pensioner under the act approved July 28, 1876, then he shall suspend the issuance of the land certificate herein provided for and require further proof in the manner and to the extent he may designate."

Adopted.

Senator Ford offered the following amendment:

Amend by adding the following as

"Section That in every case the commissioner of the general land office shall before issuing a certificate for 640 acres of land to any person claiming the same under the provisions of this act, require proof of the following facts: First—That the person upon whose services the claim is founded did actually perform the services or do the acts required by the constitution and laws made in pursuance thereof to entitle him or those claiming under or through him to receive said certificate. Second—That the proof of indigence be in strict conformity with this act. Third—That the proof required to establish these facts shall be record evidence, which, if necessary, shall be corroborated by parol evidence, and the evidence must be full, conclusive and complete. It shall be the duty of the comptroller of public accounts, in preparing a list for the commissioner of the general land office, as required in section two of this act, to omit from said list the names of all pensioners he knows, believes or suspects have been guilty of perpetrating a fraud upon the State of Texas by false-swearing, personating another, or in any other manner; and he shall tabulate the said names so omitted, and state the reasons for his action in each case, and he may support said reasons by record evidence or other proof of a credible character; and he shall be governed by the provisions of this section in furnishing a list of the persons who may apply for relief in the future, and may present proof in support of the application for a certificate. In any and every case in which the commissioner of the general land office considers the proof insufficient, or where there is evidence of fraud committed or attempted to be committed upon the generosity of the state, he shall not issue a certificate for 640 acres of land to any original claimant or to any one claiming under or through him."

Senator Terrell offered the following as an amendment to the amendment of Senator Ford:

"Section 4. Before any benefit shall accrue to any one under the provisions of this act, a certificate shall be procured by a board of three surviving veterans of the revolution of 1836, who shall be appointed by the governor, and one of whom shall be the president of the veterans appointed, stating that they believe that the applicant is entitled under the provisions of this act to its benefits, and especially that they are satisfied of the fact that the applicant is in indigent circumstances."

Adopted, and the amendment of Senator Ford, as amended by the amendment of Senator Terrell, was then adopted, and bill ordered engrossed.

Senator Lair moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,	Hobby,	McCulloch,
Burnett,	Homan,	Moore,
Duncan,	Houston,	Motley,
Edwards,	Lane,	Patton,
Ford,	Lair,	Shannon,
Gooch,	Ledbetter,	Storey,
Grace,	Martin,	Tilson--21.

NAYS—none.

Not voting—Burton, Davenport, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Hobby,	McCulloch,
Burnett,	Homan,	Motley,
Duncan,	Houston,	Patton,
Edwards,	Lane,	Shannon,
Ford,	Lair,	Storey,
Gooch,	Ledbetter,	Terrell,
Grace,	Martin,	Tilson--22.
Guy,		

NAYS—none.

Not voting—Burton, Davenport, Moore.

A message was received from the House announcing the passage by that body of Senate bill No. 88, entitled "An act to amend articles 518 and 519 of an act entitled 'an act to establish a Code of Criminal Procedure for the State of Texas,'" with amendments.

On motion of Senator Houston, Senate bill No. 88, just reported from the House, was taken up and House amendments concurred in.

Senator Ledbetter called called up House bill No. 412 (the deficiency bill), and on his motion the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,	Hobby,	McCulloch,
Burnett,	Homan,	Motley,
Duncan,	Houston,	Patton,
Edwards,	Lane,	Shannon,
Ford,	Lair,	Storey,
Gooch,	Ledbetter,	Terrell,
Guy,	Martin,	Tilson--21.

NAYS—none.

Not voting—Burton, Davenport, Grace, Moore.

On motion of Senator Lair, Senator McCormick was excused from voting.

Bill read second time.

The first committee amendment providing an additional board was considered.

Senator Patton offered the following as a substitute for the first committee amendment:

On page 2, lines twenty-six and twenty-seven, strike out "and whether the same was provided for by pre-existing law."

Withdrawn, and the first committee amendment (the proviso to the adjutant general's department) was adopted by the following vote:

YEAS.

Brown,	Burton,	Ford,
Burnett,	Edwards,	Gooch,

Grace;
Hobby,
Houston,

Lair,
Ledbetter,
McCulloch,

Moore,
Motley,
Storey--15.

NAYS.

Davenport,
Homan,

Martin,
Patton,

Shannon,
Tilson--6.

Not voting—Duncan, Lane.

Senator Lane did not vote on the question, because of interest in the question.

On motion of Senator Davenport, Senator Terrell was excused for the day on account of sickness.

Senator Davenport stated he was paired with Senator Terrell; that he would vote no and Senator Terrell yea on this question.

The second amendment of the committee (providing an auditorial board to pass on the pension claims), was considered.

Senator Storey offered the following as an amendment to second committee amendment:

After the word "act" insert words "without delay."

Adopted, and the committee amendment as amended was then adopted.

The third committee amendment (to pay E. Krohn for beef for Blind Asylum), was adopted.

(President in the chair.)

Senator Storey offered the following:

"Amend amendments offered by the committee by striking out lines one and two, page 2 of committee amendments (which was fourth committee amendment)."

Adopted.

Senator Edwards offered the following:

Amend the fifth committee amendment by striking out "February 12, 1879," and inserting "August 1, 1877."

Adopted, and the fifth committee amendment adopted.

The fifth committee amendment as amended (the accounts of Brush, White & Ratz for 1875-6 with Voight), was adopted by the following vote:

YEAS.

Brown,
Davenport,
Gooch,
Homan,
Houston,

Lane,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Shannon,
Storey--14.

NAYS.

Burnett,
Burton,
Edwards,

Ford,
Grace,
Hobby,

Lair.
Tilson--8.

Not voting—Duncan.

The sixth committee amendment (to pay Eanes for trees under Voight), was adopted.

The seventh committee amendment (to pay Erwin for water in contract with Capt. Voight, etc).

Adopted.

The eighth committee amendment (to pay Lee Blocker for porter services) was adopted.

The ninth committee amendment (to pay Durant costs expended as attorney for state).

Adopted.

Senator Lane offered the following (which is an amendment to tenth committee amendment):

Amend by striking out from line twelve to line twenty-six on page 2, and insert in lieu thereof "for payment of health officers, guards and employes on the Gulf coast under the quarantine laws, \$5000."

Adopted.

The tenth committee amendment, as amended, was then adopted.

Senator Edwards offered the following as an amendment to the eleventh committee amendment:

Add line four, page 3, "or so much of either sum as may be necessary."

Adopted.

The eleventh committee amendment, as amended, adopted.

Senator Edwards offered the following amendment to twelfth committee amendment:

Line thirty strike out "thereof" and insert "of either sum."

Adopted, and twelfth committee amendment, as amended, adopted.

Senator Gooch offered the following:

Page 4, after line nineteen and before line twenty, insert "amount due S. N. Pickens, inspector of the East Texas Penitentiary, for labor as such during the month of January, 1879, fourteen days, seventy dollars."

Adopted.

Senator Burton offered the following:

"For paying Geo. W. Grant for ten acres of land on which the penitentiary graveyard, near Huntsville, is located, one hundred and fifty dollars; to be paid on warrant issued by comptroller on receipt of warranty deed to said land, vesting the same in the state, said deed to be approved by the superintendent of the penitentiary."

Adopted.

Senator Burton offered the following:

"To Wm. P. Huff, ex-district clerk of Fort Bend county, for costs due in the case of J. B. Wygal et als. (in 1871) vs. the treasurer of the State of Texas, with regard to escheated property of Clark, deceased, etc., five hundred dollars."

Lost by the following vote:

YEAS.		
Brown,	Davenport,	Houston,
Burnett,	Edwards,	Lane--8.
Barton,	Ford.	
NAYS.		
Gooch,	Martin,	Patton,
Grace,	McCulloch,	Shannon,
Hobby,	Moore,	Storey,
Lair,	Motley,	Tilson--13.
Ledbetter,		

Not voting—Duncan, Homan.

Senator Edwards offered the following:

"Strike out lines nine, ten, eleven, twelve and thirteen on page 2."

Adopted and bill ordered engrossed.

On motion of Senator Storey, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Davenport,	Gooch,
Burnett,	Edwards,	Grace,
Barton,	Ford,	Hobby,

Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Motley,

Patton,
Shannon,
Storey,
Tilson—21.

NAYS—NONE.

Not voting—Duncan, Homan.

Bill read third time.

A quorum not being present the sergeant-at-arms was dispatched for absentees.

The president after reading its caption, signed Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a Code of Criminal Procedure for the State of Texas.'"

The following message was received from his excellency the governor, which was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 11, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments, to wit:

M. W. Sincemaker to be cattle and hide inspector in the unorganized county of Wichita, as authorized in Senate bill No. 88, entitled "An act to provide for the appointment of notaries public, hide inspectors, justices of the peace and constables in the unorganized counties of the State of Texas." Respectfully, O. M. ROBERTS, Governor.

The following communication was received from Senator McCormick, tendering his resignation as state senator:

AUSTIN, TEXAS, April 11, 1879.

Hon. J. D. Sayers, President of the Senate:

SIR—It is known to the Senate and to the people that I have been appointed to the office of United States district judge for the northern judicial district of Texas.

Desiring to accept that appointment I hereby submit my resignation of the office of senator from the nineteenth senatorial district of Texas to take effect immediately.

In withdrawing from the Senate, I beg leave to bear my humble testimony to the impartial, just and generous treatment which the members of the political minority have uniformly received at the hands of the majority during the time that I have been a member of the Senate.

Permit me also to tender to each member of the Senate with whom I have thus been associated, this public expression of my grateful sense of the kind consideration ever shown to me personally by each one of them.

Very respectfully,

A. P. McCORMICK.

Senator Edwards moved that the resignation of Senator McCormick be accepted, and in doing so addressed the Senate in the following eloquent and appropriate remarks:

"Mr. President—I move the acceptance of the resignation of the Hon. A. P. McCormick, and I do this with mingled feelings of regret and gratification. Having served in the last and present Senate with the senator from Brazoria, a warm personal attachment has sprung up between us, and I have learned to know and appreciate his real personal worth as well as his usefulness as a legislator. I regret that he leaves these legislative halls, for in him we all feel that we lose one of our ablest and

wisest counselors. As a member of a party of different politics it affords me pleasure to testify to his candor and fairness; his ability and untiring devotion to the real interests of the state.

"Mr. President, while I, in connection with the rest of his comrades, will regret deeply that the senator from Brazoria by this act severs his connection with us, it gratifies us to know that he is called from among us to fill a high judicial position—a position that will not reflect more credit upon him than his integrity and ability will redound to the dignity and elevation of the bench.

"In my opinion, Mr. President, the northern district of Texas is very fortunate in its new judge. As a gentleman, jurist and judge he has not his superior anywhere or in any particular in this state, and but few may be classed as his peers.

"In leaving us he takes with him from these halls our sincere good wishes and earnest hope for his continued welfare and prosperity."

Senator Storey then seconded the motion of Senator Edwards, and, in doing so, said:

"That the senator from Nacogdoches had expressed the sentiment of every senator upon this floor—republican and democrat alike—without reference to party affiliations or political sentiments."

The resignation of Senator McCormick was accepted.

Senator Shannon moved that the remarks on the acceptance of the resignation of Senator McCormick be entered on the journals as the sentiment of the Senate with regard to the retiring senator.

Adopted.

Senator Edwards moved that the governor be notified of the resignation of Senator McCormick.

Adopted.

Senator Brown moved that the letter of resignation of the senator retiring be entered on the journals.

Adopted.

Senator Ford offered the following resolution:

Resolved, That the comptroller of the state be requested to transmit at once to the Senate the names and residence (if known) of all persons who have received the benefit of "An act to provide annual pensions for surviving soldiers of the Texas revolution, etc.," approved July 28, 1876, and that he also give from any records, papers or receipts in his office the name of the agent or attorney who acted in procuring or receiving for each person the benefits of said act.

Read and adopted.

Senator Edwards moved that the Senate go into executive session to-morrow just after the morning call.

Carried.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred House bill No. 75, entitled "An act to amend sections 21, 27 and 38 of 'an act to provide for the election of justices of the peace, and to define their powers and jurisdiction,' approved August 17, 1876," have duly considered the same, and I am instructed by the committee to report the accompanying substitute and recommend that it do pass.

TERRELL, *Chairman.*

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 304, "An act supplemental to 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved February 12, 1879," and have presented the same to the governor for his signature this day at 10:55 o'clock A. M.

GRACE, *Chairman.*

Senator Homan (by leave) introduced a bill entitled "An act to amend article 2993 of chapter 3 of title 42 of an act entitled 'an act to adopt and establish the revised Civil Statutes of the State of Texas,' passed at the first session of the Sixteenth Legislature."

Read by caption and referred to judiciary committee No. 2.

Senator Brown moved to adjourn until nine o'clock to-morrow morning.

Ruled out of order.

On motion of Senator Brown, the sergeant-at-arms was instructed to compel the attendance of the absent senators.

Senator Hobby, for judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, have considered House bill No. 465, "An act to amend 'an act to incorporate the city of San Antonio and grant a new charter to said city,' and to repeal 'an act to incorporate the city of San Antonio,' approved July 17, 1856, and 'an act to amend the act to incorporate the city of San Antonio, approved February 11, 1860,' approved August 13, 1870," and I am instructed to report the bill back and recommend its passage.

HOBBY, *for Committee.*

The absent senators appearing, House bill No. 412 was passed by the following vote:

YEAS.

Brown,	Gooch,	Martin,
Burnett,	Grace,	McCulloch,
Burton,	Hobby,	Moore,
Davenport,	Homan,	Motley,
Duncan,	Houston,	Shannon,
Edwards,	Lair,	Storey,
Ford,	Ledbetter,	Tilson—21.

NAYS—none.

Senators Lane and Patton explained that they were interested in the bill, and hence did not vote.

Senator Homan entered the following as his explanation of his vote:

"I am personally interested in this bill to the extent that I hold claims against the state which will be covered by the appropriation to pay costs due district and county attorneys, and have asked to be excused from voting; but because there is not a quorum without me, I vote 'aye' to prevent the failure of the deficiency appropriation bill."

Senator Duncan entered a motion to reconsider the vote by which the bill was passed.

On motion of Senator Tilson the Senate adjourned until to-morrow morning at 9 o'clock.

SEVENTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 12, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and same adopted.

On motion of Senator Lair, Senator Davenport was excused for the morning session.

The president, after publicly reading its caption, signed House bill No. 402, entitled "An act to amend chapters 19 and 20 of title 29, chapters 3 and 4 of title 42 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas.'"

A message was received from the House announcing the passage by that body of House bill No. 459½, entitled "An act to authorize any county, city or town in this state to compromise existing bonded indebtedness, and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of the taxes to pay the principal and interest of such new bonds."

Senate bill No. 352, entitled "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879."

On motion of Senator Shannon, the Senate went into executive session.

IN SENATE.—Senator Brown moved that the confirmations just made in executive session be entered on the journals.

Carried.

It is accordingly here stated that the Senate in executive session did advise and consent to the appointment of M. W. Shoemaker to be cattle and hide inspector in the unorganized county of Wichita and of J. F. Templeton to be notary public in Cherokee county.

Senator Homan, from judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 379, "An act to amend article 2393 of chapter 3 of title 42 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas, passed at the first session of the Sixteenth Legislature,'" and I am instructed to recommend its passage. HOMAN, for Committee.

House bill No. 75, entitled "An act to amend section 21, section 37 and section 38 of "An act to provide for the election of justices of the peace, and to define their powers and jurisdiction," approved August 17, 1876, was taken up and read first time.

House bill No. 465, entitled "An act to amend 'an act to incorporate the city of San Antonio and grant a new charter to said city, and to repeal 'an act to incorporate the city of San Antonio,' approved July 17, 1856,' and 'an act to amend the 'act to incorporate the city of San Antonio,' approved February 11, 1860,' approved August 13, 1870," was taken up and read first time.

House bill No. 101, entitled "An act to refund to any person all moneys that have been paid into the state treasury, or any note or obligation given for university lands, and not properly credited to the same," was taken up and read first time.

Senate bill No. 352, entitled "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879," was taken up, and on motion of Senator Gooch, House amendments were concurred in.

Senator Martin called up House bill No. 445, entitled "An act to provide for the assessment and collection of the taxes on land and other property situated in unorganized counties and for the enforcement of the same," which was read second time.

Senator Storey offered the following amendment:

Section 2, line four, strike out the words "state and county."

Senator Ledbetter offered the following as a substitute for the amendment of Senator Storey:

Amend by striking out in line four, section 2, the words "and county."

Senator Edwards moved that Senator McCormick be invited to take his old seat in the Senate chamber.

Adopted.

House bill No. 459½, reported from the House this morning, was taken up and referred to judiciary committee No. 1.

(Senator Houston in the chair.)

A message was received from the House announcing the passage by that body of Senate bill No. 377, entitled "An act to amend section 4 of an act entitled 'an act creating the office of district attorney in certain judicial districts of this State,' passed at the present session of the Legislature."

(President in the chair.)

The president, after publicly reading its caption, signed Senate bill No. 352, entitled "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879."

(Senator Houston in the chair.)

Senator Lair moved the previous question upon Senator Ledbetter's substitute.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called; Senate full.

The motion of Senator Lair for the previous question was seconded and the main question ordered.

The substitute was lost by the following vote:

YEAS.

Brown,
Edwards,
Ford,

Grace,
Lane.

Ledbetter,
Martin—7.

NAYS.

Burnett,
Duncan,
Gooch,
Guy,
Hobby,
Homan,

Houston,
Lair,
McCulloch,
Moore,
Motley,

Patton,
Shannon,
Storey,
Terrell,
Tilson—16.

Not voting—Buchanan, Burton.

Senator Duncan moved the previous question upon Senator Storey's amendment.

Motion seconded and main question ordered.

Senator Storey's amendment was then lost by the following vote:

YEAS.		
Brown, Burton, Edwards, Ford,	Grace, Lane, Ledbetter,	Martin, McCulloch, Storey—10.

NAYS.		
Burnett, Duncan, Gooch, Guy, Hobby,	Homan, Houston, Lair, Moore, Motley,	Patton, Shaanon, Terrell, Tilson—14.

Not voting—Buchanan.

Senator Storey offered the following amendment:

Add to section 2: "*Provided*, that no county or special taxes shall be levied and collected from the unorganized county for the benefit of the county to which the same is attached for judicial purposes, except so much as the organized county may have paid out for the enforcement of the law in said unorganized county."

(President in the chair.)

Senator Duncan moved the previous question on the pending amendment and the bill.

Motion seconded, but the Senate refused to order the main question by the following vote:

YEAS.		
Gooch, Hobby, Lair,	Moore, Patton.	Terrell, Tilson—7.

NAYS.		
Brown, Burnett, Burton, Duncan, Edwards,	Ford, Guy, Homan, Houston, Lane,	Ledbetter, Martin, McCulloch, Shannon, Storey—15.

Not voting—Buchanan, Grace, Motley.

The amendment of Senator Storey was lost by the following vote:

YEAS.		
Brown, Burton,	Edwards, Ford,	Lane, Storey—6.

NAYS.		
Burnett, Duncan, Gooch, Guy, Hobby, Homan,	Houston, Lair, Ledbetter, Martin, McCulloch,	Moore, Patton, Shannon, Terrell, Tilson—16.

Not voting—Buchanan, Grace, Motley.

Senator Patton offered the following:

On page 5, section 14, after the word "purposes" in line seventeen, strike out remainder of section.

Adopted.

Senator Gooch offered the following:

Add to section 9, "and make a deed to the state to the same including in one deed all lands bid in for the state on any one day."

Adopted, and bill passed to a third reading.

Senator Gooch moved to reconsider the vote passing the bill to a third reading.

Lost.

Senator Shannon moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Buchanan,	Homan,	Moore,
Burnett,	Houston,	Patton,
Duncan,	Lane,	Shannon,
Ford,	Lair,	Storey,
Guy,	Ledbetter,	Terrell,
Hobby,	McCulloch,	Tilson--18.

NAYS.		
Brown,	Edwards,	Gooch--4.
Burton,		

Not voting—Grace, Martin, Motley.

Bill read third time.

Senator Gooch offered the following amendment:

Add to section 9 in the amendment, after the words "to the state," insert "for the use of the permanent school fund," and strike out "section 10."

Lost by the following vote:

YEAS.		
Buchanan,	Homan,	Patton,
Burnett,	Lair,	Shannon,
Duncan,	McCulloch.	Storey,
Gooch,	Moore,	Terrell--14.
Guy,	Motley,	

NAYS.		
Brown,	Ford,	Ledbetter,
Burton,	Grace,	Tilson--8.
Edwards,	Lane,	

Not voting—Hobby, Houston, Martin.

The bill was then passed by the following vote:

YEAS.		
Buchanan,	Homan,	Patton,
Burnett,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Ford,	Moore,	Terrell,
Gooch,	Motley,	Tilson--16.
Guy,		

NAYS.		
Brown,	Edwards,	Lane,
Burton,	Grace,	McCulloch--6.

Not voting—Hobby, Houston, Martin.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 88, "An act to amend articles 560 and 561 of 'an act to adopt and establish a Code of Criminal Procedure for the State of Texas,' as adopted by the Sixteenth Legislature;" also Senate bill No. 262, "An act to grant Jackson Doyle a headright of six hundred and forty acres of land," and at 9:45 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Tilson, from judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred House bill No. 395, "An act to limit the terms of the district court of Marion county," have had the same under consideration, and I am instructed to report the bill back with the recommendation that it do pass.

TILSON, *for Committee.*

Senator Terrell, chairman of judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred House bill No. 459½, have carefully considered the same, and instruct me to report it back with recommendation that it do pass. The habit which existed a few years since of voting county and city subsidies to railroads has resulted in a number of counties in a bonded indebtedness, for the payment of which taxes have been assessed now over due. To enable the railroad corporations and the holders of bonds on the one hand and the counties and towns on the other to compromise these debts is the main object of the bill. The impatience of the people of some localities under the load of debt thus imposed induces the committee to ask early action on the bill.

TERRELL, *Chairman.*

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 352, "An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879," and at 11:35 o'clock A. M. this day presented the same to the governor for his signature.

GRACE, *Chairman.*

The president, after publicly reading its caption, signed Senate bill No. 377, entitled "An act to amend section 4 of an act entitled 'an act creating the office of district attorney in certain judicial districts of this state,' passed at the present session of the Legislature."

Senator Duncan called up his motion entered on yesterday to reconsider the vote passing House bill No. 412 (the deficiency bill).

The motion to reconsider carried.

Senator Duncan offered the following amendment:

Amend by adding to miscellaneous appropriations this item, "For payment of clerks' and sheriffs' costs in suits instituted against delinquent taxpayers under law of June 2, 1873, \$5000."

Adopted.

The consideration of the pending bill was temporarily suspended.

House bill No. 459½, entitled "An act to authorize any county, city or town in this state to compromise existing bonded indebtedness and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of the taxes to pay the principal and interest of such new bonds," was taken up and read first time.

On motion of Senator Duncan, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Homan,
Lair,
Ledbetter,
Martin,
McCulloch.

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--21.

NAYS—none.

Not voting—Buchanan, Hobby, Houston, Lane.

Bill read second time and passed to a third reading.

The consideration of House bill No. 412 resumed.

Senator Storey offered the following amendment:

“For balance of salary due General Steele, \$1166 66 $\frac{2}{3}$.”

Senator McCulloch moved the previous question on the pending amendment.

Motion seconded and main question ordered.

The amendment of Senator Storey was then adopted by the following vote:

YEAS.

Brown,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell—21.

NAYS—none.

Not voting—Buchanan, Burton, Hobby, Tilson.

Senator Edwards offered the following:

Add, page 5, after line ten, “for purchase of supplies for Blind Asylum in month of January and February, 1879, \$200 00.”

Pending on adjournment.

Senator Brown (by leave) introduced a bill entitled “An act to amend section 1 of an act to amend sections 6 and 9 of ‘an act to define a lawful fence, and carry into effect sections 22 and 23, article 16 of the constitution, authorizing the passage of stock and fence laws,’ approved April 15, 1876, passed at the present session of the Legislature.”

Read by caption and referred to judiciary committee No. 1.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 12, 1879.

To the honorable Senate of the State of Texas, in session assembled:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments:

S. R. Smith and John W. Cary, residents of Huntsville, to be directors of penitentiaries, in place of S. Gibbs and Benton Randolph, declined.

Respectfully, O. M. ROBERTS, Governor.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 377, “An act to amend

section 4 of an act entitled an act creating the office of district attorney in certain judicial districts of this state, passed at the present session of the Legislature," and at 12:50 o'clock P. M. this day presented the same to the governor for his signature.

GRACE, *Chairman.*

On motion of Senator McCulloch the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; no quorum present.

The sergeant-at-arms was dispatched for absent members.

On motion of Senator Edwards, the Senate took recess for ten minutes.

Recess expired. Senate met. Roll called; quorum present.

Senator Burnett moved to go into executive session.

Adopted.

IN SENATE.—Senator Burnett moved that the confirmations just made in executive session be entered on the journals.

Adopted.

It is accordingly stated that the Senate in executive session did advise and consent to the appointment of S. R. Smith and J. W. Cary to be directors of the penitentiaries.

The consideration of unfinished business on adjournment, being House bill No. 412 (the deficiency bill), was resumed.

The amendment of Senator Edwards pending.

The amendment was adopted by the following vote:

YEAS.

Brown,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Shannon,
Storey,
Terrell,
Tilson—21.

NAYS—Patton.

Not voting—Buchanan, Burton, Motley.

Senator Ford offered the following amendment:

Under head of sheriffs, etc., add: "For the payment of expenses and costs incurred in the rendition of fugitives from justice from Mexico in pursuance of provisions of extradition treaty, or so much thereof as may be necessary, (\$500)."

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,

Ledbetter,
McCulloch,
Moore,
Shannon,
Storey,
Terrell—20.

NAYS.

Grace.
Not voting—Buchanan, Martin, Motley.

Patton.

Tilson—3.

Senator Duncan offered the following amendment:

Add to miscellaneous appropriation this item: "For Garden Horticultural company, for trees and shrubbery for capitol grounds, \$122 50."

Adopted by the following vote:

YEAS.

Brown,
Davenport,
Duncan,
Ford,
Gooch,
Guy.

Houston,
Lane,
Lair,
Ledbetter,
McCulloch.

Moore,
Patton,
Shannon,
Storey,
Terrell---16.

NAYS.

Burnett,
Burton,
Edwards,

Grace,
Hobby,
Homan.

Martin,
Tilson---8.

Not voting--Buchanan, Motley.

Senator Duncan moved to postpone the bill until Monday morning.
Lost.

The bill was then passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,

Ford,
Gooch,
Guy,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Motley,
Shannon,
Storey,
Tilson--18.

NAYS.

Grace,

Hobby,

Terrell--3.

Not voting--Buchanan, Houston.

Senators Homan and Lane were disqualified from voting in consequence of interest in the bill.

House bill No. 395, entitled "An act to limit the terms of district court of Marion county," was taken up and read first time.

On motion of Senator Tilson, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson---23.

NAYS--Grace.

Not voting--Buchanan, Houston.

Bill read a second time and passed to a third reading.

Senator Tilson moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,

Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,

Motley,
Patton,
Shannon,

Storey,
Terrell,
Tilson--24.

NAYS—none.

Not voting—Buchanan, Homan.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--23.

NAYS—none.

Not voting—Buchanan, Davenport, Homan.

Senator Edwards offered the following resolution:

Resolved, that Senate rule 63 be amended so as hereafter to read as follows:

“63. Upon the final passage of all amendments proposed to the constitution and of all other questions requiring a two-thirds vote, except a motion to suspend the rules, the presiding officer shall call for the yeas and nays, and they shall be entered on the journals.”

Lies over under the rules.

Senator Houston called up House bill No. 465, entitled “An act to amend ‘an act to incorporate the city of San Antonio and grant a new charter to said city, and to repeal an act to incorporate the city of San Antonio,’ approved July 17, 1856; and an act to amend ‘an act to incorporate the city of San Antonio,’ approved February 11, 1860, approved August 13, 1870.”

Senator Houston moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson--23.

NAYS.—none.

Not voting—Buchanan, Davenport, Martin.

Bill read second time.

Senator Houston offered the following amendment:

“Section The near approach of the end of the session, and the want of a proper law upon this subject, creates an imperative public necessity and emergency that the rules be suspended and this act take effect from its passage, and it is so enacted.”

Adopted and bill passed to a third reading.

On motion of Senator Houston, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—23.

NAYS—none.

Not voting—Buchanan, Davenport, Lane.

Bill read third time and passed by the following vote:

NAYS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Shannon,
Storey,
Terrell,
Tilson—23.

NAYS—none.

Not voting—Buchanan, Davenport, Lane.

Senator Houston entered a motion to reconsider the vote by which House bill No. 412 (the deficiency bill) was passed.

Substitute for House bill No. 90, entitled "An act to amend title 29, chapter 6, article 1235 of the Revised Civil Statutes, passed at the present session of the Legislature," was taken up and read third time.

Senator Hobby offered the following amendment:

In line eighteen of the bill, after the word "in," strike out the remainder of the sentence and insert the following words: "The judicial district where the suit is pending, but if there be no newspaper published in such judicial district, then it shall be published in the nearest district to the district where the suit is pending. Such citation shall be published once in each week for four successive weeks previous to the return thereof."

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch.

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Motley,
Patton,
Shannon,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Buchanan, Storey.

Bill passed.

House bill No. 497, entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature," was taken up and read a second time.

Senator Terrell moved to postpone the bill.

Lost.

Senator Burnett moved to recommit the bill to the committee on general land office.

Carried.

House bill No. 78, entitled "An act to amend section 16 of 'an act regulating elections, approved August 23, 1876,'" was taken up and read a second time.

Senator Patton moved to print fifty copies of the bill.

Carried.

Senator Storey moved to adjourn until 9:30 A. M. Monday.

Carried by the following vote:

YEAS.		
Brown,	Guy,	McCulloch,
Burnett,	Homan,	Moore,
Burton,	Houston,	Motley,
Davenport,	Lair,	Patton,
Ford,	Ledbetter,	Storey,
Gooch,	Martin,	Terrell—19.
Grace,		
NAYS.		
Duncan,	Hobby,	Shannon,
Edwards,	Lane,	Tilson—6.
Not voting—Buchanan.		

SEVENTH-EIGHTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 14, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Gooch, the reading of the journals of Saturday was dispensed with and same adopted.

Senator Lane offered the following resolution:

WHEREAS, the constitution requires the Senate at the close of the session to elect one of its members president *pro tempore*; and
Whereas, the session is now near its close; therefore, be it
Resolved, That the Senate do now proceed to the election of a president *pro tempore*.

Ordered to lie over until the evening session.

The following message was received from the House:

House concurs by a two-third vote in Senate amendments to House bill 465, "An act to amend the charter of the city of San Antonio."

On motion of Senator Guy, Senator Motley was excused for three days on account of sickness in his family.

On motion of Senator Storey, Senator Moore was excused indefinitely from Monday next.

Senator McCulloch called up the motion to reconsider the vote by which Senate bill No. 243 (to provide subjects for anatomical dissection and scientific experiment) was lost.

The motion to reconsider carried by the following vote:

YEAS.		
Brown,	Homan,	Moore,
Buchanan,	Houston,	Patton,
Duncan,	Lane,	Storey,
Ford,	Lair,	Terrell,
Gooch,	Ledbetter,	Tilson—17.
Hobby,	McCulloch,	

NAYS.

Burton,
Grace.

Stewart,

Shannon—4.

Not voting—Burnett, Edwards, Guy, Martin.

On motion of Senator Brown, the bill was recommitted to the committee on statistics of industries, public health, etc.

Senator Moore called up substitute for Senate bill No. 116, entitled "An act to amend section 12 of 'an act to establish and provide further support and maintenance of an efficient system of public free schools,' approved August 16, 1876."

The amendment of Senator Edwards pending.

The first amendment of Senator Edwards was adopted by the following vote:

YEAS.

Brown,
Ford,
Gooch,
Hobby,

Lane,
Lair,
Ledbetter,
Martin,

Moore,
Storey,
Terrell,
Tilson—12.

NAYS.

Buchanan,
Burnett,
Burton,
Grace,

Guy,
Homan,
McCulloch,

Patton,
Stewart,
Shannon—10.

Not voting—Duncan, Houston.

Senator Edwards stated that he was paired with Senator Ripetoe—that he would vote "yea" on this measure, and Senator Ripetoe would vote "nay."

Senator Burnett moved the indefinite postponement of the bill.

Senator Guy moved a call of the house.

Call sustained.

Roll called. Absent—Brown, Houston.

Pending business went to the table.

Senator Patton called up Senate bill No. 232, entitled "An act to amend chapter 3 title 78 of the Revised Statutes, by creating article 3732a," which was read second time and ordered engrossed.

On motion of Senator Gooch, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Ford,
Gooch,
Grace.

Guy,
Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—21.

NAYS—none.

Not voting—Burton, Duncan, Homan, Houston.

Bill read third time.

Senator Gooch offered the following amendment:

"Section..... The lateness of the session and the absence of a proper law upon this subject creates an imperative public necessity and emergency that the rule be suspended and that this bill pass at once and take effect from and after its passage."

Adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards.
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
NAYS—none.

McCulloch,
Moore,
Patton,
Ripetoe,
Shannon,
Storey,
Terrell,
Tilson--24.

Not voting—Brown.

The bill then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch.

NAYS—none.

Moore,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--21.

Not voting—Brown, Duncan, Edwards, Ford.

(Senator Edwards in the chair.)

Senator Stewart called up Senate bill No. 361, entitled "An act to amend the second section of an act to regulate the respective duties of district and county attorneys," approved August 21, 1876, which was read second time and ordered engrossed.

Senator Burnett moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

NAYS—none.

Moore,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--22.

Not voting—Duncan, Grace, Houston.

Bill read third time.

On motion of Senator Gooch the bill was postponed until to-morrow.

(President in the chair.)

The absent senators appearing the Senate was announced full, and the consideration of Senate bill No. 116 was resumed, the motion to indefinitely postpone pending.

(Senator Gooch in the chair.)

Senator McCulloch moved the previous question.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Grace.

Pending business again went to the table.

Senator Burnett (by leave) introduced a bill entitled "An act authorizing the comptroller of public accounts to sign and issue certificates of

indebtedness remaining in his office and unsigned or unissued by the auditorial board established by an act entitled "An act to provide for the payment of the public debt, approved May 2, 1871," and to provide for the payment of said certificates.

Read by caption and referred to committee on public claims and accounts.

Senator Terrell, chairman of judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 380, have considered the same, and I am instructed to report the same back and to recommend that the same do pass. The bill proposes to amend section 1 of "An act to amend sections 6 and 9 of 'an act to define a lawful fence,' etc., passed at the present session of the Legislature."

TERRELL, *Chairman.*

Senator Duncan (by leave) offered the following resolution:

Resolved, that the secretary be instructed to wait upon the House of Representatives and to request the return to the Senate of Senate concurrent resolution to adjourn *sine die* on twenty-second of April.

Lies on the table.

The absent senator appearing the Senate was announced full, and the consideration of Senate bill No. 116 was resumed.

The motion of Senator McCulloch for the previous question was seconded and main question ordered.

The motion of Senator Burnett to indefinitely postpone was carried by the following vote:

YEAS.		
Buchanan, Burnett, Burton, Ford, Grace,	Guy, Homan, Houston, McCulloch,	Pattin, Stewart, Shannon. Swain--13.
NAYS.		
Brown, Duncan, Gooch, Hobby.	Lane, Lair, Ledbetter, Martin,	Storey, Terrell, Tilson--11.

Senator Moore said he was paired with Senator Davenport; that he would vote "nay," and Senator Davenport would vote "yea."

Senator Edwards said he was paired with Senator Ripetoe; that he would vote "nay," and Senator Ripetoe "yea."

(President in the chair.)

Senator Shannon called up House bill No. 414, entitled "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive of chapter 1, title 94 of the Revised Civil Statutes, adopted February 21, 1879."

The first committee amendment was considered.

Senator Edwards offered a substitute for the committee amendment and withdrew it.

Senator Swain offered the following as an amendment to the first committee amendment:

"Strike out one-half of one per cent. and insert two-fifths of one per cent."

Withdrawn.

The pending committee amendment was then adopted by the following vote:

YEAS.		
Brown,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Terrell,
Gooch,	Martin,	Tilson - 14.
Hobby,	Moore,	
NAYS.		
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Stewart,
Burton,	McCulloch,	Swain--10.
Guy,		

Not voting—Ford, Grace.

Senator Shannon moved to reconsider the vote just taken, and on this motion moved a call of the Senate.

Call sustained.

Roll called; Senate full.

Senator Shannon's motion to reconsider carried by the following vote:

YEAS.		
Buchanan,	Grace.	McCulloch,
Burnett,	Guy,	Patton,
Burton,	Hobby,	Stewart,
Edwards,	Homan,	Shannon,
Ford,	Houston,	Swain--17.
Gooch,	Ledbetter,	
NAYS.		
Brown,	Lair,	Storey,
Duncan,	Martin,	Terrell,
Lane,	Moore,	Tilson---9.

Senator Moore said he voted to reconsider because on the vote to adopt the amendment he improperly voted, as he was paired with Senator Davenport, and he wished to reconsider so as to correct his mistake in voting.

Senator Edwards said he voted to reconsider because on the vote to adopt the amendment he overlooked the fact that he had paired with Senator Ripetoe, and wished to reconsider so he could correct his vote so given by mistake.

Senator Gooch stated he voted to reconsider so as to enable senators who voted under a misapprehension to correct their votes.

Senator Burnett moved to lay the pending committee amendment on the table.

Carried by the following vote:

YEAS.		
Buchanan,	Guy,	Patton,
Burnett,	Homan,	Stewart,
Burton,	Houston,	Shannon,
Ford,	McCulloch,	Swain--13.
Grace,		
NAYS.		
Brown,	Lane,	Storey,
Duncan,	Lair,	Terrell,
Gooch,	Ledbetter,	Tilson--11.
Hobby,	Martin,	

Senator Edwards stated that he was paired with Senator Ripetoe. That he would vote "no" and Senator Ripetoe "aye."

Senator Moore stated he was paired with Senator Davenport. He would vote "no" and Senator Davenport "aye" on this question.

The second committee amendment was adopted.

The third committee amendment was adopted.

(President *pro tempore* in the chair.)

The following messages were received from his excellency the governor, which were taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 14, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment:

Robert Rutherford, of Houston, to be medical health officer for the State of Texas.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 14, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments:

W. W. Spivey to be district attorney for the second judicial district.

John N. Henderson to be district attorney for the ninth judicial district.

Charles S. Todd to be district attorney for the fifth judicial district.

Respectfully,

O. M. ROBERTS, *Governor.*

(President in the chair.)

Senator Homan moved that the Senate go into executive session at 3 o'clock this evening to consider the appointments just sent to the Senate by his excellency the governor.

Carried unanimously.

On motion of Senator Burton, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

On motion of Senator Homan, the Senate went into executive session.

IN SENATE.—Senator Gooch moved that the secretary enter on the journals the confirmations just made in executive session.

It is accordingly stated that the Senate does advise and consent to the appointment of Robert Rutherford, of the city of Houston, to be medical health officer for the State of Texas.

W. W. Spivey—to be district attorney for the second judicial district of the state.

John N. Henderson—to be district attorney for the ninth judicial district.

Charles S. Todd—to be district attorney for the fifth judicial district.

Senator Houston called up his motion to reconsider the vote passing House bill No. 412 (the deficiency bill).

The motion to reconsider was lost.

The consideration of the pending business on adjournment (House bill No. 414) was resumed.

Senator Shannon offered the following substitute for committee amendment:

Strike out all of section 3 after the word "otherwise" in line four, page 3, and insert "to be paid to the tax collectors of the several counties in which said commercial traveler, drummer, salesman, or solicitor of trade may ply his occupation, an annual occupation tax of ten dollars for the benefit of the state and five dollars for the benefit of the county; *provided*, that such person shall not be required to pay the same if the person, firm, or association of persons represented by him, or for whom he is soliciting trade, shall have paid a wholesale merchant's occupation tax of two hundred dollars; *provided further*, that no city or town shall levy or collect any occupation tax upon such commercial traveler, drummer, salesman, or solicitor.

Senator Terrell offered the following as an amendment to the substitute of Senator Shannon:

Provided, also, that such person shall not be required to pay a drummer's tax if he represents only a firm or person who, under the law, has paid such wholesale occupation tax to the state as is required by law.

Senator Duncan moved the previous question.

Motion seconded and main question ordered.

The pending amendment as amended was then lost by the following vote:

YEAS.		
Ford,	Shannon,	Terrell--4.
McCulloch,		
NAYS.		
Brown,	Guy,	Martin,
Burnett,	Hobby,	Moore,
Burton,	Homan,	Patton,
Duncan,	Houston,	Stewart,
Edwards,	Lane,	Storey,
Gooch,	Lair,	Swain,
Grace.	Ledbetter,	Tilson--21.

Not voting—Buchanan.

Senator Lane offered the following amendment as a substitute for the pending committee amendment:

Amend by striking out all of section 3 from and after the word "dollars," on line two, page 3, and substitute therefor, to wit:

"From every commercial traveler, drummer, salesman or solicitor of trade, by sample or otherwise, an annual occupation tax of twenty dollars, and that the tax herein required shall be paid to the comptroller of public accounts, whose receipt, under seal, shall be evidence of the payment of such tax; *provided*, that before any such commercial traveler, drummer, salesman or solicitor shall make any sales, take and receive any orders in any county of this state, he shall exhibit to the collector of such county the receipt of the comptroller for the state taxes as herein provided and shall have paid said collector ten dollars for the county."

Lost.

Senator Gooch offered the following amendment to the pending amendment.

Strike out "twenty dollars" and insert "twenty-five dollars;" strike out "ten dollars" and insert "five dollars."

Senator Edwards offered the following amendment to the committee amendment:

Strike out of committee's amendment lines one and two, page 2, all after the word "provided," and add "provided no county, city or town shall levy or collect any occupation tax upon such commercial traveler, drummer, salesman or solicitor of trade."

(The president in the chair.)

The president, after publicly reading its caption, signed House bill No. 465, entitled "An act to amend 'an act to incorporate the city of San Antonio and grant a new charter to said city,' and to repeal 'an act to incorporate the city of San Antonio,' approved July 17, 1856, and 'an act to amend the act to incorporate the city of San Antonio,' approved August 13, 1870."

The following message was received from the House:

That the House concurs in Senate amendments to House bill No. 90, "An act to amend title 29, chapter 6, article 1235 of the Revised Civil Statutes, passed at the present session of the Legislature."

House refuses to concur in first amendment and does concur in second amendment to House bill No. 445, "An act to provide for the assessment and collection of the taxes on land and other property situated in unorganized counties, and for the enforcement of the same."

Senator McCulloch moved the previous question on the pending amendments to the committee amendments to the pending bill.

Motion seconded and main question ordered.

The amendment of Senator Edwards was lost by the following vote:

YEAS.		
Brown, Duncan, Edwards, Ford,	Gooch, Hobby, McCulloch,	Moore, Patton, Tilson—10.
NAYS.		
Burnett, Burton, Grace, Guy, Homan,	Lane, Lair, Ledbetter, Martin,	Stewart, Shannon, Storey, Swain—13.

Not voting—Buchanan, Houston, Terrell

The amendment of Senator Gooch was lost.

The amendment of Senator Lane was lost.

The fourth committee amendment was then adopted by the following vote:

YEAS.		
Buchanan, Burnett, Duncan, Edwards, Gooch,	Hobby, Houston, Lair, Martin,	Moore, Stewart, Storey, Swain—13.
NAYS.		
Brown, Ford, Grace, Guy,	Homan, Lane, Ledbetter, McCulloch.	Patton, Shannon, Tilson—11.

Not voting—Burton, Terrell.

The fifth committee amendment was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,

Gooch,
Hobby,
Houston,
Lane.

Moore,
Patton,
Storey,
Swain---13.

NAYS.

Burton,
Ford,
Grace,
Guy,

Homan,
Lair,
Ledbetter,
Martin.

McCulloch,
Stewart,
Shannon,
Tilson---12.

Not voting—Terrell.

Senator Duncan offered the following as a substitute for sixth committee amendment:

Strike out and insert:

“Provided, no county tax shall be required of any commercial traveler, drummer, salesman or solicitor of trade.”

Senator Gooch moved the previous question on Senator Duncan's amendment and committee amendment six.

Motion seconded and main question ordered.

The amendment of Senator Duncan was lost by the following vote:

YEAS.

Duncan,
Ford,
Gooch,
Grace,

Guy,
Ledbetter,
McCulloch,
Moore.

Stewart,
Swain,
Tilson---11.

NAYS.

Buchanan,
Burnett,
Burton,
Edwards,

Hobby,
Homan,
Lane,
Lair,

Martin,
Patton,
Shannon,
Storey---12.

Not voting—Brown, Houston, Terrell.

The sixth committee amendment was adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,

Hobby,
Homan,
Lane,
Lair,
Martin,

Patton,
Shannon,
Storey,
Tilson---14.

NAYS.

Ford,
Gooch,
Grace,

Guy,
Ledbetter,
McCulloch,

Moore,
Stewart---8.

Not voting—Buchanan, Houston, Swain, Terrell.

Senator Duncan moved to reconsider the vote just taken.

A message was received from the House announcing the passage by that body of substitute for Senate bill No. 12, entitled “An act to amend article 4257 of the Revised Civil Statutes, passed at the present session of the Legislature;”

And Senate bill No. 153, entitled “An act to provide for building a new state capital,” with amendments.

Substitute for Senate bill No. 12, just reported from the House, was taken up and referred to the committee on internal improvements.

Senate bill No. 153, just reported from the House, was taken up and, on motion of Senator Storey, House amendment concurred in.

House bill No. 445, entitled “An act to provide for the assessment and

collection of taxes on land and other property situated in unorganized counties, and for the enforcement of the same," was taken up and, on motion of Senator Storey, the Senate adhered to its amendment.

On motion of Senator Ledbetter, a committee of conference of three senators were appointed on part of the Senate on the disagreement of the two houses on the pending bill.

Senators Ledbetter, Guy and Swain were appointed a committee on the part of the Senate.

Senator Homan moved to lay on the table the motion of Senator Duncan, to reconsider the vote adopting the sixth committee amendment.

Carried by the following vote:

YEAS.		
Burnett,	Houston,	Moore,
Burton,	Lane,	Patton,
Edwards,	Lair,	Shannon,
Hobby,	Martin,	Storey---13.
Homan,		

NAYS.		
Brown,	Gooch,	Stewart,
Buchanan,	Grace,	Swain,
Duncan,	Guy,	Tilson---11.
Ford,	Ledbetter,	

Not voting—McCulloch, Terrell.

Senator Gooch moved to lay the seventh committee amendment on the table.

Lost by the following vote:

YEAS.		
Burnett,	Guy,	Stewart,
Burton,	Lair,	Shannon---8.
Gooch,	Patton,	

NAYS.		
Brown,	Hobby,	Martin,
Buchanan,	Houston,	Moore,
Duncan,	Lane,	Storey,
Edwards,	Ledbetter,	Tilson---13.
Grace,		

Not voting—Ford, Homan, McCulloch, Swain, Terrell.

The seventh committee amendment was adopted by the following vote:

YEAS.		
Brown,	Grace,	Moore,
Buchanan,	Houston,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Tilson--12.

NAYS.		
Burnett,	Guy,	Lair,
Burton,	Hobby,	Patton,
Duncan,	Homan,	Stewart,
Gooch,	Lane,	Shannon---12.

Not voting—McCulloch, Terrell.

There being a tie vote, the president voted in the affirmative and declared the amendment adopted.

A message was received from the House announcing the passage by that body of Senate joint resolution No. 263, entitled "Joint resolution relating to medals for Texas veterans;"

Senate bill No. 363, entitled "An act to amend section 10 of final title

of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature," said sections relating to county boundaries;

Senate bill No. 273, entitled "An act to amend section 5, article 16, title 4 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved February, 1879;"

And Senate bill No. 79, with amendments.

Senate bill No. 79, just reported from the House, was taken up and, on motion of Senator Gooch, House amendments were concurred in.

The eighth committee amendment (to tax annually keeper of toll bridge ten dollars), was lost.

The ninth committee amendment was adopted.

The tenth committee amendment was adopted.

The eleventh committee amendment was adopted.

The twelfth committee amendment was adopted.

The thirteenth committee amendment was adopted.

Senator Duncan moved to reconsider this vote.

Lost.

The fourteenth committee amendment was adopted.

The fifteenth committee amendment was adopted.

The sixteenth committee amendment was adopted.

The seventeenth committee amendment was adopted.

The eighteenth committee amendment was adopted.

The nineteenth committee amendment was adopted.

The twentieth committee amendment was adopted.

The twenty-first committee amendment was adopted.

The twenty-second committee amendment was adopted.

The twenty-third committee amendment was adopted.

The twenty-fourth committee amendment was adopted.

The twenty-fifth committee amendment was adopted by the following vote:

YEAS.

Brown,
Duncan,
Edwards,
Ford,
Guy,

Homan,
Lair,
Ledbetter,
Martin,

Shannon,
Storey,
Swain,
Tilson—13.

NAYS.

Burnett,
Burton,
Gooch,

Grace,
Hobby,
Houston,

Moore,
Patton,
Stewart—9.

Not voting—Buchanan, Lane, McCulloch, Terrell.

The twenty-sixth committee amendment was adopted.

The twenty-seventh committee amendment was adopted.

Senator Burnett called for a division of twenty-eighth committee amendment.

The first part, strike out the words "engaged in selling" and insert in lieu thereof the words "canvassing for the sale of."

Adopted.

The second part, in lines eleven and twelve, strike out the words "three hundred" and insert the word "twenty."

Adopted.

The third division, in line twelve strike out the word "twenty" and insert the word "ten."

Adopted.

Senator Ford offered the following substitute for twenty-ninth committee amendment:

"From every person, firm or association of persons doing an express business in this state, an annual tax of seven hundred and fifty dollars shall be levied and collected; this tax to be paid by such person, firm or association of persons doing an express business, to the comptroller of public accounts, whose receipt, under seal, shall be issued to the company or companies; certified copies of which shall be evidence of the payment of the state, county and municipal occupation tax; *provided*, that two hundred and fifty dollars of said annual tax shall be apportioned *pro rata*, according to the amount of business done in each, among the counties in which said company or companies may have offices, and agents representing and doing business for the same, by the comptroller of public accounts, and paid in accordance therewith to each county, or passed to its credit."

Adopted.

The committee amendment, as thus amended, was adopted.

Senator Homan offered the following substitute for the thirtieth committee amendment:

Page 7, line twenty-seven, strike out the word "five" and insert "two."

On motion of Senator Grace, the Senate adjourned until 9 o'clock A. M. to-morrow.

SEVENTY-NINTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 15, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Moore, the reading of the journals of yesterday was dispensed with and same adopted.

Senator McCulloch, chairman of committee on statistics of industries, public health, etc., submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on statistics of industry, public health and history of Texas, to whom was re-committed Senate bill No. 343, entitled "An act to promote the science of medicine and surgery by providing methods whereby human subjects for anatomical and scientific dissection and experiment may be lawfully obtained, and prescribing penalties for violation thereof," have carefully re-examined said bill, and finding that there is no material objection thereto, the committee have instructed me to report said bill, with the accompanying amendments, back to the Senate with their recommendation that it do pass.

McCULLOCH, *Chairman.*

Amend section 1, line six, by inserting after the word "kin," the words "or other person who will assume the burial."

Amend section 3, line thirty-one, by inserting after the word "notice," the words "upon failure of other persons."

Amend section 1, line two, by striking out the word "any," making it read "this" instead of "any" state.

Amend by striking out "county asylum or infirmary, or public hospital," wherever these words occur in the bill.

Senator Patton, chairman of the committee on public claims and accounts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts, to whom was referred Senate bill No. 381, entitled "An act authorizing the comptroller of public accounts to sign and issue certificates of indebtedness remaining in his office, and unsigned and unissued by the auditorial board, established by an act entitled 'an act to provide for the payment of the public debt of the State of Texas,' approved May 2, 1871, and to provide for the payment of the same," have duly considered said bill, and respectfully return the same and recommend its passage. PATTON, *Chairman.*

Senator Swain introduced a bill entitled "An act to change and define the times of holding the district courts in the fifth judicial district of the State of Texas."

Read by caption and referred to committee on judicial districts.

Senate bill No. 369, entitled "An act to encourage the settlement and organization of unorganized counties," was taken up with an adverse report of the committee.

On motion of Senator Homan, the report of the committee was adopted and bill lost.

Senate bill No. 376, entitled "An act to amend 'an act to fix the fees of the department of state in certain cases,' approved _____, 1879," was taken up with adverse report of committee.

On motion of Senator Ledbetter, the report of the committee was adopted and bill lost.

Senate joint resolution No. 368, "Prescribing the mode and manner of submitting constitutional amendments to a vote of the people," was taken up and read first time.

The following bills were taken up and read first time:

Senate bill No. 379, entitled "An act to amend article 2393 of chapter 3 of title 42 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the first session of the Sixteenth Legislature."

Senate bill No. 373, entitled "An act to amend article 106 of the Penal Code of the State of Texas," passed at the present session of the Legislature.

Senate bill No. 362, entitled "An act to allow the heirs of Thomas Toby to sue the state."

Senate bill No. 330, entitled "An act to protect lands lying on or near county boundaries from double assessment."

Senate bill No. 48, entitled "An act to be entitled 'an act to amend an act to provide for the speedy assessment and collection of taxes upon land and real estate in cases where such property has been subject by law to taxation, but the assessment thereof has been omitted."

Senate bill No. 22, entitled "An act to amend section 3 of an act to regulate taxation and fix the rate of the same."

Senate joint resolution No. 319, "Requesting our members in congress to bring to the consideration of that body the subject of aiding a line of vessels between the port of Galveston and the Mexican ports on the gulf."

Senate bill No. 44, entitled "An act to amend sections 9 and 26 of an

act to define the duties, powers, qualifications and liabilities of assessors of taxes and to regulate their compensation," approved August 21, 1876.

Senate bill No. 380, entitled "An act to amend section 1 of an act to amend sections 6 and 9 of 'an act to define a lawful fence, and carry into effect sections 22 and 23 article 16 of the constitution, authorizing the passage of stock and fence laws,'" approved August 16, 1876, passed at the present session of the Legislature.

Senator Shannon, chairman of committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 382, to be entitled "An act to change and define the times of holding the district courts in the fifth judicial district of the State of Texas," have considered the same, and I am instructed to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

The bill just reported was taken up and read first time.

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred House substitute for Senate substitute for Senate bill No. 12, entitled "An act to regulate railroad companies and dealers with them, and to provide a remedy for persons injured thereby, and to provide a punishment for violations of the provisions thereof," entitled "An act to amend article 4257 of the Revised Civil Statutes, passed at the present session of the Legislature," have considered the same, and I am instructed by a majority of the committee to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

The bill just reported was taken up and read first time.

House bill No. 101, entitled "An act to refund to any person all moneys that have been paid into the state treasury on any note or obligation given for university lands and not properly credited to the same," was taken up with adverse report of the committee.

On motion of Senator Ledbetter, the report was adopted and bill lost.

On motion of Senator Brown, Senate bill No. 380 (amending the fence act) was taken up and the rules suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore
Patton,
Stewart,
Shannon,
Storey,
Swain,
Tilson--23.

NAYS—none.

Not voting—Burton, Terrell.

Bill read second time.

Senator Brown offered the following amendment:

"Section 2. Whereas, the defect growing out of a clerical omission in section 1 of the above recited act as engrossed, permits the building of fences insufficient to prevent the passage of stock allowed to run at

large, and may cause great injury and loss, an emergency and imperative public necessity thereby arise for immediate legislation; therefore the rule requiring this act to be read on three several days is hereby suspended, and this act shall take effect from and after its passage."

Adopted and bill ordered engrossed.

On motion of Senator Brown the rules were further suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Ledbetter,
Martin,
McCulloch,
Patton,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—20.

NAYS.

Lair.

Moore—2.

Not voting—Edwards, Grace, Lane.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Gooch,
Guy,

Hobby,
Homan,
Ledbetter,
Martin,
McCulloch,
Patton,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—18.

NAYS.

Houston,

Lair,

Moore—3.

Not voting—Edwards, Ford, Grace, Lair.

On motion of Senator Brown, the vote just taken was reconsidered and the bill again passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Gooch,
Guy,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—21.

NAYS—Houston.

Not voting—Edwards, Ford, Grace.

(President *pro tempore* in the chair).

Senator Patton entered a motion to reconsider the vote indefinitely postponing Senate bill No. 116.

The unfinished business, being House bill No. 414 (the tax bill), was taken up, Senator Homan's substitute for the thirtieth committee amendment pending.

The substitute was adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Guy,

Hobby,
Homan,
Houston,
Lair,

Patton,
Shannon,
Terrell,
Tilson—13.

NAYS.

Edwards,
Ford,
Grace,
Lane,

Ledbetter,
Martin,
McCulloch
Moore,

Stewart,
Storey,
Swain--11.

On motion of Senator Storey, the vote just taken was reconsidered.

A message was received from the House announcing the passage by that body of Senate bill No. 182, entitled "An act amendatory of 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state that may so elect,' " etc.; and that the House insists upon its disagreement to Senate amendments to House bill No. 445, and that Messrs. McComb, Coleman, Daniel, Taylor of Fannin and Wurzbach are appointed as a conference committee on the part of the House.

Senator Lane called up Senate bill No. 182, just reported from the House, and moved that the House amendment to the bill be concurred in.

Carried by the following vote:

YEAS.

Brown,
Burnett,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,

Moore,
Patton,
Shaannon,
Storey,
Swain,
Tilson--19.

NAYS.

Houston.

Stewart,
Not voting--Burton, Edwards, McCulloch.

Terrell--3.

On motion of Senator Grace, Senator Gooch was excused for the morning session.

A message was received from the House announcing the passage by that body of House bill No. 359, entitled "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from place where sentenced to the penitentiary.

Senator Duncan moved the previous question on the pending substitute of Senator Homan for thirtieth committee amendment.

Motion seconded and main question ordered.

The substitute was adopted and the amendment of committee, as substituted, was adopted.

Senator Storey offered the following as an amendment to the thirty-first committee amendment:

Amend section 3, page 7, line twenty-six, by inserting after the word "car," the following, viz: "not owned by the railway company."

Adopted.

Committee amendment thirty-one, as amended, was then adopted.

The thirty-second committee amendment was then adopted.

The thirty-third committee amendment was adopted.

Senator Burnett moved to reconsider the vote adopting the sixth committee amendment.

Carried.

Senator Burnett offered the following amendment to said committee amendment:

Strike out "ten dollars" and insert "five dollars."

Adopted and amendment, as amended, adopted.

Senator Swain offered the following amendment to the bill:

Page 3, line twenty-five, between the words "state warrants," insert "or county."

Adopted.

Senator Brown offered the following:

Strike out the word "from" and all that follows to and including the word "solicitor" in line fourteen, page 3.

Senator Lane offered the following as a substitute for the amendment of Senator Brown:

Amend by striking out all of section 3 from and after the word "dollars," in line two, page, and substitute therefor, to wit: "From every commercial traveler, drummer, salesman or solicitor of trade, by sample or otherwise, an annual occupation tax of \$30, and that the tax herein required shall be paid to the comptroller of public accounts, whose receipt under seal, shall be evidence of the payment of such tax; *provided*, that before any such commercial traveler, drummer, salesman or solicitor shall make any sales, take or receive any orders in any county of this state, he shall exhibit to the collector of such county, the receipt of the comptroller for the state taxes as herein provided, and shall have paid the collector \$5 for the county."

Adopted by the following vote:

YEAS.

Burnett,
Edwards.
Ford,
Grace,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
Patton,

Stewart,
Shannon,
Storey,
Swain,
Tilson—17.

NAYS.

Brown,
Duncan,

McCulloch,
Moore,

Terrell—5.

Not voting—Burton, Guy.

The substitute of Senator Lane was then adopted as an amendment to the bill.

(President in the chair.)

The president, after reading their captions, signed the following bills: House bill No. 395, entitled "An act to limit the terms of the district court of Marion county."

Senate bill No. 153, entitled "An act to provide for the building of a new state capitol."

(President *pro tempore* in the chair.)

Senator Terrell offered the following amendment:

Amend on page 3, by adding after the word "solicitor" in line fourteen, these words, viz: "*Provided*, that nothing herein contained shall apply to any one soliciting subscriptions for religious, literary or historical books or maps."

Adopted by the following vote:

YEAS.

Duncan,
Ford,
Hobby,
Homan,
Lair,

Ledbetter,
Martin,
McCulloch,
Moore,
Patton,

Storey,
Swain,
Terrell,
Tilson—14.

NAYS.

Brown,
Burnett,
Edwards,

Grace,
Guy,
Houston,

Lane,
Stewart,
Shannon—9.

Not voting—Burton.

Senator Patton offered the following amendment:

In line nine, page 8, after the word "prescribe," add: "there shall also be collected as above provided from every person, firm or association of persons owning or running any railroad cars, steamboats or stage coaches in this state, one-quarter of a cent per mile for all their passenger travel, which amount they are hereby charged with the collection of from their passenger travel; and they are hereby authorized for this purpose to add one-quarter of a cent to their rate of charges for passenger travel fixed by law."

Adopted.

Senator Storey offered the following:

Amend section 3, page 8, by striking out all after the word "mill," line thirteen, down to the word "this," line fourteen, and insert "for every full-rate message and one-half that for every message less than a full-rate message sent."

Senator Patton offered the following as a substitute for the pending amendment:

For "one mill" substitute "ten cents" and for "one-half a mill" "five cents."

Lost by the following vote:

YEAS.

Hobby,

Lair,

Patton—3.

NAYS.

Brown,
Burnett,
Burton,
Edwards,
Ford,
Grace,
Guy,

Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCulloch,
Moore,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—20.

Not voting—Duncan.

Senator Swain offered the following as a substitute for the amendment of Senator Storey:

Strike out "mill" where it occurs and insert "cent" in lines thirteen and fourteen.

Adopted by the following vote:

YEAS.

Burnett,
Edwards,
Ford,
Guy,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Patton,
Shannon,
Swain,
Tilson—16.

NAYS.

Brown,
Duncan,
Grace.

Moore,
Stewart,

Storey,
Terrell—7.

Not voting—Burton.

The substitute of Senator Swain was then adopted as an amendment to the bill.

Senator Storey offered the following amendment:

Add to the end of section 3 the following: "*Provided further*, that nothing herein contained shall authorize the levy or collection of any county or municipal tax upon any such chartered companies for messages sent."

Adopted.

Senator Terrell offered the following:

Amend by striking out on page 4 all between the words "in" in line one and "dollars" in line seven, inclusive, which imposes taxes on operators in a photographic or daguerrean gallery.

Lost.

(President in the chair.)

Senator Duncan offered the following:

Add after the word "for," line eighteen, page 5, the words "pleasure or."

Senator Homan offered the following as substitute for the pending amendment:

Insert after the word "store," in line twenty, page 5, the following: "or upon which any money or thing of value is paid."

Adopted.

The substitute was then adopted as an amendment to the bill.

Senator Ledbetter offered the following:

Amend by adding to section 3 the following: "On each gas company manufacturing gas fifty dollars."

Adopted.

On motion of Senator Storey, Senator Buchanan was excused for the day on account of sickness.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 153, "An act to provide for the erection of a new state capitol," and have presented the same to the governor for his approval this day at 11:55 o'clock A. M.

GRACE, Chairman.

A message was received from the House announcing the passage by that body of House bill No. 492, entitled "An act to provide for the sale of the alternate sections of land in organized counties, as surveyed by railroad companies and other works of internal improvements and set apart for the benefit of the common school fund, and to repeal all laws in conflict therewith."

Senator Edwards offered the following amendment:

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That article 4662 be and the same is so amended as to hereafter read as follows:

"Article 4662. There shall be levied and collected an annual direct *ad valorem* state tax of one-half of one per centum of the cash value thereof estimated in lawful currency of the United States, on all real property situated and all movable property owned in this state on the first day of January of each and every year, except so much thereof as may be exempted by the constitution and laws of this state, which cash value shall be estimated in lawful currency of the United States. There shall

also be levied on all the property described in this article, an *ad valorem* state tax of one-eighth of one per centum of the cash value thereof estimated and paid, as prescribed in this article, for the payment of interest on the public debt, and to provide a sinking fund to pay the principal thereof."

Senator Stewart moved to adjourn until 3 o'clock P. M.

Lost.

Senator Swain moved a call of the Senate.

Call sustained.

Roll called; Senate full.

The amendment of Senator Edwards was lost by the following vote:

YEAS.		
Brown,	Lane,	Storey,
Duncan,	Ledbetter,	Terrell,
Edwards,	Martin,	Tilson---9.
NAYS.		
Burnett,	Hobby,	Moore.
Burton,	Homan,	Patton.
Ford,	Houston,	Stewart,
Grace,	Lair,	Shannon,
Guy,	McCulloch,	Swain—15.

Several senators gave notice of entering on the journals their reasons for their vote just given.

The undersigned senators presented the following as the reason for voting nay on the vote just given:

We vote no because the amendment proposes an additional and entirely unnecessary tax upon the people, and because we do not believe the proposition is made seriously, but as a thrust at the action of the majority of the Senate in refusing to destroy the free school system by reducing the appropriation necessary for its maintenance.

HOMAN,
GUY,
SHANNON,
PATTON.

The president, after reading its caption, signed substitute House bill No. 90, entitled "An act to amend title 29, chapter 8, article 1235, the Revised Civil Statutes," passed at the present session of the Legislature.

Senator Stewart offered the following amendment to the pending bill.

Amend by adding to line 12 on page 5 the following: "For every bill-poster in a town or city of more than ten thousand inhabitants, an annual tax of fifteen dollars."

Senator Edwards offered the following as a substitute for the pending amendment:

Add to line twelve, page 5:

"From every person, firm or association of persons pursuing the occupation of posting up advertising bills or notices, tacking up advertising cards or notices of tin, wood or other material, painting or lettering words or pictures on fences or other places as a means of advertising, the sum of fifty dollars per annum, and each county in which the occupation may be pursued, an annual tax of five dollars."

"From every person or firm keeping a shooting gallery at which a fee is paid or demanded, an annual tax of twenty dollars in each county."

Senator Stewart withdrew his amendment.

Senator Stewart offered the following as an amendment to the pending amendment:

Instead of "fifty dollars" insert "twenty dollars."

Accepted by Senator Edwards.

Senator Ford offered the following as an amendment to the pending amendment:

Strike out "twenty" where it occurs and insert "ten."

Lost, and the amendment of Senator Edwards, as amended, was adopted.

Senator Burnett offered the following:

Add to section 3: "From every person or firm selling or engaged in selling Spanish mules or ponies east of the Colorado river, ten dollars for each such mule or pony sold."

Senator Storey moved to lay the pending amendment on the table.

Carried.

Senator Edwards offered the following:

Add in line twenty-six, page 8, section 4, after the word "annual" in amendment of committee adopted, the word "state."

Adopted.

Also the following:

Strike out section 1, first line, and insert the following: "Section 1. Be it enacted by the Legislature of the State of Texas, That article 4662 of the Revised Civil Statutes," shall hereafter read as follows: "Article 4662."

Adopted.

Senator Homan offered the following:

Add to section 3, page 8 the following:

"*Provided further*, That the payment of the tax heretofore imposed by law shall not authorize any person or firm to pursue an occupation upon which a tax is imposed by this act, except on compliance with the provisions of this act, and such person or firm shall have credit on the amount of tax levied by this act for the amount already paid by him or them, or so much of the term paid for as shall not have expired at the time this act shall take effect."

Adopted.

Also the following:

Page 9, section 4, line eight, insert after the word "liquors" the following: "or for keeping any nine or ten-pin alley or billiard, bagatelle, pigeon-hole or Jenny Lind table, devil among the tailors, or anything of the kind used for profit."

Adopted.

Senator Brown, chairman of the committee of engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed:

Senate bill No. 374, entitled "An act to amend article 97 of 'an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas.'"

Senate bill No. 337, entitled "An act granting a land certificate of 640 acres to each of the indigent pensioners enrolled under the act approved July 28, 1836."

Senate bill No. 377, entitled "An act to amend section 4 of 'an act creating the office of district attorney in certain judicial districts of the state,' passed at the present session of the Legislature."

Senate bill No. 232, entitled "An act to amend chapter 3, title 78 of the Revised Statutes of the State of Texas by creating article 3732a."

Senate bill No 375, entitled "An act to amend article 4466 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879."

Senate bill No. 372, entitled "An act to amend article 4761 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature."

Senate bill No. 361, entitled "An act to amend the second section of an act entitled 'an act to regulate the respective duties of district and county attorneys,' approved August 21, 1876."

BROWN, *Chairman.*

The bill under consideration was passed to a third reading.

Senator Ledbetter moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

YEAS.

Brown,	Hobby,	Moore,
Burnett,	Homan,	Patton,
Burton,	Houston,	Stewart,
Duncan,	Lane,	Shannon,
Edwards,	Lair,	Storey,
Ford,	Ledbetter,	Swain,
Grace,	Martin,	Tilson---23.
Guy,	McCulloch,	

NAYS—None.

Not voting—Terrell.

Bill read third time.

Senator Edwards offered the following amendment:

"The late hour of the session creates an imperative public necessity for the suspension of the rule requiring this bill to be read on three several days, and it is so ordered."

Adopted by the following vote:

YEAS.

Brown,	Homan,	Moore,
Burnett,	Houston,	Patton,
Burton,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Swain,
Guy,	McCulloch,	Tilson--22.
Hobby,		

NAYS—Grace.

Not voting—Terrell.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called. Absent—Terrell.

The pending business went to the table.

House bill No. 459½, entitled "An act to authorize any county, city or town in this state to compromise existing bonded indebtedness and to issue new bonds to be sold or exchanged for the purpose, and to provide

for the efficient collection of the taxes to pay the principal and interest of such new bonds," was taken up.

The absent senator returning, the Senate was announced full, and the consideration of the pending bill, House bill No. 414 (the tax bill), was resumed and bill passed by the following vote:

YEAS.

Edwards,	Lane,	Patton,
Ford,	Lair,	Stewart,
Guy,	Ledbetter,	Shannon,
Hobby,	Martin,	Storey,
Homan,	Moore,	Swain—16.
Houston,		

NAYS.

Brown,	Duncan,	Terrell,
Burnett,	Grace,	Tilson—8.
Burton,	McCulloch,	

The consideration of House bill No. 459 $\frac{1}{2}$ was resumed.

Senator Duncan offered the following:

Add to section 5, "and provided no bonds issued under this act shall be sold at less than par; each bond sold shall be made to bear the lowest rate of interest that will give it a par value."

Adopted by the following vote:

YEAS.

Brown,	Homan,	Patton,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Terrell,
Ford,	Martin,	Tilson—20.
Guy,	Moore,	

NAYS.

Grace,	McCulloch,	Swain—3.
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Not voting—Hobby.

Also the following:

After section 9 insert two new sections, numbered 10 and 11, and change section 10 to section 12. Said two new sections to read as follows:

"Section 10. That this act shall not be construed to repeal an act entitled 'an act to authorize counties, cities and towns to scale and fund their indebtedness, and for raising means to pay the same,' approved March 25, A. D. 1879," except in so far as said act may apply to bonds issued under an act entitled "an act to authorize counties, cities and towns to aid in the construction of railroads and other works of internal improvements," approved April 12, A. D. 1871, and to that extent it is hereby repealed.

Adopted by the following vote:

YEAS.

Brown,	Homan,	Patton,
Burnett,	Houston,	Shannon,
Burton,	Lane,	Storey,
Duncan,	Lair,	Swain,
Edwards,	Ledbetter,	Terrell,
Grace,	Martin,	Tilson—20.
Guy,	Moore,	

NAYS—McCulloch.

Not voting—Ford, Hobby, Stewart.

Senator Gooch offered the following amendment:

“Section 11. That the words ‘property taxpayers,’ as used in this act is meant persons owning property in the county, city or town where the election is held, who have paid the taxes due thereon levied against them during the last preceding year before that in which the election is held.”

Lost by the following vote (it taking a two-third vote to adopt):

YEAS.		
Brown,	Guy,	Ledbetter,
Burton,	Houston,	Storey,
Duncan,	Lane,	Terrell,
Edwards,	Lair,	Tilson—13.
Grace,		

NAYS.		
Burnett,	McCulloch,	Stewart,
Homan,	Moore,	Shannon,
Martin,	Patton,	Swain—9.

Not voting—Ford, Hobby.

A message was received from the House announcing the passage by that body of Senate bill No. 167, entitled “An act to amend an act creating the office of public weigher and regulating the appointments and defining the duties and liabilities thereof.”

Senator Patton offered the following amendment:

Strike out “property taxpayers” and insert therefor “qualified voters.”

Pending on adjournment.

On motion of Senator Lane, the Senate took a recess until 3 o'clock P. M.

AFTERNOON SESSION.

Recess expired and Senate reconvened; president in the chair. Roll called; quorum not present.

The absent members soon appearing, a quorum was announced and the Senate proceeded to business.

Senate bill No. 167 (the public weigher's bill), reported from the House this morning with amendments, was taken up and referred to the committee on agricultural affairs.

On motion of Senator Edwards, the pending business was postponed five minutes and his resolution offered on yesterday to amend the rules was taken up.

Senator Homan moved a call of the Senate.

Call sustained.

Roll called. Absent—Terrell, Moore, Burton, Grace.

Pending business went to the table.

The consideration of House bill No. 459½ resumed.

The amendment of Senator Patton pending.

The amendment was lost by the following vote.

YEAS.		
Burnett,	Patton,	Swain—5.
Homan,	Shannon,	

NAYS.		
Brown,	Ford,	Hobby,
Duncan,	Gooch,	Houston,
Edwards,	Guy,	Lane,

Lair,	McCulloch,	Storey,
Ledbetter,	Moore,	Tilson--17.
Martin,	Stewart,	

Not voting—Burton, Grace, Terrell.

House bill No. 359, entitled "An act to authorize the governor, attorney general and superintendent of the penitentiary, to contract for conveying convicts from the places where sentenced to the penitentiary," was taken up and referred to the committee on penitentiary.

Senator Duncan offered the following amendment:

Insert in line nineteen, section 17, after the word "originated," the words "upon or."

Adopted by the following vote:

YEAS.		
Brown.	Guy.	Ledbetter.
Burnett.	Hobby.	McCulloch,
Duncan.	Homan,	Moore,
Edwards,	Houston,	Storey,
Gooch,	Lane,	Swain,
Grace,	Lair,	Tilson--18.
NAYS.		
Patton,	Stewart,	Shannon--5.

Not voting—Burton, Ford, Martin, Terrell.

The bill then passed by the following vote:

YEAS.		
Brown,	Hobby,	Moore.
Duncan,	Houston.	Stewart,
Edwards,	Lane,	Storey,
Gooch.	Lair,	Swain,
Grace,	Ledbetter,	Tilson--17.
Guy.	McCulloch.	
NAYS.		
Burnett,	Martin,	Shannon--5.
Homan,	Patton,	

Not voting—Burton, Ford, Terrell.

Senator Swain called up House bill No. 75, entitled "An act to amend section 21, section 37 and section 38 of "An act to provide for the election of justices of the peace and to define their powers and jurisdiction," approved August 17, 1876."

The substitute reported by the committee was adopted and bill passed to a third reading.

Senator Burnett moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Brown,	Homan,	Moore,
Burnett.	Houston,	Patton.
Edwards.	Lane,	Stewart.
Gooch,	Lair,	Shannon,
Grace.	Ledbetter.	Storey.
Guy,	Martin.	Swain,
Hobby,	McCulloch,	Tilson - 21.
NAYS—none.		

Not voting—Burton, Duncan, Ford, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Edwards,
Ford,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Tilson--22.

NAYS--none.

Not voting--Burton, Duncan, Terrell.

A message was received from the House announcing the passage by that body of Senate bill No. 209, entitled "An act for the relief of Joseph Fenner," and that the House refuses to concur in Senate amendments to House bill No. 412 (the deficiency bill), asks for a conference committee and appoints Messrs. Coleman, Wurzbach, Taylor, Daniel and McComb as such committee on the part of the House."

On motion of Senator Shannon, the Senate refused to recede from its amendments to said bill.

Senators Shannon, Storey, Lane, Edwards and Stewart were appointed as such committee on the part of the Senate.

House bill No. 78, entitled "An act to amend section 16 of 'an act regulating elections,' approved August 23, 1876."

Senator Burnett offered the following amendment:

Page 3, line seven, after the word "filled" add the following: "and except the name of the political party whose candidates are on the ticket."

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Lane,
Ledbetter,

Martin,
McCulloch,
Patton,
Shannon,
Swain--15.

NAYS.

Duncan,
Grace,
Houston,

Lair,
Moore,
Stewart,

Storey,
Terrell,
Tilson--9.

Not voting--Burton.

The president, after publicly reading their captions, signed the following bills:

Senate bill No. 79, entitled "An act to validate certain acts of notaries public who have used seals with the word 'Texas' engraved between the points of the star thereon, instead of around the margin thereof."

Senate joint resolution No. 263, "Relating to medals for Texas veterans."

Senate bill No. 273, entitled "An act to amend section 5, article 16, title 4, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' approved February, 1879."

And Senate bill No. 363, entitled "An act to amend section 10 of final title of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' said section relating to county boundaries"

Senator Shannon offered the following amendment:

Strike out all between the word "years," in fourth line, and the word "provided," in seventh and eighth line, page 3.

Pending on adjournment.

(Senator Edwards in the chair.)

A message was received from the House announcing the passage by that body of Senate joint resolution No. 257, "granting leave of absence to Hon. B. T. Estes, judge of the fifth judicial district of Texas," and Senate bill No. 212, "granting to Mrs. Florence Whitis the right to make a change in Laurel street, in the city of Austin."

House bill No. 492, reported from the House to-day, was taken up and referred to committee on public lands.

The following message was received from his excellency the governor, which was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 15, 1879. }

To the honorable Senate and House of Representatives, in Legislature assembled:

I respectfully call your attention to the following facts: There is a suit of very great importance to the state now pending and being carried on in the federal court at Austin, and now requiring attention for its defense relating to a claim founded upon the Mercer colony contract brought and prosecuted against the commissioner of the general land office, concerning which I herewith refer to you the letter of the attorney, showing that the necessity of giving it serious consideration is urgent and immediate, which necessity in part has arisen within the last few days.

There are now pending in the district a number of suits for very large amounts of land, perhaps over a half a million of acres, situated in the southwestern part of the state, under claims of title from the State of Tamaulipas, authorized to be brought against the state.

There are numerous suits pending and to be brought in Travis and other counties in favor of the state, on tax collectors' bonds and on other bonds, and prosecutions in land fraud cases that require a great deal of professional labor. There are also suits pending and to be brought for the state in other counties, and investigations to be made, and evidence hunted up and taken in all of the suits for the state, whether brought in the county of Travis or in other counties. There is no appropriation for the payment of expenses for witnesses or for taking depositions in any of these numerous judicial proceedings, which may often be found very necessary to prosecute or defend the interests of the state.

In addition to this, there is not sufficient force at the command of the attorney general or of the governor to have these important suits attended to in Travis and other counties. In consequence of this, private attorneys have been engaged and have rendered good service for the state. The cost of this private service in the last two years has been perhaps not less than ten thousand dollars. To show that the professional force is not sufficient, it may be stated that the attorney general is almost continually employed in his office in giving opinions and instructions to the officers of the state and other necessary and indispensable duties. The assistant attorney general is constantly employed in the court of appeals and in the supreme court for nine months in the year representing the state in said courts.

It would greatly promote the efficiency and diminish the expense to the state of this department by increasing the force in a way to make it permanent as long as the present emergency may continue. It will cost

less and get more varied service to have an officer appointed by the governor or elected by the Legislature, to hold for two years, with a competent salary to act as general fiscal agent and attorney for the state whenever required in any and all of the courts of the state, under the direction of the attorney general and governor.

I respectfully recommend this to be done, and that an appropriation be made to carry out the purposes above indicated.

O. M. ROBERTS, *Governor.*

ATTORNEY GENERAL'S OFFICE, }
AUSTIN, April 14, 1879. }

Hon. O. M. Roberts, Governor of Texas:

SIR—I desire to call your attention, and through you to the attention of the Legislature, if you deem the matter of sufficient importance, the following matter, viz: A suit is now pending in the circuit court of the United States for this judicial district, instituted by George Hancock, of Kentucky, to enforce an alleged contract entered into between Sam Houston, as president of the Republic of Texas, with Charles F. Mercer, in which it is sought to restrain the commissioner of the general land office from hereafter patenting lands in the territory known as comprising the Mercer colony, and to require the commissioner to issue land certificates for about one million acres of the public lands of the state. This suit has been on the docket of said court for several years, but Hancock having departed this life, it is now sought to be revived by his representative, General Preston.

The first information this office had of this claim was through the counsel of General Preston, a few days ago, and on Saturday last by subpoena served upon the commissioner.

From the hasty examination I have been able to make of the matter I feel disinclined to enter alone upon its defense, and considering the vast interest involved, not alone as to the value of property when considered in dollars and cents, but also the important principles which the case must call in question, *i. e.* the power of the federal judiciary to control the official action of the head of the executive department of this government, induces me to call this matter to your serious attention.

While I have no fears of the ultimate result of this litigation, should the case be properly presented, yet I feel it my duty to say that no appropriation has been made to defend this claim, nothing to take depositions or to prepare the case for trial on the facts. Again, in this connection I desire to call your attention to the fact that under the law there is nothing requiring this office to defend claims of this kind. The duties of the attorney general as prescribed by law and defined by the constitution do not require him to represent the state in the federal courts. If it should be considered that the attorney general should defend this suit, then it may well be said that he should follow it to the supreme court at Washington, or, if the suit had been filed at Galveston or Brownsville, that he should attend the courts there.

I therefore respectfully insist that owing to the vast amount of labor required of this office it is utterly impossible to give the matter the attention its importance demands. Therefore I earnestly recommend that some action be taken looking to a vigorous defense of this suit by private counsel.

I am, sir, very respectfully, etc.,

GEO. McCORMICK, *Attorney General.*

On motion of Senator Ledbetter, the message was referred to the committee on state affairs.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 389, entitled "An act to amend section 1 of an act to amend sections 6 and 9 of 'an act to define a lawful fence and to carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas authorizing the passage of stock and fence laws,' approved August 15, 1876, passed at the present session of the Legislature," and find it correctly engrossed.

BROWN, *Chairman.*

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed the following Senate bills:

No. 79, "An act to validate certain acts of notaries public who have used seals with the word 'Texas' engraved between the points of the star thereon instead of around the margin thereof;"

No. 363, "An act to amend section 10 of final title of an act to adopt and establish the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature, said section relating to county boundaries;"

No. 273, "An act to amend section 5, article 16, title 4 of an act entitled an act to adopt and establish the Revised Civil Statutes of the State of Texas," approved February, 1879;

Senate joint resolution No. 263, "Joint resolution relating to medals for Texas veterans;"

And have presented the same to the governor for his signature this day at 3:50 o'clock P. M.

GRACE, *Chairman.*

On motion of Senator Gooch, the Senate adjourned until 9:30 o'clock A. M. to-morrow.

EIGHTIETH DAY.

SENATE CHAMBER,

AUSTIN, TEXAS, April 16, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and same adopted.

Senator Swain, chairman of committee on penitentiary, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiary, to whom was referred House bill No. 359, "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the places where sentenced to the penitentiary," have considered the same,

and a majority of said committee instruct me to report the bill to the Senate and recommend its passage. SWAIN, *Chairman.*

Senator Tilson introduced a bill entitled "An act regulating contracts for labor, and affixing a penalty for a violation thereof."

Read by caption and referred to judiciary committee No. 1.

The resolution of Senator Lane, with regard to the election of a president *pro tempore*, was taken up.

On motion of Senator Stewart, the resolution was postponed until next Saturday, at 10 o'clock A. M.

Substitute for Senate bill No. 12, entitled "An act to regulate railroad companies," was taken up, with House substitute for same.

House substitute adopted.

On motion of Senator Terrell, 50 copies of House substitute were ordered printed, and bill made the special order for to-morrow, at 10 o'clock A. M.

Senator Swain called up Senate bill No. 382, entitled "An act to change and define the times of holding the district courts in the fifth judicial district of the State of Texas," which was read a second time and ordered engrossed.

On motion of Senator Swain, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,

Moore,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS—none.

Not voting—Grace, Martin.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Grace.

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Ford.

A message was received from the House announcing the passage of Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases."

Senate bill No. 113, entitled "An act for the preservation of fish, and to build fish-ways and fish-ladders," with amendments.

Senate bill No. 204, entitled "An act requiring persons enclosing public free school lands to pay an annual rent therefor," with amendments.

On motion of Senator Lane, Senate rule No. 36 was suspended and Senate bill No. 204, just reported from the House, was taken up and House amendments concurred in.

Senator Hobby (by leave) offered the following resolution:

Resolved, That rule 36 of the Senate be rescinded.

Senator Hobby moved that rule 67 of the Senate (requiring a four-fifths vote to suspend, etc.) be suspended, and the resolution be acted on at once.

Carried.

Senator Brown offered the following:

Insert after "commitment," "and when so committed."

Lost.

The resolution of Senator Hobby was adopted.

Senator Shannon (by leave) presented a petition from the grand jury of Jack county "Asking the Legislature to enact a law to protect county finances, stating the collector of taxes collects the taxes in money and through friends buys scrip at greatly reduced rates, and pays it in the county treasury at par in lieu of the money collected, by this means depreciating county scrip and embarrassing the county finances; that there is no law requiring the collector to turn over the money he collects," etc.

Referred to committee on finance.

On motion of Senator Stewart, Senator Patton was excused for the morning session.

Senate bill No. 113, "Protecting fish," etc., with amendments, reported from the House this morning, was taken up.

On motion of Senator Terrell, House amendments were concurred in.

House bill No. 338, "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation,'" etc., was taken up with a motion pending to reconsider the vote adopting adverse report of committee.

The motion to reconsider was adopted and bill postponed until the evening session.

Senator Stewart called up Senate bill No. 330, entitled "An act to protect lands lying on or near county boundaries from double assessments."

Senator Terrell offered the following amendment:

Strike out the words "or near."

Adopted and bill ordered engrossed.

Senator Stewart moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

	YEAS.	
Brown,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Gooch,	Martin,	Swain,
Guy,	McCulloch,	Terrell,
Hobby,	Moore,	Tilson--22.
Homan,		

NAYS—none.

Not voting—Buchanan, Burton, Ford, Grace.

Bill read third time and passed by the following vote:

Brown,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

YEAS.
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--23.

NAYS--none.

Not voting—Buchanan, Burton, Lane.

The following messages were received from his excellency the governor, which were taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 16, 1879.

To the honorable Senate of the State of Texas, in session assembled:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment, to wit:

A. T. McKinney to be district attorney of the fourth judicial district of the State of Texas.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 16, 1879.

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public:

T. H. Mosley, J. M. Smith, Archer county.

J. M. Cox, Gonzales county.

W. F. Christee, McLennan county.

W. E. Doyle, Limestone county.

Oscar Starcke, Guadalupe county.

A. L. Brigance, Robertson county.

J. M. Rogers, Jack county.

J. E. Carpenter, Victoria county.

B. H. Powell, Grimes county.

J. H. Brownlee, Waller county.

Wm. N. McKarney, Wheeler county.

C. C. Mills, Throckmorton county.

A. Tacket, Baylor county.

Thomas P. Martin, Marion county.

James H. Parks, Donley county.

Wm. H. Roberts, Jr., Coryell county.

N. A. Mize, San Jacinto county.

T. A. Brown, Harrison county.

William J. Robinson, Nueces county.

E. R. Thomas, Austin county.

Respectfully,

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 16, 1879.

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public:

A. C. Lenert, of Fayette county, in place of C. W. Meyer, declined.
James D. Sheeks, of Travis county, instead of James D. Sheek.

Benj. H. Denton, of Lamar county, in place of Wm. F. Gill, resigned.

A. J. Chambers, of Tarrant county, in place of R. W. Tannahill, declined.

J. C. Key, of Navarro county, in place of James Robinson, declined.

H. G. Damon, of Navarro county, in place of J. M. Doden, declined.

W. J. Crosby, of Cherokee county, in place of Asa Brown, deceased.

Respectfully, O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 16, 1879.

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment of notary public:

E. H. Foreman, Navarro county.

Respectfully, O. M. ROBERTS, *Governor*.

Senator Burnett moved that the Senate go into executive session to consider the appointments just sent to the Senate by his excellency the governor, on to-morrow, just after morning call.

Carried.

(President *pro tempore* in the chair.)

The unfinished business being House bill No. 78, entitled "An act to amend section 16 of 'an act regulating elections,'" approved August 23, 1876, was taken up with the amendment of Senator Shannon pending.

Senator Homan moved the previous question on the pending amendment.

Motion not seconded.

Senator Terrell moved a call of the House.

Call sustained.

Roll called. Absent—Buchanan, Burton.

Pending business went to the table.

Senate joint resolution No. 9, "amending section 11 of article 1 of the constitution," was taken up on motion of Senator Brown to reconsider the vote by which the resolution was lost, which was pending.

The motion to reconsider carried by the following vote:

YEAS.

Brown,	Hobby,	Moore.
Burnett.	Homan,	Ripetoe.
Duncan.	Houston,	Stewart.
Edwards.	Lane,	Shannon,
Ford,	Lair,	Storey,
Goch.	Ledbetter,	Swain,
Grace.	Martin,	Tilson---23.
Guy.	McCulloch,	

NAY—Terrell.

Not voting—Buchanan, Burton.

Senator Stewart moved a call of the Senate.

Call sustained.

Roll called. Absent—Senator Burton.

Pending business went to the table.

The Senate was announced full and the consideration of Senate bill No. 78 was resumed.

The pending amendment of Senator Shannon was lost by the following vote:

YEAS.		
Burnett, Burton, Hobby,	Homan, Martin,	Ripetoe, Shannon---7.
NAYS.		
Brown, Buchanan, Duncan, Edwards, Ford, Goch, Grace,	Guy, Houston, Lane, Lair, Ledbetter, McCulloch,	Moore, Stewart, Storey, Swain, Terrell, Tilson-- 19.

Senator Swain offered the following amendment:

In line seventeen, after the word "dollars," add "and if the name of any candidate shall be printed and voted on any party ticket other than that printed for the party to which the candidate so voted for belongs, such vote shall be deemed fraudulent and shall not be considered in the count."

Lost.

Senator Terrell offered the following:

Amend by inserting after "filled" in line seven: "The said paper shall be selected and the form and shape of each ticket prescribed by the county commissioners' court, and paid for by the county; and upon it shall be printed (if possible) the names of candidates in type of uniform character, or if not printed, the names of the candidates may be written on said tickets, and the voter shall in all cases be instructed by the judges holding the election of the name of each candidate whose name is upon his ticket when he desires it."

Senator Homan offered the following substitute for pending amendment:

Add to section 2: "*Provided*, That all election tickets shall be in the exact shape of a five-pointed star, and any person voting a star with more than five points shall be deemed guilty of a felony, and on conviction shall be punished by confinement in the penitentiary not less than five nor more than fifty years."

Senator Stewart moved to lay the substitute on the table.

Carried.

Senator Swain offered the following as an amendment to the pending amendment:

"And all tickets shall not exceed four inches in width and shall be long enough to embrace all the names desired to be printed thereon, and shall be delivered at least ten days before the election to the candidate desiring them."

Accepted by Senator Terrell.

(Senator Duncan in the chair.)

A message was received from the House announcing the passage by that body of the following bills, to wit:

Senate bill No. 274, entitled "An act to amend articles 130 and 132 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature."

Substitute for House bill No. 463, entitled "An act to amend the charter of the city of Dallas."

April 16, 1879.

House bill No. 501, entitled "An act to amend article 1333 of the Revised Civil Statutes of the State of Texas," passed at the present session of the Legislature."

(President in the chair.)

The president, after reading their captions, signed the following bills, to wit:

Senate bill No. 209, entitled "An act for the relief of Joseph Fenner."

Senate joint resolution No. 257, "granting leave of absence to Hon. B. T. Estes, judge of the fifth judicial district of Texas."

Senator Terrell moved the previous question on the pending amendments to bill under consideration.

Motion seconded and main question ordered.

The pending amendment of Senator Terrell, as amended by the amendment of Senator Swain, was lost by the following vote:

YEAS.

Brown,
Duncan,
Grace,

Lane,
Lair,
McCulloch

Swain,
Terrell--8.

NAYS.

Burnett,
Barton,
Edwards,
Ford,
Gooch,

Guy,
Homan,
Houston,
Ledbetter,
Martin,

Moore,
Ripetoe,
Stewart,
Storey,
Tilson--15.

Not voting—Buchanan, Hobby, Shannon.

Senator Burton offered the following:

Amend page 3, line five, after the word "printed," by striking out all down to line twelve.

Lost by the following vote:

YEAS.

Burnett,
Burton,

Homan,
Ripetoe,

Swain--5.

NAYS.

Brown,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Stewart,
Shannon,
Storey,
Terrell,
Tilson--20.

Not voting—Buchanan.

Senator Houston offered the following:

Amend page 3, lines five and six: Strike out the words "rule" and "mark," and transpose the word "or" so as to read "or stamp."

Adopted by the following vote:

YEAS.

Burnett,
Burton,
Edwards,
Ford,
Gooch,

Hobby,
Homan,
Houston,
Lane,
Martin,

Ripetoe,
Stewart,
Shannon,
Storey--14.

NAYS.

Brown,
Duncan,
Grace,
Guy,

Lair,
Ledbetter,
Moore,

Swain,
Terrell,
Tilson--10.

Not voting—Buchanan, McCulloch.

Bill passed to a third reading by the following vote:

YEAS.

Duncan,
Edwards,
Gooch,
Grace,
Guy,

Homan,
Houston,
Lane,
Lair,
Ledbetter,

McCulloch,
Moore,
Stewart,
Storey---14.

NAYS.

Brown,
Burnett,
Burton,
Ford,

Hobby,
Martin,
Ripetoe,
Shannon,

Swain,
Terrell,
Tilson--11.

Not voting—Buchanan.

Senator Homan gave the following as his reason for voting aye on the vote just cast:

“I vote aye in order to move a reconsideration.”

Senator Edwards moved to reconsider the vote just taken and to lay that motion on the table.

Lost by the following vote:

YEAS.

Duncan,
Edwards,
Gooch,
Grace,

Houston,
Lane,
Ledbetter,

Moore,
Stewart,
Storey---10.

NAYS.

Brown,
Burnett,
Burton,
Ford,
Guy,

Hobby,
Homan,
Lair,
Martin,
McCulloch,

Ripetoe,
Shannon,
Swain,
Terrell,
Tilson--15.

Not voting—Buchanan.

The motion to reconsider the vote passing the pending bill to the third reading was carried by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Ford,
Gooch,
Hobby,

Homan,
Lair,
Martin,
McCulloch,
Moore,

Ripetoe,
Shannon,
Swain,
Terrell,
Tilson--16.

NAYS.

Duncan,
Edwards,
Grace,

Guy,
Houston,
Lane,

Ledbetter,
Stewart,
Storey--9.

Not voting—Buchanan.

Senator Terrell moved to reconsider the vote by which the amendment of Senator Houston was adopted.

Senator Homan moved to lay Senator Terrell's motion to reconsider on the table.

Lost by the following vote:

YEAS.

Burnett,
Burton,
Duncan,
Ford,

Hobby,
Homan,
Houston,
Martin,

McCulloch,
Ripetoe,
Shannon,
Swain--12.

NAYS.

Brown,
Edwards,
Gooch,
Grace,
Guy,

Lane,
Lair,
Ledbetter,
Moore,

Stewart,
Storey,
Terrell,
Tilson—13.

Not voting—Buchanan.

The motion of Senator Terrell, to reconsider the vote adopting the amendment of Senator Houston, was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Duncan,
Gooch,
Grace,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
McCulloch,
Moore,

Stewart,
Storey,
Swain,
Terrell,
Tilson—17.

NAYS.

Burnett,
Burton,
Edwards,

Ford,
Homan,
Houston,

Martin,
Ripetoe,
Shannon—9.

Senator Shannon moved the indefinite postponement of the bill and pending amendments.

Senator Storey offered an amendment to the amendment of Senator Houston:

Amend Senator Houston's amendment by striking out the word "mark."

Adopted.

Senator Shannon's motion to indefinitely postpone the bill was lost by the following vote:

YEAS.

Burnett,
Burton,
Ford,
Hobby,

Homan,
Martin,
Ripetoe,

Shannon,
Storey,
Swain—10.

NAYS.

Brown,
Buchanan,
Duncan,
Edwards,
Gooch,
Grace.

Guy,
Houston,
Lane,
Lair,
Ledbetter.

McCulloch,
Moore,
Stewart,
Terrell,
Tilson—16.

Senator Lane offered the following as an amendment to the amendment of Senator Houston:

Amend by inserting the following between the words "filled" and "provided" on eighth line of page 3, to wit:

"*Provided*, such ballots may be written or printed on plain white foolscap, legal cap or letter paper."

Senator Gooch moved the previous question on the bill and pending amendments.

Motion seconded and main question ordered.

The amendment of Senator Lane to the amendment of Senator Houston was adopted.

The amendment of Senator Houston as amended was then adopted by the following vote:

YEAS.

Buchanan,
Burnett,

Burton,
Edwards,

Ford,
Grace,

Hobby,
Homan,
Houston,
Lane,

Lair,
Moore,
Ripetoe,

Stewart,
Shannon,
Storey—16.

NAYS.

Brown,
Duncan,
Gooch,

Guy,
Ledbetter,
McCulloch,

Swain,
Terrell,
Tilson—9.

Not voting—Martin.

Bill passed to a third reading by the following vote:

YEAS.

Brown,
Buchanan,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,

Moore,
Stewart,
Storey,
Terrell,
Tilson—17.

NAYS.

Burnett,
Burton,
Ford,

Hobby,
Homan,
Martin,

Ripetoe,
Shannon,
Swain—9.

A message was received from the House announcing the passage of Senate bill No. 130, entitled "An act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881," with amendments.

Senate bill No. 380, entitled "An act to amend section 1 of an act to amend sections 6 and 9 of 'an act to define a lawful fence, and carry into effect sections 22 and 23, article 16 of the constitution, authorizing the passage of stock and fence laws, approved August 16, 1876,' passed at the present session of the Legislature."

Substitute for House bill No. 463, reported from the House this morning, was referred to the committee on state affairs.

House bill No. 501, just reported from the House, was referred to judiciary committee No. 2.

House substitute for Senate bill No. 130 (the general appropriation bill) was referred to committee on finance.

House bill No. 359, entitled "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the places where sentenced to the penitentiary," was taken up and read first time.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed the following Senate bills:

No. 209, "An act for the relief of Joseph Fenner."

No. 257, "Joint resolution granting leave of absence to Hon. B. T. Estes, judge of the fifth judicial district of Texas," and have presented the same to the governor for his signature this day at 11:20 o'clock A. M.

GRACE, *Chairman.*

On motion of Senator Duncan, the Senate adjourned until 3 o'clock

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

A message was received from the House announcing the passage by that body of Senate bill No. 239, entitled "An act prescribing the times of holding the courts in the twenty-second judicial district, with amendments," and that the House concurs in Senate amendments to House bill 459½, "An act to authorize any county, city or town in this state to compromise existing bonded indebtedness, and to issue new bonds, to be sold or exchanged for this purpose, and to provide for the efficient collection of the taxes to pay the principal and interest of such new bonds."

Senate bill No. 94, entitled "An act to create a lien in favor of proprietors of livery or other public stables and to provide for the manner in which the same may be enforced," was taken up, read third time and passed.

Senate bill No. 107, entitled "An act to amend an act entitled 'an act to regulate the respective duties of district and county attorneys,'" was taken up and read third time.

On motion of Senator Duncan, the bill was postponed until to-morrow.

Senator Edwards, from the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred Senate joint resolution No. 378, "granting leave of absence from the state to W. B. Wall, county judge of Houston county, for sixty days," have duly considered said resolution, and respectfully return the same with the accompanying substitute and recommend that the substitute do pass.

EDWARDS, *for Committee.*

The substitute, just reported, was taken up and read first time.

Senator Edwards introduced a bill entitled "An act to amend article 1135, chapter 1, title 28 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879."

Read by caption and referred to judiciary committee No. 1.

Senate bill No. 166, entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original subdivisions made under the act approved August 30, 1856," was taken up, read third time and passed.

Senate bill No. 224, entitled "An act to amend article 539, of section 2, of an act entitled 'an act to adopt and establish a Penal Code and Code of Criminal Procedure of the State of Texas,'" was taken up and read third time.

Senator Ledbetter moved a call of the Senate.

Call sustained.

Roll called. Absent—Burton, Terrell, Grace.

Pending business went to the table.

Senate bill No. 233, entitled "An act to provide for the payment of sums due county school superintendents and directors for services rendered prior to the year ending August 31, 1876," was taken up and read third time.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Burton, Grace, Terrell.

Pending business went to the table.

On motion of Senator Burnett, the rules were suspended and Senate bill No. 381, entitled "An act authorizing the comptroller of public accounts to sign and issue certificates of indebtedness remaining in his office and unsigned or unissued by the auditorial board established by an act entitled 'an act to provide for the payment of the public debt, approved May 2, 1871,' and to provide for the payment of said certificates," was taken up, read second time and ordered engrossed.

(Senator Stewart in the chair.)

Senator Burnett moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

YEAS.

Brown.	Homan,	Patton,
Burnett.	Houston,	Ripetoe.
Edwards,	Lane,	Stewart,
Ford,	Lair,	Shannon,
Gooch,	Ledbetter,	Storey,
Guy,	Martin,	Swain,
Hobby,	Moore,	Tilson---21.

NAYS—none.

Not voting—Buchanan, Burton, Duncan, Grace, McCulloch, Terrell.
Bill read third time and passed by the following vote:

YEAS.

Brown.	Homan.	Patton,
Burnett,	Houston,	Ripetoe,
Edwards,	Lane,	Stewart,
Ford,	Lair,	Shannon,
Gooch,	Ledbetter,	Storey,
Guy,	Martin,	Swain,
Hobby,	Moore,	Tilson—21.

NAYS—none.

Not voting—Buchanan, Burton, Duncan, Grace, McCulloch, Terrell.

On motion of Senator Edwards, the call of the Senate was suspended and the consideration of Senate bill No. 233 resumed.

The bill was then passed.

Senate bill No. 361, entitled "An act to amend the second section of an act entitled 'an act to regulate the respective duties of district and county attorneys,' approved August 21, 1876," was taken up, read third time, and on motion of Senator Gooch, was postponed until tomorrow.

Senate joint resolution No. 367, proposing an amendment to section 14 of article 8 of the constitution, and to repeal section 16 of said article, was taken up and read third time.

The Senate was announced full, and the consideration of Senate bill No. 224 was resumed.

Bill passed by the following vote:

YEAS.

Brown,	Homan,	Moore,
Buchanan,	Houston,	Patton,
Duncan,	Lair,	Terrell,
Gooch,	Martin,	Tilson—14.
Hobby,	McCulloch,	

YEAS.

Burnett,
Burton,
Edwards,
Ford,
Grace,

Guy,
Lane,
Ledbetter,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain---13.

The consideration of Senate joint resolution No. 367 was resumed.

Senator Ledbetter offered the following amendment:

Amend by striking out all after "qualified," in line nine.

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Edwards.

Ford,
Guy,
Ledbetter,
Patton,

Ripetoe,
Storey,
Swain,
Tilson---12.

NAYS.

Burnett,
Gooch,
Grace,
Hobby.

Homan,
Houston,
Lair,
Martin.

McCulloch,
Moore,
Stewart,
Shannon---12.

Not voting--Duncan, Lane, Terrell.

The resolution was then lost by the following vote (it taking two-thirds to adopt):

YEAS.

Brown,
Burnett,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lair,

McCulloch,
Patton,
Stewart,
Shannon---14.

NAYS.

Burton,
Grace,
Ledbetter,
Martin,

Moore,
Ripetoe,
Storey.

Swain,
Terrell,
Tilson---10.

Not voting--Buchanan, Duncan, Lane.

Senator Storey introduced a bill entitled "An act to amend title 53, chapter 2 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature, by adding article 2942a."

Read by caption and referred to committee on finance.

The president, after publicly reading their captions, signed Senate bill No. 182, entitled "An act amendatory of 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved June 24, 1876;"

Senate bill No. 204, entitled "An act to require persons enclosing public free school lands to pay an annual rent therefor;"

Senate bill No. 113, entitled "An act for the preservation of fish, and to build fish ways and fish ladders;"

Senate bill No. 274, entitled "An act to amend articles 130 and 132 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature."

Senator Edwards, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 384, to be entitled "An act to amend article 1135, chapter 1, title 28 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879," have given the same due consideration, and I am instructed to report it back to the Senate and recommend that it do pass.

EDWARDS, *for Committee.*

The bill just reported was read first time.

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was referred Senate bill No., "An act to amend article 53, chapter 2 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature, by adding article 2942a," and I am instructed by the committee to report the bill back to the Senate with the recommendation that the same do pass.

STOREY, *Chairman.*

The bill just reported was taken up and read first time.

Senator Storey moved a suspension of the rules to place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—23.

NAYS—none.

Not voting—Burton, Lane, Tilson.

Bill read second time.

Senator Terrell offered the following amendment:

Amend by inserting the word "final" before "judgment."

Adopted and bill ordered engrossed.

On motion of Senator Storey, the rules were further suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore.

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell—21.

NAYS—none.

Not voting—Burton, Grace, Houston, Lane, Tilson.

Bill read third time and passed.

Senate joint resolution No. 74, "proposing an amendment to the constitution of the State of Texas," was taken up.

(President in the chair.)

Senator Homan moved a call of the Senate.

Call sustained.

Roll called. Absent—Duncan, Lane, McCulloch, Tilson.

On motion of Senator Stewart the call was suspended.

Senator Terrell moved a call of the Senate.

Call sustained.

Roll called. Absent—Duncan, Lane, McCulloch.

The pending business went to the table.

On motion of Senator Houston, the Senate concurred in House amendments to Senate bill No. 289, entitled "An act prescribing the times of holding the courts in the twenty-second judicial district of the State."

On motion of Senator Homan, Senator Duncan was excused for the evening on account of sickness.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed the following Senate bills:

No. 113—An act for the preservation of fish, and to build fish ways and fish ladders;

No. 274—An act to amend articles 130 and 132 of an act entitled "an act to adopt and establish the Revised Civil Statutes of the State of Texas," passed at the present session of the Legislature;

No. 182—An act amendatory of an act entitled "an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justices' precinct, city or town in this state that may so elect, prescribing the mode of election and affixing a punishment for its violation," approved June 24, 1876;

No. 204—An act to require persons enclosing public free school lands to pay an annual rent therefor, and have presented the same to the governor for his signature this day at 4:15 o'clock P. M.

GRACE, *Chairman.*

The Senate was announced full and the consideration of Senate joint resolution No. 74 was resumed, and resolution lost by the following vote (its taking a two-thirds vote to adopt):

YEAS.

Brown,
Buchanan,
Duncan,
Edwards,
Ford,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Storey,
Swain,
Terrell,
Tilson--17.

NAYS.

Burnett,
Burton,
Gooch,
Grace,

Homan,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon--10.

On motion of Senator Gooch, the Senate adjourned until 9:30 A. M. to-morrow.

EIGHTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 17, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Ledbetter, the reading of the journals of yesterday was dispensed with, and same adopted.

On motion of Senator Homan, Senator Gooch was indefinitely excused on account of sickness in his family.

Senator Houston, chairman of committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred the message of his excellency the governor, bearing date April 15, 1879, have considered the recommendations therein contained, and I am instructed to report the accompanying bill, intended to carry out said recommendations, and to recommend that it do pass.

Houston, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred substitute House bill No. 433, entitled "An act to amend the charter of the city of Dallas," have considered the same and find that due notice of same by publication has been given. Your committee find some clerical errors in said bill, to correct which they submit the following amendments. In section 1, line two, first page, strike out "90" and insert "99;" on page 2, section 90, strike out "90" and insert "99;" also in line thirteen, page 3, strike out "inclusive" and insert "exclusive," and your committee instruct me to recommend that said bill, as so amended, do pass.

Houston, *Chairman.*

A message was received from the House announcing the passage by that body of substitute for House bill No. 438, entitled "An act to authorize Messrs. Cunningham & Ellis, lessees of the state penitentiary, to sue the state.

Senator Guy, chairman of committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred "Memorial of the heirs of John D. Groesbeck, deceased," asking that the commissioner of the general land office be required to issue to them a certificate to the amount of certain locations which they allege were wrongfully made on a league and labor of land granted to Salvador Castillo, from the government of Mexico, and transferred by regular chain down to said Groesbeck, deceased, have had the same under consideration, and find what your committee suppose to be the said grant, but which being in the Spanish language, your committee are unable to translate. They find a regular chain of title from said Castillo to said Groesbeck, but find no notice of this application filed among said papers, nor any evidence that said notice has been given as required. A majority, therefore, of your committee instruct me to report said memorial back with the recommendation that the prayer of said memorialists be not granted.

Guy, *Chairman.*

On motion of Senator Houston, Senate bill No. 386, entitled "An act to better provide for the prosecution and defense of all actions by or against the state," was taken up and read first time.

On motion of Senator Houston, Senator Terrell was excused for the day on account of illness.

House substitute for Senate bill No. 12 (to amend article 4257 of the Revised Civil Statutes), was taken up.

Senator Tilson moved to postpone the bill until to-morrow.

Senator Tilson withdrew his motion to postpone.

Senator Brown renewed the motion to postpone the pending bill until to-morrow.

Lost.

Senator Brown offered the following amendment:

Strike out "fifty cents," in line two, and insert "37½ cents."

Senator Lair moved the previous question on bill and pending amendment.

Motion seconded and main question ordered.

Senator Brown made the point of order that the previous question was moved before his amendment was read and was therefore out of order.

Point sustained.

The amendment of Senator Brown was then read.

Senator Lair again moved the previous question on the pending bill and amendment.

Motion seconded and main question ordered.

Senator Brown's amendment was lost by the following vote:

	YEAS.	
Brown,	Duncan,	Swain—3.
	NAYS.	
Buchanan,	Hobby,	Moore.
Burnett,	Homan,	Patton.
Barton,	Houston.	Ripetoe.
Edwards,	Lair.	Stewart.
Ford,	Ledbetter,	Shannon.
Grace,	Martin,	Storey—20.
Guy,	McCulloch,	

Not voting—Lane, Tilson.

The bill then passed to a third reading.

Senator Patton, chairman of the committee on stock and stockraising, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on stock and stockraising have considered House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising, and for the protection of stockraisers,' approved August 23, 1876," and a majority of said committee direct me to report said bill back with the recommendation that it do pass. PATTON, *Chairman.*

On motion of Senator Burnett, the Senate went into executive session.

IN SENATE.—(Senator Grace in the chair.)

Senator Burnett moved that the confirmations just made in executive session be entered on the journals of the Senate.

Carried, and it is accordingly stated that all the appointments of notaries public contained in the message of his excellency of yesterday were confirmed; also, the appointment of A. T. McKinney as district attorney for the fourth judicial district of the state.

Senator Swain called up House bill No. 359, entitled "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for the carrying of convicts from the places where sentenced to the penitentiary," which was read second time.

(President in the chair.)

Senator Ledbetter moved to postpone the bill until to-morrow morning, and that fifty copies of the bill be printed.

Carried.

Substitute for House bill No. 488, entitled "An act to authorize Messrs. Cunningham & Ellis, lessees of the state penitentiary, to sue the state," was taken up and referred to the committee on penitentiary.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed—

Senate bill No. 93, "An act to provide for transcribing county records in certain cases;"

Senate bill No. 212, "An act granting to Mrs. Florence Whitis the right to make a change in Laurel street, in the city of Austin;"

Senate bill No. 239, "An act prescribing the times of holding the district courts in the twenty-second judicial district;"

Senate bill No. 380, "An act to amend section 1 of an act to amend sections 6 and 9 of 'an act to define a lawful fence, and to carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws, approved August 15, 1876,' passed at the present session of the Legislature," and at 11:45 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

The following message was received from the House, which announced that the House has had under consideration House bill No. 414, entitled "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1, title 94 of the Revised Civil Statutes, adopted February 21, 1879," with Senate amendments thereto, and the House concurs in the first and second amendments; disagrees to the third, fourth, fifth, sixth and seventh amendments; concurs in the eighth, ninth, tenth, eleventh and twelfth amendments; disagrees to the thirteenth amendment; concurs in the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second and thirty-third amendments; disagrees to the thirty-fourth amendment; concurs in the thirty-fifth and thirty-sixth amendments; disagrees to the thirty-seventh amendment; concurs in the thirty-eighth, thirty-ninth, fortieth, forty-first and forty-second amendments; disagrees to the forty-third amendment; concurs in the forty-fourth, forty-fifth, forty-sixth and forty-seventh amendments.

On motion of Senator Martin, the Senate adhered to its amendments to House bill No. 414 (the tax bill), and asked for a conference committee.

Senators Edwards, Martin, Brown, Ford and Swain were appointed as said conference committee on the part of the Senate.

Senator Storey, chairman of the committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration House amendments to substitute Senate bill No. 130, "An act to make appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881, and have instructed me to report the same back to the Senate with the recommendation that the following of said amendments be concurred in, to wit:

Executive office—Nos. 2, 3, 5, and in No. 7, except as to the amount stricken out and inserted, to which we do not agree.

State department—Nos. 1, 5.

Treasury department—Nos. 3, 7, 9.

Comptroller's office—Nos. 3, 4, 5, 6.

General Land office—Nos. 1, 4, 5, 7, 8, 9, 10, 11.

Lunatic asylum—Nos. 3, 4, 5, 7, 8, 9.

Blind Asylum—Nos. 2, 3, 4.

Deaf and Dumb Asylum—Nos. 2, 3, 4, 5.

Penitentiary—No. 1.

Quarantine—Nos. 1, 2, 3.

Attorney general's office—Nos. 1, 2, 3, 4.

Adjutant general's office—Nos. 2, 4, 6, 7, 8, and in so much of No. 9 as reduces the amount appropriated to \$100,000 instead of \$150,000, and the division made thereof, but do not agree to the insertion of the words "if necessary."

Judiciary—Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.

Public buildings and grounds—No. 2.

Educational—No. 1.

Miscellaneous—Nos. 1, 2, and in "section 2."

And that the following of said amendments be not concurred in, to wit:

Executive office—Nos. 1, 4, 6, 8, and in that part of No. 7 striking out \$20,000 and inserting \$10,000.

State department—Nos. 2, 3, 4.

Treasury department—Nos. 1, 2, 4, 5, 6, 8.

Comptroller's office—Nos. 1, 2, 7, 8.

General land office—Nos. 2, 3, 6.

Lunatic Asylum—Nos. 1, 2, 6.

Blind Asylum—Nos. 1, 5.

Deaf and Dumb Asylum—Nos. 1, 6, 7, 8.

Pensions—No. 1.

Attorney general's office—No. 5.

Adjutant general's office—Nos. 1, 3, 5, and in the insertion of the words "if necessary" as used in No. 9.

Public buildings and grounds—No. 1.

Department of insurance, statistics and history—Nos. 1, 2, 3, 4.

Educational—No. 2.

STOREY, *Chairman.*

On motion of Senator Lane, the report of the finance committee was adopted.

Senator Lane moved to appoint a conference committee of five senators on the difference of the two houses on this bill (substitute for Senate bill No. 130, the general appropriation bill) to act with a like committee on the part of House.

Senators Storey, Lane, Ledbetter, Buchanan and Hobby were appointed a conference committee on the part of the Senate.

Senator Homan introduced a bill entitled "An act to attach the unorganized county of Runnels to the county of Coleman for surveying purposes."

Read by caption and referred to the committee on state affairs.

Senator Tilson called up the motion of Senator Patton to reconsider the vote by which Senate bill No. 116 (amending the school law as to the appropriation for schools, etc.) was indefinitely postponed.

(Senator Homan in the chair.)

The motion of Senator Patton to reconsider the vote indefinitely postponing Senate bill No. 116 was carried by the following vote:

YEAS.

Brown,
Buchanan,
Duncan,
Edwards,
Ford,
Guy,
Hobby,

Homan,
Houston,
Lair,
Martin,
McCulloch,
Moore.

Motley,
Patton,
Stewart,
Shannon,
Storey,
Tilson---19.

NAYS

Burnett,
Not voting—Grace, Lane, Ledbetter, Swain.

Burton.

Ripetoe--3.

Senator Patton offered a substitute for the pending bill.

Senator Burnett offered the following amendment:

Amend caption by adding "article 4664," and add following:

"Section That article 4664 of the Revised Civil Statutes shall hereafter read as follows:

"Article 4664. There shall be levied on and collected from every male person between the ages of twenty-one and sixty years, resident within this state (Indians not taxed, persons who are blind and unsound of mind excepted), on the first day of January of each year an annual poll tax of one dollar for the use of public free schools."

Senator Patton made the point of order that the amendment of Senator Burnett was out of order, as it was not germane to the subject matter of the bill.

Point sustained.

The substitute of Senator Patton for the bill was adopted.

Senator Duncan offered the following amendment:

"Strike out the reference to dogs."

Ruled out of order and bill ordered engrossed by the following vote:

YEAS.

Brown,
Buchanan,
Ford,
Guy,
Hobby,
Homan.

Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Moore.

Motley,
Patton,
Stewart,
Shannon,
Storey,
Swain--18.

NAYS.

Burnett,
Burton.

Duncan,
Martin,

Ripetoe--5.

Not voting—Edwards, Gooch, Grace, Tilson.

On motion of Senator Patton the rules were suspended and bill placed on its third reading by the following vote:

	YEAS.	
Brown,	Houston,	Patton,
Buchanan,	Lane,	Ripetoe,
Edwards,	Lair,	Stewart,
Ford,	Ledbetter,	Shannon,
Grace,	Martin,	Storey,
Guy,	McCulloch,	Swain,
Hobby,	Moore,	Tilson—23.
Homan,	Motley,	

	NAYS.	
Burnett,	Burton,	Duncan—3.

Bill read third time and passed by the following vote:

	YEAS.	
Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Edwards,	Lane,	Stewart,
Ford,	Lair,	Shannon,
Grace,	Ledbetter,	Storey,
Guy,	McCulloch,	Swain,
Hobby,	Moore,	Tilson—21.

	NAYS.	
Burnett,	Duncan,	Ripetoe—5.
Burton,	Martin,	

The undersigned senators presented the following as their reasons for voting "aye" on the vote just cast.

We vote "aye" on the substitute of the senator from Lavaca to Senate bill No. 116, because the Civil Code sets aside one-fourth of the revenue and all poll taxes to the schools, and although not in favor of setting aside as much as one-fourth of the revenue, that proposition was defeated, and we vote for this substitute because it eliminates the general revenue poll tax and is the best we can do.

EDWARDS,
LANE,
STOREY,
LEDBETTER,
BROWN,
LAIR.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate substitute for House bill No. 75, entitled "An act to provide for appeals and writs of certiorari from judgments of justices' courts in counties in which the civil and criminal jurisdiction of county courts has been transferred to the district courts;"

Senate bill No. 330, entitled "An act to protect lands lying on county boundaries from double assessments;"

Senate bill No. 382, entitled "An act to change and define the times of holding the district courts in the fifth judicial district of the State of Texas;"

Senate bill No. 385, entitled "An act to amend title 53, chapter 2 of the Revised Civil Statutes of the State of Texas," adopted at the present session of the Legislature by adding article 2942d, and find said bills correctly engrossed.

BROWN, Chairman.

Senate bill No. 200, entitled "An act to validate certain land certifi-

cates issued on bounty land warrants to John Steele, Wm. S. Williamson, Robert Middleton, John Scully and Richard Eggleston," was taken up and read second time.

On motion of Senator Ford the bill was postponed until to-morrow.

(President in the chair.)

Senator Martin, chairman of the committee on agricultural affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on agricultural affairs, to whom was referred Senate bill No. 167, entitled "An act creating the office of public weigher," and House amendments thereto, have carefully considered said amendments, and instruct me to return the bill with the recommendation that the Senate concurs in the House amendments numbers one, two, three, four and six, embraced in an engrossed rider, and refuses to concur in House amendment number five, which is number two on the engrossed rider.

MARTIN, *Chairman.*

The report of committee adopted and Senators Martin, Lair, Brown and Motley were appointed a conference committee on the difference of the two houses on this bill.

Senator Ford introduced a bill entitled "An act to amend sections 15 and 20 of an act entitled 'an act to provide for the protection of the State of Texas against invasion of hostile Indians, Mexicans or other marauding or thieving parties,' approved April 10, 1874."

Read by caption and referred to committee on Indian affairs and frontier protection.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered Senate bill No., "An act to attach the unorganized county of Runnels to the county of Coleman for surveying purposes," and I am instructed to recommend its passage.

HOUSTON, *Chairman.*

The following message was received from the House:

"That Messrs. Finlay, Reeves, Cochrane of Austin, Henderson of Van Zandt and Douglas, have been appointed a committee of conference on part of the House on differences between the two houses on Senate bill 167, the public weigher bill. That Messrs. Coleman, Collins, Pickett, Gause and Taylor of Marion, have been appointed a conference committee on part of the House on differences arising between Senate and House on House amendments to Senate bill No. 180, being the general appropriation bill. Also, that Messrs. Henderson, of Van Zandt, Wurzbach, King, Gaiter and Upton have been appointed a conference committee on part of the House on differences arising between the two houses on Senate amendments to House bill No. 414, being the tax bill."

Senator Duncan moved to adjourn until seven o'clock p. m.

Lost by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Edwards,

Guy,
Lair,
Moore,
Motley,

Stewart,
Storey,
Swain--11.

NAYS.

Brown,
Burton,
Ford,
Grace,
Hobby.

Homan,
Houston,
Ledbetter,
Martin,
McCulloch,

Patton,
Ripetoe,
Shannon,
Tilson—14.

Not voting—Lane.

Senator Ford, chairman of committee on Indian affairs and frontier protection, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on Indian affairs and frontier protection, to whom was referred Senate bill No., amending sections 15 and 26 of an act approved April 10, 1874; have had the same under consideration, and said committee have instructed me to report that said bill if passed will reduce the expense of maintaining the frontier battalion in the field, as at present provided for in the general appropriation bill, between ten and twelve thousand dollars per year, and as a measure of economy your committee recommend that the bill do pass.

FORD, *Chairman.*

The bill just reported was taken up and read first time.

On motion of Senator Duncan the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Buchanan,
Barnett,
Burton,
Duncan,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Tilson—21.

NAYS—none.

Not voting—Brown, Edwards, Lane, Ripetoe, Swain.

Bill read second time and ordered engrossed.

Senator Burton moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Barnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy.

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—26.

NAYS.—none.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Barnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—26.

NAYS—NONE.

The president, after publicly reading their captions, signed the following bills:

Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases."

Senate bill No. 212, entitled "An act granting to Mrs. Florence Whitis the right to make a change in Laurel street, in the city of Austin."

Senate bill No. 239, entitled "An act prescribing the times of holding the district courts in the twenty-second judicial district."

Senate bill No. 380, entitled "An act to amend section 1 of 'an act to amend sections 6 and 9 of an act to define a lawful fence and carry into effect sections 22 and 23, article 16 of the constitution, authorizing the passage of stock and fence laws, approved August 16, 1876.'"

Senator Patton called up House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising, and for the protection of stockraisers,'" approved August 13, 1876, which was read first time.

Senator Duncan moved to adjourn until 8 o'clock P. M.

Lost by the following vote:

	YEAS.	
Buchanan, Burnett, Duncan, Edwards,	Guy, Hobby, Lair, Moore,	Motley, Shannon, Storey, Swain—12.
	NAYS.	
Brown, Burton, Ford, Grace, Homan,	Houston, Lane, Ledbetter, Martin, McCulloch,	Patton, Ripetoe, Stewart, Tilson—14.

The president signed, after reading its caption, House bill No. 459½, and afterwards withdrew his signature from the bill.

Senator Patton moved to suspend the rules and place pending bill on its second reading.

Carried by the following vote:

	YEAS.	
Brown, Burton, Duncan, Edwards, Ford, Grace, Guy, Hobby,	Homan, Houston, Lane, Lair, Ledbetter, Martin, McCulloch, Motley,	Patton, Ripetoe, Stewart, Shannon, Storey, Swain, Tilson—23.

	NAYS.	
Buchanan, Bill read second time.	Burnett,	Moore—3.

Senator Houston moved to adjourn until 9:30 A. M. to-morrow.

Lost by the following vote:

	YEAS.	
Burnett, Burton, Ford, Grace,	Houston, Ledbetter, McCulloch, Patton,	Ripetoe, Swain, Tilson—11.
	NAYS.	
Brown, Buchanan,	Duncan, Edwards,	Guy, Hobby,

Homan,
Lane,
Lair,

Martin,
Moore,
Motley,

Stewart,
Shannon,
Storey--15.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 381, entitled "An act authorizing the comptroller of public accounts to sign and issue certificates of indebtedness remaining in his office and unsigned or unissued by the auditorial board established by an act entitled 'an act to provide for the payment of the public debt of the State of Texas,' approved May 2, 1871," and to provide for the payment of said certificates, and find it correctly engrossed. BROWN, *Chairman.*

On motion of Senator Storey, the Senate adjourned until 7:30 P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; no quorum present.

On motion of Senator Shannon, the Senate adjourned until 9:30 to-morrow morning.

EIGHTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 18, 1870. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and same adopted.

A message was received from the House announcing the passage by that body of the following bills, viz:

House bill No. 437, entitled "An act prescribing the number of hours per day in which employes in the departments of the state government shall labor;"

Senate bill No. 186, entitled "An act requiring railroad companies to stop their trains at the boundary lines of the State of Texas for a certain length of time;"

House bill No. 206, entitled "An act in relation to chattel mortgages and other investments intended to operate as mortgages of, or liens upon personal property and the record thereof," with amendments;

Senate bill No. 243, entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas;'"

Senate bill No. 275, entitled "An act to amend articles 75 and 79 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature;"

And Senate bill No. 321, entitled "An act to authorize the Austin

Canal, Irrigation and Manufacturing company to construct a dam across the Colorado river."

The president took up and referred House bill No. 437, just reported from the House, to the committee on state affairs;

House bill No. 206 to judiciary committee No. 2;

And Senate bill No. 321, with amendments, just reported from the House, was referred to the committee on state affairs.

The following message was received from the House:

The House has adopted the report of the conference committee on the disagreements between the two houses on Senate bill No. 167, being the public weigher bill, and that Messrs. Finlay, Reeves, Douglass, Henderson of Van Zandt, and Cochran have been appointed a committee of free conference on part of House.

Senator Tilson called up Senate bill No. 186, just returned from the House, and House amendments concurrd in.

Senator Hobby offered the following resolution:

"Resolved, by the Senate (the House concurring), That all conference committees, now or hereafter appointed during the session shall have the power of free conference committee in respect to all questions referred to said committees."

Adopted.

Senator Storey, from the conference committee on the differences of the two Houses on substitute for Senate bill No. 130 (the general appropriation bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The conference committee appointed on the disagreements between the Senate and House on Senate bill No. 130 (the general appropriation bill), have carefully considered the same, and, while agreeing in most matters, find it necessary to sit as a free conference. They therefore ask that they be allowed to sit as a committee of free conference.

COLEMAN,
TAYLOR of Marion,
COLLINS,
GAUSE,
PICKETT,
House Committee.

STOREY,
LANE,
HOBBY,
LEDBETTER,
BUCHANAN,
Senate Committee.

The report of the committee was read and adopted.

Senator Swain, chairman of committee on penitentiaries, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiaries, to whom was referred substitute House bill No. 438, "An act to authorize Messrs. Cunningham & Ellis, lessees of the state penitentiary, to sue the state," have considered the same, and a majority of said committee instructs me to return the bill to the Senate and recommend its passage.

SWAIN, *Chairman.*

Senator Edwards, for the committee on public printing, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on public printing, to whom was referred Senate bill No. 345, "An act to provide for the printing, binding and distribution of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure," adopted and established at the present session of the Legislature, have had the same under consideration, and I am instructed to report the same back to the Senate with accompanying amendments and recommend its passage.

EDWARDS, *for Committee.*

Add to section 2: "And the edition shall be electrotyped, and the copyright and plates shall be owned by the state, and the plates carefully preserved by the printing board."

Add to section 5: "And the secretary of state shall, immediately upon the delivery to him of the first volumes, proceed under the copyright laws of the United States to secure the copyright of said work in favor of the State of Texas."

Senator Ledbetter, from the committee of conference, on the disagreement of the two houses on House bill No. 445, "providing for the assessment and collection of the taxes on land and other property situated in unorganized counties, and for the enforcement of the same," submitted the following report:

Hon. J. D. Sayers, President of the Senate, and Hon. John H. Cochran Speaker of the House of Representatives :

Your committee of conference on the disagreement of the two houses on House bill No. 445, "An act to provide for the assessment and collection of the taxes on land and other property situated in unorganized counties, and for the enforcement of the same," beg leave to submit the following report: The committee recommend that the Senate recede from its amendment to section 14 of the bill. The committee further recommend that in section 2, line three of the bill, after the word "state" strike out the words "and county."

LEDBETTER, *Chairman Senate Committee.*

McCOMB, *Chairman House Committee.*

Senator Guy, chairman of the committee on general land office, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on general land office, to whom was referred House bill No. 497, entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes passed at the present session of the Legislature," have considered the same, and I am instructed by a majority of said committee to report said bill back to the Senate and to recommend its passage.

GUY, *Chairman.*

Senator Martin, from the conference committee appointed to consider the differences of the two houses on Senate bill No. 167 (the public weigher's bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate, and John H. Cochran, Speaker of the House of Representatives :

Your committee of conference, to whom was referred the disagreement of the two houses on Senate bill No. 167, have had the same under con-

sideration, and cannot agree; they therefore recommend that the matter in question be referred to a committee of free conference.

MARTIN,
LAIR,
BROWN,
MOTLEY,

Senate Committee.

FINLAY,
REEVES,
DOUGLASS,
HENDERSON of Van Zandt,
COCHRAN,

House Committee.

Report adopted and the same committee appointed a committee of free conference.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 18, 1879. }

To the honorable Senate of Texas in session assembled :

GENTLEMEN—I herewith return to your honorable body the Senate bill entitled “An act to provide for the dissolution and surrender of the city charter of the city of Terrell, in Kaufman county, and to provide for the payment of the debts due by said city,” without my approval, together with my objections to its becoming a law. It violates the constitution, inasmuch as it regulates the affairs of the city by a local and special law, wherein a general law can be made applicable. This restriction upon the power of the Legislature is designed to prevent the consumption of time in the passage of numerous acts of the kind and to enforce uniformity in the laws of different localities wherever it is practicable to do so. That it is practicable is illustrated by the general law for the incorporation of cities and towns; and though it might seem to be equally proper for that law to embrace provisions for surrendering charters of cities as well as creating them, still, it not having been done, it is a proper subject for a general and not for a local and special law.

O. M. ROBERTS, *Governor.*

The message was taken up, read and referred to judiciary committee No. 1.

Senator Homan called up Senate bill No. 388, “Attaching the unorganized county of Runnels to Coleman county for surveying purposes,” which was read first time.

Senator Homan moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Homan,	Patton,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson—26.
Hobby,	Motley,	

NAYS—none.

Not voting—Ford.

Bill read second time and ordered engrossed.

On motion of Senator Homan, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,	Houston.	Patton.
Buchanan,	Lane,	Ripetoe,
Burnett.	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Duncan,	Martin,	Storey,
Grace.	McCulloch,	Swain,
Guy,	Moore,	Terrell,
Hobby,	Motley.	Tilson--25.
Homan,		

NAYS—none.

Not voting—Edwards, Ford.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Hobby,	Motley,
Buchanan,	Homan,	Patton,
Burnett.	Houston,	Ripetoe,
Burton,	Lane.	Stewart,
Duncan,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Swain,
Grace.	McCulloch,	Terrell,
Guy,	Moore.	Tilson--27.

NAYS—none.

Senator Houston called up Senate bill No. 114, entitled "An act to provide for the payment of the outstanding indebtedness and the further debts of the several counties in this state," which was read second time.

Senator Houston introduced the following amendment:

Strike out of caption the words "future debts."

Adopted and bill ordered engrossed.

Senator Martin, chairman of free conference committee on the differences of the two houses on Senate bill No. 167 (the public weighers' bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate, and Hon. J. H. Cochran, Speaker:

Your committee of free conference, to whom was referred the disagreement of the two houses on House amendment to Senate bill No. 167, to strike out "three" line in line three, section 1, and insert "seven," have duly considered the same, and recommend the adoption of the following in lieu of said amendment, to wit: Strike out "three" in line three, section 1, and insert "five."

MARTIN,
LAIR,
BROWN,
MOTLEY,

Senate Committee.

FINLAY,
REEVES,
DOUGLASS,
HENDERSON, of Van Zandt,
COCHRAN,

House Committee.

The report of the committee was adopted.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House bill No. 437, "An act prescribing the number of hours per day in which employes in the departments of the state government shall labor," and I am instructed to report the same back to the Senate and to recommend its passage.

HOUSTON, *Chairman.*

The president, after publicly reading its caption, signed House bill No. 459½, entitled "An act to authorize any county, city or town in this state to compromise existing bonded indebtedness, and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of the taxes to pay the principal and interest of such new bonds."

Senator Houston, chairman of committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered House amendment to Senate bill No. 321, referred to this committee, and I am instructed to report the same back to the Senate and recommend that the House amendment be concurred in.

HOUSTON, *Chairman.*

On motion of Senator Terrell, the report of the committee was adopted.

Senator Lane called up substitute for House bill No. 338, entitled "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation,' approved August 21, 1876."

Senator Lane offered the following amendment:

Amend by striking out the words "of sale" in second line, on page 2, and insert in lieu thereof "purchaser's deed."

Adopted and bill passed to a third reading.

A message was received from the House announcing the passage of Senate bill No. 336, entitled "An act amendatory of and supplementary to an act entitled 'an act to consolidate in one act and amend the several acts incorporating the city of Houston, in Harris county,' approved January 23, 1874," and the several acts amendatory thereof."

Senator Lair called up House substitute for Senate bill No. 12, entitled "An act to regulate railroads."

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Patton.

Pending business went to the table.

Senator Ledbetter called up House bill No. 463, entitled "An act to amend the charter of the city of Dallas," which was read first time.

On motion of Senator Guy the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,

Duncan,
Ford,
Guy,

Hobby,
Homan,
Houston,

Lane,
Lair.
Ledbetter,
Martin,
McCulloch,

Moore,
Motley.
Ripetoe.
Stewart,

Shannon,
Storey,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Brown, Edwards, Grace, Patton, Swain.

Bill read second time.

The report of the committee was adopted.

Senator Guy offered the following:

Amend line seven on page 2 by striking out "county," and inserting "council."

Adopted and bill passed to a third reading.

On motion of Senator Guy, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Guy,
Hobby.

Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley.

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Duncan, Grace, Homan, Lane, Patton.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy.

Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Lane, Patton.

The Senate being announced full, the consideration of House substitute for Senate bill No. 12 was resumed.

Bill read third time.

Senator Brown offered the following amendment:

Insert after the word "provided" in line sixteen, page 3, the following, "that a car load may be hauled at a less rate than a smaller quantity, but no railroad company shall charge a larger rate for one car load than for a greater number of car loads of freight of the same class from the same point to a common destination, and all freight shall be receipted for and moved as near as may be in the order in which it is delivered for shipment, and provided further."

Lost.

(Senator Houston in the chair.)

Senator Brown moved to reconsider the vote passing the bill to a third reading.

Senator Burton moved a call of the Senate.

Call sustained.

Roll called. Absent—Moore.

Pending business went to the table.

(President in the chair.)

The President, after publicly reading their captions, signed Senate bill No. 275, entitled "An act to amend articles 75 and 79 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature;"

And Senate bill No. 243, entitled, "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature."

Senator Grace called up Senate bill No. 336, entitled "An act amendatory of and supplemental to an act entitled 'an act to consolidate in one act and amend the several acts incorporating the city of Houston in Harris county,' approved January 23, 1874," and the several acts amendatory thereof, and the amendments of the House concurred in.

The Senate being announced full, the motion to reconsider the vote passing House substitute for Senate bill No. 12 was again considered.

The motion to reconsider was lost by the following vote:

YEAS.

Brown,
Burnett.

Burton,
Patton,

Storey,
Terrell--6.

NAYS.

Buchanan,
Duncan,
Edwards,
Ford,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Ripetoe,
Stewart,
Shannon,
Swain,
Tilson--21.

The pending amendment of Senator Brown was lost by the following vote:

YEAS.

Brown,
Burnett,

Moore,
Storey,

Terrell--5.

NAYS.

Buchanan,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy.

Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell--21.

Not voting—Lane.

The bill was then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy,
Hobby.

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--25.

NAYS.

Brown,

Terrell--2

Senator Burton called up Senate joint resolution No. 364, "Authorizing the governor to appoint an agent to collect money due the State of Texas by the United States," which was read second time.

Senator Terrell offered the following amendment:

"Nor shall he in any event receive more than five per cent. on the amount collected."

Adopted.

Senator Storey offered the following:

Strike out the words, "and is otherwise indebted to the State of Texas."

Adopted, and resolution ordered engrossed.

Senator Stewart moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Burton,
Duncan,
Edwards,
Grace,
Guy,
Hobby,

Homan,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—21.

NAYS—Burnett.

Not voting—Buchanan, Ford, Houston, Lane, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Duncan,
Edwards,
Ford,
Grace,
Guy,
Hobby.

Lane,
Lair,
Ledbetter,
McCulloch,
Moore,
Motley,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Tilson—18.

NAYS.

Brown,
Burnett,

Burton,
Homan,

Ripetoe—5.

Not voting—Buchanan, Houston, Martin, Terrell.

Senator McCulloch called up Senate bill No. 343, "To provide subjects for anatomical dissection and scientific experiment," which was read a second time.

On motion of Senator McCulloch, the committee amendments were adopted.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 275, entitled "An act to amend articles 75 and 79 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed at the present session of the Legislature; also, Senate bill No. 243, entitled "An act to amend article 1289 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" and have presented the same to the governor for his signature this day at 11:35 o'clock A. M.

GRACE, Chairman.

The pending bill (Senate bill No. 349) was ordered engrossed by the following vote:

YEAS.		
Brown, Duncan, Hobby, Lane,	Lair, Ledbetter, McCulloch, Motley,	Patton, Storey, Swain, Tilson—12.
NAYS.		
Burnett, Burton, Edwards, Grace,	Homan, Martin, Moore,	Ripetoe, Stewart, Shannon—10.

Not voting—Buchanan, Ford, Guy, Houston, Terrell.

On motion of Senator McCulloch, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown, Burnett, Burton, Duncan, Guy, Hobby, Homan,	Lane, Lair, Ledbetter, Martin, McCulloch, Moore, Motley,	Patton, Ripetoe, Stewart, Shannon, Storey, Swain, Tilson—21.
NAYS—Grace.		

Not voting—Buchanan, Edwards, Ford, Houston, Terrell.

Bill read third time and passed by the following vote:

YEAS.		
Brown, Guy, Hobby, Lane,	Lair, Ledbetter, McCulloch, Motley,	Patton, Storey, Swain—11.
NAYS.		
Burton, Burnett, Duncan, Edwards,	Grace, Homan, Martin, Moore,	Ripetoe, Stewart, Shannon—11.

Not voting—Buchanan, Ford, Houston, Tilson.

There being a tie vote, the president voted in the affirmative, and declared the bill carried.

Senator Edwards called up Senate bill No. 345, entitled "An act to provide for the printing, binding and distributing the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, adopted and established at present session of the Legislature," which was read first time.

On motion of Senator Edwards, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.		
Brown, Burnett, Burton, Duncan, Edwards, Ford, Grace, Guy,	Hobby, Homan, Lane, Lair, Ledbetter, Martin, McCulloch, Moore,	Motley, Patton, Ripetoe, Stewart, Shannon, Storey, Swain, Tilson—24.
NAYS—none.		

Not voting—Buchanan, Houston, Terrell.

Bill read second time.

(Senator Patton in the chair.)

On motion of Senator Edwards, the committee amendments were adopted.

Senator Edwards offered the following amendment:

In second amendment of committee adopted strike out the words "immediately upon the delivery to him of the first volumes" and insert the words "as soon as practicable."

Adopted.

On motion of Senator Storey, the bill was postponed until the evening session.

Senator Edwards called up Senate bill No. 384, entitled "An act to amend article 1135, chapter 1, title 28 of "An act to adopt and establish the Revised Civil Statutes of the State of Texas, passed Feb. 21, 1879," which was read first time.

Senator Edwards moved to suspend the rules and place bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Houston,	Patton,
Burnett,	Lane,	Ripetoe.
Edwards,	Lair,	Stewart,
Ford,	Ledbetter,	Shannon,
Grace,	Martin,	Storey,
Guy,	McCulloch,	Swain,
Hobby,	Moore,	Terrell,
Homan,	Motley,	Tilson—24.
	NAY—Duncan.	

Not voting—Buchanan, Burton.

Bill read second time and ordered engrossed.

On motion of Senator Edwards, the rules were further suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Hobby,	Patton,
Burnett,	Houston,	Stewart,
Duncan,	Lane,	Shannon,
Edwards,	Lair,	Storey,
Ford,	Ledbetter,	Swain,
Grace,	Moore,	Terrell--20.
Guy,	Motley,	
	NAY—Ripetoe.	

Not voting—Buchanan, Burton, Homan, Martin, McCulloch, Tilson.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Homan,	Motley,
Burnett,	Houston,	Patton,
Duncan,	Lane,	Stewart,
Edwards,	Lair,	Shannon,
Ford,	Ledbetter,	Storey,
Grace,	Martin,	Swain,
Guy,	McCulloch,	Terrell,
Hobby,	Moore,	Tilson—24.
	NAY—Ripetoe.	

Not voting—Buchanan, Burton.

A message was received from the House announcing that the House

has adopted the report of the committee of free conference on Senate bill No. 167, "An act relating to public weighers."

The chair presented the following invitation to the Senate:

Hon. J. D. Sayers, President of the Senate:

The members and employes of your honorable body are respectfully invited to attend a basket picnic to be given by the Austin Fire Department on Monday next, April 21, (San Jacinto day); at the Capita. State Fair Grounds, in celebration of their eleventh anniversary.

E. T. EGGLESTON, *for Committee of invitation.*

On motion of Senator Hobby, the thanks of the Senate was returned for the kind invitation extended.

On motion of Senator Duncan, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

On motion of Senator Edwards recess was taken until 3:30 P. M.

Recess expired.

The Senate reconvened; president in the chair. Roll called; quorum present.

Senator Moore called up House bill No. 445 (with regard to the assessment and collection of taxes in the unorganized counties).

Senator Shannon moved that the Senate do not concur in the report of the conference committee, and that a free conference committee be appointed.

Senator Duncan moved the previous question on the question pending.

Motion seconded and main question ordered.

Senator Shannon's motion was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Hobby,

Homan,
Lair,
McCulloch,
Moore,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Terrell,
Tilson—17.

NAYS.

Edwards.
Grace,

Houston,
Lane,

Ledbetter,
Motley—6.

Not voting—Ford, Guy, Martin, Swain.

Senators Shannon, Guy, Swain and Lane were appointed said free conference committee on the part of the Senate.

Senator Lane, chairman of the committee on public lands (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public lands have had under consideration House bill No. 492, entitled "An act to provide for the sale of the alternate sections of land in organized counties belonging to the public free schools," and instruct me to report the same back, with the accompanying substitute, and recommend that such substitute do pass.

LANE, *Chairman.*

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 186, "An act requiring railroad companies to stop their trains at the boundary lines of the State of Texas for a certain length of time," and at 12:25 o'clock p. m. this day presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Grace, chairman special committee, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee appointed to inquire into and report what accommodations were necessary for the court of appeals in the discharge of the duties imposed on them at the capitol, have conferred with the judges of said court, and find that they have but one room in which to transact the business coming before them. Your committee are of the opinion that the interests of the state will be greatly subserved by the erection of an addition to the present supreme court building, said addition to contain four rooms of the dimensions of twenty by twenty-two feet. Your committee are of opinion that the erection of said addition would be less expensive to the state than to pay rent for rooms for the use of said court of appeals. The said proposed addition can be erected with brick or stone at a cost of from \$1500 to \$2500, as one-third of the walls of said proposed addition would be composed of the walls of the present supreme court building. Your committee say that the rooms in the capitol building do not furnish sufficient accommodations for the different departments of the state for which they are now used, and for the use of committees when the Legislature is in session. For the foregoing reasons your committee think it is important to erect the addition to the supreme court building proposed. Your committee recommend the passage of the accompanying bill.

GRACE,

GUY,

Senate Committee.

HOLMES,

FINLAY,

GAUSE,

House Committee.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined—

Substitute for Senate bill No. 116, entitled "An act to amend article 3704 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas;'"

Senate bill No. 386, entitled "An act to amend sections 15 and 20 of an act entitled 'an act to provide for the protection of the frontier of the State of Texas against the invasion of hostile Indians, Mexicans or other marauding or thieving parties, approved April 10, 1879;'"

Senate bill No. 388, entitled "An act to attach the unorganized county of Runnels to Coleman county for surveying purposes," and find them correctly engrossed.

BROWN, *Chairman.*

The following messages were received from his excellency the governor, which were taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 18, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public:

J. D. Riley and T. C. White, of Burnet county.

E. Ryeppa, of Karnes county.

Respectfully, O. M. ROBERTS, Governor.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 18, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of notaries public, also to the following corrections of names previously sent in:

W. T. Hefly, of Milam county.

W. W. Hazlewood, of Falls county.

D. F. McLin, of Leon county, in place of A. B. Hardin, declined.

Irving Eggleston, of Travis county, instead of Irwin Eggleston.

C. K. Stribling, of Shackelford county, in place of J. K. Stribling.

Respectfully, O. M. ROBERTS, Governor.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 18, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments, to wit:

P. E. Pearson to be district attorney of the eighteenth judicial district.

Felix J. McCord to be district attorney of the seventh judicial district.

James I. Perkins to be district attorney of the third judicial district.

Respectfully, O. M. ROBERTS, Governor.

Senator Duncan moved that the Senate go into executive session immediately to consider the appointments just sent to the Senate.

Adopted unanimously.

IN SENATE.—Senator Duncan moved that the confirmations just made in executive session be entered on the journals.

It is accordingly stated that all the nominations sent in by the governor, in the messages just read, were confirmed.

Senator Houston moved to reconsider the vote by which the Senate refused to concur in House amendments to Senate bill No. 346 (the bond bill).

Adopted.

On motion of Senator Edwards, the said bill was taken up and House amendments concurred in.

Senator Stewart called up House bill No. 78, entitled "An act to amend section 16 of 'an act regulating elections,' approved August 23, 1876," which was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Edwards,

Grace,
Guy,
Hobby,

Houston,
Lane,
Lair,

Ledbetter,
McCulloch,
Moore.

Motley,
Stewart,
Storey,
NAYS.

Terrell,
Tilson—17.

Burnett,
Burton,
Ford,

Homan,
Martin,
Patton,

Ripetoe,
Shannon,
Swain—9.

Not voting—Duncan

Senator Patton called up House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising and for the protection of stockraisers,'" approved August 23, 1876; which was read second time.

Senator Swain introduced a bill entitled "An act to require the governor of the state to countersign certificates for land issued from the general land office."

Read by caption and referred to judiciary committee No. 2.

Senator Shannon, from conference committee on House bill No. 412 (the deficiency bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The committee of conference appointed to consider the disagreements between the Senate and House on House bill No. 412, "An act making appropriations for deficiencies beginning September 1, 1876, and ending February 28, 1879, and for previous years," have carefully and fully considered the same, and in the main the conference committee have agreed, but the committee cannot agree upon some of the matters submitted to us, and therefore ask that they be allowed to sit as a committee of free conference.

SHANNON,
STOREY,
LANE,
EDWARDS,
STEWART,

On part of the Senate.

COLEMAN,
WURZBACH,
TAYLOR, of Fannin,
DANIEL,
McCOMB,

On part of the House.

On motion of Senator Shannon the report was read and adopted.

(Senator Swain in the chair.)

Senator Terrell offered the following amendment to the pending bill: Amend by striking out "Travis county."

Adopted.

Senator Shannon moved to recommit this bill to the committee on stock and stockraising.

Carried.

The following message was received from the House:

That the House has adopted the report of the conference committee on House bill No. 414, and have appointed Henderson of Van Zandt, King, Wurzbach, Flewellen and Upton as a committee of free conference to act with a like committee on the part of the Senate.

Senator Edwards, from the conference committee on House bill No. 414 (the tax bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of conference, appointed on behalf of the Senate and House of Representatives to take into consideration the matters of disagreement between the two houses in regard to Senate amendments to House bill No. 414, "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668 inclusive, of caption 1, title 94 of the Revised Civil Statutes, adopted February 21, 1879," have duly considered the same and make the following report: We recommend that the House concur in Senate amendments 5, 6, 7, 13 and 37, and that the Senate recede from amendments Nos. 3, 4, 22 and 34, and ask that a committee of free conference be appointed to consider Senate amendment No. 43, your committee being unable to agree upon said amendment.

EDWARDS,
MARTIN,
FORD,
BROWN,
SWAIN,

Senate Committee.

W. B. HENDERSON,
KING,
WURZBACH,
GAITHER,
UPTON.

House Committee.

Senator Edwards moved the adoption of the report of the conference committee, except as to the thirty-fourth amendment.

Adopted, and the same committee was appointed as a free conference committee on the said bill.

Senator Lane moved the reconsideration of the vote passing to a third reading substitute for House bill No. 338, entitled "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of the property of delinquent taxpayers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, etc.'"

Carried.

Senator Lane offered the following amendment:

"The near approach of the close of the session makes it an imperative public necessity that the rule requiring this bill to be read on three several days be suspended and it is so enacted."

Adopted, and bill passed to a third reading.

The rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Bill read third time and passed.

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration House bill No. 206, entitled "An act in relation to chattel mortgages and other instruments intended to operate as mortgages of liens upon personal property and the record thereof," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend that it do pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration House bill No. 301, entitled "An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

The following message was received from the House:

Substitute House bill No. 463—House concurs in Senate amendments.

Senate bill No. 389; "To make an appropriation to erect an addition to the supreme court building," was taken up and read first time.

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate joint resolution No. 364, entitled "A joint resolution authorizing the governor to appoint an agent to collect moneys due the State of Texas by the United States," have carefully considered the same, and I am instructed by the committee to report the resolution back to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

The undersigned senators presented the following to be entered on the journals:

Mr. President—On the sixteenth instant the following proposition was submitted to the vote of the Senate, viz:

Senator Edwards offered the following amendment:

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That article 4662 be and the same is so amended as to hereafter read as follows:

Article 4662. There shall be levied and collected an annual direct *ad valorem* state tax of one-half of one per centum of the cash value thereof, estimated in lawful currency of the United States, on all real property situated and all movable property owned in this state, on the first day of January of each and every year, except so much thereof as may be exempted by the constitution and laws of this state, which cash value shall be estimated in lawful currency of the United States. There shall also be levied on all the property described in this article an *ad valorem* state tax of one-eighth of one per centum of the cash value thereof, estimated and paid as prescribed in this article for the payment of interest on the public debt and to provide a sinking fund to pay the principal thereof.

Senator Stewart moved to adjourn until 3 o'clock P. M.

Lost.

Senator Guy moved a call of the Senate.

Call sustained.

Roll called; Senate full.

The amendment of Senator Edwards was lost by the following vote:

YEAS.		
Brown,	Lane,	Storey,
Duncan,	Ledbetter,	Terrell,
Edwards,	Martin,	Tilson--9.
NAYS.		
Burnett,	Hobby,	Moore,
Burton,	Homan,	Patton,
Ford,	Houston,	Stewart,
Grace,	Lair,	Shannon,
Guy,	McCulloch,	Swain--15.

Several senators gave notice of entering on the journals their reasons for their votes just given.

We now desire to spread upon the journal our reasons for the vote thus cast:

We vote "yea" for the reason that the appropriation to the public free schools of one-fourth of the general revenue will have the certain effect of dishonoring the credit of the state by discounting the warrants of the treasury not less than twenty per centum, or force us from necessity to defer the payments thereof, and will cause a deficiency of not less than five hundred thousand dollars in the next two years; and that a wise and sound policy demands that this accumulation of state debt should cease; that we pay as we go, and not amass for the future a mountain of interest-bearing debt, which will be a mortgage upon the labor, property and occupations of our people.

LANE,
EDWARDS,
TERRELL.

On motion of Senator Lane, the Senate took recess until 8 o'clock to-night.

NIGHT SESSION.

Senate met; quorum present. President in the chair.

Senator Stewart (by leave), chairman of the committee on judiciary No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 390, entitled "An act to require the governor of the state to countersign certificates for land issued from the general land office," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

The president, after first reading its caption, signed Senate bill No. 167, "An act to amend an act entitled 'an act creating the office of public weigher and regulating the appointment, and defining the duties and liabilities thereof.'"

Senate bill No. 390 was then taken up and read first time.

On motion of Senator Swain the rule was suspended to place the bill on its second reading, by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--24.

NAYS—none.

Not voting—McCulloch, Terrell.

The bill was then read second time.

Senator Swain offered the following amendment:

Add to the caption of the bill the words "in certain cases."

Adopted, and the bill was ordered engrossed.

On motion of Senator Hobby the rule was further suspended to place the bill on its third reading, by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson--23.

NAYS—none.

Not voting—Edwards, Ford, Lane Terrell.

The bill was read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--24.

NAYS—none.

Not voting—Edwards, Ford, Lane.

A message was received from the House, announcing the passage of substitute for House bill No. 401, "An act amending article 352 of title 18, chapter 2, article 357 of chapter 3, and article 474 of chapter 10 of the Revised Civil Statutes, passed February, 1879."

On motion of Senator Duncan, the bill just announced from the House (substitute for House bill No. 401) was taken up and read.

Senator Duncan moved that the rule be suspended to place the bill on its second reading.

Senator Patton moved to postpone the bill until to-morrow, but withdrew his motion and moved that the bill be referred to the committee on state affairs.

Carried.

Senator Lair (by leave) offered a bill to be entitled "An act to authorize the survivors of Terry's Texas rangers to erect a monument to the dead of that command in the burying grounds belonging to the state at Austin."

Referred to committee on public buildings and grounds.

Senator Lair, chairman of committee on public buildings and grounds (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public buildings and grounds, to whom was referred Senate bill No., "A bill to be entitled 'an act to authorize the survivors of Terry's Texas rangers to erect a monument to the dead of that command in the burying grounds belonging to the state at Austin,'" have considered the same, and instruct me to return the bill to the Senate with the recommendation that the bill pass.

LAIR, Chairman.

The bill just reported was taken up and read first time.

Senator Lair moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Guy,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson—22.

NAYS—none.

Not voting—Edwards, Ford, Grace, Moore, Stewart.

Bill read second time.

Senator Shannon offered the following amendment:

Amend by inserting after "Terry rangers" the words "and Granbury's brigade."

Withdrawn.

Senator Terrell offered the following:

Insert in the place of "Terry rangers," wherever it occurs, the words, "any regiment, brigade or division of Texas troops who fought in any war of the United States prior to 1861 or in the late civil war."

Senator Brown offered the following:

Add the words "of Texas troops" after the word "division" wherever it occurs in the bill.

Senator Homan moved to table all the pending amendments.

Senator Duncan called for a division of the question.

Senator Brown's amendment was tabled.

Senator Terrell's amendment was laid on the table by the following vote:

YEAS.

Buchanan,
Duncan,
Edwards,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
McCulloch,

Motley,
Patton,
Stewart,
Shannon---14.

NAYS.

Brown,
Burnett,
Burton,
Ford,

Lair,
Ledbetter,
Moore,

Storey,
Swain,
Terrell---10.

Not voting—Martin, Ripetoe, Tilson.

Senator Lane offered the following substitute for the pending bill:

Be it enacted by the Legislature of the State of Texas, That the survivors of any regiment, brigade or division of Texas soldiers in the Confederate army, be and the same are hereby authorized to erect a monument in the state cemetery, in honor of the dead of their respective commands.

Senator Hobby moved the previous question.

Motion seconded and main question ordered by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,

McCulloch,
Moore.
Motley,
Stewart,
Swain—15.

NAYS.

Burton,
Duncan,

Ford,
Houston,

Shannon,
Terrell—6.

Not voting—Edwards, Martin, Patton, Ripetoe, Storey, Tilson.

The substitute of Senator Lane was adopted by the following vote:

YEAS.

Brown,
Burnett,
Duncan,
Edwards,
Grace,

Guy,
Hobby,
Lane,
Ledbetter,
Martin,

Moore,
Motley,
Stewart,
Shannon,
Terrell—15.

NAYS.

Buchanan,
Burton,
Ford,

Homan,
Houston,
Lair,

McCulloch,
Storey,
Swain—9.

Not voting—Ripetoe, Tilson.

Senator Patton was excused from voting.

Senator Terrell presented the following in explanation of his vote:

"I vote 'yea,' though I would cheerfully vote for permission to erect a similar monument by the friends of any who fell in the defense of whom they believed to be right, and in obeying the call of the state or government which they believed was entitled to their allegiance."

(Senator Houston in the chair).

Senator Lane moved to reconsider the vote adopting the substitute for the pending bill.

Substitute withdrawn and the original bill ordered engrossed.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 390, entitled "An act to require the governor of the state to countersign certificates for land hereafter issued from the general land office in certain cases," and find it correctly engrossed.

BROWN, *Chairman.*

Senator Patton moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,

Burton,
Ford,
Guy,

Hobby,
Homan,
Houston,

Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon;

Storey,
Swain,
Terrell,
Tilson—23.

NAYS—NONE.

Not voting—Duncan, Edwards, Grace, Lane.

Bill read third time and passed.

Senator Brown introduced a bill entitled "An act to amend an act entitled 'an act to amend article 4257 of the Revised Civil Statutes, passed at the present session of the Legislature.'"

Read by caption and referred to committee on internal improvements.

The following bills were taken up and read first time:

House bill No. 497, entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature."

House bill No. 437, entitled "An act prescribing the number of hours per day in which employes in the departments of the state government shall labor."

Substitute for House bill No. 438, entitled "An act to authorize Messrs. Cunningham & Ellis, lessees of the state penitentiary, to sue the state."

House bill No. 125, entitled "An act providing for the issuance of bonds for the investment of the proceeds arising from the sale of county school lands, and to direct how the money obtained shall be used."

Senator Edwards, chairman of conference committee on House bill No. 414 (the tax bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of free conference, appointed on behalf of the Senate and House of Representatives to consider the matter of disagreement between the two houses in regard to Senate amendment No. 43 to House bill No. 414, "An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1 title 94 of the Revised Civil Statutes, adopted February 21, 1879," have duly considered the same and make the following report:

That the Senate recede from its amendment No. 43, and that the following be adopted as substitute for amendment No. 43:

Strike out the first proviso, page 3, Senate printed bill, and insert:

"*Provided*, that such person shall not be required to pay the same if the person, firm or association of persons represented by him or for whom he is soliciting trade shall have paid a merchant's occupation tax, as provided in this section, of two hundred dollars; and any firm, person or association of persons desiring to be represented or solicit trade by such commercial traveler or travelers shall have the right to do so by paying to the comptroller of the state a state tax of two hundred dollars, payable annually in advance; and such person, firm or association of persons paying such tax shall be exempt from the payment of any other state occupation tax as a merchant."

And your committee further recommend the following amendment, in order to harmonize the liquor tax in this act with the provisions of the bell punch law: "Add to section 3, "*provided, further*, that the tax herein levied upon retailers of spirituous, vinous, or other intoxicating liquors

or medicated bitters in quantities less than a quart and upon the retail of beer, shall cease and be inoperative from and after the first day of October, 1879."

FLEWELLEN,
 HENDERSON, of Van Zandt,
 UPTON,
 KING,
 WURZBACH,
House Committee.
 EDWARDS,
 MARTIN,
 FORD,
 BROWN,
 SWAIN,
Senate Committee.

(President in the chair.)

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 392, "An act to amend an act entitled 'an act to amend article 4257 of the Revised Civil Statutes, passed at the present session of the Legislature,'" have had the same under consideration, and I am instructed to return the same to the Senate and recommend its passage.

SHANNON, *Chairman.*

Senator Homan moved the previous question on the pending report. The vote on the adoption of the report resulted as follows:

YEAS.

Brown,
 Buchanan,
 Edwards,
 Ford,

Guy,
 Homan,
 Ledbetter,
 Martin,

Moore,
 Ripetoe,
 Storey,
 Swain—12.

NAYS.

Burnett,
 Burton,
 Grace,
 Houston,

Lane,
 Lair,
 McCulloch,
 Patton,

Stewart,
 Shannon,
 Terrell,
 Tilson---12.

Not voting—Duncan, Hobby, Motley.

There being a tie vote the president voted in the affirmative and declared the report of the committee adopted.

On motion of Senator Shannon, the Senate moved to adjourn until 9:30 o'clock A. M. to-morrow.

EIGHTY-THIRD DAY.

SENATE CHAMBER,
 AUSTIN, TEXAS, April 19, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Swain, the reading of the journals of yesterday was dispensed with and same adopted.

Senator Brown, chairman of the committee on engrossed bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined—

Senate bill No. 114, entitled "An act to provide for the payment of the outstanding indebtedness of the several counties in this state;"

Senate bill No. 384, entitled "An act to amend article 1135, chapter 1, title 27 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas;'"

Senate bill No. 391, entitled "An act to authorize the survivors of Terry's Texas rangers to erect a monument to the dead of that command in the burying grounds belonging to the state at Austin," and find them correctly engrossed.

BROWN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined the amendments embraced in an engrossed rider to Senate bill No. 343, and find said amendments correctly engrossed.

BROWN, *Chairman.*

The resolution of Senator Lane to elect a president *pro tempore* was taken up as special order for to-day.

Resolution adopted and the Senate proceeded to an election for the same.

Senator Guy nominated Hon. L. J. Storey, with the understanding that Senator Hobby was not a candidate for re-election to the position.

Hon. Ed. Hobby, the present president *pro tempore*, seconded the nomination.

Senator Edwards remarked as follows:

"*Mr. President*—Knowing as I do that the senator from Polk (Senator Hobby), who has filled the position of president *pro tempore* so ably and satisfactorily to this Senate, declines to be re-elected, as he contemplates resigning his position as senator, I take pleasure in seconding the nomination of the senator from Caldwell, and trust he will be unanimously elected."

Senator Burnett offered the following resolution:

Resolved, That the thanks of the members of this body are tendered to Hon. Edwin Hobby, president *pro tempore* of the Senate, for the ability and impartiality with which he has discharged his official duties.

Resolved, That appreciating the ability of Senator Hobby as a parliamentarian, his fidelity, industry and impartiality as a presiding officer, and the high regard this body entertains of his worth personally, and as a senator, the Senate regrets that he declines a re-election, which he so justly merits at our hands.

Senator Burnett in offering the foregoing resolution appropriately remarked as follows:

"*Mr. President*—It being understood that the president *pro tempore* would not accept a re-election, I feel sure the resolutions just read will be unanimously adopted. They express the sincere feelings of the political minority in the Senate, and I know they will meet a hearty response from every senator. In parting with Senator Hobby we all trust his public life will not terminate, but that he may be called to a position for which his ability and learning as a lawyer, his executive abilities and his conscientious christian manhood so eminently fit him.

"I take pleasure also, Mr. President, in seconding the nomination of the senator from Caldwell for president *pro tempore*. There is no senator of the dominant party to whose election the opposition element could urge

the least objection, so uniform has been the courtesy extended to us without exception; but at the same time we are glad to know that the choice has fallen on the able senator from Caldwell, whose long service and untiring industry as a legislator and accomplishments as a gentleman so eminently entitle him to our respect and confidence."

Senator Hobby, the retiring president *pro tempore* of the Senate, delivered the following pathetic remarks:

"*Mr. President*—I have no language to express my appreciation of the honors conferred upon me by this Senate. My resignation will be placed in the executive office, to take effect on the day of adjournment, and in making this announcement I desire to express my sincere thanks to the officers of this body for their uniform courtesy. To the Senate (including yourself, Mr. President)—the ablest and most industrious ever assembled within these walls—I have to say that I shall part from you with unspeakable regret, proud indeed of your friendship, grateful for your kindness. The evidences of your confidence and esteem, so often manifested, will be cherished by me among the most pleasant and holy of life's memories."

The following appropriate remarks were expressed by the president of the Senate.

"Before announcing the vote upon the pending resolution, the chair desires to express to the honorable senator from Polk his high appreciation of the kindly and valuable assistance rendered the chair by the honorable senator during the present session of the Senate.

"The chair feels that whatever of skill and success exhibited by the presiding officer has been, in a large measure, due to the ability and experience of the retiring president *pro tempore*, upon whom the chair has not hesitated to call at all times and upon all occasions."

The resolution was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS.—none.

Not voting—Hobby.

Senators Houston and Guy were appointed tellers.

Senator Shannon moved that the remarks of the president, president *pro tempore*, Senator Burnett, etc., be entered on the journals.

Adopted.

The first ballot for president *pro tempore* resulted as follows:

Senator Storey received twenty-six votes, which was a unanimous vote of the body.

Senators Hobby and Burnett were appointed by the president to escort the president *pro tempore* elect to the chair, which duty they performed, when Hon. L. J. Storey, the president elect, delivered the following suitable remarks:

"*Fellow senators*—I scarcely know how to express my thanks for the honor you have conferred upon me. More than six long years ago, at

the instance of a noble and patriotic constituency, I accepted a seat in the legislative halls of Texas, and have since had the good fortune to be retained in my seat in the councils of the state. During that period many questions of deep interest to the country have been under discussion—questions upon which my ardent temperament forbade my silence—and upon which I always took an earnest stand either for or against the proposed legislation. And although at times the contest became heated, earnest, stubborn and occasionally bitter, yet I am glad to know that with the passing hour went all the bitterness, and there remains but the recollection of the more pleasant hours spent together in the discharge of a public duty to a common country. And during these long years, crowded as they are with fond reminiscences of the past, I recall to mind that I have often had reasons to be thankful for the kind consideration shown me by the officers and members of the two houses of the Legislature. But to-day my heart is filled with gratitude to my fellow senators for the honor conferred upon me. And sincerely hoping that no misfortune will befall the distinguished executive of the state, or my friend the honored lieutenant governor, by which the state will be deprived of their valuable services, or by which I might be promoted and brought into the active service of the state, I can only say that, should such a misfortune befall the state, in the discharge of whatever duty I may be called upon to perform, I will be governed by that rule of action which I have always endeavored to keep before my mind to guide my official conduct: that is to do what I believe to be right regardless of consequences, and what my humble judgment dictates to be for the best interest of the state. Again, senators, I thank you for this expression of your esteem and confidence.

L. J. STOREY."

On motion of Senator Homan, the remarks of the president *pro tempore* elect was entered on the journals.

The president, after publicly reading its caption, signed House substitute for Senate bill No. 12, entitled "An act to regulate the management of railroad companies."

On motion of Senator Edwards the Senate took recess for 30 minutes.

Recess expired and Senate reconvened.

(President in the chair.)

Roll called; quorum present.

On motion of Senator Edwards the members of the free conference committee on the deficiency bill were excused from the morning session of the Senate, to attend to their committee duties.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have considered substitute House bill No. 401, "An act amending article 352, title 17, chapter 2, article 357, chapter 3, and article 474, chapter 10 of the Revised Civil Statutes, passed February, 1879," and I am instructed to report the same back to the Senate with the recommendation that it do not pass for many reasons, among which are the following, viz:

Your committee are of the opinion that the law, as contained in the Revised Civil Statutes, sought to be amended, is amply sufficient; that vacancies in offices elective by the people should not be filled in the

manner proposed in this bill; that the power sought to be vested in mayors are too arbitrary and are not sufficiently guarded against abuse; that the provision seeking to authorize the levying of a labor tax for the improvements of streets, etc., would result unjustly and oppressively and be an unwise amendment to the present law.

Houston, *Chairman.*

Senator Patton called up Senate bill No. 386, entitled "An act to better provide for the prosecution and defense of all actions by or against the state."

Was taken up and read second time.

Senator Houston offered the following amendment:

Fill first blank in section 2 with the words "state's attorney."

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Gooch,
Grace,

Guy,
Hobby,
Houston,

McCulloch,
Patton,
Terrell--10.

NAYS.

Burnett,
Burton,
Duncan,
Homan,

Lair,
Ledbetter,
Martin,
Moore,

Motley,
Ripetoe,
Swain,
Tilson--14.

Not voting—Edwards, Ford, Lane, Stewart, Shannon, Storey.

On motion of Senator Lair, the vote just taken was reconsidered.

Senator Burton offered the following as a substitute for the pending amendment:

Amend by striking out "state's attorney" wherever it occurs in the bill and insert in lieu thereof: "second assistant attorney general"; also fill the blank with the same.

Adopted, and then adopted as an amendment to the bill.

Senator Swain offered the following amendment:

Strike out "an annual salary of," and insert "three thousand dollars per annum for salary and expenses."

Adopted.

The following message was received from the House:

House has adopted the report of the free conference committee on the disagreements of the two houses, arising from the Senate amendments to House bill No. 414, the same being the tax bill.

House concurs in Senate amendments to House bill No. 78, "An act to amend section 16 of 'an act regulating elections,'" approved August 23, 1876.

House concurs in Senate amendments to substitute House bill No. 388, "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes, and to regulate their compensation,'" approved August 21, 1876.

That the House had passed House joint resolution No. 64, "granting to Hon. Gustave Cook, judge of the criminal district court of Galveston and Harris counties, thirty days leave of absence from the state."

Senate joint resolution No. 306, "granting leave of absence from the state for one month to Hon. W. H. Burkhart, judge of the eighteenth judicial district."

Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property."

And Senate bill No. 301, "To provide for the organization and support of a normal school at Alta Vista College, in Waller county, for the preparation and training of colored teachers," with amendments.

On motion of Senator Burnett, the Senate concurred in House amendments to Senate bill No. 301, entitled "An act to provide for the organization and support of a normal school at Alta Vista College, in Waller county, for the instruction of colored teachers."

Senator Gooch offered the following amendment to the pending bill: Insert in blank "six thousand dollars."

Adopted by the following vote:

YEAS.		
Brown,	Gooch,	McCulloch
Buchanan,	Hobby,	Patton,
Burton,	Houston,	Storey,
Duncan,	Lane,	Swain,
Edwards,	Ledbetter,	Terrell--16.
Ford,		

NAYS.		
Burnett,	Lair,	Ripetoe,
Grace,	Martin,	Stewart,
Guy,	Moore,	Shannon,
Homan,	Motley,	Tilson--12.

Senator Burnett offered the following:

"And the governor shall dispense with the services of the second assistant attorney general whenever in his judgment it may be done without detriment to the interests of the state."

Senator Duncan offered the following amendment as a substitute for the pending amendment:

After "removal by the governor" insert "when his services are no longer absolutely necessary, and that the office shall cease to exist with such removal."

Senator Homan moved the previous question on the pending amendment and substitute.

Motion seconded and main question ordered.

The substitute of Senator Duncan for the amendment of Senator Burnett was adopted by the following vote:

YEAS.		
Buchanan,	Homan,	Moore,
Duncan,	Houston,	Motley,
Edwards,	Lair,	Patton,
Ford,	Ledbetter,	Ripetoe,
Gooch,	Martin,	Terrell,
Guy,	McCulloch,	Tilson--18.

NAYS.		
Brown,	Burnett,	Burton--3.

Not voting—Grace, Hobby, Lane, Stewart, Shannon, Storey, Swain. (The most of these senators were on committee duty.)

The substitute was then adopted as an amendment to the bill.

The following message was received from the House announcing the passage by that body of substitute for Senate joint resolution "Proposing amendments to certain sections of article 5 of the constitution;":

House bill No. 358, entitled "An act to provide for the publication of notices of judicial sales in certain cases;"

And that the House has appointed free conference committee on the differences of the two houses on House bill No. 445, entitled "An act to provide for the assessment and collection of the taxes on land and other property situated in unorganized counties and for the enforcement of the same," and that Messrs. McComb, Coleman, Daniel, Taylor of Fannin and Wurzbach are appointed as such committee on the part of the House.

Senator Duncan offered the following amendment to the pending bill: Before \$3000 insert "at the rate of."

Adopted.

Senator Houston offered the following amendment:

Fill the blank with the word "five."

Senator Homan moved the previous question on the pending amendment and bill.

Motion seconded and main question ordered.

The pending amendment adopted and bill ordered engrossed by the following vote:

YEAS.		
Brown,	Ford,	Lair,
Buchanan,	Gooch,	McCulloch,
Burton,	Hobby,	Storey,
Duncan,	Houston,	Terrell--12.
NAYS.		
Burnett,	Lane,	Motley,
Grace,	Ledbetter,	Ripetoe,
Guy,	Moore,	Tilson -10.
Homan,		

The following senators were paired:

Senator Martin, who would have vote "nay," with Senator Edwards, who would have voted "yea."

Senator Patton, who would have voted "yea," with Senator Stewart, who would have voted "nay."

Senator Swain, who would have voted "yea," with Senator Shannon, who would have voted "nay."

(The absent senators were excused on committee duty.)

On motion of Senator Houston, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Gooch,	Ledbetter,
Buchanan,	Guy,	McCulloch,
Burnett,	Hobby,	Moore,
Burton,	Homan,	Ripetoe,
Duncan,	Houston,	Terrell--17.
Ford,	Lair,	
NAYS.		
Grace,	Motley,	Tilson--3.

Not voting--Storey.

The same parties were paired, and in the same manner, on this vote as on the last one.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Gooch,	McCulloch,
Buchanan,	Hobby,	Storey,
Duncan,	Houston,	Swain,
Ford,	Lair,	Terrell--12.

NAYS.

Burnett,
Burton,
Grace,
ay,

Homan,
Ledbetter,
Moore,

Motley,
Ripetoe,
Tilson--10.

The same senators were paired in the same manner, and would vote the same way as already stated.

Senate bill No. 392, entitled "An act to amend an act entitled 'an act to amend article 4257 of the Revised Civil Statutes,' passed at the present session of the Legislature," was taken up and read first time.

Senator Brown moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Lair,
Ledbetter,
Martin,
McCalloch,

Moore,
Motley,
Patton,
Ripetoe,
Swain,
Terrell,
Tilson--21.

NAYS--none.

Not voting--Grace, Lane.

Bill read second time.

Senator Houston moved a call of the Senate.

Call sustained.

Roll called. Absent--Buchanan, Edwards, Lane, Stewart, Shannon, Storey (nearly all of whom were on committee duty).

Pending business went to the table.

Senator Swain called up Senate bill No. 359, entitled "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the places where sentenced to the penitentiary.

Senator Swain offered the following amendment:

"Section The interests of the State of Texas involved in this bill are such as creates an emergency that this bill should take effect from and after its passage, and the near approach of the close of the session is such an imperative necessity as justifies the suspension of the constitutional rule requiring this bill to be read on three several days, and said rule is hereby suspended."

Adopted.

Senator Ledbetter offered the following:

Amend by adding to section 1 the following:

"And it shall be the duty of the district clerk to notify the contractor by letter or otherwise of any person or persons convicted in his court as soon as the court adjourns."

Adopted.

Also the following:

Amend by adding to section 2 the following:

"Provided, That should the person making such contract fail or refuse to call on the sheriff of any county for any convicts within one month after the adjournment of the court in which said convicts were tried, then the sheriff shall proceed at once to carry such convicts to the penitentiary as though no such contract had been entered into."

Adopted.

Senator Burton offered the following:

Amend section 2, line seventeen, by inserting after the word "convicts" the following: "together with a copy of the decree of the court before which said defendant or defendants were tried, convicted and sentenced."

Adopted.

Senator Patton offered the following:

Add after the word "law," in line nine, "and at the same time not increase the expense of the counties in keeping convicts."

Adopted.

Senator Homan offered the following:

Add to section 1: "And contractor shall pay all expenses of feeding and keeping such convicts after ten days from the date of their conviction."

Adopted.

Bill passed to a third reading.

Senator Tilson moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lair,	Ripetoe,
Ford,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCulloch,	Tilson---22.
Guy,		

NAYS—Duncan.

Bill read third time.

Senator Terrell offered the following amendment:

"Section In all cases where a convict is demanded by a contractor, or by any agent appointed by him, the authority of such person, under the seal of the state, presented to the clerk of the court in which the conviction has been obtained, shall be sufficient authority for the said clerk to issue his warrant in the name of the state, requiring said contractor or his agent to take charge of said convict and deliver him inside of the walls of the penitentiary or to the lessees."

Adopted by the following vote:

YEAS.

Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Patton,
Burton,	Lair,	Ripetoe,
Ford,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCulloch,	Tilson---22.
Guy,		

NAYS—none.

The bill was then passed by the following vote:

YEAS.

Brown,	Gooch,	Houston,
Buchanan,	Grace,	Lair,
Burnett,	Guy,	Ledbetter,
Duncan,	Hobby,	Martin,
Ford,	Homan,	McCulloch,

Moore,
Motley,
Patton,

Ripetoe,
Swain,

Terrell,
Tilson--22.

NAYS--NONE.

The senators not voting on the different votes on this bill were on committee duty.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled Senate bill No. 167, "An act to amend an act entitled 'an act creating the office of public weigher, and regulating the appointment and defining the duties and liabilities thereof,'" and at 11:10 o'clock, A. M., to-day, presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate joint resolution No. 364, "Authorizing the governor to appoint an agent to collect moneys due the State of Texas by the United States," and herewith report it correctly engrossed.

BROWN, *Chairman.*

Senator Tilson called up House bill No. 492, entitled "An act to provide for the sale of the alternate sections of land in unorganized counties, as surveyed by railroad companies, and other works of internal improvements, set apart for the benefit of the common school fund, and to repeal all laws in conflict thereof," which was read first time.

On motion of Senator Tilson, the rules were suspended and bill placed on its second reading by the following vote:

Bill read second time and postponed until 3 o'clock P. M.

(Senator Houston in the chair).

House bill No. 501, entitled "An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature," was taken up and read first time.

Senator Gooch moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Swain,
Terrell,
Tilson--23.

NAYS--none.

Bill read second time and passed to a third reading.

On motion of Senator Gooch, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,

Duncan,
Ford,
Gooch,

Grace,
Guy,
Hobby,

Homan,
Houston,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Motley,
Patton,

Ripetoe,
Swain,
Terrell,
Tilson—22.

NAYS—none.

Bill read third time and passed.

The president, after publicly reading its caption, signed Senate bill No. 390, entitled "An act to require the governor of the state to counter-sign certificates for land issued from the general land office."

Substitute for House bill No. 438, entitled "An act to authorize Cunningham & Ellis, lessees of the state penitentiary, to sue the state," was taken up and read second time.

Senator Terrell moved a call of the House.

Call sustained.

Roll called. Absent—Gooch, Grace.

On motion of Senator Buchanan, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; no quorum present.

On motion of Senator Houston, the Senate took a recess for one hour in order that the absent senators might be able to finish work on conference committees.

At the expiration of the hour, the Senate was called to order. Roll called; quorum present.

On motion of Senator Storey, the pending business was postponed to take up Senate bill No. 345, "An act to provide for the printing, binding and distributing of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, adopted and established at the present session of the Legislature," said bill being on its engrossment.

Senator Storey offered the following amendment:

Amend by adding to section 2 the following: "and the governor shall appoint a codifier, whose duty it shall be to select from the acts passed at the present session of the Legislature, all amendments to said Codes, and insert the amended sections in the place of the original sections of the act adopting the Codes; and when new sections have been added to any chapter and title, he shall insert the new sections in their proper places, and shall note by marginal or foot references the page of the amending section, or by which a new section was enacted; and where any general law, passed at this session, modifies a section, but the same is not amended, and re-enacted in said law, he shall leave the section of the Code as it was adopted, but shall, by marginal or foot note refer to the law so modifying the section. Said codifier shall have his work done by the time the publisher contracted with under this act is ready for the copy. He shall prepare an accurate index of each Code, as amended, and shall read and revise the proof of the Statutes, index, etc., as printed, and shall receive for his services the same compensation as was allowed the commissioners who revised the Codes, for the time he is actually engaged in the duties required of him, the same to be paid upon certificate of the governor, out of the amount appropriated for printing the Revised Statutes."

Senator Edwards offered the following:

Strike out first amendment of committee, all down to the word "and," and insert in lieu thereof "and the printing board may, in their discretion, cause said edition to be electrotyped."

Adopted and bill ordered engrossed.

Senator Storey moved a suspension of the rules to place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Lair,	Stewart,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCulloch,	Tilson--21.

NAYS—none.

Not voting—Gooch, Grace, Guy, Hobby, Moore, Shannon, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Lair,	Stewart,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCulloch,	Tilson—21.

NAYS—none.

Not voting—Gooch, Grace, Guy, Hobby, Moore, Shannon, Terrell.

The president, after publicly reading their captions, signed Senate bill No. 336, entitled "An act amendatory and supplementary to an act entitled 'an act to consolidate in one act and amend the several acts incorporating the city of Houston, in Harris county.'"

Senate bill No. 346, entitled "An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state, and to supply deficiencies in the revenue, and to provide the mode and manner of the sale of said bonds to the several counties in this state."

Senate bill No. 301, entitled "An act for the organization and support of a normal school at Alta Vista College, in Waller county, for the preparation and training of colored teachers."

Senate bill No. 321, entitled "An act to authorize the Austin Canal, Irrigation and Manufacturing company to construct a dam across the Colorado river."

House bill No. 501, entitled "An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature."

Substitute for House bill No. 338, entitled "An act to amend section 21 of 'an act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers, and to define the further duties, powers, qualifications and liabilities of collectors of taxes and to regulate their compensation,' approved August 21, 1876."

House bill No. 78, entitled "An act to amend section 16 of 'an act to regulate elections,' approved August 23, 1876."

(Senator Houston in the chair.)

House bill No. 492, entitled "An act to provide for the sale of the alternate sections of land in the organized counties as surveyed by railroad companies and other works of internal improvements and set apart for the benefit of the common school fund, and to repeal all laws in conflict therewith," was taken up.

A message was received from the House announcing the passage of Senate bill No. 308, entitled "An act to validate the sale of certain town lots of county lands situated in the county of McCulloch."

Senate bill No. 370, entitled "An act to amend title 45, chapter 5 of an act entitled 'an act to adopt and establish the Revised Civil Statutes,'" adopted February 21, 1879.

Senate substitute for House bill No. 75, "To amend sections 21, 37 and 38 of 'an act to provide for the election of justices of the peace, and to define their powers and jurisdiction,'" approved August 17, 1876, with amendments.

House has adopted report of conference committee on the differences between the two houses, on Senate amendments to House bill No. 445, "An act to provide for the assessment and collection of taxes on land in unorganized counties, and for the enforcement of the same."

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered House bill No. 358, entitled "An act to provide for the publication of notices of judicial sales in certain cases," and I am instructed by a majority of said committee to report said bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed—

Senate bill No. 321, "An act to authorize the Austin Canal, Irrigation and Manufacturing company to construct a dam across the Colorado river;"

Senate bill No. 336, "An act amendatory of and supplementary to an act entitled 'an act to consolidate in one act and amend the several acts incorporating the city of Houston, in Harris county, approved January 23, 1874,' and the several acts amendatory thereof;" and

Senate bill No. 346, "An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state, and to supply deficiencies in the revenue, and to provide the mode and manner of the sale of said bonds," and at 4:55 o'clock P. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared, and find correctly enrolled and properly signed Senate bill No. 390, entitled "An act to require the governor of the state to countersign certificates for land issued from the general land office hereafter in certain cases," and have presented the same to the governor for his signature this day at 12:45 o'clock P. M.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 301, entitled "An act to provide for the organization and support of a normal school at Prairie View (formally called Alta Vista), in Waller county, 'for the preparation and training of colored teachers;'" and at 5:10 o'clock P. M. presented the same to the governor for his signature. GRACE, *Chairman.*

On motion of Senator Burnett, Senate substitute for House bill No. 75, just reported from the House with amendments, was taken up and House amendments concurred in.

The following message was received from his excellency the governor, which was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 19, 1879. }

To the honorable Senate of the State of Texas in session assembled:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment, to wit:

S. J. Hunter, of Hopkins county, to be district attorney of the eighth judicial district. Respectfully, O. M. ROBERTS, *Governor.*

Senator Grace moved that the Senate go into executive session at 8:30 to-night to consider the nomination sent to the Senate from the executive office this evening.

Adopted.

Senator Shannon submitted the following from the free conference committee appointed on House bill No. 445:

Hon. J. D. Sayers, President of the Senate, and John H. Cochran, Speaker of the House of Representatives:

Your committee of free conference on the matters of difference between the House and Senate on House bill No. 445, "An act to provide for the assessment and collection of taxes on land in unorganized counties and for the enforcement of the same," submit the following report: The committee recommend that the House concur in the Senate amendment to section 14 of the bill, and that the bill be amended in section 2, line three, by striking out the words "and county" after the word "state."

McCOMB,
COLEMAN,
DANIELS,
WURZBACH,
TAYLOR of Fannin,
On part of the House.
SHANNON,
LANE,
GUY,
SWAIN,
On part of the Senate.

Senator Gooch moved the previous question on the pending report: Motion seconded and main question ordered. The report of the committee was adopted.

Senator Shannon, from the free conference committee on House bill No. 412 (the deficiency bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of free conference, appointed to meet a like committee appointed on the part of the House of Representatives, to take into consideration the disagreements of the two houses in relation to House bill No. 412, entitled "An act making appropriations beginning September 1, 1876, and ending February 28, 1879, and for previous years," have duly considered the same and respectfully submit the following report, viz:

That the House concur in Senate amendments Nos. 1, 3, 4, 6, 7, 8, 12, 14, 17 and 18, and that the Senate recede from Senate amendments Nos. 15, 16 and 19, and that Senate amendment No. 2 be amended by striking out all of the amendment after the word "proviso."

That Senate amendment No. 5 be amended by striking out "\$307 25," inserting in lieu thereof "\$200."

That amendment No. 9 be amended by adding after the word "employs" the words "at other places than Galveston."

That amendment No. 10 be amended so as to read as follows: "For payment of services of detectives, attorneys, informers and prosecutors employed in the detection and prosecution of land forgers, \$12,000."

[This appropriation is placed under the control of the governor, to be used in settling at his discretion with attorneys, detectives, informers and prosecutors in said detection and prosecution, to be paid out on warrants drawn on the treasury, based upon the certificates signed by the governor.]

That amendment No. 11 be amended by striking out "\$60,000" and inserting "\$30,000," and by striking out "\$50,000" and inserting "\$20,000."

That Senate amendment No. 13 be amended by inserting after the word "vesting" the words "a perfect title thereto," and your committee recommend that said amendments as herein amended be adopted.

Your committee further recommend the following additional amendments:

Add to section 1 the following:

"For damages sustained by Messrs. Kanmacher & Denig, on account of change made in location of the site of the East Texas penitentiary, after having entered into contract to build the same, \$2500 00. This appropriation shall be paid only upon Messrs. Kanmacher & Denig giving a full receipt for all claims against the state for any matter whatsoever growing out of the contract to build said penitentiary, or the payment of the same."

Add a new section to be section 2:

"Section 2. That warrants drawn under this appropriation act (except those in favor of school teachers) shall bear interest at the rate of four per cent. per annum from their date, and shall be made payable on or before five years from the first day of July, 1879, and the interest shall be paid annually at the treasury, and the payment endorsed upon the warrant; *provided*, that the treasurer may pay said warrants in the order of their date out of the proceeds of bonds issued to meet deficiencies in the revenue, or out of any money on hand in excess of the amount necessary to meet the current expenses of the state government.

"Section 3. The fact that there is no appropriation to pay the claims herein stated creates an emergency that requires that this act take effect at once, and it is therefore enacted that this act take effect and be in force from and after its passage."

SHANNON,
LANE,
EDWARDS,
STOREY,
STEWART,
Senate Committee.
COLEMAN,
McCOMB,
DANIELS,
WURZBACH,
TAYLOR, of Fannin,
House Committee.

Senator Storey, chairman of committee on free conference on Senate bill No. 130 (the general appropriation bill), submitted the following report:

Hon. J. D. Sayers, President of the Senate, and Hon. John H. Cochran Speaker of the House of Representatives:

Your joint free conference committee, to whom was referred the subject matter of disagreements between the Senate and House, respecting Senate bill No. 130, "An act to make appropriations for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881," have considered the subject matter of disagreement, and beg leave to report as follows:

That the Senate concur in the House amendments to the following items:

Executive Department—Line four, strike out "400" and insert "300, 300;" line five, strike out "400" and insert "300, 300;" line six, strike out "250, 250" and insert "200, 200;" line seven, strike out all after the word "executive" and insert in lieu thereof, "state and educational department, 360, 360;" strike out in lines eight, nine and ten, "1200, 1200" and insert "500, 500;" strike out "lines thirteen and fourteen" and insert "for the payment of rewards, and for paying attorneys for prosecuting offenders against the laws of this state and for representing the state in civil cases" (to be under the control and paid upon warrants issued on certificates of the governor), 15,000, 15,000;" line seventeen, strike out "3500, 3500," and insert "2000" in first column.

State Department—In line sixteen, concur in the following amendment: After the word "statutes," insert "Penal Code and Code of Criminal Procedure."

Treasury Department—Line four, strike out ".....," and insert "for salary of one additional book-keeper, to be paid one-half out of the university fund and one-half out of the proceeds of the sale of common school land, 1350, 1350;" line eight, strike out "300, 300," and insert "250, 250;" line eleven, strike out "100, 100" and insert "50, 50;" line thirteen, strike out "30,000" and insert "40,000;" line fifteen, insert the following, after the word "debt," "to be invested in state bonds."

Comptroller's Department—Line four, strike out "1200, 1200" and insert "1000, 1000;" line five, strike out "1650, 1650" and insert "1500, 1500;" line seven, strike out "900, 900" and insert "1000, 1000;" line eight, strike out "1200, 1200" and insert "1350, 1350;" line nine, strike out "900, 900" and insert "1000, 1000;" line ten, insert between the words "clerks" and "at" the following: "one-half of whom may be females."

General Land Office—Line five, strike out "1200, 1200" and insert "1350, 1350;" line six, strike out "1200, 1200" and insert "1000, 1000;" line seven, strike out "1500, 1500" and insert "1300, 1300;" in line eight, strike out "2000, 2000" and insert "1800, 1800;" in line nine, strike out "2400, 2400" and insert "2000, 2000;" in line ten, strike out "1200, 1200" and insert "1000, 1000;" in line eleven, insert after the word "clerks" the following: "all of whom may be females in the discretion of the commissioner;" in line fourteen, strike out the word "ten" before the word "assistant," and strike out "10,000, 10,000" and insert "9000, 9000;" in line sixteen, strike out "360, 360" and insert "300, 300;" in line eighteen, strike out "500, 500" and insert "750, 750;" in line twenty, strike out "150, 150" and insert "100, 100."

Lunatic Asylum—In line one, strike out "2000, 2000" and insert "1800, 1800;" in line four, strike out "900, 900" and insert "700, 700;" in line eight, strike out "1800" and insert "2000," strike out "864, 864" and insert "960, 960;" line eleven, strike out entirely; in line twelve, strike out "300, 300" and insert "180, 180;" in line eighteen, strike out "1000, 1000" and insert "500, 500;" in line twenty-one, strike out "800 800" and insert "400 400;" in line twenty-two, strike out "800, 800" and insert "500, 500;" lines twenty-six, twenty-seven, twenty-eight and twenty-nine, strike out.

Blind Asylum—In line one strike out "2000, 2000" and insert "1800, 1800;" insert between lines two and three, for salary of music teacher "600, 600;" in line seven, strike out "300, 300" and insert "330, 330;" in line eight, strike out "360, 360," and insert "420, 420;" in line nine, strike out "5000, 2500" and insert in first column "7500."

Deaf and Dumb Asylum—In line one strike out "2000, 2000," insert "1800, 1800;" after line five add the following: "For salary of instructor in printing and expert employed by printing board, 1000, 1000;" strike out line six; in line nine, strike out "300, 300," insert "180, 180;" in line ten, strike out "240, 240," insert "150, 150;" in line eleven, strike out "420, 420," insert "300, 300;" in line thirteen, strike out "11,000, 11,000," insert "7000, 7000;" in line fourteen, strike out "6000," insert "2500."

Penitentiary—Strike out in line one, "30,000, 30,000," and insert "40,000, 40,000."

Quarantine—In line one, after word "officers", insert "and for expenses incurred;" in line two, strike out "12,000, 12,000" and insert "20,000, 20,000;" strike out from line three to line seventeen and insert, "For building quarantine station houses at such points as the health officer may deem suitable, 50,000," in first column.

Attorney General's Office—In line two, insert before the word "traveling" the words "salary and;" in line five, strike out "1200, 1200" and insert "1000, 1000;" in line nine, strike out "1000, 1000" and insert "1500, 1500;" in line ten, strike out "300, 300" and insert "100, 100;" in line eleven, strike out "250" and insert "125" in each column.

Adjutant General's Department—Strike out in line two, "1200, 1200" and insert "for salary of chief clerk for two months, 250;" line three, strike out and insert "for salary of clerk 50 per month;" line four, strike out "450, 450" and insert "200, 200;" insert after line four, the following: "For handling and transportation of arms, munitions and ammunitions, 500;" line five, strike out "and porter hire," also strike out "300, 300" and insert "50, 50;" line six, strike out the words "and paying rent;" line seven, strike out "1000, 1000" and insert "for rent of room for storage of arms and ammunition, until completion of said building, 200, in first column;" line nine, strike out "300, 300" and insert "150, 150;" strike out lines ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, inclusive, and insert "for protection of the frontier and suppression of lawlessness and crime (twenty thousand dollars of which will be appropriated each year to the organization of a force to operate in southwest Texas, but to be subject to the order of the governor in an emergency to be used elsewhere), 100,000, 100,000."

Public Buildings and Grounds—Strike out all under this head and insert "for labor upon public grounds and taking care of public buildings, shrubbery within the enclosure, and for renovating water closet at north gate of the capitol yard, all to be under the supervision of the commissioner of insurance, statistics and history, and warrants to issue upon his certificates for labor performed, 600, 600. For removal of the fence off of the streets on the east line of the state cemetery and repairing fence; filling graves in state cemetery, 50, 50."

Insurance, Statistics and History—Line two, strike out "1200, 1200," and insert "1000, 1000," and insert "one clerk, to be state librarian." Insert under this head "for one porter for department of insurance, adjutant general and attorney general, 300, 300." Strike out the balance under this head.

Under department of insurance, statistics and history, Senate and House recede from lines seven, eight, nine, ten, eleven and twelve, and recommend as a substitute therefor the following: "For stationery, postage, printing, fuel, lights, purchasing, binding and express charges on books for the public library, and for office furniture, and expenses for procuring historical archives from this and foreign countries for public library, \$500, \$500; for subscription for newspapers for public library, \$100, \$100."

That the House recede from the following House amendments:

First House amendment, strike out "1500" in line two of the bill, and insert "1200."

Executive Department.

State Department—That the House recede from amendments to lines three, four, five, seven and eleven.

Treasury Department—House recedes from amendment to lines five and nine.

Comptroller's Department—House recedes from amendments to lines thirteen and sixteen.

Department of Insurance, Statistics and History—House recedes from amendment to line one.

Educational—Strike out "1500" in line three, and insert "1800, 1800;" strike out the following words in lines ten, eleven, twelve and thirteen: "to include normal schools of this state for the years ending August 31, 1880 and 1881."

Your committee recommend the adoption of the above report.

COLEMAN,
COLLINS,
TAYLOR, of Marion,
GAUSE,
PICKETT,
House Committee.

STOREY,
HOBBY,
LANE,
LEDBETTER,
BUCHANAN,
Senate Committee.

On motion of Senator McCulloch, the Senate adjourned until 8 o'clock to-night.

NIGHT SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

The president, after publicly reading their captions, signed the following bills:

Senate bill No. 370, entitled "An act to amend title 43, chapter 5 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" passed February 21, 1879.

Senate joint resolution No. 306, "Granting leave of absence from the state for one month to Hon. W. H. Burkhart, judge of the eighteenth judicial district."

Senate bill No. 73, entitled "An act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property."

Senator Patton, chairman of the committee on stock and stock-raising, (by leave); submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on stock and stockraising have again had under consideration House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising and for the protection of stockraisers,' approved August 23, 1876," and again instruct me to return said bill to the Senate with the recommendation that it do pass.

PATTON, Chairman.

Senator Houston called up House joint resolution No. 64, "Granting to Hon. Gustave Cook, of the criminal district court of Galveston and Harris counties, thirty days' leave of absence from the state," which was read first time.

Senator Houston moved a suspension of the rules to place the resolution on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Houston,	Patton,
Buchanan,	Lane,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Grace,	Martin,	Storey,
Guy,	McCulloch,	Terrell,
Hobby,	Moore,	Tilson---22.
Homan,		

NAYS—none.

Not voting—Duncan, Edwards, Ford, Gooch, Motley, Swain.

Resolution read a second time and passed to a third reading.

On motion of Senator Houston, the rules were suspended and resolution placed on its third reading by the following vote:

YEAS.		
Brown,	Homan,	Patton,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Edwards,	Lair,	Shannon,
Grace,	Ledbetter,	Storey,
Guy,	Martin,	Terrell,
Hobby,	McCulloch,	Tilson—21.

NAYS—none.

Not voting—Burton, Duncan, Ford, Gooch, Moore, Motley, Swain.

Resolution read third time and passed by the following vote:

YEAS.		
Brown,	Homan,	Patton,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Grace,	Martin,	Terrell,
Guy,	McCulloch,	Tilson—23.
Hobby,	Moore,	

NAYS—none.

Not voting—Duncan, Ford, Gooch, Motley, Shannon.

Senator Stewart called up House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising, and for the protection of stockraisers,' approved August 23, 1876."

Senator Shannon offered the following:

"Add Parker county to the number of counties exempted from operation of the law."

Adopted.

Senator Lane offered the following:

Amend on line nineteen, page 1, after the word "state" by inserting the following: "Except those bordering on Red river."

Senator Homan moved the previous question on the pending amendment and bill.

Motion seconded and main question ordered.

The amendment of Senator Lane was adopted by the following vote:

YEAS.		
Brown,	Edwards,	Homan,
Burton,	Ford,	Houston,
Duncan,	Hobby,	Lane,

Lair,
Ledbetter,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,

Storey,
Terrell,
Tilson—19.

NAYS.

Burnett,
Grace,
Guy,

Martin,
Moore,

Shannon,
Swain—17.

Not voting—Buchanan, Gooch.

Bill passed to third reading.

Senator Patton moved to suspend the rules and place the bill on its third reading.

Lost by the following vote, it taking four-fifths to suspend:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Storey,
Terrell,
Tilson—19.

NAYS.

Ford,
Grace,
Guy,

Martin,
Moore,

Shannon,
Swain—7.

Not voting—Buchanan, Gooch.

Senator Duncan called up House bill No. 206, entitled "An act in relation to chattel mortgages and other instruments intended to operate as mortgages of, or liens upon personal property and the record thereof," which was taken up and read a second time.

On motion of Senator Stewart, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—25.

NAYS.

Ripetoe,

Swain—2.

Not voting—Gooch.

Bill read second time.

Senator Houston offered the following amendment to section 2:

Strike out the words: "but the original may be filed without having been acknowledged."

Adopted by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Edwards,
Guy,
Hobby,

Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon—17.

NAYS.

Buchanan,
Duncan,
Grace,

Lair,
Swain,

Terrell,
Tilson--7.

Not voting—Ford, Gooch, Stewart, Storey.

Bill passed to a third reading.

Senator Duncan moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley.

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Gooch, Houston, Moore.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore.

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—26.

NAYS—none.

Not voting—Houston, Swain.

A message was received from the House announcing the passage of Senate bill No. 300, entitled "An act to establish a state normal school."

Senator Terrell was granted leave to add his name to the reasons of Senators Edwards and Lane for voting "aye" on the amendment to Senate bill No. 116, "To levy an additional ad valorem tax to pay the public debt;" published in the journals of yesterday.

Senator Storey called up the report of the free conference committee on substitute for Senate bill No. 130, "The general appropriation bill."

Senator Swain moved to adopt the report of the committee and moved the previous question on the pending question.

The report was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Tilson--24.

NAYS.

Ford,
Not voting—Stewart, Terrell,

Grace--2.

Senator Tilson, from judiciary committee No. 1 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 383, entitled "An act regulating contracts for labor and affixing a penalty for a violation thereof," have had the same under consideration, and I am instructed by a majority of said committee to report the same back with the recommendation that it do pass.

TILSON, for Committee.

The president, after publicly reading their captions, signed Senate bill No. 308, entitled "An act to validate the sale of certain town lots and county lands situated in the county of McCulloch," and House bill No. 75, entitled "An act to amend section 21, section 37, section 38 of 'an act to provide for the election of justices of the peace and to define their powers and jurisdiction,'" approved August 17, 1876.

Substitute House bill No. 438, "An act to authorize Messrs. Cunningham & Ellis, lessees of the state penitentiary, to sue the state," was taken up and read second time.

Senator Brown moved the previous question on the bill, which was ordered, and the bill passed to a third reading by the following vote:

YEAS.

Brown,
Duncan,
Edwards,
Ford,
Grace,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Motley,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—19.

NAYS.

Buchanan,
Burnett,
Burton,

Gooch,
Homan,
Martin,

Moore.
Terrell—8.

Not voting—Patton.

On motion of Senator Swain, the rule was suspended to place the bill on its third reading by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAY—Gooch.

Not voting—Buchanan.

The bill was then read third time and passed by the following vote:

YEAS.

Brown,
Duncan,
Edwards,
Ford,
Grace,
Guy,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
McCulloch,
Motley,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—19.

NAYS.

Buchanan,
Burnett,
Burton,

Gooch,
Homan,
Martin,

Moore,
Terrell--8.

Not voting--Patton.

Senator Shannon called up the report of the committee of free conference on House bill No. 412, "An act making appropriations for deficiencies, beginning September 1, 1876, and ending February 28, 1879, and for previous years," which was read and adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Moore,
Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain--25.

NAYS.

Grace,

Terrell,

Tilson--3.

Senator Lane called up Senate substitute for House bill No. 492, "An act to provide for the sale of the alternate sections of land set apart and appropriated for the support of the public schools."

(Senator Hobby in the chair.)

Bill read second time.

Senator Duncan moved the previous question on the adoption of the substitute, and the same was seconded and ordered.

The Senate substitute was then adopted by the following vote:

YEAS.

Brown,
Buchanan,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Motley,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--22.

NAYS.

Burnett,
Burton.

Homan,
Moore,

Ripetoe--5.

Not voting--Patton.

Senator Patton offered the following amendments:

On page 4, section 3, after the word "provided," in line twelve, strike out the remainder of section and insert therefor, "that these lands and no subdivision of them shall be sold for a less sum than one dollar and a half per acre."

Senator Gooch moved the previous question on the amendment and the substitute.

Seconded, and the main question ordered.

Senator Patton's amendment was then lost by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Guy,

Homan,
McCulloch,
Moore,
Motley,

Patton,
Shannon,
Swain,
Tilson--13.

NAYS.

Brown,
Ford,
Gooch,
Grace,
Hobby,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

Ripetoe,
Stewart,
Storey,
Terrell--14.

Not voting—Edwards.

The bill was then ordered engrossed.

On motion of Senator Lane, the rule was suspended to place the bill on its third reading, by the following vote:

YEAS.

Brown,
Buchanan,
Burton,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

Moore,
Ripetoe,
Stewart,
Storey,
Swain,
Terrell,
Tilson--22.

NAYS.

Burnett,
Duncan,

Motley,
Patton,

Shannon--5.

Not voting—McCalloch.

The bill was then read third time.

Senator Duncan moved to postpone further consideration of the bill until Monday morning just after the morning call.

A message was received from the House announcing the passage of Senate bill No. 179, "An act to define in what civil cases depositions of witnesses may be taken."

Senator Gooch moved the previous question on the motion to postpone, and the passage of the bill; seconded and the main question ordered.

The motion to postpone was lost by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,

Guy,
Homan,
Motley,
Patton,

Stewart,
Shannon,
Swain,
Tilson--12.

NAYS.

Brown,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Storey,
Terrell--15.

Not voting—Ripetoe.

The bill was then passed by the following vote:

YEAS.

Brown,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
Moore,
Stewart,
Storey,
Terrell--15.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,

Guy,
Homan,
McCulloch,
Motley,

Patton,
Shannon,
Swain,
Tilson--12.

Senator Brown called up Senate bill No 392, "An act to amend an act entitled 'an act to amend article 4257 of the Revised Civil Statutes,' passed at the present session of the Legislature."

Senator Duncan moved the previous question on the engrossment of the bill.

Motion seconded and main question ordered.

The bill was ordered engrossed by the following vote:

YEAS.

Brown,	Grace,	Moore,
Buchanan,	Guy,	Motley,
Burnett,	Homan,	Stewart,
Duncan,	Lane,	Shannon,
Edwards,	Lair,	Storey,
Gooch,	McCulloch,	Terrell--18.

NAYS.

Burton,	Houston,	Patton,
Hobby,	Ledbetter,	Ripetoe - 6.

Not voting—Ford, Martin, Swain, Tilson.

On motion of Senator Brown, the rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,	Guy,	Moore,
Buchanan,	Hobby,	Motley,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Shannon,
Duncan,	Lane,	Storey,
Edwards,	Lair,	Terrell,
Gooch,	Ledbetter,	Tilson--23.
Grace,	McCulloch,	

NAYS—none.

Not voting—Ford, Martin, Patton, Stewart, Swain.

Bill read third time.

Senator Brown moved the previous question on the passage of the bill.

Motion seconded and main question ordered.

Bill passed by the following vote:

YEAS.

Brown,	Gooch,	Stewart,
Buchanan,	Guy,	Shannon,
Burnett,	Homan,	Storey,
Duncan,	Moore,	Terrell--14.
Edwards,	Motley,	

NAYS.

Burton,	Houston,	Ripetoe,
Ford,	Lair,	Swain,
Grace,	Ledbetter,	Tilson--11.
Hobby,	Patton,	

Not voting—Lane, Martin, McCulloch.

Senator Stewart entered a motion to reconsider the vote just taken.

Senator Edwards called up House substitute for Senate joint resolution Nos. 5 and 102, "proposing an amendment to article 5 of the constitution of the State of Texas."

Senator Edwards offered a substitute for the resolution.

Senator Terrell moved to postpone the resolution until the first session of the Senate next week.

On motion of Senator Ledbetter the Senate went into executive session.

IN SENATE.—Senator Motley moved that the confirmations just made in executive session be entered on the journals.

Carried.

It is accordingly stated that the Senate confirmed the appointment of S. W. Hunter as district attorney of the eighth judicial district of the state.

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 386, entitled "An act better to provide for the prosecution and defense of all actions by or against the state," and find it correctly engrossed.

BROWN, Chairman.

On motion of Senator Motley, the Senate adjourned until 9:30 A. M. Monday.

EIGHTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 21, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Tilson, the reading of the journals of Saturday was dispensed with. They were not adopted as the evening and night sessions were not printed and the manuscript journals were still in the hands of the printer.

Senator Lair, chairman of the committee on public buildings and grounds, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public buildings and grounds have examined the books, papers, etc., of the late superintendent of public buildings and grounds (Wm. Neal Ramey) at his own request, and find the same all correct, and that the public funds under his control have been properly accounted for. He has many vouchers or receipts from various persons for material, shrubbery, plants, labor done, etc., showing that the parties are all paid in full for the same.

Mr. Ramey, in addition, certifies that all claims against the state for everything done or furnished during his administration have been paid in full, and he pledges himself to defend the state against any claim or claims that may be brought against the same for the time he has filled this position—from August 1, 1877, to January 21, 1879—and desires the matter placed on record.

We also find that appropriations were made for the public buildings and grounds to the thirty-first of December, 1878, and that Mr. Ramey expended on labor appropriation forty-four dollars more than the appropriation, but that of the appropriation for trees, plants, etc., he expended fourteen dollars less than the appropriation, making of the combined appropriations thirty dollars more than was appropriated to December 31, 1878.

The said superintendent does not ask to be reimbursed for this amount expended over the appropriation; we would, however, recommend that

the fourteen dollars not expended on the appropriation for trees, plants, etc., be placed to the labor appropriation as part of the forty-four dollars he expended over the amount appropriated for labor, still leaving the superintendent thirty dollars out that he paid over the amounts appropriated, and for which he desires and asks no reimbursement.

From December 31, 1878, to January 21, 1879, the concluding portion of the time of his term, there was no appropriation and in preparing the grounds to turn over in good order at the end of his term, and to attend to the same while he was attending to his duties in the Legislature, he employed labor and paid for it out of his salary as superintendent to the amount of twenty-five dollars, making fifty-five dollars in all he has expended out of his own private funds, and for which he asks no reimbursement, except the fourteen dollars already referred to.

We take pleasure in stating that the public buildings and grounds were turned over in good order by the said superintendent, and considering the smallness of the appropriation under his control, he deserves credit for the manner in which the business was managed.

LAIR, *Chairman.*

Senator Duncan moved that the report just made be taken up for consideration and adoption.

The report was read and unanimously adopted.

A message was received from the House announcing the passage by that body of House bill No. 121, entitled "An act to ascertain the amount due teachers for services rendered in the public schools from September 1, 1873, to August 31, 1876, and to provide for the payment of the same."

House bill No. 336, entitled "An act establishing and prescribing the manner of ascertaining the boundaries of counties."

House bill No. 422, entitled "An act to provide for the assessment and collection of taxes on lands that have not been rendered for assessment and taxation from the year 1871 to 1876," and repealing "An act to enforce collection of delinquent taxes on lands assessed since January, 1870."

Senate bill No. 118, entitled "An act extending the lien for rent to owners of residences, store houses and other buildings."

Senate bill No. 128, entitled "An act to prevent the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal the property of another, without his consent."

Senate bill No. 90, entitled "An act to suppress lawlessness and crime and organize a force for that purpose," with amendments.

Substitute for Senate bill No. 125, entitled "An act to ratify and declare valid a compromise with the commissioners' court of Brazoria county, and the issuance of county bonds and levy of tax therefor in settlement of bonds of said county issued under an act of the Legislature, passed September 1, 1856," etc.

Senate bill No. 350, entitled "An act to amend article 1173 of the Revised Civil Statutes, passed by the Sixteenth Legislature."

Substitute for Senate bill No. 320, entitled "An act to amend article 826 of the Revised Civil Statutes, so as to correct the conflict in the boundary line between Blanco and Kendall counties."

Senate bill No. 163, entitled "An act to create and establish a state board of health for the State of Texas and to define their powers and duties."

Senator Shannon, chairman of committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts herewith return to the Senate the following Senate bills, No 57, "An act to create the twenty-eighth judicial district;" No. 65, "Protest from members of the San Antonio bar," and No. 89, "Petition of citizens of McCulloch county asking for the formation of a new judicial district, and protesting against changes heretofore made in the seventeenth judicial district," and ask to be discharged from further consideration.

SHANNON, *Chairman.*

A message was received from the House announcing that the House concurs in Senate amendments to House bill No. 206, "An act in relation to chattel mortgages and other instruments intended to operate as mortgages of or liens upon personal property and the record thereof."

Also, House concurs in Senate amendments to House bill No. 359, "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the places where sentenced to the penitentiary."

The president, after reading their captions, signed the following bills, to wit:

Senate bill No. 120, entitled "An act to prevent the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another, without his consent."

And Senate bill No. 300, entitled "An act to establish a state normal school."

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed—

Senate bill No. 73, "An act to provide for the record of contracts relating to land in a manner that will distinguish separate from community property;"

Senate bill No. 370, "An act to amend title 48, chapter 5 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879;" also,

Senate joint resolution No. 306, "Joint resolution granting leave of absence from the state for one month to Hon. W. H. Burkhart, judge of the eighteenth judicial district," and at 9:15 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 75, entitled "An act to provide for appeals and writs of *certiorari* from judgments of justices' courts in counties in which the civil and criminal jurisdiction, or either, of county courts has been transferred to the district courts;"

Also, Senate bill No. 308, entitled "An act to validate the sale of certain town lots and county lands situated in the county of McCulloch;" and have at 9:15 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

The following bills reported from the House this morning were taken up and referred to appropriate committees:

Senate bill No. 350 to judiciary committee No. 1.

House bill No. 121 to committee on finance.

Senator Ledbetter, chairman of free conference committee on House bill No. 33, submitted the following report:

Hon. J. D. Sayers, President of the Senate and Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee of free conference on the matters of difference between the House and Senate on House bill No. 33, and Senate substitute therefor, have had the same under consideration, and submit the following report, to wit: Your committee recommend that the Senate substitute for House bill No. 33 be adopted.

LEDBETTER, *Chairman Senate Committee.*

McCOMB, *Chairman House Committee.*

On motion of Senator Gooch, the report was adopted.

Senator Lane called up Senate bill No. 90, entitled "An act to suppress lawlessness and crime and to organize a force for that purpose."

On motion of Senator Lane, the Senate refused to concur in House amendments to the bill, and a committee of conference was appointed with powers of a free conference committee.

Senators Lane, Terrell and Motley were appointed as said committee on the part of the Senate.

Senator McCulloch offered the following resolution:

WHEREAS, The House has failed to concur with the Senate in the amendments to the judiciary article of the constitution; and,

Whereas, We are within a few paces of the end of a long and laborious lane of legislation; and,

Whereas, There is an existing imperative public necessity for the immediate passage of a suitable amendment to the judiciary clause of the constitution, as well as many other important measures; therefore be it

Resolved, That the Senate annul the resolution to adjourn on Tuesday, the twenty-second at 12 ~~m~~.

Senator Lane offered the following substitute for the resolution of Senator McCulloch:

Resolved, By the Senate and House of Representatives, that the president of the Senate and speaker of the House of Representatives be authorized to close the present session by adjourning their respective houses *sine die* on Thursday, the 24th day of April, 1879, at 12 o'clock m.

Senator Burnett moved to postpone until to-morrow.

Lost, and substitute adopted by the following vote:

YEAS.

Buchanan,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Houston,
Lane,
Ledbetter,
McCulloch,

Motley,
Ripetoe,
Stewart,
Storey,
Swain—17.

NAYS.

Brown,
Burton,
Grace,
Homan,

Lair,
Martin,
Moore,

Patton,
Shannon,
Tilson--10.

Not voting—Terrell.

The president referred House bill No. 442, and substitute for Senate bill No. 123, to the committee on finance.

House bill No. 336 and substitute for Senate bill No. 320 to the committee on counties and county boundaries. (These bills were reported from the House this morning and captions just given.)

Senator Edwards moved to reconsider the vote just taken and to lay that motion on the table.

Lost by the following vote:

YEAS.		
Buchanan,	Gooch,	McCulloch,
Burnett,	Hobby,	Motley,
Duncan,	Houston,	Stewart,
Edwards,	Lane,	Storey—13.
Ford,		
NAYS.		
Brown,	Lair,	Ripetoe,
Burton,	Ledbetter,	Shannon,
Grace,	Martin,	Swain,
Guy,	Moore,	Tilson—14.
Homan,	Patton,	

Not voting—Terrell.

Senator Edwards withdrew the motion to reconsider.

Senator Guy then moved to reconsider the vote adopting the substitute of Senator Lane.

Senator Homan moved the previous question on the motion to reconsider.

Senator Lane moved a call of the Senate.

Call sustained.

Roll called. Absent—Terrell.

The pending business went to the table.

Senator Grace, chairman of committee on enrolled bills, submitted the following report :

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed the following bills:

Senate bill No. 179, entitled "An act to define in what civil cases depositions of witnesses may be taken;"

Senate bill No. 300, entitled "An act to establish a state normal school," and at 9:35 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

On motion of Senator Duncan, Senator Lair was excused indefinitely from 12 M. to-morrow.

The president, after publicly reading its caption, signed House joint resolution No. 64, "Granting to Hon. Gustave Cook, of the criminal district court of Galveston and Harris counties, thirty days leave of absence from the state," etc.

The senate was announced full, when the reconsideration of Senator Guy's motion to reconsider was resumed.

The motion to reconsider was lost by the following vote:

YEAS.		
Brown,	Homan,	Shannon,
Burton,	Martin,	Swain,
Grace,	Motley,	Tilson—11.
Guy,	Patton,	

NAYS.

Buchanan,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,

Hobby,
Houston,
Lane,
Lair,
Ledbetter,
McCulloch,

Moore,
Ripetoe,
Stewart,
Storey,
Terrell—17.

Senator Stewart, chairman judiciary committee No. 2 (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have considered Senate bill No. 350, with House amendment, entitled "An act to amend article 1173 of the Revised Civil Statutes, passed by the Sixteenth Legislature," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend that the bill, as amended, do pass.

STEWART, *Chairman.*

On motion of Senator Guy, the amendments of the House to this bill were concurred in.

Senator Stewart called up Senate joint resolution No. 9, which is as follows:

JOINT RESOLUTION AMENDING SECTION 11 OF ARTICLE I OF THE CONSTITUTION OF THE STATE OF TEXAS.

SECTION 1. *Be it resolved by the Legislature of the State of Texas,* That section 11 of article 1 of the constitution of the State of Texas be so amended as to read as follows, viz:

"All prisoners shall be bailable by sufficient sureties except those who may be charged with felonious homicide, or any capital felony, and where the proof is evident, in which cases no bail shall be allowed, unless it be shown that the state has, after indictment found, twice continued the case, and then bail may be allowed if the judge or court to whom application has been made shall deem it proper to grant it; but this provision shall not be so construed as to prevent bail in cases other than those of felonious homicide or capital felony after indictment upon examination of the evidence in such manner as may be prescribed by law."

(Senator Hobby in the chair.)

The previous question was moved.

Motion seconded and main question ordered.

The pending resolution was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,

Martin,
McCulloch,
Moore,
Motley,
Ripetoe,
Stewart,
Shannon—22.

NAYS.

Ledbetter,
Patton,

Storey,
Swain,

Terrell,
Tilson—6.

Senator Shannon called up House bill No. 358, entitled "An act to provide for the publication of notices of judicial sales in certain cases," which was read first time.

On motion of Senator Shannon, the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,
Ford,
Gooch,
Hobby,

Homan,
Lane,
Lair,
Ledbetter,
Martin,
Moore,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS.

Edwards,
Not voting—Guy, McCulloch.
Bill read second time.

Grace,

Houston—3.

On motion of Senator Patton, the bill was postponed until to-morrow.

House substitute for Senate joint resolutions Nos. 102 and 5, "proposing an amendment to article 5 of the state constitution," was taken up.

Senator Edwards offered a substitute for the resolution.

The pending substitute of Senator Edwards was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Grace,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAYS—none.

Not voting—Duncan, Guy.

On motion of Senator Lair, Senator Duncan was excused indefinitely on account of sickness in his family.

Senator Brown, chairman of committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate substitute for House bill No. 492, entitled "An act to provide for the sale of the alternate sections of land set apart and appropriated for the support of the public schools;"

Senate bill No. 345, entitled "An act to provide for the printing, binding and distribution of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, adopted and established at the present session of the Legislature;"

Senate bill No. 392, entitled "An act to amend an act entitled 'an act to amend article 4257 of the Revised Civil Statutes, passed at the present session of the Legislature,'" and herewith return them correctly engrossed.

BROWN, *Chairman.*

House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising and for the protection of stockraisers, approved August 23, 1876,'" was taken up and passed by the following vote:

YEAS.

Brown,
Burnett,
Edwards,
Gooch,
Guy,
Hobby,

Homan,
Lane,
Lair,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Storey,
Terrell—17.

NAYS.

Burton,
Ford,

Grace,
Houston,

Martin,
Shannon—6.

Not voting—Buchanan, Duncan, Ledbetter, Swain, Tilson.

Senator Houston called up House bill No. 437, entitled "An act prescribing the number of hours per day in which employes in the departments of the state government shall labor," which was read second time and passed to a third reading.

The consideration of the substitute for House substitute for Senate joint resolutions Nos. 5 and 102 was resumed.

Senator Gooch offered the following amendment:

Line twenty-three, page 2: in section 2 of this bill relating to section twenty-two, strike out the words "of the county courts and."

Adopted.

Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Lane, Ledbetter, Martin, Moore, Swain, Tilson.

Pending business went to the table.

(Senator Houston in the chair.)

House bill No. 497, entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature," was taken up, read second time and passed to a third reading.

Senator Hobby moved to suspend the rules and place bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS—none.

Not voting—Duncan, Grace, Moore, Motley, Patton.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Ford,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Burton, Duncan, McCulloch.

House bill No. 125, entitled "An act providing for the issuance of bonds for the investment of the proceeds arising from the sale of the county school lands and to direct how the money so obtained shall be used," was taken up.

The Senate was announced full and the consideration of substitute for House substitute for Senate joint resolutions No. 102 and 5, was resumed.

The substitute as amended was adopted as an amendment to the constitution by the following vote:

YEAS.		
Brown,	Homan,	Motley,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Duncan,	Lair,	Stewart,
Edwards,	Ledbetter,	Shannon,
Ford,	Martin,	Storey,
Gooch,	McCulloch,	Terrell,
Grace,	Moore,	Tilson—25.
Hobby,		

NAYS—none.

Not voting—Swain.

Senators Burton and Guy were excused from voting on this resolution.

Senators Stewart, Lane and Duncan gave notice of spreading reasons on the journal for their vote just cast.

(President in the chair.)

The president, after publicly reading their captions, signed the following bills:

Senate bill No. 350, entitled "An act to amend article 1173 of the Revised Civil Statutes passed by the Sixteenth Legislature;"

Senate bill No. 118, entitled "An act extending the lien for rents to owners of residences, store houses and other buildings;"

And Senate bill No. 179, entitled "An act to define in what civil cases depositions of witnesses may be taken."

Senator Martin, from special committee, submitted the following report:

Hon. J. D. Sayers, President of the Senate, and Hon. J. H. Cochran, Speaker of the House:

Your joint committee appointed to investigate the subject of forgeries of land titles in this state, instruct me to report that they have been engaged for several weeks in examining witnesses and documents at such times as the Senate and House were not holding their sessions; they find that it has been impossible to gain anything like a full knowledge of the operations in fraudulent land titles; that the evidence had before your committee develops the fact that there has, for several years past, been a combination of forgers operating in this state, and that their work affects the titles of hundreds of thousands of acres of land in the state; that owing to the limited time in which your committee has had to pursue these investigations, it is impossible to make a report that would furnish in detail the information sought to be obtained by its appointment. Much testimony has been taken and numerous documents and paper files have been examined, but the time has only been sufficient to ferret out the facts connected with a few of the fraudulent transactions indicated in the testimony taken before your committee; and it has, there-

fore, been determined by the committee that it would be advisable not to attempt a detailed report of the developments made, the more so because it would be improper to make a public report of many facts contained in the evidence.

Your committee recommend the passage of House bill No. 506 and Senate bill No. 271. They also recommend that a new committee be appointed to continue the labors commenced by the present committee, and, to that end, recommend the adoption of the accompanying joint resolution.

Your committee further recommend that the volume of testimony taken by this committee be delivered into the hands of the committee to be appointed and that this committee be discharged.

MARTIN,
Chairman Senate Committee.
 HOMAN,
 LANE,
 BUCHANAN,
 DUNCAN.
 FROST,
Chairman House Committee.
 PICKETT,
 BAKER,
 FOSTER,
 JOHNSON.

The committee, with this report, submitted the following joint resolution:

“Authorizing the appointment of a committee to sit during the vacation of the Legislature to continue the investigation of land forgeries, and prescribing their powers and duties.”

The resolution accompanying the report was read first time.

The rules were suspended and resolution placed on its second reading by the following vote:

YEAS.		
Brown,	Gooch,	Ledbetter,
Buchanan.	Guy,	Martin,
Burnett,	Hobby,	Motley,
Burton,	Homan,	Ripetoe,
Duncan,	Houston,	Stewart,
Edwards,	Lane,	Shannon,
Ford,	Lair,	Storey--21.
NAYS.		
Patton,	Terrell,	Tilson--4.
Swain,		

Not voting—Grace, McCulloch, Moore.

Resolution read second time.

Senator Martin offered the following resolution:

Amend by filling blank with “five dollars.”

Adopted and resolution ordered engrossed.

Senator Houston moved to further suspend the rules and place the resolution on its third reading.

Carried by the following vote:

YEAS.		
Brown,	Burnett,	Edwards,
Buchanan,	Burton,	Ford,

Gooch,
Grace,
Guy,
Homan,
Houston,
Lair,

Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Ripetoe,
Stewart,
Shannon,
Storey,
Terrell--22.

NAYS.

Patton,
Not voting—Duncan, Hobby, Lane.

Swain,

Tilson--3.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Ford,
Gooch,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Motley,
Stewart,
Shannon,
Storey,
Terrell--21.

NAYS.

Grace,
Guy,

Patton,
Ripetoe,

Swain,
Tilson--6.

Not voting—Burton.

Senator McCulloch moved to adjourn until 8 o'clock to-night, as to-day is the anniversary of the battle of San Jacinto, and a legal holiday.

Lost by the following vote:

YEAS.

Buchanan,
Ford,

McCulloch,
Patton,

Swain,
Terrell--6.

NAYS.

Brown,
Burnett,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
Moore,
Motley,
Ripetoe,
Stewart,
Tilson--18.

Not voting—Burton, Hobby, Shannon, Storey.

The following message was received from the House:

House adheres to its amendments to Senate bill No. 90, "An act for the suppression of lawlessness and crime," and that Messrs. Collins, Pickett and Linn have been appointed a committee of conference with powers of free conference upon part of the House to meet a like committee upon part of the Senate.

Senator Lane, from the conference committee on Senate bill No. 90, submitted the following report:

Hon. J. D. Sayers, President of the Senate, and John H. Cochran, Speaker of the House of Representatives:

Your committee of conference with powers of free conference have had under consideration the difference between the Senate and House upon Senate bill No. 90, entitled "An act to suppress lawlessness and crime, and to organize a force for that purpose," and do recommend that the House do recede from its amendment, and that said bill be amended by the addition of the following section, No. 8, to wit:

"Section 8. That the officers and members of all military companies organized for the protection of the frontier or for the suppression of

lawlessness and crime in this state, shall receive pay for services in accordance with the rate established by section 4 of this act."

And amend further by numbering section 8 in the original bill section No. 9:

LANE,
TERRELL,
MOTLEY,

Committee for Senate.

COLLINS,
PICKETT,
LINN,

Committee for House.

On motion of Senator Houston, the report was adopted.

Senator Shannon, chairman of the committee on internal improvements, (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 83, entitled "An act declaring the minimum amount of the capital stock of railway companies hereafter chartered by special act of the Legislature of this state, and Senate bill No. 344, entitled "An act for the relief of the Sabine Pass and Northwestern Railway Company," herewith return the same to the Senate and respectfully ask to be discharged from their further consideration.

SHANNON, *Chairman.*

Senator Brown moved to take up the motion of Senator Stewart to reconsider the vote passing Senate bill No. 392, entitled "An act to amend an act entitled 'an act to amend article 4257 of the Revised Civil Statutes,' passed at the present session of the Legislature."

Senator Homan moved the previous question on the motion to reconsider.

Motion seconded and main question ordered.

The motion to reconsider was lost by the following vote :

YEAS.

Burton,
Ford,
Hobby,

Houston,
Ledbetter,
Patton,

Stewart,
Storey,
Tilson--9.

NAYS.

Brown,
Buchanan,
Burnett,
Duncan,
Edwards,
Gooch,

Grace,
Guy,
Homan,
Lane,
Lair,
Martin,

Moore,
Ripetoe,
Shannon,
Swain,
Terrell--17.

Not voting—McCulloch, Motley.

Senator Storey, chairman of committee on finance (by leave), submitted the following report :

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration the memorial of the mayor of Galveston, asking that the state reimburse the city of Galveston the sum of \$28,623 09 as the amount paid out by that city for expenses of quarantine during the years 1870 and down to the fifteenth day of February, 1877; \$19,000 of this sum is claimed for the pay of the health officer and \$9623 09 for other expenses.

The law under which this claim is made was approved June 10, 1870, and requires towns and cities to keep up a quarantine when the governor

shall so direct in a proclamation issued for that purpose. This law also requires that the town or city shall collect certain fines, fees and penalties, and at the end of the quarantine declared by the governor they shall make a succinct statement of receipts and expenditures, and forward the same to the comptroller, and the state shall pay the excess of expenditures over receipts, if any. It seems that no report was made by Galveston for the years 1870, 1871 and 1872, and now in this memorial for the first time the city presents her claim for \$12,265 94 as the total sum expended by the city for quarantine purposes during those years, without giving any account whatever of the sums collected as fines, fees, etc., authorized and required by the law to be collected.

The committee cannot presume that the city collected no fees, fines and penalties required by law. On the contrary we conclude that it is more probable that the officials did their duty in that respect, and the expenses were all paid out of the fines and fees authorized by law to be collected.

Again we find that this memorial claims as expenses for 1873, \$1291 23, and as salary of quarantine officer \$3300, while the records of the comptroller's office show that the city of Galveston presented its claim at the proper time to that office for \$3868, which included \$1200 as the salary of the health officer and \$226 expenses to New York to attend health association. This account was approved by the auditorial board and paid, except the item for \$226, which was rejected. On this claim Galveston received from the state \$2307 23 and from fines, fees, etc, \$1334 23.

For the year 1874, this memorial claims for expenses of quarantine \$1690 85 and for salary of health officer \$3600, while the records of the comptroller's office show that the claim presented to that office at the proper time was for \$2190 85, all of which was approved by the auditorial board and paid by the state, except an item of \$80, expenses of quarantine officer to Austin, which was rejected.

For the year 1875 this memorial claims as the balance over and above receipts \$2251 15, as expenses and salary of health officer \$3600, whereas the records of the comptroller's office show that the city for that year claimed \$2671 15, of which Governor Coke approved only \$2251 15, which was paid by the state.

For the year 1876 this memorial claims as expenses a balance of \$3083, and for salary of health officer \$3600, while the claim presented to the comptroller was for only \$3083, of which Governor Coke only allowed \$2100, and which was paid by the state.

We find for the years 1875 and 1876 the city of Galveston kept up the quarantine for some time after the expiration of the time named in the proclamation of the governor, and the expenses for that time was rejected by the governor.

For January and to the 15th day of February, 1877, this memorial claims as expenses \$559, and for salary of health officer in this language: "for January and to February 15, 1877, one and one-half months at \$2000 per year \$250," whereas the records of the comptroller's office for the entire year 1877 shows the amount claimed and paid for that year was for expenses \$1890, and salary of the health officer \$3000. The itemized account presented in this memorial, under the seal of the city and official signature of the city clerk, shows that the salary of the health officer for that year was only \$2000, whereas the account presented by the city at the time and paid by the state was for the health officer

\$3000, or \$1000 more than the city was entitled to for that year, even if the state was liable for the full year's salary.

The memorial asks nothing for the year 1878; but upon an investigation of this matter we find that the claim presented against the state for that year by Galveston was approved and paid, the amount being \$5590, of which \$3000 was for the salary of the health officer. We are not advised whether or not that any ordinance of the city had been passed raising the salary of the health officer from \$2000 in 1877 to \$3000 in 1878. And if no such change was made we fear the same mistake was made by the city in 1878 that she did in 1877. That is to claim and get \$3000 per annum instead of \$2000, which seems to be the real annual salary of that officer.

We further find that the city claims and have sometimes collected the full annual salary, whereas under the act of 1870 it was never contemplated that the state should pay no expenses or salary except for the time the quarantine was kept up under the proclamation of the governor and the committee, and borne out in this construction of the law by the official acts of Governor Coke on some of these very accounts for the years 1875 and 1876, where it is seen he rejected claims for expenditures made after the expiration of the time for which the governor declared the quarantine.

We further report that these neglected claims are found in the itemized accounts presented to the Legislature in this memorial.

Believing that Galveston has already received more from the state, for quarantine purposes for the years 1870 to 1878, both inclusive, than she was entitled to, I am instructed by a unanimous vote of the committee, to return the memorial to the Senate with the recommendation that the relief prayed for be not granted.

STOREY, *Chairman.*

On motion of Senator Lair, the report of the committee last read was adopted.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have compared and find correctly enrolled and properly signed Senate bill No. 118, "An act to amend title 58 of the Revised Civil Statutes of the State of Texas," passed February 21, 1879; Senate bill No. 128, "An act to prevent the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal the property of another, without his consent;" Senate bill No. 350, "An act to amend article 1173 of the Revised Civil Statutes passed by the Sixteenth Legislature," and at 11:45 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Ford moved to adjourn until 8 o'clock to-night in honor of and out of respect for the day, which is the forty-third anniversary of the battle of San Jacinto, the great victory which secured Texan independence, sustaining his motion with forcible and patriotic remarks.

The motion carried by the following vote:

YEAS:

Buchanan,
Burnett,
Duncan,
Ford,
Gooch,
Grace,

Guy,
Ledbetter,
Martin,
McCulloch
Motley,
Patton,

Ripetoe,
Shannon,
Swain,
Terrell,
Tilson—17.

NAYS.

Burton,
Edwards,
Hobby,
Homan,
Not voting—Brown.

Houston,
Lane,
Lair,

Moore,
Stewart,
Storey---10.

NIGHT SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

A quorum soon appeared and the Senate proceeded to business.

A message was received from the House announcing the passage by that body of Senate bill No. 252, entitled "An act to amend chapter 2 of title 15, and chapter 1 of title 16 in the Code of Criminal Procedure of an act entitled 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas;'"

House bill No. 220, entitled "An act concerning depositions upon oral interrogatories and the mode and manner of taking the same;"

House adopted the report of the free conference committee on the differences of the two houses, arising on the House amendments to Senate bill No. 130, the same being the general appropriation bill;

House refused to adopt the report of the free conference committee on the deficiency appropriation bill, asks for another committee of free conference, and that Messrs. Coleman, Gause, Collins, McComb and Reeves have been appointed such free conference committee upon part of the House; and that the House has adopted the report of the free conference committee on the disagreements between the two houses, arising from House amendments to Senate bill No. 90, "An act for the suppression of lawlessness and crime."

Senator Tilson, chairman of committee on counties and county boundaries (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on county and county boundaries have had under consideration House bill No. 336, substitute for Senate bill No. 320, "An act establishing and prescribing the manner of ascertaining the boundaries of counties," and I am instructed by a majority of said committee to report said bills back to the Senate and recommend the passage of the substitute with an amendment.

TILSON, *Chairman.*

Senator Storey called up the bill just reported, which was taken up and read first time.

Senate Storey moved that the rules be suspended and bill placed upon its second reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards.
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
Moore,

Motley,
Patton,
Shannon,
Storey,
Swain,
Terrell,
Tilson---22.

NAYS—NONE.

Not voting—Brown, Gooch, Lair, McCulloch, Ripetoe, Stewart.
Bill read second time.

The report of the committee "That House bill No. 336 be substituted for the Senate bill No. 320," mentioned in their report just made, with the following amendment, to wit: Section 4, line two, after the word "thereof" insert the following: "To be sent to the county courts of the counties interested in such boundary," was adopted and bill passed to a third reading.

The rules were further suspended, and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	Moore,	Terrell,
Gooch,	Motley,	Tilson--23.
Grace,	Patton,	

NAYS—none.

Not voting—Buchanan, Guy, Hobby, Homan, McCulloch.
Bill read third time and passed by the following vote:

YEAS.		
Brown,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Grace,	Moore,	Terrell,
Guy,	Motley,	Tilson—23.
Homan,	Patton,	

NAYS—none.

Not voting—Buchanan, Ford, Gooch, Hobby, McCulloch.

The president, after publicly reading the captions, signed House bill No. 414, entitled "An act amending and supplementing articles 4662 and 4668, both inclusive, of chapter 1, title 94 of the Revised Civil Statutes, adopted February 21, 1879;"

House bill No. 497, entitled "An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature;"

House bill No. 445, entitled "An act to provide for the assessment and collection of the taxes on land and other property situated in unorganized counties, and for the enforcement of the same;"

Substitute for House bill No. 438, entitled "An act to authorize Messrs. Cunningham & Ellis to sue the state;"

House bill No. 359, entitled "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the places where sentenced to the penitentiary."

Senators Shannon, Edwards, Storey, Lane and Stewart were appointed a committee on free conference, on the differences of the two Houses on House bill 412, the deficiency bill.

A message was received from the House announcing the passage of Senate bill No. 159, entitled "An act to prescribe the requisites of indictments in certain cases;" and that the House has adopted the report of the conference committee on the matters of difference between the House

and Senate on House bill No. 33 and Senate substitute therefor, known as county tax collector's bill.

Senator Storey, chairman of committee on finance (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration substitute for Senate bill No 123, "An act to amend article 4759 of the Revised Civil Statutes of the State of Texas," with amendments by the House, and I am instructed to report the bill with the recommendation that the Senate concur in the House amendments thereto. STOREY, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration House bill No. 121, "An act to ascertain the amount due teachers for services rendered in the public schools from September 1, 1873, to August 31, 1876, and to provide for the payment of the same," and I am instructed to report the bill back to the Senate with the recommendation that the same do pass. STOREY, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee on finance have had under consideration House bill No. 422, "An act to provide for the assessment and collection of taxes on lands that have not been rendered for assessment and taxation from the year 1871 to 1876, and repealing an act to enforce collection of delinquent taxes on lands assessed since January, 1870," and I am instructed by the committee to report the bill back to the Senate with the recommendation that the same do pass. STOREY, Chairman.

Senate bill No. 252, entitled "An act to amend chapter 2 of title 15, and chapter 1 of title 16 in the Code of Criminal Procedure of an act entitled 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,'" was taken up and House amendments concurred in.

House bill No 220, received from the House to-night, was taken up and referred to judiciary committee No. 2.

Substitute for House bill No. 401, entitled "An act amending article 352 of title 17, chapter 2; article 357 of chapter 3, and article 474 of chapter 10 of the Revised Civil Statutes," passed February, 1879, with adverse report of committee.

Report of committee adopted and bill lost.

House bill No. 125, entitled "An act providing for the issuance of bonds for the investment of the proceeds arising from the sale of county school lands, and to direct how the money so obtained shall be used," was taken up, and on motion of Senator Ledbetter, was indefinitely postponed.

House bill No. 422, entitled "An act to provide for the assessment and collection of taxes on lands that have not been rendered for assessment and taxation from the year 1871 to 1876, and repealing an act to enforce collection of delinquent taxes on land issued since January, 1870," was taken up and read first time.

Senator Ledbetter moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,

Burnett,
Burton,

Edwards,
Ford,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Moore,
Motley,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson---25.

NAYS—none.

Not voting—Duncan, Gooch, Grace.

Bill read second time and passed to a third reading.

The rules were further suspended to place the bill on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Guy,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Not voting—Duncan, Gooch, Grace.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—24.

NAYS—none.

Not voting—Duncan, Gooch, Grace, Storey.

Senator Storey called up House bill No. 121, entitled "An act to ascertain the amount due teachers for services rendered in the public schools from September 1, 1873, to August 31, 1878, and to provide for the payment of the same," which was read first time.

Senator Storey moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCulloch,
Moore,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--24.

NAYS—none.

Not voting—Duncan, Gooch, Lair, Patton.

Bill read second time and passed to a third reading.

(Senator Houston in the chair.)

The rules were still further suspended and bill placed on its third reading by the following vote:

YEAS.		
Brown,	Homan,	Motley,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Edwards,	Ledbetter,	Storey,
Ford,	Martin,	Swain,
Grace,	McCulloch,	Terrell,
Guy,	Moore,	Tilson--25.
Hobby,		

NAYS—none.

Not voting—Duncan, Gooch, Patton.

Bill read third time and passed by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Buchanan,	Homan,	Motley,
Burnett,	Houston,	Ripetoe.
Burton,	Lane,	Stewart,
Duncan,	Lair,	Shannon,
Ford,	Ledbetter,	Storey,
Grace,	Martin,	Terrell,
Guy,	McCulloch,	Tilson—24.

NAYS—Edwards.

Not voting—Gooch, Patton, Swain.

Senator Swain called up Senate joint resolution No. 347, "for the appointment of a commission of three to investigate and report upon invasions from Mexico," which was read second time and lost.

Senator Tilson called up Senate bill No. 383, entitled "An act regulating contracts for labor and affixing a penalty for a violation thereof," which was read first time.

On motion of Senator Shannon the bill was indefinitely postponed.

Senator Brown called up Senate bill No. 200, entitled "An act to validate certain land certificates," which was read second time and on motion of Senator Ford was postponed until to-morrow at 10 o'clock A. M.

The following message was received from the House:

I am instructed to inform your honorable body that the House has passed the following resolution:

Resolved by the Senate and House of Representatives, That the president of the Senate and speaker of the House of Representatives be authorized to close the present session by adjourning their respective houses sine die on Thursday, the twenty-fourth day of April, 1879, at 12 o'clock M.

The following messages were received from his excellency the governor, which were taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, {
AUSTIN, April 21, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment of notary public:

Isaac H. Julian, of Hays county.

Respectfully,

O. M. ROBERTS, Governor.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 21, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment:

H. Fyke, to be notary public in Panola county, in place of H. Fykes, sent in by mistake. Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 21, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment of notary public:

D. A. Griffin, of Hill county.

Respectfully, O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 21, 1879. }

To the honorable Senate and House of Representatives of the State of Texas, in session assembled:

GENTLEMEN—I herewith transmit to you for your consideration a communication from the commissioner of the general land office, accompanied by a copy of a writ of injunction issued from the circuit court of the United States, at Austin, Texas, restraining him from issuing patents to lands in a large tract of country, alleged to have been embraced in the territory of Mercer's colony, predicated upon a suit instituted in said court asserting some sort of claim or right to lands in said colony limits. It appears that said claim relates to lands in a large number of counties in Northern Texas, to wit: Limestone, McLennan, Freestone, Anderson, Henderson, Van Zandt, Rains, Hopkins, Hunt, Collin, Rockwall, Kaufman, Ellis, Johnson, Somervell, Hill and Navarro, in which it appears that there are still vacant lands estimated to amount to twenty-three thousand acres.

The Legislature being in session, and this being a matter of grave importance, on account of the subject involved as well as the power assumed to be exercised, I have deemed it proper to call your attention to it. That there was a Mercer's colony in connection with and adjoining to Peters' colony, and that there have been laws passed and other proceedings in relation thereto, is well known in the history of this state. It has long been thought to be a claim determined, adjudicated or obsolete, and has passed out of public notice. This suit and the action of the federal court in relation to it gives it an importance and dignity not heretofore for a long time past anticipated in reference to it. A decent respect for this adjudication should demand a careful investigation of the claim set up to an interest of some sort in so large a territory of the state. Upon examining into it, should the Legislature deem it proper to do so, it may be found that legislation of some sort may be necessary. From the very recent period during which my attention has been called to the matter, I am not able to say what in the way of legislation should be done in regard to it.

In regard to the power sought to be exercised by the federal circuit court in issuing of this writ of injunction restraining one of the heads of the executive department from the performance of his official duties, I

have this to say, that while I do not believe any such power exists under the constitution and laws of this state, there is a precedent for it in the case of Davis vs. Gray, decided by the supreme court of the United States, founded upon what that court regarded to be the laws of this state as recognized and decreed by the supreme court of this state. It is proper also to state that there has been a difference of opinion amongst the judges of the supreme court as to the exercise of this right. The exercise of this right by the judges of the circuit court of the United States holding court in this state in a matter of this kind stands upon the same footing as to his legal authority as though it was attempted to be exercised by the district judge of Travis county in our own state court.

In order to settle any conflict of decision, and to define the law by an express declaration of it by the Legislature of this state, I respectfully recommend that even at this late day of the session a bill be introduced and passed into a law prohibiting any court in this state from issuing or enforcing any such writ as that herein described.

I do this under a thorough conviction—after the most thorough investigation of the subject for years past, that I am capable of giving any subject that it would be right to pass such a law, thereby confirming each department of the government to the exercise of its own appropriate official duties, without any direction, control or interference in the discharge of them by any officer of another department of the government.

O. M. ROBERTS, *Governor.*

GENERAL LAND OFFICE,
AUSTIN, April 21, 1879. }

To His Excellency O. M. Roberts, Governor of the State of Texas.

SIR—I have the honor to transmit herewith a copy of injunction this day served on me. As I know of no law authorizing a federal or other court to direct the action of an executive officer of a state in the discharge of his duties under the laws of the state, I respectfully forward this copy for your consideration and advice.

I have the honor to be yours respectfully,

(Signed)

W. C. WALSH, *Commissioner.*

In the Circuit Court of the United States, for the Fifth Circuit and District of Western Texas, at Austin.

GEORGE HANCOCK,

vs.

J. J. GROOS, *Commissioner, etc.*

{ In Equity.
No. 98.

The president of the United States to W. C. Walsh, commissioner of the General Land Office of the State of Texas, his clerks, draftsmen, subordinates, agents, servants and employes, and all his successors, and all officers or agents subordinate to him or to any of his successors in office, or under the direction, supervision, or control of him or any of his successors or successors in office, Greeting:

Whereas, George Hancock, complainant, hath lately exhibited his bill of complaint in the circuit court of the United States for the fifth circuit and western district of Texas, at Austin, which said bill hath been revived in the name of William Preston against you, the said William C. Walsh, praying relief touching the matters therein mentioned; and whereas, by an order of said circuit court, made in said cause on the

day of April, A. D. 1879, it was ordered that an injunction should issue, under the seal of said court, to restrain you, and each of you, from issuing or delivering, or causing to be issued or delivered, or permitting to be issued or delivered to any person or persons or corporation, any plat or plats, certificate or certificates, or patent or patents for any land or lands within the boundaries of Mercer's colony, as set forth in the bill of complaint and the exhibits therewith filed and therewith defined, and from any further interference with or infringement of the land grant or land reservation known as Mercer's colony, and from doing or causing to be done any act or thing whereby there may issue any patent, certificate, plat or grant of any lands within the boundaries of Mercer's colony, as defined and set forth in the said bill of complaint and exhibits therewith filed, and as set forth in the contract made on the twenty-ninth of January, 1844, by and between the Republic of Texas, by Sam Houston, president thereof, and Charles Fenton Mercer, filed therein; whereof the original is on file in the office of the secretary of state of the State of Texas, and a copy is on file in the office of the commissioner of the general land office of the State of Texas, except to the complainant, William Preston, until the final hearing of the said cause.

Now, therefore, we do strict command you and each of you, the said W. C. Walsh, commissioner of the general land office of the State of Texas, your clerks, draftsmen, subordinates, agents and employes, and all your successors in office, and all their clerks, draftsmen, subordinates, agents, servants and employes, and officers and agents subordinate to or under the direction, supervision or control of you or of any successor or successors in office of you, under the pains and penalties which may fall upon you and each of you in case of disobedience, that you forthwith and until the final hearing of said cause, do refrain and desist from issuing or delivering, or causing to be issued or delivered, or permitting to be issued or delivered to any person or persons or corporation, any plat or plats, certificate or certificates, patent or patents, for any land or lands within the boundaries of Mercer's colony as set forth in the bill of complaint and the exhibits therewith filed and therein defined, and from any further interference with or infringement of the land known as Mercer's colony, and from doing or causing to be done any act or thing whereby there may issue any patent, certificate, plat, or grant of any lands within the boundaries of said Mercer's colony as defined and set forth in the said bill of complaint and exhibits therewith filed, and as set forth in the copy of the contract made on the twenty-ninth of January, 1844, by and between the Republic of Texas, by Sam Houston, president thereof, and Charles Fenton Mercer, filed in said cause, whereof the original is on file in the office of the secretary of state of the State of Texas, and a copy is on file in the office of the commissioner of the general land office of the State of Texas, except to the complainant William Preston, until the final hearing of the said cause.

Witness the honorable Morrison R. Waite, chief justice of the supreme court of the United States at the city of Austin, Texas, this twenty-first day of April, A. D. 1879.

M. HOPKINS, *Clerk.*

Senator Grace called up Senate bill No. 389, entitled "An act to make an appropriation to erect an addition to the supreme court building," which was read and ordered engrossed by the following vote:

YEAS.

Buchanan,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,

Ledbetter,
McCulloch,
Patton,
Storey,
Terrell--16.

NAYS.

Brown,
Burnett,
Burton,
Homan,

Martin,
Moore,
Motley,
Ripetoe,

Shannon,
Swain,
Tilson--11.

Not voting—Stewart.

Senator Grace moved to suspend the rules to place the bill on its third reading.

Lost by the following vote:

YEAS.

Brown,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Lane,
Lair,

Martin,
McCulloch,
Storey,
Swain,
Terrell--16.

NAYS.

Burnett,
Burton,
Moore,

Motley,
Patton,
Ripetoe,

Shannon,
Tilson--8.

Not voting—Buchanan, Houston, Ledbetter, Stewart.

Senator Swain entered a motion to reconsider the vote by which Senate joint resolution No. 347 was lost.

Senator Burton called up Senate bill No. 357, entitled "An act to amend article 4544, title 92, of the Revised Civil Code," which was read second time and ordered engrossed.

On motion of Senator Edwards, the rules were suspended to place the bill on its third reading, by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
Moore,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--24.

NAYS—Duncan.

Not voting—Gooch, Grace, McCulloch.

The bill was then read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Edwards,
Ford,
Grace,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
Martin,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Storey,
Terrell--19.

NAYS.

Duncan,
Homan,

Houston,

Tilson--4.

Not voting—Buchanan, Gooch, McCulloch, Shannon, Swain.
(President in the chair.)

On motion of Senator Gooch the Senate took a recess till called to order by the president.

The Senate was called to order, and on motion of Senator Hobby, adjourned until to-morrow morning at 9:30 o'clock.

EIGHTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, April 22, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Burton, the reading of the journals of yesterday was dispensed with and the same adopted.

The president took up House bill No. 159, entitled "An act to amend article 2671 of the Revised Civil Statutes, passed at the present session of the Legislature," and referred it to judiciary committee No. 2.

A message was received from the House announcing the passage by that body of Senate bill No. 271, entitled "An act to amend article 3193 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" with amendments; and that the House concurs in Senate amendments to House bill No. 99, entitled "An act to amend section 46 of an act to encourage stockraising and for the protection of stockraisers;"

Also, House concurs in Senate amendments to House bill No. 336, entitled "An act establishing and prescribing the manner of ascertaining the boundaries of counties;" and requests of the Senate a copy of Senate bill No. 343, entitled "An act concerning railroad reservations," the bill having been abstracted from the House.

House bill No. 437, entitled "An act prescribing the number of hours per day that employes of the government shall labor," was taken up and read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Gooch,
Grace,
Guy,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

Motley,
Stewart,
Shannon,
Storey,
Tilson—15.

NAYS.

Burton,
Homan,
McCulloch,

Patton,
Ripetoe,

Swain,
Terrell—7.

Not voting—Brown, Duncan, Edwards, Ford, Hobby, Moore.

Senator Patton called up House bill No. 358, entitled "An act to provide for the publication of judicial sales in certain cases," which was read second time.

Senator Patton offered the following amendment:

In section 1 insert between the words "whenever" and "property" the word "real;" also in same section, strike out the following words: "If it be real property, and two consecutive weeks if it be personal property;" also in same section, strike out these words, viz: "If it be land."

Adopted and bill passed to a third reading.

Senator Patton moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.		
Brown,	Lair,	Stewart,
Buchanan,	Ledbetter,	Shannon,
Burnett,	Martin,	Storey,
Gooch,	McCulloch,	Swain,
Guy,	Motley,	Terrell,
Hobby,	Patton,	Tilson—19.
Homan,		

NAYS.		
Edwards,	Houston,	Lane--4.
Grace,		

Not voting—Duncan, Ford, Moore, Ripetoe.

Bill read third time and passed by the following vote:

YEAS.		
Buchanan,	Lair,	Shannon,
Burnett,	Ledbetter,	Storey,
Gooch,	Martin,	Swain,
Guy,	McCulloch,	Terrell,
Hobby,	Patton,	Tilson—17.
Homan,	Stewart,	

NAYS.		
Burton,	Grace,	Motley,
Edwards,	Houston,	Ripetoe--8.
Ford,	Lane,	

Not voting—Brown, Moore.

Senator Brown moved that the president appoint a committee to authenticate and reproduce Senate bill (No. 343) just reported from the House of Representatives as having been abstracted from that body.

Adopted, and the president appointed on said committee Senators Brown, Homan and Patton.

The president took up and referred Senate bill No. 271, just reported from the Senate with amendments, and referred it to judiciary committee No. 1.

A message was received from the House announcing the passage by that body of Senate bill No. 292, entitled "An act to authorize the construction of a ship channel from Corpus Christi across Mustang island, and to donate land for the same," with amendments.

The president took up the bill just reported from the House and referred it to the committee on internal improvements.

Senator Brown moved that the committee appointed to substitute Senate bill No. 343, reported lost in the House, be discharged, as the bill had been found in the House.

Adopted and committee discharged.

(Senator Ledbetter in the chair.)

Senator Houston called up Senate bill No. 114, entitled "An act to provide for the payment of the outstanding indebtedness of the several counties in this state," which was read third time.

Senator Patton offered the following amendment:

In section 6, strike out "shall" before "levy" in both places where it occurs, and substitute therefor "may at their discretion."

Senator Gooch moved a call of the Senate.

Call sustained.

Roll called. Absent—Edwards, Grace, Lane, Moore, Stewart, Shannon, Storey.

The pending business went to the table.

The Senate was announced full, when the consideration of Senate bill No. 114 was resumed.

On motion of Senator Gooch, the bill was postponed until the evening session.

Senator Burnett called up Senate bill No. 361, entitled "An act to regulate the respective duties of district and county attorneys," approved August 21, 1876.

The roll being called, no quorum was present.

Senator Houston moved that the Senate take recess untill called to order by the president of the Senate, so as to enable the absent senators to remain on committee duty.

The Senate was called to order by the president.

Roll called; quorum present.

Senator Terrell, chairman of judiciary committee No. 1, submitted from said committee, to whom was referred the governor's message of yesterday, the following joint resolution:

"Joint resolution of the Legislature of Texas, requesting our senators and representatives in congress to urge the enactment of such laws as may be necessary to prevent the exercising jurisdiction by the courts of the United States in certain proceedings against municipal corporations in the several states and heads of departments in this state in the discharge of their executive functions," which was read first time.

The rules were suspended and resolution placed on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lair,
Martin,
McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS—none.

Not voting—Burton, Lane, Ledbetter, Moore.

Read second time.

Senator Terrell offered the following amendment:

The lateness in the session at which this resolution receives consideration, creates an imperative public necessity that the rule be suspended requiring this resolution to be read on three several days.

Adopted, and resolution ordered engrossed.

The rules were suspended and resolution placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,

Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,

Shannon,
Storey,
Swain,

Terrell,
Tilson—23.

NAYS—none.

Not voting—Brown, Burton, Lane, Moore.

Resolution read third time and passed.

Senator Terrell, chairman of judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have examined Senate bill No. 271, being a bill to amend article 3193 of Civil Code, in connection with the House amendments, and have instructed me to report the bill back with recommendation that the Senate concur in the House amendments.

TERRELL, *Chairman.*

On motion of Senator Terrell the report was adopted and House amendments concurred in.

The president, after publicly reading their captions, signed the following bills:

Senate bill No. 90, entitled "An act to suppress lawlessness and crime, and to organize a force for that purpose;"

Senate bill No. 123, entitled "An act to amend section 12 of an act entitled 'an act to enforce the collection of delinquent taxes on lands assessed since January, 1870,' approved August 19, 1876;"

And Senate bill No. 252, entitled "An act to amend chapter 2 of title 15 and chapter 1 of title 16 in the Code of Criminal Procedure for the State of Texas."

Senator Shannon, chairman of the committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements have had under consideration Senate bill No. 292, entitled "An act to authorize the construction of a ship channel from Corpus Christi across Mustang island, to donate land for the same," with the House amendments thereto, and recommend that the Senate do concur in said amendments.

SHANNON, *Chairman.*

On motion of Senator Lane, the report of the committee was adopted and House amendments concurred in.

Senator Terrell moved that the Senate go into executive session at 8:30 o'clock P. M.

Adopted.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully compared and find correctly enrolled and properly signed Senate bill No. 90, "An act to suppress lawlessness and crime and to organize a force for that purpose;" Senate bill No. 123, "An act to amend article 4759 of the Revised Civil Statutes of the State of Texas;" Senate bill No. 250, "An act to amend chapter 2 of title 15 and chapter 1 of title 16 in the Code of Criminal Procedure; of an act entitled 'an act to adopt and establish a Penal Code

and Code of Criminal Procedure for the State of Texas," and at 11 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 389, entitled "An act to make an appropriation to erect an addition to the supreme court building;" Senate bill No. 357, entitled "An act to amend article 4544, title 92, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed at the present session of the Legislature," and herewith return said bills correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Burnett, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

A message was received from the House announcing the passage by that body of the following bills, viz:

Senate bill No. 382, entitled "An act to change and define the times of holding the district courts in the fifth judicial district of the State of Texas," with amendments;

Senate bill No. 283, entitled "An act amendatory of and supplemental to chapter 3, title 78 of the Revised Civil Statutes of the State of Texas," adopted at the present session of the Sixteenth Legislature, with amendments;

Senate bill No. 348, entitled "An act to authorize and provide for the settlement of the matter in controversy between the State of Texas and the Texas and Pacific railway company in the suit brought by the State of Texas to forfeit the land grant of said company;"

Senate bill No. 332, entitled "An act for the better protection of harbors and ports of the State of Texas;"

Senate bill No. 330, entitled "An act to protect lands lying on or near county boundaries from double assessments;"

Senate bill No. 388, entitled "An act to attach the unorganized county of Runnels to the county of Coleman for surveying purposes;"

Senate bill No. 261, entitled "An act requiring the proceeds arising from the leasing or renting of county school lands, and from sales of timber thereon, to be applied exclusively to educational purposes;"

House bill No. 243, entitled "An act to attach the unorganized counties of Archer, Baylor, Hardeman, Knox, Wilbarger and Wichita to the organized county of Clay for judicial and other purposes;"

House bill No. 416, entitled "An act to authorize and require the commissioner of the general land office to issue a duplicate to the heirs or assigns of John Kuchiner, deceased."

Senator Shannon, chairman of the committee on free conference on the deficiency bill (House bill No. 412), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your second committee of free conference, appointed to meet a like committee of the House of Representatives to consider the disagreements between the two houses on Senate amendments to House bill No. 412, entitled "An act making appropriations for deficiencies beginning September 1, 1878, and ending February 28, 1879, and for previous years," have duly considered the same and respectfully submit the following report, viz:

That the House concur in Senate amendments Nos. 1, 3, 6, 7, 8, 12, 14, 17 and 18, and that the Senate recede from Senate amendments Nos. 15, 16 and 19, and that Senate amendment No. 2 be amended by striking out all after the word "proviso."

That Senate amendment No. 5 be amended by striking out "\$307 25" and inserting in lieu thereof "\$200 00."

That amendment No. 9 be amended by adding after the word "employes" the words "at other places than Galveston."

That amendment No. 10 be so amended as to read as follows: "For payment of services of detectives, attorneys, informers and prosecutors employed in the detection and prosecution of land forgers, \$10,000." This appropriation is placed under the control of the governor, to be used in settling finally, at his discretion, with attorneys, detectives, informers and prosecutors in said detection and prosecution, to be paid out on warrants drawn on the treasury, based upon the certificates of the governor, and no settlement shall be made by the governor except upon execution of a final receipt and release to the state by the party paid of claims accruing to himself, as above, against the state.

That amendment No. 11 be amended so as to read hereafter as follows: "For pay of teachers for public free schools, for services rendered prior to July 1, A. D. 1873, \$30,000. Warrants drawn on this item shall be payable at the option of the state on or before five years from the first day of July, 1879, and shall bear interest as prescribed by law."

That amendment No. 13 be amended by inserting after the word "vesting," the words "a perfect title to," and your committee recommend that said amendments, as amended, be adopted.

Your committee further recommend the addition of a new section to be section 2, as follows:

"Section 2. The warrants drawn under this appropriation act (except those in favor of school teachers) shall bear interest at the rate of four per cent. per annum from their date, and shall be made payable on or before five years from the first day of July, 1879; and the interest shall be paid annually at the treasury, and the payment endorsed on the warrant; *provided*, that the treasurer may pay said warrants (except those issued to teachers) in the order of their date and number, out of the proceeds of bonds issued to meet deficiencies in the revenue, or out of any money on hand in excess of the amount necessary to meet current expenses of the state government."

Change number of section 2 to section 3 and add:

"The fact that there is no appropriation to pay the claims herein stated, creates an emergency that requires that this act take effect at

once, and it is therefore enacted that this act take effect and be in force from and after its passage.

COLEMAN, *Chairman*,
COLLINS,
GAUSE,
REEVES,
McCOMB,

House Committee.

SHANNON, *Chairman*,
STOREY,
LANE,
EDWARDS,
STEWART,

Senate Committee.

The president took up House bill No. 416, just reported from the House, and referred it to the committee on land office.

On motion of Senator....., the report of the committee on free conference on House bill No. 412 (the deficiency bill), just submitted was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Stewart,
Shannon,
Storey,
Swain,
Tilson—21.

NAYS—none.

Not voting—Grace, Lane, Moore, Patton, Ripetoe, Terrell.

Senate bill No. 283, just reported from the House with amendments, was taken up, and on motion of Senator Ledbetter, the House amendments were concurred in.

Senate bill No. 382, just reported from the House with amendments, was taken up, and on motion of Senator Swain the House amendments were concurred in.

Senator Burnett called up Senate bill No. 361, entitled "An act to amend the second section of 'an act to regulate the respective duties of district and county attorneys,' approved August 21, 1876," was taken up, read third time and passed by the following vote:

YEAS.

Brown,
Burnett,
Burton,
Guy,
Homan,

Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Stewart,
Shannon—13.

NAYS.

Edwards,
Ford,
Gooch,

Hobby,
Houston,
Patton,

Storey,
Tilson--8.

Not voting—Buchanan, Grace, Moore, Ripetoe, Swain, Terrell.

A message was received from the House announcing the passage of House bill No. 356, entitled "An act making the county judge of Tom Green county returning officer for the seventy-fifth representative district;" and that the House concurs in Senate amendments to House bill No. 358, entitled "An act to provide for the publication of notices of judicial sales in certain cases."

The following order of the lieutenant governor was ordered to be entered on the journals:

"The lieutenant governor, by virtue of the authority vested in him by joint resolution approved February 16, 1874, (acts of the Fourteenth Legislature, page 237), hereby grants to the commissioner of insurance, statistics and history permission to occupy as an office of said department until the next session of the Legislature, room No. 8 on south side, first floor of capitol building.

"JOSEPH D. SAYERS,
"Lieutenant Governor and President of the Senate."

Senator Burnett offered the following resolution:

Resolved, That as to all proceedings of the executive sessions of this body the injunction of secrecy is hereby removed.

This resolution was lost, not having received an unanimous vote, as is required by the rules of the Senate.

Senator Guy, chairman of the committee on private land claims, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on private land claims, to whom was referred House bill No. 416, entitled "An act to authorize and require the commissioner of the general land office to issue a duplicate land certificate to the heirs or assigns of John Kuchner, deceased," have considered the same, and I am instructed by your committee to report the said bill back and to recommend its passage.

GUY, *Chairman.*

Senator Brown, chairman of the committee on engrossed bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate joint resolution No. 394, "Requesting our senators and representatives in congress to urge the enactment of such laws as may be necessary to prevent the exercise of jurisdiction by the courts of the United States in certain proceedings against municipal corporations in the several states and heads of executive departments in this state, in the discharge of their executive functions," and herewith return it correctly engrossed.

BROWN, *Chairman.*

House bill No. 356, just reported from the House, was taken up and read first time.

The rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,

McCulloch,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Tilson--22.

NAYS—NONE.

Not voting—Ledbetter, Moore, Ripetoe, Swain, Terrell.

Bill read second time and passed to a third reading.

The rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,

McCulloch,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Tilson—22.

NAYS—none.

Not voting—Ledbetter, Moore, Ripetoe, Swain, Terrell.
Bill read third time and passed.

The president, after publicly reading their captions, signed the following bills, to-wit:

Senate bill No. 271, entitled "An act to amend article 3193 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' " and

Senate bill No. 292, entitled "An act to authorize the construction of a ship channel from Corpus Christi across Mustang island and to donate land for the same."

On motion of Senator Burnett, House bill No. 243, entitled "An act to attach the unorganized counties of Archer, Baylor, Hardeman, Knox, Wilbarger and Wichita to the organized county of Clay for judicial and other purposes," was taken up and read first time.

The rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Tilson—21.

NAYS—none.

Not voting—Burton, Homan, Moore, Ripetoe, Swain, Terrell.
Bill read a second time and passed to a third reading.

The rules were further suspended, and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Motley,
Patton,
Stewart,
Shannon,
Storey,
Tilson—21.

NAYS—none.

Not voting—Burton, Homan, Moore, Ripetoe, Swain, Terrell.
Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,

Ford,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Motley,

Patton,
Stewart,
Shannon,

Storey,
Tilson—23.

NAYS—NONE.

Not voting—Moore, Ripetoe, Swain, Terrell.

A message was received from the House announcing the passage of Senate bill No. 313, entitled "An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvements, to receive the state and county taxes from persons who refused to pay the taxes levied for such purposes;" and that the House has adopted the report of the free conference committee on the disagreements of the two houses arising on Senate amendments to House bill No. 412, being "An act making appropriations for deficiencies, beginning September 1, 1878, and ending February 28, 1879, and for previous years."

House bill No. 416, entitled "An act to require the commissioner of the general land office to issue a duplicate to the heirs or assigns of John Kuchiner, deceased," was taken up and read first time.

The rules were suspended and bill placed on its second reading by the following vote:

Brown,
Burnett,
Ford,
Gooch,
Guy,
Hobby,
Homan,

YEAS.
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—21.

NAYS—none.

Not voting—Buchanan, Burton, Edwards, Grace, Moore, Swain.

On motion of Senator Gooch, the bill was postponed until to-morrow morning.

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed, Senate substitute for House bill No. 33, "An act to amend article 4767 of the Revised Civil Statutes of the State of Texas," and have presented the same to the governor for his signature at 11:15 o'clock A. M. this day.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 292, "An act to authorize the construction of a ship channel from Corpus Christi across Mustang island, and to donate land for the same;"

Senate bill No. 271, "An act to amend article 3193 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,'" and have presented the same to the governor for his signature this day at 3:30 o'clock P. M.

GRACE, *Chairman.*

A message was received from the House announcing the passage by that body of the following bills, viz:

Senate bill No. 337, entitled "An act granting a land certificate of 640

acres to each of the indigent pensioners enrolled under the act approved July 28, 1876," with amendments;

Substitute for Senate bill No. 320, entitled "An act to amend article 826 of the Revised Civil Statutes, so as to correct the conflict in the boundary line between Blanco and Kendall counties."

The president, after public reading their captions, signed the following bills, to wit:

House bill No. 336, entitled "An act establishing and prescribing the manner of ascertaining the boundaries of counties;"

House bill No. 206, entitled "An act in relation to chattel mortgages and other instruments intended to operate as mortgages of or liens upon personal property, and the record thereof;"

House bill No. 121, entitled "An act to ascertain the amount due teachers for services rendered in the public schools from September 1, 1873, to August 31, 1876, and to provide for the payment of the same;"

House bill No. 99, entitled "An act to amend section 46 of 'an act to encourage stockraising and for the protection of stockraisers,' approved August 23, 1879."

On motion of Senator Motley, the Senate took recess until called to order by the president.

The president called the Senate to order, and, after reading their captions, signed Senate bill No. 388, entitled "An act to attach the unorganized county of Runnells to the county of Coleman for judicial purposes;"

Substitute for Senate bill No. 130, entitled "An act to make an appropriation for the support of the state government for the years ending August 31, 1880, and for the additional period ending December 1, 1880."

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed substitute Senate bill No. 130, "An act to make appropriation for support of the state government for the years beginning March 1, 1879, and ending February 28, 1881;" also, Senate bill No. 388, "An act to attach the unorganized county of Runnells to Coleman county for surveying purposes," and at 4:40 o'clock p. m. presented the same to the governor for his signature.

GRACE, *Chairman.*

Senator Stewart offered the following resolution:

Resolved, That the secretary of the Senate request of the secretary of state a report from him showing the caption of all laws passed by this Legislature which went into force from their date, not hitherto reported as published, and that said report be printed in the journal of next Thursday.

Adopted.

Senator Lane made the following motion:

Mr. President—I move that the Senate refuse to concur in the amendments of the House to Senate bill No. 337, and that a conference committee be appointed with powers of free conference to act with a like committee on the part of the House on the differences between the Senate and House on said amendments.

Adopted.

Senators Lane, Burnett and Patton were appointed as said committee on the part of the Senate.

Senator Ford moved that the names of the pensioners be published in the journals.

Adopted.

On motion of Senator Patton, the Senate adjourned until 8 o'clock to-night.

NIGHT SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum not present.

The sergeant-at-arms was dispatched for absentees.

A quorum appearing the Senate proceeded to business.

A message was received from the House announcing the passage by that body of the following bills, to wit:

Senate bill No. 391, entitled "An act to authorize the survivors of Terry's Texas rangers to erect a monument to the dead of that command in the burying grounds belonging to the state at Austin;"

Senate bill No. 374, entitled "An act to amend article 97 of 'an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,'" with amendments;

Senate bill No. 372, entitled "An act to amend article 4761 of the Revised Civil Statutes," adopted at the present session of the Legislature, with amendments;

Senate bill No. 375, entitled "An act to amend article 4466 of 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' with amendments; and that Messrs. McComb, Henderson of Smith and Upton have been appointed a committee of conference, to meet a like committee on the part of the Senate, on differences between the two houses arising from House amendments to Senate bill No. 337, entitled "An act granting a land certificate of six hundred and forty acres to each of the indigent pensioners enrolled under the act approved July 28, 1876."

The president, after publicly reading its caption, signed Senate bill No. 130, (the general appropriation bill), making appropriations for the support of the state government from March 1, 1879, to December 31, 1880.

On motion of Senator Terrell, Senate bill No. 374, just reported from the House with amendments, was taken up and House amendments concurred in.

Senator Gooch moved that the Senate disagree to House amendment to Senate bill No. 372, just reported from the House, which strikes out all in section 1 of said bill after and including "provided" and that a committee of conference be appointed, etc.

On motion of Senator Storey, the other House amendments to the pending bill were concurred in.

Senator Gooch withdrew his motion, and offered the following amendment to said House amendment:

After the word "provided," in House amendment, add and insert the words: "Provided, that whenever the collector shall be authorized to

pay any warrant, he shall be permitted to pay the same over to the treasurer as money."

Adopted, and House amendment as amended adopted.

Senator Homan moved to reconsider the vote adopting House amendment to Senate bill No. 374, reported from the House to-night, and just adopted.

The motion to reconsider carried by the following vote:

YEAS.

Burnett,	Hobby,	Ripetoe,
Burton,	Homan,	Stewart,
Gooch,	Houston,	Shannon,
Grace,	Lane,	Swain,
Guy,	Martin,	Tilson—15.

NAYS.

Brown,	Ford,	Patton,
Buchanan,	Ledbetter,	Storey,
Edwards,	Motley,	Terrell—9.

Not voting—Lair, McCulloch, Moore.

Senator Homan offered the following amendment to the said House amendment:

Amend House amendment by inserting after the word "in" in line three the following, "subdivisions five and six of article 97 of."

Adopted, and House amendment, as amended adopted.

Senate bill No. 345, entitled "An act to authorize the commissioner of the general land office to contract for the lithographic printing of maps of the various counties of the state, to provide for the sale of the same, etc.," was taken up.

On motion of Senator Storey, all the House amendments except the last one were adopted.

Senator Edwards moved to disagree to the last House amendment to said bill, and that a committee of conference, with powers of free conference, be appointed on the same.

Adopted.

Senators Storey, Edwards and Homan were appointed as said committee on the part of the Senate.

Senator Lane, chairman of conference committee on Senate bill No. 337, submitted the following report:

Hon. J. D. Sayers, President of the Senate, and Hon. John H. Cochran Speaker of the House of Representatives:

Your committee of conference, with powers of free conference, have had under consideration the differences of the House and Senate upon the amendments of the House to Senate bill No. 337, "An act granting a land certificate of six hundred and forty acres to each of the indigent pensioners enrolled under the act approved July 28, 1876," and do recommend that the Senate concur with House amendment No. 1, and that the House do recede from amendments Nos. 2 and 3, and that the caption of said bill be stricken out and the following be substituted therefor, to wit: "An act granting a land certificate of six hundred and forty acres to each of the surviving indigent veterans who was a soldier in the war between Texas and Mexico, from the commencement of the revolution in 1835 until the first of January, 1837, or a surviving signer of the declaration of independence of Texas, or a surviving widow of such soldier or signer, in indigent circumstances."

Amend further by adding the following proviso to section 5, viz:

"*Provided*, that no person shall be entitled to the benefit of the provisions of this act unless he be a surviving soldier of the war between Texas and Mexico from the commencement of the revolution in 1835 until the first of January, 1837, or a surviving signer of the declaration of independence of Texas, or a surviving widow of such soldier or signer, and in indigent circumstances as herein defined."

LANE, *Chairman Senate Committee*,
McCOMB, *Chairman House Committee*.

The president, after publicly reading their captions, signed the following bills, to wit:

Senate bill No. 332, entitled "An act for the better protection of harbors and ports of the state;"

Senate bill No. 330, entitled "An act to protect lands lying on or near county boundaries from double assessments;"

Senate bill No. 161, entitled "An act requiring the proceeds arising from the leasing or renting of county school lands, and from sales of timber thereon, to be applied exclusively to educational purposes."

And Senate bill No. 348, entitled "An act to authorize and provide for the settlement of the matters in controversy between the State of Texas and the Texas and Pacific railway company in the suit brought by the State of Texas to forfeit the land grant of said company."

The following messages were received from the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 22, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointments of cattle and hide inspectors:

Wm. N. McKamy, for the unorganized county of Wheeler.

S. R. Holmes, for the unorganized county of Wilbarger.

Respectfully, O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 22, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment of notary public:

Wm. S. Patton, of Nacogdoches county.

Respectfully, O. M. ROBERTS, *Governor*.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 22, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment:

James H. Robertson—to be notary public for Williamson county.

Respectfully, O. M. ROBERTS, *Governor*.

On motion of Senator Storey, the Senate went into executive session.

IN SENATE.—Senator Brown moved to spread the confirmations of the executive session on the journals.

Carried.

It is accordingly stated that the Senate did advise and consent to all of the appointments of notaries public and and cattle and hide inspectors made by messages published in to-day's proceedings.

Senator Burton moved to adjourn until 9:30 o'clock to-morrow.
Carried.

The following is the list of pensioners required published in the evening session:

LIST OF PENSIONERS UNDER ACT OF JULY 28, 1876.

NAMES.	COUNTIES.	ATTORNEYS.
Ables, Mary A.	Hill.	Johns & Spence.
Adams, Rebecca.	Shelby.	W. N. Bamey.
Adison, Nat.	Hill.	Joe Abbott.
Allen, Mary A.	Colorado.	First National Bank.
Almance, Breno.	Bexar.	E. Miles.
Alsbury, H. R. Y.	Bexar.	E. Miles.
Allen, Elijah.	Mason.	Self.
Alemanda, Jose.	Bexar.	E. Miles. [Habicht.
Alexander, Jane G.	Colorado.	Stewart, Lowday &
Anderson, Hugh.	Travis.	Coopwood & Stewart.
Anderson, C. H.	Freestone.	Joe H. Stewart.
Anderson, M. J.	Liberty.	J. G. Minter. [Habicht.
Andrews, R.	Aransas.	Stewart, Lowday &
Archer, Rosa.	Gonzales.	Miller & Sayers.
Arocha, M.	Bexar.	E. Miles. [ley.
Armstrong, Jas.	Chambers.	J. G. Minter & E. Stan-
Alsbury, Y. P.	Bexar.	J. T. Brackenridge.
Ashworth, Mary.	Orange.	Stewart, Lowday & H.
Ashworth, Delilah.	Orange.	Stewart, Lowday & H.
Austin, E. A.	Galveston.	Forster, Ludlow & Co.
Balle, Antonio.	Travis.	John Dowell.
Ballard, B. M.	Kaufman.	Johns & Spence.
Baker, Jno. B.	Coryell.	Self.
Barker, Alitia.	Walker.	Abercrombie & Goree.
Bartlett, Jos. C.	Navarro.	Self.
Barnett, Mary.	Galveston.	A. S. Johns.
Basquez, Antonio.	Bexar.	E. Miles.
Ballard, Nancy.	Kaufman.	Self.
Barron, R.	Chambers.	J. G. Minter.
Barron, Benj.	Chambers.	J. G. Minter.
Barron, E.	Chambers.	Minter & Stanley.
Berry, A. J.	Lampasas.	Self.
Beaumont, J. K.	Jefferson.	D. W. Doom.
Beatty, Sarah J.	Jackson.	Joe Stewart.
Benson, Ellis.	Harris.	Eggleston & Bro.
Belden, E.	Waller.	Sheeks & Sneed.
Berry, Seaborn.	Jefferson.	John T. Stark.
Bishop, W. H.	Guadalupe.	John Dowell.

NAMES.	COUNTIES.	ATTORNEYS.
Billingsley, Jesse.....	Bastrop.....	Self.
Bivens, S.....	Robertson.....	Champ Carter.
Birdwell, Geo.....	Young.....	W. A. E. Rhodes.
Black, Mary.....	Grimes.....	Stewart, Lowday & H.
Blundell, F.....	Hunt.....	Johns & Spence.
Blair, L. J.....	Harrison.....	John Dowell.
Blundell, Solomon.....	Grayson.....	J. V. Cockrell.
Blundell, W.....	Bell.....	Self.
Bostick, S. R.....	San Saba.....	W. H. Lessing.
Boone, Nancy.....	Lavaca.....	Stewart, Lowday & H.
Border, C. E.....	Leon.....	W. D. Wood.
Box, Lucinda.....	Houston.....	C. H. Randolph.
Brill, S. W.....	Guadalupe.....	Self.
Breeding, Charlotte.....	Gonzales.....	Jos. O'Connor.
Bruce, Willis.....	Bell.....	Self.
Brown, Reuben R.....	Brazoria.....	E. M. Pease.
Brown, Hiram.....	Angelina.....	J. W. Davis.
Benton, Elisha.....	Franklin.....	Jos. Spence.
Bowman, Jas. H.....	Cherokee.....	Forster, Ludlow & Co.
Brooks, Gilbert.....	Harris.....	Johns & Spence.
Browning, G. W.....	Travis.....	Joe H. Stewart.
Bryan, John.....	Washington.....	Self.
Brooks, Geo. W.....	Washington.....	R. A. Chadwick.
Brewster, H. P.....	Bexar.....	First National Bank.
Brummett, H.....	Hunt.....	Stewart, Lowday & H.
Brock, Francis H.....	Harris.....	W. F. Clark.
Brown, Edward.....	Atascosa.....	E. Miles.
Burk, A. M.....	Freestone.....	A. Neill.
Burdett, W. B.....	Bee.....	W. C. Walsh.
Bustillo, Clement.....	Bexar.....	E. Miles.
Burleson, Jos.....	Burnet.....	Self.
Bundick, C.....	Matagorda.....	Johns & Spence.
Bumstead, M. W.....	Hardin.....	D. W. Doom.
Burkley, Tyre.....	Shelby.....	W. N. Ramey.
Burns, Jos.....	Shelby.....	W. N. Ramey.
Burnam, Caroline.....	Llano.....	Self.
Burk, Susan.....	Trinity.....	Stewart, Lowday & H.
Burnam, Jesse.....	Blanco.....	Self.
Butler, H. W. H.....	Wilson.....	A. G. Pickett.
Byars, N. T.....	Hamilton.....	J. W. Laurence.
Byerly, Wm.....	Jasper.....	Moulton & Doom.
Byerly, Adam.....	Jasper.....	Self.
Boone, J. W.....	Bosque.....	D. W. Doom.
Blanco, S.....	Bexar.....	J. G. Fisk.
Callahan, J. H.....	Bandera.....	DeCordova & McKinney
Callahan, T. J.....	Brazoria.....	E. M. Pease.
Cassellas, Matr.....	Bexar.....	E. Miles.
Cannon, W. J.....	Brazoria.....	E. M. Pease.
Cayce, Mary F.....	Coryell.....	J. W. Laurence.
Cardena, G. A. de.....	Atascosa.....	J. L. Trueheart.
Cary, Seth.....	Harris.....	Johns & Spence.

NAMES.	COUNTIES.	ATTORNEYS.
Carlton, E. M.	Travis	Self.
Carlisle, Mary	Bee	Johns & Spence.
Castillo, Francisco	Bexar	Jas. L. Trueheart.
Castillo, C.	Bexar	E. Miles.
Cabossas, A.	Goliad	Lane & Payne.
Canter, A.	Wilson	First National Bank.
Castanon, Louis	Atascosa	E. Miles.
Cartwright, M.	Montgomery	M. Steussey.
Caruthers, Jno. R.	Liberty	Jas. Richardson.
Casanora, R.	Bexar	E. Miles.
Cain, Wm.	Sabine	W. N. Ramey.
Casillas, Antonio G. Y.	Bexar	E. Miles.
Carrillo, Matias	Bexar	E. Miles.
Caddell, Rhoda	Bell	H. E. Bradford.
Cherry, Jno.	Liberty	Minter & Stanley.
Cherry, Ellen	Liberty	J. G. Minter.
Chriesman, H.	Burleson	R. M. Thomson.
Chambliss, S. L.	Navarro	Self.
Chaves, Leandro	Bexar	E. Miles.
Charon, Antonio R. Y.	Bexar	E. Miles.
Cherry, A.	Burleson	C. S. Williams.
Chatam, Thos.	Montgomery	J. E. McComb.
Cherry, Catherina	Cass	DeCordova & McKinney
Choate, David	Hardin	P. S. Watts.
Childress, B. F.	Johnson	E. W. Shands.
Childress, H. M.	Coleman	Johns & Spence.
Clark, Benj.	Hopkins	Johns & Spence.
Clark, Caroline E.	Madison	C. H. Randolph.
Cleveland, Eliza J.	Galveston	Stewart, Lowday & H.
Deweese, W. B.	Colorado	Johns & Spence.
Denman, Jas.	Jasper	Moulton & Doom.
DeMoss, Peter	Guadalupe	W. A. H. & T. H. Miller.
Denman, Jane	Gonzales	Miller & Sayers.
Dewes, A.	Colorado	Johns & Spence.
DeMoss, Susan	Guadalupe	P. S. Sowell.
Dikes, M. W.	Coryell	Johns & Spence.
Dinsmore, A. F.	Lavaca	DeCordova & McKinney
Dias, C.	Bexar	Jas. L. Trueheart.
Dodson, A. B.	Live Oak	DeCordova & McKinney
Doyal, M. A.	Mason	Wm. Koock.
Douglass, Julia C.	Brazoria	E. M. Pease.
Duplex, J. B.	Kinney	Stewart, Lowday & H.
Duty, Wm.	Travis	Self.
Dykes, Lewis P.	Navarro	Self.
Ewing, E. S.	Harris	T. W. House & McAshan.
Eastep, Eliza	Trinity	D. W. Doom.
Edwards, C. O.	Live Oak	DeCordova & McKinney
Edwards, A. M. E.	Calhoun	Johns & Spence.
Eggleston, Julia A.	Bastrop	J. D. Sayers.
Elam, Ann S.	Harris	S. S. Ashe.
Elley, Gus.	Guadalupe	Self.

NAMES.	COUNTIES.	ATTORNEYS.
Elley, Jno. N.	Lavaca	B. M. Odom.
Elizardo, Trinidad	Bexar	J. G. Fisk.
English, Lucinda	Houston	C. H. Randolph.
English, R. B.	Panola	B. M. Baker.
Engledow, Elvira	Van Zandt	DeCordova & McKinney
Estes, Eliz	Brazoria	Masterson & Masterson.
Espinosa, Ygnacio	Bexar	E. Miles.
Ethridge, Howard	Denton	Stewart, Lowday & H.
Evans, W. M.	Anderson	J. W. Cartwright.
Falvel, Mary	Galveston	Jno. Nagle.
Farish, Oscar	McLennan	A. Neill.
Ferrell, J. P.	Waller	M. D. Miller.
Fernandez, Antonio	Bexar	E. Miles.
Fisk, Simona	Bexar	J. G. Fisk.
Field, Sarah	Liberty	Minter & Stanley.
Fletcher, Robt. F.	McLennan	A. Neill.
Fleury, A. B.	Jackson	Johns & Spence.
Flores, Jaun Jose	Bexar	E. Miles.
Flores, N.	Wilson	A. G. Pickett.
Flores, R.	Bexar	E. Miles.
Ford, Simon P.	Colorado	First National Bank.
Foster, Jane A.	Jasper	D. W. Doom.
Friar, Ann	DeWitt	First National Bank.
Gailon, Victor Eude	Victoria	J. M. Brunson.
Gasna, Pedro	Bexar	E. Miles.
Gallardo, R. E. de	Bexar	J. L. Trueheart.
Garza, Q.	Kinney	Solan & Stewart.
Garrin, Robt	Hunt	A. J. Dorn.
Garrett, Leviry	Smith	Stewart, Lowday & H.
Gallatin, Albert	Brazos	Self.
Garza, Jose Simon	Bexar	E. Miles.
Garza, R.	Wilson	A. G. Pickett.
George, David	Hays	Self.
Gellaty, Robt	Sabine	W. N. Ramey.
Gehagan, M. L.	Cooke	Stewart, Lowday & H.
Gibson, A.	Gonzales	Miller & Sayers.
Gimenes, Juan	Bexar	E. Miles.
Gillrain, M. A.	San Augustine	J. H. Raymond & Co.
Gilbert, Margaret	Nacogdoches	J. K. Donnon.
Gimener, Gre	Wilson	First National Bank.
Gimener, T. R. de	Bexar	E. Miles.
Goodloe, R. K.	Sabine	Self.
Golden, Philip	Travis	W. S. Hotchkiss.
Goodman, J. B.	Uvalde	Eggleston & Bro.
Goodman, Stephen	Uvalde	Eggleston & Bro.
Goodwin, Wm.	Live Oak	DeCordova & McKinney
Good, G. J.	Jasper	D. W. Doom.
Gorham, Wm.	Fayette	Jno. Dowell.
Gorbet, C. S.	Brazos	H. S. Newland.
Gomez, Jesus	Bexar	E. Miles.
Gomez, C. L. de	Atascosa	J. L. Trueheart.

NAMES.	COUNTIES.	ATTORNEYS.
Good, J. A.	Jasper	D. W. Doom.
Gonzales, Diego	Bexar	E. Miles.
Gonzales, R. A. Y.	Bexar	E. Miles.
Gorman, J. P.	San Saba	Self.
Gomez, L.	Bexar	J. L. Trueheart.
Gonzales, Gabriel	Bexar	E. Miles.
Gray, Jas.	Wilson	First National Bank.
Green, M.	Matagorda	Jno. Dowell.
Grimes, Geo. W.	Falls	H. McB. Pridgen.
Griego, N.	Wilson	A. J. Pickett.
Guyman, Jane	Wise	Johns & French.
Guerro, M.	Bexar	J. G. Fisk.
Guerro, Jose M.	Bexar	J. G. Fisk.
Guerro, Antonio	Bexar	J. G. Fisk.
Guerro, Brigido	Bexar	E. Miles.
Guerro, Claudio	Bexar	Jas. L. Trueheart.
Garcia, D. O. Y.	Bexar	E. Miles.
Hardesty, Geo. C.	Tarrant	Stewart, Lowday & H.
Hanks, W. M.	Bosque	Johns & Spence.
Hanlow, R. O.	Galveston	W. P. Fijer.
Harwood, B. F.	De Witt	Self.
Harding, T. B.	Walker	J. H. Raymond & Co.
Hall, J.	Galveston	Forster & Co.
Hamilton, Jas.	Travis	Self.
Hamilton, Nat.	Navarro	First National Bank.
Haley, Rich.	Freestone	E. A. Townes.
Hardin, W. B.	Polk	E. W. Shands.
Hall, Geo. H.	Jackson	F. M. White.
Hall, L. L.	Houston	C. H. Randolph.
Harrison, Ann C.	Hamilton	W. P. Gaines.
Haley, Cyrenia	Freestone	Johns & Spence.
Hallmark, A. M.	Houston	Earl Adams.
Haldeman, David	De Witt	Johns & Spence.
Harvey, Jno.	Bell	Geo. W. Tyler.
Hay, Andrews	Chambers	Minter & Stanley.
Hammell, Lucinda	Chambers	Minter & Stanley.
Henderson, Jno.	Bell	C. R. Johns & Co.
Heck, M. E.	Lee	T. L. Wren.
Heard, E. T.	Washington	B. H. Bassett.
Henriquez, A. M.	Bexar	E. Miles.
Hensley, Johnson	Waller	Sheeks & Sneed.
Hensley, J. M.	Waller	Sheeks & Sneed.
Henry, I. R.	Bexar	E. Miles.
Hernandez, S.	Wilson	First National Bank.
Hesken, W. A.	San Patricio	W. J. Russell.
Hernandez, M. C. Y.	Bexar	E. Miles.
Highsmith, B. F.	Bastrop	Self.
Hidalgo, Pedro	Bexar	J. G. Fisk.
Hollien, John F.	Colorado	W. Von Rosenberg.
Hobbs, Caroline P.	Wilson	Stewart, Lowday & H.
Hodges, Susan	Fort Bend	E. M. Pease.

NAMES.	COUNTIES.	ATTORNEYS.
Hoffman, M. S.	Johnson	E. W. Shands
Holloway, Caleb	Bosque	C. R. Johns.
Houth, M. E.	Waller	Stewart, Lowday & H.
Hoffman, Phebe	Johnson	E. W. Shands.
Hotchkiss, R.	Anderson	Johns & Spence.
Horton, Eliza	Goliad	D. D. Claiborn & M. N.
Hooper, A. L.	Panola	W. N. Ramey. [Shive.
Howard, Philip	Bosque	Forster & Co.
Hulme, W. F.	Somervell	Forster, Ludlow & Co.
Hughes, B. F.	Fort Bend	W. F. Clark.
Humphreys, P. W.	Nueces	DeCordova & McKinney
Huizar, S.	Bexar	E. Miles.
Hubble, C. A.	Coryell	W. C. Walsh.
Hyland, Jos.	Williamson	Self.
Iams, John	Harris	Eggleston & Bro.
Irvine, Nancy	Newton	D. W. Doom.
Irish, Emily	Shelby	D. M. Short.
Isaacs, Samuel	Harris	Geo. B. Zimpleman.
Isaacs, Sicily	Liberty	Johns & Spence.
Isaacs, Martha	Harris	S. S. Ashe.
James, Thos.	Live Oak	Jno. Dowell.
Jackson, Jos.	Burleson	E. A. Townes.
Jett, A.	Orange	Stewart, Lowday & H.
Jefferson, Thos.	Tarrant	Jno. Dowell.
Johnson, Mary	Walker	Abercrombie & Gorec.
Jones, Hettie	Guadalupe	Self.
Jordan, M.	Jasper	D. W. Doom.
Keith, John H.	Hopkins	W. B. Wortham.
Kent, D. B.	Kerr	DeCordova & McKinney
Kemp, Charlotte	Wharton	Joe H. Stewart.
Kelso, Alfred	Atascosa	Forster & Co.
Keizer, L.	Jackson	Johns & Spence.
Kirby, George	Travis	Self.
Kimbrow, George	Bell	Geo. W. Tyler.
King, Lt. J. N.	Cass	DeCordova & McKinney
Kimbro, Nancy	Walker	E. L. Angier.
Kizer, P. C.	Brazos	Self.
Kornegay, E.	Lavaca	S. C. Patton.
Kuykendall, J. H.	Victoria	E. W. Shands.
Latham, K. H.	Panola	Self.
Lackey, Theresa	Travis	A. Neill.
Lawrence, Adam	Williamson	A. S. Woolridge.
Lasolla, D.	Maverick	Stewart, Lowday & H.
Lewis, John T.	Newton	D. W. Doom.
Lee, Ellen	Washington	M. Steussy.
Lewis, G. W.	San Augustine	J. H. Raymond & Co.
Lewis, Jacob	Nacogdoches	Edwards & Ingham.
Lewis, W. McT.	Orange	Stewart, Lowday & H.
Lindheimer, T. J.	Comal	Wm. Gerhard.
Lindsley, James	Kerr	DeCordova & McKinney
Little, H.	Montgomery	Geo. B. Zimpleman.

NAMES.	COUNTIES.	ATTORNEYS.
Lindsey, P.	Stephens	M. S. Crow.
Lindsey, B. F.	Hunt	Stewart, Lowday & H.
Logan, Caroline.	Gonzales	T. M. Harwood.
Long, J. I.	Newton	D. W. Doom.
Lopez, M. F. S. Z.	Bexar	E. Miles.
Longley, Campbell.	Bell	Johns & Spence.
Lowe, M. A.	Sabine	Self.
Lowenstein, Casper.	Menard	Self
Lubbock, S. O.	Harris	Self.
Ludlow, L. W.	Jasper	Forster & Co.
Luna, de D.	Kinney.	Stewart, Lowday & H.
Lyon, H. C.	Brazos.	Self.
Mays, Arie.	Bastrop.	W. M. Smith.
Marshall, Thos. W.	Harris.	First National Bank.
Madden, R. W.	Hunt.	N. R. Barnes.
Martines, Hilario.	Bexar.	J. G. Fisk.
Maldonado, M.	Bexar.	J. G. Fisk.
Magill, Wm. H.	Burnett.	Self.
Mata, A.	Bexar.	E. Miles.
McGoun, J. E.	Fayette.	W. Von Rosenberg.
McClelan, Sarah.	Harris	S. S. Ashe.
McClure, Thos.	Navarro.	Stewart, Lowday & H.
McGuffin, John T.	Guadalupe	Self.
McGee, Jos.	Newton.	A. A. McWharter.
McCorcle, E. M.	Bell	Johns & Spence.
McGahey, J. S.	Waller.	Sheeks & Sneed.
McGee, Thos. G.	Hays.	Johns & Spence.
McCoy, Eliz.	Blanco.	Self.
McMahan, S.	Newton.	D. W. Doom.
McMaster, W.	Brazoria.	E. M. Pease.
McTaylor, John.	Orange.	Self.
McFadden, Elisa.	Kimball.	N. A. McFadden.
McDonald, D.	San Augustine.	J. H. Raymond & Co.
McMillan, M.	Robertson.	Champ. Carter.
McMahan, Isaac.	Newton.	D. W. Doom.
McCulloch, Sam.	Bexar.	E. Miles.
McKissick, J. W.	Bosque.	J. A. Green.
McLain, R. F.	Chambers	Minter & Stanley.
McCarty, E. V.	Chambers	Minter & Stanley.
Memhock, A.	Bexar	First National Bank.
Memhara, Migue.	Bexar.	J. L. Trueheart.
Merchant, Berry.	Aransas.	Stewart, Lowday & H.
Meyers, Nancy.	Orange.	D. W. Doom.
Merchant, Sarah T.	Denton.	Johns & Spence.
Meranda, M.	Wilson	A. G. Pickett.
Miranda, F.	Bexar.	E. Miles.
Miller, Eliz.	Victoria	E. W. Shands.
Miller, Daniel.	Nueces	Self.
Miles, E.	Bexar.	J. T. Brackenridge.
Mitchell, N.	Bexar.	Self.
Moffitt, W. C.	Harris	B. F. Cotton.

NAMES.	COUNTIES.	ATTORNEYS.
Montgomery, Mary	Montgomery	J. E. McComb.
Montgomery, Jas.	Harris	J. C. Walsh.
Moore, W. H.	Titus	Self.
Morgan, Jemima	Orange	Stewart, Lowday & H.
Montalvo, Manual	Maverick	Stewart, Lowday & H.
Montes, Ignasio	Maverick	Stewart, Lowday & H.
Morris, Spencer	Atascosa	F. H. Bushick.
Montallo, Juan	Bexar	J. G. Fisk.
Mounford, Jesse	Bell	Johns & Spence.
Moore, J. W.	Walker	Self.
Navarro, N.	Bexar	J. T. Brackenridge.
Navarro, J. A. de	Bexar	First National Bank.
Neill, Geo. J.	Comal	DeCordova & McKinney
Nettles, Wm.	Harris	J. W. Lawrence.
Newman, W. R.	Karnes	Self.
Nichols, Fannie	Travis	Self.
Norvell, L.	Sabine	D. W. Doom.
O'Haley, M.	Live Oak	DeCordova & McKinney
Olira, Anto	Bexar	J. G. Fisk.
O'Toole, M.	Bee	Eggleston & Bro.
Osborn, John L.	Travis	Self.
Patterson, E.	Travis	Self.
Parr, Sam.	Galveston	A. Neill.
Parker, Isam	Parker	Self.
Paschall, Bridget	Harris	Eggleston & Bro.
Pate, W. H.	Erath	Eggleston & Bro.
Paschall, F. L.	Bexar	First National Bank.
Parillas, Anto.	Bexar	J. L. Trueheart.
Partian, N. S.	Matagorda	Stewart, Lowday & H.
Parker, L. J.	Harris	W. C. Oliver.
Palarios, J. J.	Atascosa	E. Miles.
Pacheco, L.	Wilson	A. G. Pickett.
Patton, A. B.	Nacogdoches	Self.
Pacheco, F. F. Y.	Bexar	E. Miles.
Pevehouse, P.	Milam	Self.
Perkins, Mary S.	San Augustine	Self.
Perry, W. M.	Hays	R. M. Castleman.
Pearman, M.	Colorado	Self.
Pevehouse, C.	Milam	J. B. Rector.
Perales, Santiago	Bexar	Jas. L. Trueheart.
Phelps, R. A.	Brazoria	E. M. Pease.
Pollan, Jno.	Live Oak	DeCordova & McKinney
Powers, S. D.	Lee	T. J. Edwards.
Prewitt, E.	Travis	Self.
Price, Sibbia M.	Blanco	R. Price.
Putnam, M.	Gonzales	Forster, Ludlow & Co.
Quinn, Pat.	Bee	Johns & Spence.
Ralph, S. W.	Jasper	D. W. Doom.
Rabb, Mary	Travis	W. S. Hotchkiss & Co.
Rankin, E.	Waller	Self.
Ramsdale, G. L.	Wise	John Dowell.

NAMES.	COUNTIES.	ATTORNEYS.
Ramos, S.	Wilson	A. G. Pickett.
Reed, Isaac	Collin	First National Bank.
Reed, Nat.	Austin	E. M. Pease.
Reams, S. Y.	Austin	E. M. Pease.
Reys, L. de los	Bexar	E. Miles.
Reys, Juan	Bexar	E. Miles.
Reys, D. de los	Bexar	E. Miles.
Reno, R.	Bexar	E. Miles.
Reavis, Fannie	Chambers	Minter & Stanley.
Reimhoover, N.	Kaufman	Johns & Spence.
Rhea, E.	Harris	J. G. Minter & E. Stan-
Ricks, G. W.	Lampasas	W. B. Abney. [ley.
Richie, M. E.	Cooke	Stewart, Lowday & H.
Rice, W.	Tarrant	J. C. Scott.
Richey, L. C.	Cook	Stewart, Lowday & H.
Rivas, C.	Bexar	E. Miles.
Richards, W. B.	Bosque	Johns & Spence.
Rice, Maria	Tarrant	Self.
Richardson, L.	Bexar	J. T. Brackenridge.
Roberts, M. F.	Shelby	Self.
Robinson, L.	Fayette	J. B. Costa.
Robinson, Jesse	Live Oak	DeCordova & McKinney
Roark, Leo	Navarro	First National Bank.
Robinson, Z.	Leon	W. D. Wood.
Robinson, Francis	Montgomery	W. Von Rosenberg.
Rodriguez, Juan	Bexar	E. Miles.
Rodriguez, S.	Bexar	Jas. L. Trueheart.
Rogers, John A.	Karnes	C. H. Randolph.
Russell, W. J.	Travis	Self.
Rudder, E. M.	Brazoria	E. M. Pease.
Ruiz, B.	Bexar	J. G. Fisk.
Rubio, P. V. de	Bexar	J. G. Fisk.
Savery, A.	Comal	Self.
Saddler, John	Limestone	J. B. Tyus.
Salinos, Pablo	Bexar	E. Miles.
Sanches, de M. C.	Wilson	First National Bank.
Saunders, John	Kaufman	F. W. Chandler.
Schlabohn, John	Harris	Sheeks & Sneed.
Scates, W. B.	Colorado	R. A. Coleman.
Scott, Eliza	Bastrop	H. H. Fort.
Scott, Wm. H.	Galveston	DeCordova & McKinney
Scurlock, Wm.	Sabine	Self.
Scarbrough, J. C.	Lee	J. J. Darden.
Scott, Eliz.	Burleson	Forster & Co.
Scott, G. W.	Dallas	J. N. Russell.
Stern, I. P.	Robertson	Champ. Carter.
Sevier, E. G.	Victoria	C. L. Thurmond.
Sessum, E. S.	Hays	Self.
Sharp, M.	Llano	H. McB. Pridgen.
Sheppard, E. M.	Walker	Self.
Shultz, Jno.	Kerr	DeCordova & McKinney

NAMES.	COUNTIES.	ATTORNEYS.
Silvera, Pilar.....	Bexar	J. L. Trueheart.
Sierra, N.....	Maverick	E. Miles.
Sinclare, R.....	San Augustine.....	J. H. Raymond & Co.
Smith, E.....	Harris	J. G. Minter & E. Stan-
Smith, Martha A.....	Milam	Self. [ley.
Smith, M. C.....	Travis	John Dowell.
Smith, L. H.....	Milam	Stewart & Coopwood.
Smith, Edward.....	McLennan	John Dowell.
Smith, Lem.....	Montgomery	G. W. Glasscock.
Smith, Major.....	Lavaca	S. C. Patton.
Smith, Thos. J.....	Fort Bend	E. M. Pease.
Smith, Amelia.....	Travis	DeCordova & McKinney
Smyth, F. M.....	Jasper	D. W. Doom.
Snailum, T. C.....	Parker	F. W. James.
Sowell, A. J.....	Guadalupe.....	Self.
Sowell, Sansom.....	San Augustine.....	J. H. Raymond & Co.
Spier, Jno.....	Nacogdoches	W. S. Blount.
Speede, W. W.....	Angelina.....	Stewart, Lowday & H.
Stebbins, C. C.....	Collin	Forster, Ludlow & Co.
Steele, Jno.....	Harris	Sam S. Ashe.
Stephemore, E. R.....	Houston	Nunn, Williams &
Standiffer, J. L.....	Bastrop.....	Self. [Thomas.
Stephemore, Jas.....	Nueces	Eggleston & Bro.
Stout, Henry.....	Wood.....	Coopwood & Stewart.
Stewart, Wm.....	Nueces.....	Eggleston & Bro.
Tanner, C. E.....	Liberty.....	Joe H. Stewart.
Taylor, Eliz.....	Montgomery	Stewart, Lowday & H.
Tejoda, Jose.....	Wilson.....	First National Bank.
Tejoda, S.....	Bexar.....	Jas. L. Trueheart.
Tejoda, de J. C.....	Wilson.....	First National Bank:
Tejoda, Pedro.....	Bexar.....	E. Miles.
Tevis, Jane.....	Jefferson.....	J. G. Minter.
Thomas, A. J.....	Gonzales.....	Miller & Sayers.
Thomas, Theo.....	San Augustine.....	R. A. Chadwick.
Thomas, Ben.....	Bexar.....	Jas. L. Trueheart.
Thompson, M. E.....	Matagorda.....	Johns & Spence.
Thorn, Jno. S.....	Nacogdoches	Edwards & Inghram.
Thurmond, Julia A.....	Aransas.....	Stewart, Lowday & H.
Thompson, S.....	Cherokee	W. S. Hotchkiss & Co.
Thompkins, A. N. B.....	Liberty.....	Minter & Stanley.
Tindall, Wm. P.....	Hamilton.....	Self.
Tippett, W.....	Wood.....	Jno. F. Jones.
Tilton, Annie.....	Chambers.....	Minter & Stanley.
Townsend, S. A.....	Colorado.....	Forster, Ludlow & Co.
Townsend, Matilda.....	Bastrop.....	A. B. Reynolds.
Townsend, L. H.....	Colorado.....	First National Bank.
Travisso, Jento.....	Bexar.....	J. G. Fisk.
Turner, Winslow.....	Lee.....	Self.
Turnhinson, Peter.....	Atascosa.....	Forster, Ludlow & Co.
Underhill, D. M.....	Washington.....	J. G. Searcy.
Uron, E.....	Bexar.....	E. Miles.

NAMES.	COUNTIES.	ATTORNEYS.
Valdez, F.	Bexar	E. Miles.
Vanschle, B. A.	Hunt	Stewart, Lowday & H.
Van Vertan, D. H.	Waller	Sheeks & Snead.
Vanderpool, Jas	Matagorda	Forster & Co.
Vallasenor, Rapael	Bexar	J. L. Trueheart.
Villa Nueva, J. T.	Bexar	J. G. Fisk.
Vochery, J. M.	San Augustine	J. H. Raymond & Co.
Votare, Elijah	Live Oak	DeCordova & McKinney
Wade, Jno. M.	Travis	Self.
Waddell, Geo. W.	Guadalupe	Self.
Wade, Nathan	Nacogdoches	Edwards & Inghram.
Walker, Sarah A.	McLennan	S. W. Ford.
Walling, Ann C.	Bosque	Johns & Spence.
Walling, Malinda L.	Shelby	W. N. Ramey.
Walters, Alexander	Bell	J. S. Ables.
Walter, Jacob	Erath	Johns & Spence.
Wagoner, Jane	Williamson	Joe H. Stewart.
Walling, Martha A.	Bosque	Johns & Spence.
Walldrop, Eliz.	Atascosa	Stewart, Lowday & H.
Weaver, L. G.	Waller	Sheeks & Snead.
Wells, T.	Liberty	J. G. Minter.
West, W. H.	Wilson	A. G. Pickett.
West, Jefferson	Newton	D. W. Doom.
Wheeler, Saml. L.	Wharton	Forster, Ludlow & Co.
Wheeler, Margaret	Hill	Johns & Spence.
White, Sarah	Jackson	First National Bank.
White, Jno. T.	Jackson	First National Bank.
White, Wm.	Harris	Johns & Spence.
Whitley, Mary	Walker	W. S. Hotchkiss.
Whitlock, Robt.	Liberty	Coopwood & Stewart
Wilcox, E.	Travis	Self.
Wilson, Mima	Hays	Self.
Williams, Stephen	Jasper	Moulton & Doom.
Winfield, Ann	Washington	
Wilson, M. A. C.	Travis	Self.
Williams, Thos. J.	Matagorda	W. S. Fisher.
Williams, Susanna R.	Matagorda	Stewart, Lowday & H.
Williams, Rebecca	Harris	Barzita & Oliver.
Williams, Henry	Uvalde	Eggleston & Bro.
Wickson, Cyrus	Matagorda	Stewart, Lowday & H.
Williams, Mary	Montgomery	Johns & Spence.
Williams, O. H.	Chambers	E. B. Pickett.
Winter, L.	Erio	Stewart, Lowday & H.
Williams, Sarah J.	Jackson	Johns & Spence.
Williams, Jane	Hill	G. T. Jones.
Winfrey, Mary	Chambers	Minter & Stanley.
Woods, W. R.	San Saba	Stewart, Lowday & H.
Woods, Isabella	De Witt	First National Bank.
Wooton, G. T.	Atascosa	Stewart, Lowday & H.
Yarbrough, C.	Houston	Self.
Yancy, Eliz.	Bell	H. E. Bradford.

NAMES.	COUNTIES.	ATTORNEYS.
Yeomans, Jas.....	Matagorda	Stewart, Lowday & H.
Young, Jas.....	Travis	Self.
Zapata, S.....	Wilson.....	A. G. Pickett.
Zeimualt, T. B.....	Kerr	First National Bank.
Zuber, Wm. P.....	Grimes	W. S. Hotchkiss.

EIGHTY-SIXTH DAY.

SENATE CHAMBER,)
AUSTIN, TEXAS, April 23, 1879. }

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Motley, the reading of the journals of yesterday was dispensed with and same adopted.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills would ask that the record show that substitute for Senate bill No. 130 was presented to the governor at 8:40 o'clock this A. M., instead of 4:40 o'clock on yesterday, for his signature. Said bill after being presented to the governor on yesterday was withdrawn by your committee, by reason of mistake in not incorporating House amendment to said bill under head of "miscellaneous." The clerk of said committee is in no way responsible for the mistake. The bill has been carefully compared and found now to be correctly enrolled and properly signed, and, as above stated, presented to the governor for his signature at 8:40 o'clock this A. M.

GRACE, *Chairman.*

The president, after publicly reading their captions, signed the following bills:

Senate bill No. 382, entitled "An act to change and define the times of holding the district courts in the fifth judicial district of the State of Texas,"

And Senate bill No. 391, entitled "An act to authorize the survivors of Terry's Texas rangers to erect a monument to the dead of that command in the burying grounds belonging to the state at Austin."

Senator Ford called up Senate bill No. 200, entitled "An act to validate certain land certificates issued on bounty land warrants to John Steele, Wm. S. Williamson, Robert Middleton, Jno. Scully and Richard Eggleston.

The Senate refused to order the bill engrossed.

The following message was received from the House:

House adheres to its amendments to Senate bill 345, "An act to provide for printing Codes, etc.," and that Messrs. Taylor of Marion, Gibson and Flewellen have been appointed a committee of conference with powers of free conference, to meet a like committee on part of the Senate.

Further, that the conference committee reported to the Senate last night, on Senate bill No. 337, "pensions to Texas veterans," was also vested with powers of free conference.

Senator Grace called up Senate bill No. 389, entitled "An act to make an appropriation to erect an addition to the supreme court building," which was passed by the following vote:

YEAS.

Brown,
Buchanan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
McCulloch,

Motley,
Stewart,
Storey,
Terrell—14.

NAYS.

Burnett,
Lair,
Martin,

Patton,
Ripetoe,
Shannon,

Swain,
Tilson—8.

Not voting—Burton, Ford, Homan, Ledbetter, Moore.

Senator Hobby offered the following resolution:

Resolved, That the secretary of the Senate, after adjournment, forward by mail to each senator his proportion of the laws amendatory of the Codes, and those taking effect from their passage, and the expense of forwarding the same to be paid out of the contingent fund of the Senate.

Adopted.

Senate joint resolution No. 368, "Prescribing the mode and manner of submitting constitutional amendments to the vote of the people," was taken up and ordered engrossed.

On motion of Senator Edwards, the rules were suspended and resolution placed on its third reading by the following vote :

YEAS.

Brown,
Buchanan,
Burnett,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Mötley,

Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—21.

NAYS—none.

Not voting—Burton, Ford, Ledbetter, Moore, Storey.

Resolution read third time.

The following message was received from the governor, which was taken up and read.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 23, 1879. }

To the honorable Senate of of Texas in session assembled :

GENTLEMEN—I hereby transmit to you the statement appended by me to a bill (No. 130) to be entitled "An act to make appropriations for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881, which statement, with a copy of the items objected to by me is to the following effect, in words and figures, as in the following copy, to wit:

"April 23, 1879. I hereby approve this bill, with the exception of the following items thereof, which I do not approve, to wit:

"Under the head of 'educational department,' the following item of appropriation, to wit:

"The entire available school fund annually derived from all sources, including the poll-tax and one-fourth of the general revenue, is hereby set aside annually for the support of public free schools."

“And the items under the head of “treasury department,” as follows, to wit:

	YEAR ENDING.	
	Feb. 29, 1880.	Feb. 28, 1881.
For interest on public debt.....	\$400,000	\$400,000
For sinking fund of public debt, to be invested in state bonds.....	100,000	100,000

These items of said bill (No. 130) I do not approve, and return the said items with this statement to the Senate, in which house this bill originated, accompanied by a message containing my objections to the said above quoted items becoming a law as part of said bill. Which statement and copy of said items not approved are respectfully submitted.

O. M. ROBERTS, *Governor.*

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 22, 1879. }

To the honorable Senate of the State of Texas in session assembled :

GENTLEMEN—I have approved the bill entitled “An act to make appropriations for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881,” which originated in the Senate and passed both houses of the Legislature at the present session, with the exception of the following items of appropriation, which I do not and have not approved, and which are respectfully returned to your honorable body with my objections to such items becoming a law as part of said bill, the said items not approved being as follows, to wit:

1. Under the head “educational department” the following item of appropriation, to wit: “The entire available school fund annually derived from all sources, including the poll tax and one-fourth of the general revenue, is hereby set aside annually for the support of the public free schools.”

And the items under the head of the treasury department, as follows, to wit:

	YEAR ENDING	
	Feb. 29, 1880.	Feb. 28, 1881.
For interest on public debt.....	\$400,000	\$400,000
For sinking fund of public debt to be invested in state bonds.....	100,000	100,000

I do most sincerely regret that a sense of duty requires me to withhold my approval of the said items of said bill. The first, named item upon which it is publicly known that both houses were equally divided, except one vote in each house, I disapprove, because it imposes a tax on the people greater than they can now bear, and at the same time furnish the means to support an efficient and economical government. The other two items I am constrained to not approve, because if the law relating to the collection of taxes and to common schools shall remain as they are now, devoting the first item, as it is collected, to a special fund; the last two items, being collected as general revenue, can be and will be absolutely needed to be used in defraying the necessary expenses of the state government. The reasons inducing my action in this matter cannot be fully appreciated without a recurrence to the history of the state government since the reconstruction in 1870. Upon the occurrence of that event in Texas, it should be recollected that a magnificent government was set up in this state, with high salaries, large expenditures in fees of offices, and in every department of the government, including public

schools and frontier protection. At that time there was plenty of money in the country; labor was remunerated with high wages; production was paid high prices. It was not singular that miscalculations should have then been made as to the ability of the people to sustain such a government by those then administering public affairs in this state. At the end of four years, upon a change of administration, it was found that (as since ascertained and reported by the comptroller) the state had incurred a debt of over four millions of dollars, much of which was a floating debt, not reduced to interest-bearing bonds. The credit of the state was low, and warrants were low. At once an effort was made to meet these debts, and to restore the credit of the state. It was necessarily done at a sacrifice of means. An effort was made to push back a receding frontier, which required heavy outlays of money that have resulted in extending it one hundred miles or more. An effort was made to curtail superfluous expenses generally, which, when once established, is always difficult of accomplishment, as those receiving the benefit of it are slow to give it up for the public good. Much, however, was done in that regard. In 1875 the convention to frame a new constitution adopted measures of retrenchment, limitations and reforms, whose full scope has never yet been fully appreciated and acted on, in reference to the finance of the state, as I will presently bring more obviously to view. Efforts were made under this constitution to retrench the expenses of the government, and to increase the efficiency of the actual government of the country. The necessary means to attain these objects have themselves entailed additional expenses over and above the ordinary expenses of carrying on an economical government. It should be borne in mind, as a most important fact, that during all this time, for the last five years, the circulating medium of the country has been constantly and gradually diminished, so that labor and production have received less and less remuneration, and the burdens of the expenses of the government have been proportionally increased, and thereby the measures of retrenchment and reform have not been felt as they otherwise would have been; and hence, also, miscalculations, in regard to the effect of measures have been made by previous Legislatures, who have doubtless acted in good faith in promoting the best interest of the country by their action. Entertaining this view of the subject, I have in my inaugural and messages to the Legislature at its present session endeavored to present to you, and to the people of the state, the true condition of the country as it now exists, the difficulties in which we are involved, and the way out of those difficulties as best I could, without any reflection whatever upon any officer or legislative body heretofore engaged in the administration of the state government, deeming that they have done whatever patriotism and public duty required of them for the time, according to their best judgment.

It is hardly necessary to call your attention to the fact that finding a large deficiency of public debts, now estimated at over one-half a million of dollars, already incurred, and large excess of expenses over current annual revenue, I recommended a cutting down of the expenses generally in everything, without such a diminution as to produce an embarrassing shock in any department of the government, but sufficiently so as that the annual revenue should be equal to the current expenses, and also to provide the means, as far as practicable, for the payment of the outstanding debts creating the deficiency. The present Legislature have been

most industriously and laboriously employed, not only in numerous local, sectional and amendatory measures, but also in carrying out this policy by reducing salaries and curtailing expenditures in different objects—both pensions and frontier and police expenses being cut down—not that I recommended it so much, perhaps, as from their own convictions of its obvious necessity under existing circumstances. Upon two leading subjects of expense there has been as yet no change in the course of legislation, which are in the appropriations of one-fourth of the entire state revenue for the support of the common schools (amounting as estimated to \$400,000), and the appropriation for the payment of the interest of the bonded debt of the state and the sinking fund annually set apart to pay the same (amounting to nearly \$500,000 more), making in the aggregate nearly \$900,000 taken first out of the \$1,600,000 net revenue of the state, as it is estimated by the comptroller, and which leaves only about \$700,000 with which to defray the current expenses necessarily incurred in the administration of the actual government of the state. That amount is not only not enough, as is shown by this appropriation act, but its deficiency is greatly increased by its postponement to the other two leading and principal appropriations, that are favored by the preferred payment of them under existing laws. This preference given to these large appropriations, though for objects constituting the mere incidents of government, and not the expenses absolutely necessary to carry on the actual government itself, constitute the continual clog and derangement of our whole financial system, and will continue to do so as long as it is allowed to continue.

To illustrate the combined operation of these two clogs, as they operate together practically, the assessors of taxes, shortly after the first of this year, commenced assessing the taxes on property in the hands owning it on the first day of January last, including an enumeration of the scholastic population; on or about the first of September the rolls will be returned to the comptroller's office, showing the probable amount of revenue to be collected for the year, and the scholastic population; when the board of education will set apart to, and give orders for each county its proportion of the one-fourth of the revenue (which last year in one hundred and thirty-five counties of the state, amounted to largely over one-fourth of all the taxes collected in those counties). The tax collector will then proceed to collect the taxes and pay into the county treasury all the taxes he collects, until that amount is paid, by which but little, if any money is sent by him to the treasury at Austin until after the first of next January. This is not all. From the first of July the treasurer of the state, having just paid one instalment of interest of nearly \$200,000, which he has been saving for that purpose, is required by law to hoard up a similar amount for payment on the first of January, and if he regularly reserves and sets aside or invests the sinking fund semi-annually, that is, \$100,000 more, so that in about one-half of the year about \$900,000 will be appropriated to these two preferred claims, draining the treasury of means during that whole time, to pay the current expenses of the actual government of the country. The consequence must be that the treasury warrants, issued during that time to all of the officers and employes of the government, and to defray the expenses of the frontier and police service, and of the asylums, must be put upon the market and sold at a ruinous discount, or if those for expenses of the frontier and of the asylums should not be sold, articles and supplies would be purchased

by them at a corresponding loss, which amounts to the same thing. It is easy to perceive from this statement, which is sufficiently accurate for illustration, that if the \$700,000 left was sufficient to meet all of the expenses at the end of the year, the treasury warrants, during a large portion of the year, would be sold at a discount, and if a recurring deficiency from year to year is entailed upon us, we may reasonably anticipate that treasury warrants will generally be the subject of speculation, as they have been heretofore very often and unavoidably so, under this system of finance. It does no good to complain, that capitalists do, and will speculate in these warrants, when the opportunity is offered fairly to do it. The fault or misfortune is in allowing the opportunity, if it can be avoided. The constitution of 1876 sets up barriers against the powers of the state government on the subject of finance, which confine it to certain well defined limits and sphere of action. On the one hand, it cannot levy state taxes exceeding fifty cents on the one hundred dollars, except to pay the interest on the public debt. On the other hand it cannot create a debt at any one time for casual deficiencies, over two hundred thousand dollars. Money in the treasury or to come into the treasury by the operation of a law constituting it a special fund, cannot be used for any other object, and is thereby abstracted from the general revenue. By these restrictions, the government is required to limit all of its expenses, except the interest on the public debt, within the amount of revenue raised by taxes, not exceeding fifty cents on the one hundred dollars. If the said expenses exceed that amount, our bonded debt must be increased from time to time, limited to two hundred thousand dollars at any one time; and if the deficiency is greater than that amount, as it is now, something else must be resorted to for relief.

The course of legislation has placed another restriction upon the action of the Legislature, by placing in the law regulating common schools and in the law for the collection of taxes, a provision that one-fourth of the revenue and one dollar poll tax shall be assessed and collected for the support of common schools, thereby making it, when collected, a special fund for that purpose; that, as it is believed, is neither required nor contemplated by the constitution, which says that "there shall be set apart annually not more than one-fourth of the general revenue and a poll tax of one dollar for the benefit of the free common schools." To carry out the obvious intention of this provision, whatever amount is set apart should be collected as general revenue. And then in making annual appropriations, so much could be set apart within the prescribed limit, as could be spared for that purpose at the time of making the appropriation. Whereas under the present plan of designating it, as a fund when collected, the Legislature at each succeeding session will be restricted to using it as such, however ill-able it can be spared in carrying on and defraying the current expenses of the government, of which we have had a most notable instance in the appropriation of \$600,000 for common schools, making in all for the scholastic year \$900,000.

In the effort at retrenchment, the salaries and compensation of numerous officers and employes of the government have been diminished. The school masters of common schools are not more deserving than they are, either as individuals or as a class.

The prime object of levying taxes is the necessity of supporting an efficient government and of paying the officers and employes who admini-

ister, support and maintain it by their labor and means. The public support of free common schools is a secondary object compared to the administration of the government; so also, is the payment of interest on the public debt, however desirable it may be for both of these things to be done. If the condition of the country is such as that taxes cannot be collected sufficient for all of these purposes at any one time, the actual government should first be maintained rigidly and efficiently, and the other objects should have devoted to them what could be spared from the revenue after defraying the necessary expenses of an economical administration. Such is the practice, as it is believed, of all other governments in this whole country except that of Texas, and should be so here.

It is now obviously certain, as I believe, that the expenses provided for in the present appropriation act will exceed the revenue that will be collected, if one-fourth of it is appropriated to common schools, unless there is a special tax levied over and above that of fifty cents on the one hundred dollars. And that presents the issue squarely of more taxes on the people or less pay to common school masters. Should the Legislature see proper to repeal the restrictions in the tax law and school law that have been referred to, and appropriate so much of the revenue as can now reasonably be spared from the current expenses in administering the government of the state, it, with the interest derived from the bonds belonging to the fund, will give such aid to the schools as the country is now able, without increasing taxation, which is not now practicable, and will leave the succeeding Legislature free to do on this subject whatever their duty may then require, under the condition of the finances of the state at that time.

Should the Legislature choose to continue this large appropriation, or to continue in force the laws tying it up as a special fund, then the only resource is to use the revenue that would pay the interest on the public debt in defraying the necessary expenses in carrying on the actual government. And this necessity presents squarely the issue of repudiation for a time or less pay to common school masters. It may be a deplorable alternative, involving loss of good credit to ourselves and inconvenience to our creditors. They will understand the small size of our public debt, compared to our prospective resources and capacity to pay ultimately; they may even feel more secure ultimately, if, by the use of the interest for a time, these exorbitant appropriations, beyond the capacity of the country to pay, can be stopped. And if the worst must come, it is better that we should not have good credit, if it is to be made the reliance for increasing the debt, increasing the taxes, and increasing the prospect continually of ultimate bankruptcy to the state or impoverishment of its people.

With no public lands sold to extinguish or diminish the public debt, with the school lands not put upon the market so as to increase rapidly the common school fund, and with such enormous appropriations for the benefit of teachers continued from year to year, the prospect before us is to continue to pile up deficiency upon deficiency, and thereby increase perpetually our public debt until it shall reach an amount that will be repudiation in fact, or burden the people with onerous taxes, leaving Texas all the time with a crippled and inefficient state government for the want of adequate means to defray the necessary expenses of it. Such a destiny should now be averted while it can be safely done.

O. M. ROBERTS, *Governor.*

Senator Lair moved to print 3000 copies of the governor's message just read.

Lost by the following vote:

YEAS.		
Brown, Edwards, Ford, Gooch,	Hobby, Lane, Lair,	Martin, Terrell, Tilson—10.

NAYS.		
Burnett, Burton, Grace, Guy, Homan,	Houston, McCulloch, Motley, Patton,	Ripetoe, Stewart, Shannon, Swain—13.

Not voting—Buchanan, Ledbetter, Moore, Storey.

Senator Edwards moved to print 5000 copies of the message, and moved a call of the Senate on this motion.

Call sustained.

Roll called; Senate full.

Senator Edwards' motion was lost by the following vote:

YEAS.		
Brown, Edwards, Ford, Gooch,	Hobby, Lane, Lair, Ledbetter,	Martin, Storey, Terrell, Tilson—12.

NAYS.		
Buchanan, Burnett, Burton, Grace, Guy,	Homan, Houston, McCulloch, Motley, Patton,	Ripetoe, Stewart, Shannon, Swain—14.

Not voting—Moore.

Senator Brown moved to print thirty-two copies, one for each senator and one for the president.

Senator Ledbetter moved to amend by inserting five hundred copies in lieu of thirty-two.

Adopted by the following vote:

YEAS.		
Brown, Buchanan, Edwards, Ford, Gooch,	Hobby, Lane, Lair, Ledbetter,	Martin, Storey, Terrell, Tilson—13.

NAYS.		
Burnett, Burton, Grace, Guy, Homan,	Houston, McCulloch, Motley, Patton,	Ripetoe, Stewart, Shannon, Swain—13.

Not voting—Moore.

There being a tie vote, the president voted in the affirmative and declared the question carried.

The motion of Senator Brown, as amended by the amendment of Senator Ledbetter, was then adopted.

The following message was received from the House announcing the

passage of House bill No. 503, entitled "An act requiring the assessor of taxes of Dallas county to perform additional duties;"

And that the House refuses to adopt Senate substitute for House substitute for Senate joint resolutions Nos. 102 and 5, "Proposing amendments to article 5 of the state constitution," and had appointed a conference committee on the same.

Senator Edwards moved that the Senate appoint a committee of conference on the same with free conference powers, etc.

Adopted, and Senators Edwards, Stewart and Patton appointed on said committee on the part of the Senate.

On motion of Senator Hobby, the governor's message was referred to committee on finance.

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled the following bills:

Senate bill No. 261, "An act requiring the proceeds arising from the leasing or renting of county school lands, and from sales of timber thereon, to be applied exclusively to educational purposes;"

Senate bill No. 330, "An act to protect lands lying on county boundaries from double assessment;"

Senate bill No. 332, "An act for the better protection of harbors and ports of the State of Texas;"

Senate bill No. 348, "An act to authorize and allow railroad companies to surrender their rights to reservations of the public domain;"

Senate bill No. 391, "An act to authorize the survivors of Terry's Texas rangers to erect a monument to the dead of that command in the burying grounds belonging to the state at Austin;"

Senate bill No. 382, "An act to change and define the times of holding the district courts in the fifth judicial district of the State of Texas," and at 9:45 o'clock A. M. presented the same to the governor for his signature.

GRACE, *Chairman.*

A message was received from the House announcing the passage of Senate bill No. 385, entitled "An act to amend title 53, chapter 2, of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature;"

And Senate bill No. 341, entitled "An act for the relief of actual occupants of the public lands," with amendments.

The president, after publicly reading captions, signed House bill No. 437, entitled "An act prescribing the number of hours per day which employes in the departments of the state government shall labor;"

House bill No. 358, entitled "An act to provide for the publication of notices of judicial sales in certain cases;"

House bill No. 356, entitled "An act making the county judge of Tom Green county returning officer for the seventy-fifth representative district;"

And House bill No. 243, entitled "An act to attach the unorganized counties of Archer, Baylor, Hardeman, Knox, Wilbarger and Wichita to the organized county of Clay, for judicial and other purposes."

On motion of Senator Gooch, the Senate took recess until called together by the president.

The president called the Senate to order.

The pending business, Senate joint resolution No. 368, was resumed. Senator Edwards moved a call of the Senate.

Call sustained.

Roll called. Absent—Buchanan, Lane, McCulloch.

Senator Edwards moved to suspend the call.

Carried.

Senator Edwards offered the following amendment to the pending bill:

“Section 2. The fact that amendments to the constitution have been submitted by this Legislature to a vote of the people, and the late hour of the session, creates an imperative necessity that the rules requiring this resolution to be read on three several days be suspended, and it is so ordered, and the emergency requiring that this resolution go into effect at once, and it is therefore enacted that this bill take effect and be in force from and after its passage.”

Adopted and resolution passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson---26.

NAYS—none.

Not voting—Moore.

Senator Guy called up House bill No. 503, just reported from the House (requiring the assessor of taxes of Dallas county to perform additional duties), which was read first time.

On motion of Senator Guy the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson---26.

NAYS—none.

Not voting—Moore.

Bill read second time and passed to a third reading.

Senator Guy moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,

Ford,
Gooch,
Grace,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,

Swain,
Terrell,
Tilson--26.

NAYS—none.

Bill read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAYS—none.

House bill No. 416, "Requiring commissioner of general land office to issue a duplicate to the heirs of John Keichner, deceased," was taken up, and motion of Senator Martin was indefinitely postponed.

Senator Edwards called up Senate joint resolution No. 378, "To grant leave of absence from the state to W. B. Wall, county judge of Houston county, for sixty days," which was read second time and ordered engrossed.

The rules were suspended and bill placed on its third reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--26.

NAYS—none.

Resolution read third time and passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCulloch,

Motley,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--24.

NAYS—Grace.

Not voting—Patton.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS,)
AUSTIN, April 23, 1879. }

To the honorable Senate of the State of Texas, in session assembled:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment of notary public:

F. Peters, of Austin county.

Respectfully,

O. M. ROBERTS, Governor.

On motion of Senator Homan, the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

Senator Storey, from conference committee, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was referred veto message of the governor vetoing certain items in Senate bill No. 130, entitled "An act to make appropriations for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881."

The items vetoed are as follows:

Under the head of "Educational Department" as follows:

"The entire available school fund annually derived from all sources, including the poll tax; and one-fourth of the general revenue is hereby set aside annually for the support of public free schools."

Also items under the head of "Treasury Department" as follows:

	YEAR ENDING	
	Feb. 29, 1880.	Feb. 28, 1881.
For interest on the public debt.....	\$400,000	\$400,000
For sinking fund of public debt to be invested in state bonds....	\$100,000	\$100,000

Your committee have duly considered the same, and by a majority of one recommend that the veto be sustained.

STOREY, Chairman.

Hon. J. D. Sayers, President of the Senate:

Your committee from each house, appointed with free conference powers, to take into consideration the disagreement between the two houses as to House amendment to Senate bill 345, "An act to provide for the printing and binding and distribution of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, adopted and established at the present session of the Legislature," and having duly considered the same, recommend that the House recede from its last amendment, and that the bill be amended by inserting after the word "him" in line twenty-nine, page 2, the words "in no case to exceed four hundred dollars."

STOREY,
EDWARDS,
HOMAN,
Senate Committee.
TAYLOR, of Marion,
GIBSON,
FLEWELLEN,
House Committee.

Report of the committee adopted.

Senator Burnett moved that the Senate take recess until called to order by the president.

Adopted:

Senate called to order by the president.

The following message was received from the House announcing that

the House concurred in Senate amendment to Senate bill No. 372, and also in Senate amendment to House amendment to Senate bill No. 374, all reported from the House this morning.

Senator Storey, chairman of committee on finance, submitted the following report.

The pending question being the adoption of the report, etc.

Senator Hobby moved a call of the Senate.

Call sustained.

Roll called. Absent—Brown, Grace.

Pending business went to the table.

The president, after publicly reading its caption, signed House bill No. 412, the deficiency bill.

Senator Lane offered the following resolution :

Resolved, by the Senate and House of Representatives, That the resolution to adjourn this session of the Legislature on Thursday, the 24th instant, at 12 o'clock m., be and the same is hereby rescinded.

And be it further resolved by the Senate and House of Representatives, That the President of the Senate and Speaker of the House of Representatives be authorized to close the present session by adjourning sine die their respective houses on Monday, the 28th day of April, A. D. 1879, at 10 o'clock A. M.

Senator Burnett moved to lay the resolution on the table.

Senator Stewart moved a call of the Senate.

Call sustained.

Roll called. Absent—Brown, Grace, who were on committee duty.

Pending business went to the table.

Senator Burton moved that Senator Brown be excused.

Senator Gooch moved a call of the Senate.

Call sustained.

Roll called. Absent—Brown, Grace.

Pending business went to the table.

Senator Homan moved to adjourn until 11:30 A. M. to-morrow.

Senator Gooch moved a call of the Senate.

Senator Homan withdrew his motion to adjourn.

Senator Stewart moved to adjourn until 8:30 P. M.

Senator Storey moved a call of the Senate.

Call sustained.

Roll called. Absent—Brown, Grace.

Pending business went to the table.

Senator Ledbetter offered the following resolution:

Resolved, That the thanks of the Senate is hereby tendered to each and all the officers and employes of the Senate for the faithful and impartial manner in which they have discharged their many and arduous duties, and for their many acts of kindness extended to us. During the entire session they have placed us under lasting obligations to each and all of them, and we, as senators now about to take our leave of these faithful and efficient officers and employes, beg leave to assure each and all of them that we will ever remember them with the profoundest feelings of kindness and gratitude.

Senator McCulloch offered the following resolution as an amendment to the resolution of Senator Ledbetter:

Resolved, That the thanks of the Senate are hereby tendered to the Hon. Joseph D. Sayers, president of the Senate, for his courteous and

honorable bearing as the presiding officer of this body, and that the best wishes of the Senate for the health, happiness and continued prosperity of our distinguished president are hereby tendered him in this the closing scene of the Sixteenth Legislature.

Resolved, That the thanks of this Senate are hereby tendered to the chief secretary, Jno. P. C. Whitehead, and all other officers and employes of the Senate of the State of Texas for the faithful, efficient and kind manner in which they have discharged the functions and duties of their respective offices during the present session.

Resolved, That the thanks of this Senate are hereby tendered to the chaplain of this Senate, Rev. Dr. Chaplin, for the zealous and efficient manner in which he has discharged his duty during the present session of the Sixteenth Legislature.

(Senator Ledbetter in the chair.)

The Senate was announced full.

The consideration of the report of the committee on finance was resumed.

Senator Edwards moved to postpone its further consideration until 8:30 P. M. and moved the previous question on this motion.

Motion seconded, and main question ordered.

The motion to postpone was lost by the following vote:

YEAS.

Brown,
Edwards,
Gooch,
Hobby,

Lane,
Lair,
Ledbetter,
Martin,

Storey,
Terrell,
Tilson—11.

NAYS.

Buchanan,
Burnett,
Burton,
Ford,
Grace,

Guy,
Homan,
Houston,
McCulloch,
Motley,

Patton,
Ripetoe,
Stewart,
Shannon,
Swain—15.

Senator Homan moved the previous question on the passage of the items of the appropriation bill vetoed by the governor, notwithstanding the veto.

Motion seconded and main question ordered.

The question to pass the items vetoed by his excellency, notwithstanding the veto of the governor, was lost by the following vote (it taking two-thirds to adopt):

YEAS.

Buchanan,
Burnett,
Burton,
Ford,
Grace,

Guy,
Homan,
Houston,
McCulloch,
Motley,

Patton,
Ripetoe,
Shannon,
Swain—14.

NAYS.

Brown,
Edwards,
Gooch,
Hobby,

Lane,
Lair,
Ledbetter,
Martin,

Storey,
Terrell,
Tilson—11.

Not voting—Stewart.

Senator Stewart was paired with Senator Duncan; he would vote "aye," and Senator Duncan would vote "no."

Senator Edwards made the point of order that the question just put to the Senate was out of order and against a constitutional provision,

“requiring that the items vetoed should have been reconsidered and the vote on each have been taken separately.”

Overruled.

Senator Homan called up Senate bill No. 65, entitled “An act to repeal ‘an act to encourage the construction of railroads in Texas by donations of land, approved August 16, 1876,’” which was read first time.

Senator Edwards entered a motion to reconsider the vote on the items vetoed in Senate bill No. 130 (the general appropriation bill), which was lost.

The president, after reading their captions, signed—

Senate bill No. 283, entitled “An act amendatory of and supplemental to chapter 3, title 78 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Sixteenth Legislature;”

Senate bill No. 385, entitled “An act to amend title 53, chapter 2 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature, by adding ‘article 2942a;’”

Senate bill No. 313, entitled “An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvements to receive the state and county taxes from persons who refused to pay the taxes levied for such purpose;” and

Senate bill No. 341, “An act for the relief of actual occupants of the public lands.”

Senator Patton moved to adjourn until 8 o'clock P. M.

Carried by the following vote:

	YEAS.	
Buchanan,	Guy,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Ford,	McCulloch,	Shannon,
Grace,	Motley.	Swair--15.
	NAYS.	
Brown,	Lane,	Storey,
Edwards,	Lair,	Terrell,
Gooch,	Ledbetter,	Tilson---11.
Hobby,	Martin,	

NIGHT SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; quorum present.

The point of order made by Senator Hobby this evening was withdrawn.

Senator Shannon asked leave to spread the following reasons on record for the vote herein referred to:

“We vote ‘no’ because the amendment proposes an additional and unnecessary tax upon the already heavily taxed people of Texas. We have uniformly voted to reduce the expenses of the government and in favor of measures to increase the revenues, until we believe there will not necessarily be any deficiency during the next two years. Further, the reason offered for this increase of taxation (i. e. that the appropriation of the usual amount for public education has made it necessary), has so often been shown in this hall to be falacious that its use now is only

further evidence to us of the correctness of our position on this question. We desire to say also that on a former day of this session we expressed our belief that this proposition for additional taxation was made not seriously, but as a thrust at the advocates of a liberal appropriation for free schools; but it appearing that this was regarded by some senators as questioning their personal integrity, we withdrew it from the journals, with the understanding, on our part at least, that the matter should end there. The senator from Nacogdoches has seen fit, however, to print and circulate a speech in which we are denounced as attempting to blind the public and dodge the issue before the country, which speech he has also obtained leave to enter upon our journals. These charges, made after we had distinctly disclaimed any intention to reflect upon that senator, close the door against any concessions on our part. The display of figures and assertion in the senator's speech have been too often successfully met and overturned in the Senate to warrant us in occupying space on the journals in noticing it, and the flings at the public schools and teachers are their own answer.

"We are content that the records of senators shall determine who are the demagogues among us. Whether they who, in the line marked out by a denunciatory press, oppose the appropriation promised the people and necessary to continue our system of public education, or they who in the face of that abuse and the demand of political temporizers, vote to appropriate that which the law of the state directs shall be for the support of a system that is educating the children of the state, and that in our judgment is an essential element of a republican government.

W. K. HOMAN,
R. S. GUY,
W. R. SHANNON,
S. C. PATTON."

Senator Edwards asked leave to spread his reasons on record for the vote referred to herein:

SENATOR EDWARDS' REASONS.

Mr. President—I rise to a personal explanation. I find that in the Senate proceedings of yesterday, certain senators have placed upon the record their reasons for voting against an amendment proposed by myself, to add an additional tax of one-eighth of one per cent. to pay interest on the public debt, in this language:

"We vote 'no' because the amendment proposes an additional and entirely unnecessary tax upon the people, and because we do not believe the proposition is made seriously, but as a thrust at the majority of the Senate, in refusing to destroy the free school system by reducing the appropriation necessary for its maintenance.

HOMAN,
GUY,
SHANNON,
PATTON."

Mr. President—I do not believe there has been anything in my course, or that of other senators supporting my amendment, that could warrant my fellow senators in making such assertions about myself and those who voted with me, as that spread upon the record. I thought our proceedings here were of the most harmonious character, and, so far as I have seen, there has been nothing, outside of what might have occurred in the heat of debate, that would justify the spreading upon the record

that, as many as nine senators upon this floor are, in effect, actuated simply through pure demagogism in their action as legislators. I did not think when I offered this amendment, that my colleagues could suppose that I was not serious; I did not believe from the course pursued by me at this, or the previous session, that such an attack would be made upon me, and I do not think it can justly be made upon those who voted with me, in favor of the amendment.

In the first remarks I made, weeks ago, on the school appropriation, I asked senators whether, if they insisted upon taking this money and giving the schools three times as much, in proportion to our taxable valuation, as is given by any other state in the union, they would be willing to vote for an amendment to the tax law that would increase the taxes so that the revenue of the state would be sufficient to meet its necessary expenses. I said that the sole object that actuated me was to see the state kept out of debt; that with a constitution that prevented us from providing for a greater deficiency than two hundred thousand dollars every two years, it was absolutely necessary that we should retrench upon all branches of the government, and I called upon senators to understand that if they insisted upon paying out so much money to the schools, they must increase their taxes to avert the ever-recurring deficiencies.

Now we are arraigned as demagogues! Not in those words, but there can be no other inference deduced from the language that is published in the journals. I shall take occasion to show (for I was the author of the amendment,) the course of some of my comrades and myself in regard to the same question at the last session of the Legislature. Late in the session, after the deficiency bill came into the Senate, we struck from it a considerable number of items, amounting in all to nearly \$300,000, and I introduced a bill providing the means of paying school claims with bonds, which was returned to the Senate by the finance committee with an amendment. The amendment proposed by the committee was that an annual tax of fifteen cents ad valorem on the hundred dollars taxable property be levied, the money to be applied to the payment of the claims named and the public debt. That proposition was upon my motion called up; the rules were suspended, the bill was read a second time and engrossed, and I moved the suspension of the rules. The bill was read a third time and passed by an unanimous vote of the Senate. That was the course of myself and those in the last Senate, who are with me to-day. The senators from Fayette, Caldwell and Travis, who voted with me on my amendment yesterday, are found in the last Senate voting on the same proposition. The reason that impelled us to so vote was that we were told then by the senator from Caldwell, the chairman of the finance committee, that we might add to the income at the rate of fifty per cent. ad valorem, and the state would still go in debt \$300,000 per annum. It was this that impelled me to so act then, and it is the very same reason that impels me to so act now.

This protest must have been put on the record to blind the public, or would it be wrong to say that the effort of these senators to brand us with demagogism was made in order to dodge the issue before the country? Would it be too strong a reply to say that they have not only taken all they could take for the public schools, but in the face of the statement by the governor of the financial condition of the state, and in the face of everything said on this floor with reference to it, they refused to retrench on this pet scheme.

They say that this proposition was proposed by us out of pure demagoguery, that we might show a clear record. Sir, I am proud that I did show a clear record upon that question. I know that I have not shown a record recklessly favorable to the public free schools, and I am very willing to stand or fall by that, for as I said a few days ago the highest duty of a legislator should be to see that the finances of the state are so managed that there shall not be deficiencies and that there shall not be more spent than collected. This has been our course; what has been the course of others? To shut their eyes to the fact that there is a deficiency! to close their eyes to everything, however essential to the interest of the state, but this of maintaining and keeping up this deficiency-producing school system to its highest extent.

Long before I came to this Senate, I had the pleasure and honor of corresponding with some of my colleagues now upon this floor, and I urged upon them then what in the future is sure to come: that unless this extravagance is stopped on all sides, including the school system, increased taxation will follow. It is our duty to maintain the credit of our state. If we are not willing to take from the schools, we should be strong and manly enough to present the true facts to the country and take the taxes from the people, for it has to come to that. Just as sure as we run the state government as we are now doing, so sure will the hard earned money of the people have to be taken sooner or later from their pockets to pay for it. I believe the extravagance now consists in two features only—the interest paid on the public debt, and the amount of money given to the public schools.

I want to see people compelled to do that which the government is bound to compel them to do, that is to maintain the government without massing up a deficiency from year to year. When I say deficiency, I do not mean the difference between the appropriations made and the money expended. I mean that the tax you collect shall be sufficient to maintain the state government. I deemed it necessary to say this much in justice to my position upon this floor, and in justice to those who voted with me upon this matter. The result of the consideration of the matter by this Senate is only postponing the question a little further. The Fifteenth, Fourteenth, Thirteenth and Twelfth Senates saw it and debated it. The debt of the State of Texas, three-fourths of which has accrued from the public school system, is \$5,000,000. This debt is not the result of war, invasion, insurrection, or of any unseen calamity, *but it is the inevitable consequence of your not paying your debts as you go.* In 1870 the bonded debt was \$125,000. Without any war, insurrection, or great calamity, with nothing whatever but the simple experience of running the government in the ordinary way, and with flush times—plenty of money in the country up to 1874—we find in 1876 that you have piled up a debt of \$4,000,000, at the rate of nearly \$700,000 a year, growing out of deficiency in the revenue alone.

[Senator Edwards here dwelt at length upon the stringency of the tax laws enacted since the constitutional convention of 1875, to meet deficiencies, and then proceeded with increased emphasis.]

Where does your money go? To the poor clerk who works for your government, and whose pay is now reduced so low that perhaps the departments cannot be effectively run? Does the judge get it who sits on the bench administering your laws, and works day and night for the country? Does the governor get it? Do the asylums, the great objects

of your state charity, get it? Not a cent. The bondholder in the eastern states gets every dollar of his interest in cash; the school teacher who teaches a free school gets his in cash. His turn is served first. The warrants are drawn by the comptroller upon the tax-collectors upon the order of the superintendent of education, and every dollar is paid right to the county treasurers for school purposes. You so manage your business that you cannot compel your collectors to settle because you leave out \$400,000 for your collectors to pay over to your treasurers as fast as it is collected, so that it may be paid out to the teachers. That is the first demand that is made upon the treasury. After that the little money that does come into the treasury is hoarded up to meet the interest upon the debt. From \$165,000 to \$175,000 is held semi-annually out of the first money to meet that interest. Then what becomes of the men that work for the state? If they are not able to maintain themselves out of their private means, they are compelled to discount their warrants; or, in other words, instead of the state manfully meeting this obligation and paying them for their services, you compel them to pay from six and one-half to ten per cent. interest in the form of discount of their warrants. Creditable financial management that!

Your whole revenue is only \$1,600,000; \$400,000 of that is given first of all to the schools; the second claim, nearly \$400,000, goes to the payment of interest on the state debt, and then in the balance that should pay the million of dollars required to maintain the state government proper, there is a startling deficiency.

The Fifteenth Legislature created bonds to the amount of \$200,000 to meet deficiency, and now we are called upon to settle \$540,000 accrued since then, making \$740,000; even more than the chairman of the finance committee last session said it would be. We were told then that the increased taxes would relieve us, without the additional fifteen cents on the hundred dollars, and we are sadly disappointed. Is this eternal deficit to run on forever? The end is sure to come, and to come in the form of a burdensome tax on the people, and perhaps in the depreciation of our obligations. We believe that the result of our not meeting the demands arising from our expensive system will be that there will always be a deficiency and depression in warrants. For that reason we thought that it would be better to get the full amount of money by taxation that would be required to run the government. Unless you adopt that policy, you will always have an injustice staring you in the face, the injustice that the men who really work for the state, who carry on the machinery of the state, are the men who get nothing from the treasury, are the men who are compelled to discount and sell their warrants for the purpose of building up speculators upon our mismanagement.

I trust that the senators present, other than the four who have sought to brand us by implication, do not think that we have acted the demagogue in this matter; I trust from the manner we have urged this upon the Senate, that we may receive the credit from at least the balance of our colleagues of having spoken the honest sentiments of our hearts upon this matter; I feel that I have been candid, my efforts directed solely to the maintenance of the credit of the state in its integrity by making it able to pay cash at the treasury. I believe that is the highest duty that any senator who stands within these walls can recognize. We hear a great deal spoken about the glory of the state, its great extent, its increasing population and great wealth—but, sir, no citizen can take

pride in a state, however large it may be, whatever the number of its inhabitants, or amount of its wealth, that pursues the dishonest policy of refusing to pay for their services the men who carry on the state government, the men who give their time and labor to maintain it in its prosperity and greatness.

The following message was received from the House announcing the passage of Senate bill No. 387, entitled "An act to amend sections 15 and 20 of an act entitled 'an act to provide for the protection of the frontier of the State of Texas against the invasion of hostile Indians, Mexicans or other marauding parties;'"

And Senate joint resolution No. 368, "Prescribing to the mode and manner of submitting constitutional amendments to the vote of the people;"

And that the House refuses to adopt the report of conference committee with powers of free conference on Senate bill No. 337, "An act granting land certificate of 640 acres to indigent pensioners;"

And House adopts the report of the free conference committee on Senate bill No. 345, "An act to provide for the printing and binding of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, passed at the present session of Legislature."

On motion of Senator Homan, Assistant Secretary Fields was excused for the night session on account of court business.

Senator Edwards called up the resolution of Senator Lane, offered on to-day with regard to adjournment.

A call of the Senate was moved.

Call sustained.

Roll called. Absent—Burton, Ford, Swain.

Pending business went to the table.

The Senate concurred in House amendments to Senate bill No. 387, entitled "An act to amend sections 15 and 20 of an act entitled 'an act to provide for the protection of the frontier of the State of Texas against the invasion of hostile Indians, Mexicans, or other marauding or thieving bands.'"

The president, after publicly reading its caption, signed Senate bill No. 372, entitled "An act to amend article 4761 of the Revised Civil Statutes, adopted at the present session of the Legislature."

Senator Storey offered the following resolution:

Resolved, That a committee of three senators be appointed by the president of the Senate to act with a like committee of the House of Representatives to wait upon and inform his excellency the governor, that this session of the Legislature adjourn *sine die* at 12 o'clock M. on to-morrow, the 24th day of April, A. D. 1879, and that the two houses are ready to receive any communication from him deemed proper.

Adopted.

On motion of Senator Gooch, the Senate adjourned until 9:30 A. M. to-morrow, in fine spirits and good humor after a great deal of lively amusement.

EIGHTY-SEVENTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, April 24, 1879. }

Senate met pursuant to adjournment. President in the chair. Roll called; quorum present. Prayer by the chaplain.

On motion of Senator Houston, the reading of the journals of yesterday was dispensed with, and the same adopted.

The president appointed Senators Storey, Burnett and Edwards a committee to wait upon the governor and inform him that the Legislature would adjourn to-day at 12 m., etc.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 24, 1879. }

To the honorable Senate of the State of Texas:

GENTLEMEN—I respectfully ask your advice and consent to the following appointment:

John S. Givens, of Corpus Christi, to be district attorney of the twenty-fifth judicial district of the State of Texas.

Respectfully, O. M. ROBERTS, *Governor.*

On motion of Senator Ford, the Senate went into executive session.

IN SENATE.—On motion of Senator Hobby, the confirmations just made in executive session were ordered to be entered on the journals.

It is accordingly stated that John S. Stephens, of Corpus Christi, was confirmed as district attorney of the twenty-fifth judicial district of the state, and that F. Peters was confirmed as notary public of Austin county.

On motion of Senator Lane, Senate bill No. 337, entitled "An act granting a land certificate of six hundred and forty acres to each of the indigent pensioners enrolled under the act approved July 28, 1876," was taken up.

The Senate reconsidered the vote refusing to concur in House amendments to the pending bill.

On motion of Senator Lane, the House amendments were concurred in.

A message was received from the House announcing the passage by that body of House bill No. 204, entitled "An act to amend an act approved April 1, 1873, entitled 'an act amendatory of an act to incorporate the city of Austin,' passed March, 1873;"

House bill No. 177, entitled "An act to regulate procedure in relation to common uses of certain enclosed lands," approved August 21, 1876,"

And Senate joint resolution No. 393, "authorizing the appointment of a committee to sit during the vacation of the Legislature to continue the investigation of land forgeries and prescribing their powers and duties."

Also the following:

Resolved, That a committee of three be appointed by the Speaker of the House to act with a like committee on part of the Senate, to wait on the governor and inform him that the two houses will stand adjourned *sine die* at 12 o'clock m. to-day, and that the two houses are ready to receive any communication from him that he may see fit to make.

And that Messrs. Johnston of Shelby, Coleman and Taylor of Marion, were appointed such committee on part of the House.

The president appointed Senator Lane under the provisions of Senate joint resolution No. 393, committee to investigate land forgeries.

A message from the House announced that the following Senate bills were lost in the House:

No. 24—To secure creditors a just division of the estates of debtors, etc.;

No. 78—For designating and working public roads, etc.;

No. 58—Prescribing the times of holding court in twelfth judicial district;

No. 87—Regulating juries in capital cases;

No. 13—To provide for the time and place of holding the supreme court of the State of Texas;

No. 23—To diminish the civil and criminal jurisdiction of Polk county;

No. 302—Making an appropriation to aid in the instruction in the Agricultural College, etc. (\$15,000);

No. 99—Authorizing Nathan Patton, one of the late lessees of the penitentiary, to bring suit against the state;

No. 174—Providing for repairs on the executive mansion;

No. 72—Amending articles 3176, 3177, 3178 and 3179 of title 61, chapter 2, of the Revised Statutes;

No. 96—For the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools;

No. 196—To regulate the practice of pharmacy;

No. 151—To encourage the construction of artesian wells;

No. 190—To amend chapter 17, title 17, of the Penal Code, etc.;

No. 36—Providing for the transportation of convicts under contract, etc.;

No. 14—Providing for the time and place of holding the court of appeals;

Senator Edwards submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of conference, with free conference powers, appointed to take into consideration the disagreement between the two houses in regard to Senate substitute for House substitute for Senate substitute for Senate joint resolutions Nos. 5 and 102, "Joint resolution proposing an amendment to article 5 of the constitution," have duly considered the same, and a majority of your joint committee instruct me to report the substitute to the House of Representatives for the numerous resolutions and substitutes with the recommendation that it do pass.

EDWARDS,

PATTON,

STEWART,

for Senate.

FROST,

FOSTER,

for House.

Adopted.

The president, after publicly reading their captions, signed House bill No. 503, entitled "An act requiring the assessor of taxes of Dallas county

to perform additional duties;" and House bill No. 422, "An act to provide for the assessment and collection of taxes."

House bill No. 204, just reported from the House, was taken up and read first time.

(Senator Hobby in the chair.)

Senator Burnett moved a call of the Senate.

Call sustained.

Roll called. Absent—Edwards, Grace, Motley.

Senator Storey, from special committee, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

The Senate committee appointed to act with a like committee of the House; to wait upon and inform his excellency the governor that this session of the Legislature will adjourn at 12 m. this day, have performed that duty, and we are requested by the governor to say that he will send a communication to the two houses before the hour of adjournment.

STOREY,
EDWARDS,
BURNETT.

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate bill No. 372, "An act to amend article 4761 of the Revised Civil Statutes of the State of Texas," adopted at the present session of the Legislature.

Senate bill No. 374, "An act to amend article 97 of an 'act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,'" and have this day presented the same to the governor for his signature at 9:50 o'clock A. M.

GRACE, *Chairman.*

(President in the chair.)

Senator Terrell moved to excuse the absentees on the call on House bill No. 204 (reducing the city limits of the city of Austin).

Senator Burnett moved a call of the Senate on the motion of Senator Terrell.

Senator Houston made the point of order that the call of the Senate was not in order on motion to excuse an absent senator.

Point sustained.

Senator Terrell moved to suspend the rules and place House bill No. 204 on its second reading.

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Houston,
Lair,
Ledbetter,
McCulloch,
Motley,

Patton,
Stewart,
Storey,
Terrell,
Tilson—17.

NAYS.

Burnett,
Burton,
Grace,

Homan,
Lane,
Martin,

Ripetoe,
Shannon,
Swain—9.

Senator Ledbetter was excused from voting on this question.

Senator Burton offered the following resolution:

Resolved, That the assistant sergeant-at-arms is hereby authorized to retain Henry Mitchell as porter to convey all mail matter for members to the postoffice, put the Senate chamber in order, and perform such other duties as the secretary or sergeant-at-arms may require, and said porter shall be paid out of the contingent fund; *provided*, he shall not be retained for a longer time than five days.

Adopted by the following vote:

YEAS.		
Burnett,	Houston,	Ripetoe,
Burton,	Lane,	Stewart,
Edwards,	Lair,	Shannon,
Ford,	Ledbetter,	Storey,
Guy,	Martin,	Swain,
Hobby,	McCulloch,	Terrell—20.
Homan,	Motley,	
NAYS.		
Brown,	Gooch,	Tilson—5.
Buchanan,	Grace,	

Not voting—Patton.

House bill No. 177, entitled "An act to regulate procedure in relation to common uses of certain inclosed lands," approved August 21, 1876, was taken up and read first time.

The Senate refused to suspend the rules to place the bill on its second reading by the following vote:

YEAS.		
Guy,	Ledbetter,	Stewart,
Hobby,	McCulloch,	Shannon,
Houston,	Motley,	Tilson—10.
Lair,		
NAYS.		
Brown,	Gooch,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Lane,	Swain,
Burton,	Martin,	Terrell—12.

Not voting—Edwards, Ford, Grace, Storey (all on committee duty).

The following communication was received from the officers and employes of the Senate:

Hon. J. D. Sayers, President of the Senate:

The officers and employes of the Senate, fully appreciating the uniform kindness and courtesy extended to them by yourself and each and all the senators during the session now about to close, desire hereby to express their thanks therefor. Wishing all of you a safe return to your homes and families and a long life of happiness and usefulness to your state and country, they ask that this their testimonial to the great worth of the president and members of the Senate of the Sixteenth Legislature may be spread upon the journals.

On motion of Senator Motley, the above was ordered entered on the journals by the following vote, which was unanimous:

YEAS.		
Brown,	Ford,	Homan,
Buchanan,	Gooch,	Houston,
Burnett,	Grace,	Lane,
Burton,	Guy,	Lair,
Edwards,	Hobby,	Ledbetter,

Martin,
McCulloch,
Motley,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,

Swain,
Terrell,
Tilson—26.

NAYS—none.

The following message was received from the governor, which was omitted from the journals yesterday:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 23, 1879. }

To the honorable Senate and House of Representatives in Legislature assembled:

GENTLEMEN—I respectfully submit herewith captions of bills passed at present session and approved by me.

Respectfully, O. M. ROBERTS, *Governor.*

S. B. No. 135.—An act for the relief of the Aransas Road Company.
Approved March 26, A. D. 1879.

H. B. No. 377.—An act to declare valid and binding on the county of Wilson certain sales of lots and blocks of the town of Floresville, in said county.

Approved March 26, A. D. 1879.

H. B. No. 451.—An act to amend “an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas,” passed at the present session of the Legislature.

Approved March 26, A. D. 1879.

S. J. R. No. 215.—Joint resolution requesting senators and representatives in congress to use their influence in securing loan from general government of four batteries of artillery to adjutant general.

Approved March 26, A. D. 1879.

H. B. No. 308.—An act legalizing the county lines of Duval county and of counties affected thereby, as surveyed and marked by the surveyors of Nueces, Duval, Live Oak and Webb counties.

Approved March 26, A. D. 1879.

H. B. No. 375.—An act to amend “an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas,” approved February, 1879.

Approved March 26, A. D. 1879.

Sub. H. B. No. 123.—An act to amend sections 6 and 9 of “an act to define a lawful fence and to carry into effect sections 22 and 23, article 16 of the constitution of the State of Texas, authorizing the passage of stock and fence laws,” approved August 15, 1876.

Approved March 26, A. D. 1879.

Sub. S. B. No. 23.—An act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this state, and conform the jurisdiction of the district courts of said counties to such change.

Approved March 27, A. D. 1879.

H. Sub. S. B. No. 288.—An act amendatory of “an act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth

judicial districts, prescribing the times of holding the district courts therein and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts," approved February 22, 1879, and repealing an act supplemental thereto, approved March 8, 1879.

Approved March 27, A. D. 1879.

S. B. No. 68.—An act entitled "an act to amend article 794, chapter 3 of the Code of Criminal Procedure," adopted at the present session of the Legislature.

Approved March 27, A. D. 1879.

H. B. No. 71.—An act to further regulate and render more efficient the maintenance and management of the public free schools and institutions of learning in cities or towns in this state.

Approved April 3, A. D. 1879.

H. B. No. 187.—An act to provide for the levy and collection of an occupation tax on the sale of spirituous, vinous and malt liquors in quantities less than a quart and to make an appropriation to carry the same into effect.

Approved April 3, A. D. 1879.

H. B. No. 50.—An act authorizing the commissioner of the general land office to approve the county land certificate issued to the heirs of William Fishbaugh, deceased, who fell at the Alamo.

Approved April 3, A. D. 1879.

H. B. No. 482.—An act to amend article 436 of section 2 of "an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," passed at the present session of the Legislature.

Approved April 3, A. D. 1879.

S. B. No. 225.—An act to diminish the civil and criminal jurisdiction of the county court of Trinity county, and conform the jurisdiction of the district court of said county to said change.

Approved April 5, A. D. 1879.

Sub. H. B. Nos. 305 and 335.—An act to provide for the sale of all real estate bid off to the state by collectors of taxes at tax sales, the owners of which have not redeemed the same.

Approved April 7, A. D. 1879.

S. Sub. for H. B. No. 207.—An act for the better protection of timber and lumber.

Approved April 7, A. D. 1879.

Sub. S. J. R. No. 29 and H. J. R. No. 2.—Joint resolution amending article eight (8) of the constitution of the State of Texas by adding a new section to be section nineteen (19).

Approved April 7, A. D. 1879.

S. B. No. 53.—An act for the relief of the heirs of Captain Silas Dinsmore, deceased.

Approved April 7, A. D. 1879.

S. B. No. 52.—An act to protect the rights of pre-emption settlers who

have heretofore or may hereafter enlist in the frontier battaion or other military forces of the state.

Approved April 7, A. D. 1879.

S. B. No. 325.—An act to prescribe the times of holding the district court in the ninth judicial district.

Approved April 9, A. D. 1879.

S. B. No. 324.—An act to amend articles 2931 and 2971 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature.

Approved April 9, A. D. 1879.

S. B. No. 49.—An act to give effect to section 2, article 9 of the constitution, regulating the manner of removing and locating county seats.

Approved April 10, A. D. 1879.

S. B. No. 349.—An act to repeal chapter 3 of title 64 of "an act to adopt and establish the Revised Civil Statutes of the State of Texas."

Approved April 10, A. D. 1879.

S. B. 312.—An act to amend and supplement the existing quarantine law of the State of Texas, title 83 of the Revised Statutes.

Approved April 10, A. D. 1879.

S. B. No. 338.—An act prescribing the times of holding the district courts in the first judicial district, and regulating the return of process therein.

Approved April 11, A. D. 1879.

S. B. No. 322.—An act to provide for the appointment of notaries public, cattle and hide inspectors, justices of the peace and constables in the unorganized counties of the State of Texas.

Approved April 11, A. D. 1879.

S. B. No. 181.—An act to reorganize the sixteenth judicial district of the State of Texas and to provide for the times of holding court therein.

Approved April 12, A. D. 1879.

S. B. No. 352.—An act to amend article 3649 of the Revised Civil Statutes, passed February 21, 1879.

Approved April 14, A. D. 1879.

S. B. No. 270.—An act granting further time to the Corpus Christi, San Diego and Rio Grande Narrow Gauge railroad company.

Approved April 14, A. D. 1879.

H. B. No. 402.—An act to amend chapters 19 and 20 of title 29, and chapters 3 and 4 of title 42 of "an act to adopt and establish the Revised Civil Statutes of the State of Texas."

Approved April 14, A. D. 1879.

S. B. No. 366.—An act to amend section 2 of an act entitled "an act to create the thirty-second judicial district, prescribing the time of holding the district court therein, and providing for the appointment of a district judge for said district," approved March 22, 1879.

Approved April 14, A. D. 1879.

S. B. No. 281.—An act supplemental to an act entitled “an act to fix the times of holding the district courts of the twenty-fifth judicial district of the State of Texas,” approved February, 1879.

Approved April 14, A. D. 1879.

S. B. No. 304.—An act supplemental to “an act fixing the times of holding the district courts of the twenty-third judicial district,” approved February 12, 1879.

Approved April 14, A. D. 1879.

S. B. No. 262.—An act to grant to Jackson Doyle a headright of six hundred and forty acres of land.

Approved April 14, A. D. 1879.

S. B. No. 88.—An act to amend articles 560 and 561 of “an act to adopt and establish a Code of Civil Procedure for the State of Texas,” as adopted by the Sixteenth Legislature.

Approved April 14, A. D. 1879.

S. B. No. 337.—An act to amend section 4 of an act entitled “an act creating the office of district attorney in certain judicial districts of this state,” passed at the present session of the Legislature.

Approved April 14, A. D. 1879.

S. B. No. 46.—An act creating the office of district attorney in certain judicial districts of this state.

Approved April 14, A. D. 1879.

S. B. No. 326.—An act to amend “an act fixing the times of holding the district courts in the seventeenth judicial district,” which was approved February 28, 1879, so as to make no changes of the time of holding court in said district, except in the county of Williamson.

Approved April 14, A. D. 1879.

S. B. No. 209.—An act for the relief of Joseph Tennec.

Approved April 17, A. D. 1879.

S. B. No. 204.—An act to require persons enclosing public free school lands to pay an annual rent therefor.

Approved April 17, A. D. 1879.

S. B. No. 113.—An act for the preservation of fish and to build fishways and fish ladders.

Approved April 17, A. D. 1879.

S. B. No. 182.—An act amendatory of an act entitled “an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justices’ precinct, city or town in this state that may so elect, prescribing the mode of election, and affixing a punishment for its violation, approved June 24, 1876.”

Approved April 17, A. D. 1879.

S. B. No. 186.—An act requiring railroad companies to stop their trains at the boundary lines of the State of Texas for a certain length of time.

Approved April 18, A. D. 1879.

Sub. H. B. No. 90.—An act to amend title 29, chapter 6, article 1235

of the Revised Civil Statutes, passed at the present session of the Legislature.

Approved April 18, A. D. 1879.

H. B. No. 395.—An act to limit the terms of the district court of Marion county.

Approved April 18, A. D. 1879.

H. B. No. 465.—An act to amend "an act to incorporate the city of San Antonio, and grant a new charter to said city," and to repeal "an act to incorporate the city of San Antonio," approved July 17, 1856, and "an act to amend the act to incorporate the city of San Antonio," approved February 11, 1860, approved August 13, 1870.

Approved April 18, 1879.

S. B. No. 243.—An act to amend article 1289 of "an act to adopt and establish the Revised Civil Statutes of the State of Texas."

Approved April 18, A. D. 1879.

S. B. No. 275.—An act to amend articles 75 and 79 of an act entitled "an act to adopt and establish the Revised Civil Statutes of the State of Texas," passed at the present session of the Legislature.

Approved April 18, A. D. 1879.

H. B. No. 459½.—An act to authorize any county, city or town in this state to compromise existing bonded indebtedness and to issue new bonds to be sold or exchanged for this purpose, and to provide for the efficient collection of the taxes to the principal and interest of such bonds.

Approved April 18, A. D. 1879.

S. B. No. 153.—An act to provide for building a new state capitol.

Approved April 18, A. D. 1879.

S. B. No. 212.—An act granting to Mrs. Florence Whitis, executrix, the right to make a change in Laurel street, in the city of Austin.

Approved April 18, A. D. 1879.

S. B. No. 390.—An act to require the governor of the State to countersign certificates for land hereafter issued from the general land office in certain cases.

Approved April 19, A. D. 1879.

S. B. No. 167.—An act to amend an act entitled "an act creating the office of public weigher, and regulating the appointment and defining the duties and liabilities thereof."

Approved April 19, A. D. 1879.

Sub. H. B. for Sub. S. B. No. 12.—An act to amend article 4257 of the Revised Civil Statutes, passed at the present session of the Legislature.

Approved April 19, A. D. 1879.

H. B. No. 501.—An act to amend article 1333 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature.

Approved April 19, A. D. 1879.

S. B. No. 321.—An act to authorize the Austin Canal, Irrigation and Manufacturing Company to construct a dam across the Colorado river.

Approved April 19, A. D. 1879.

H. B. No. 78.—An act to amend section 16 of "An act regulating elections, approved August 23, 1876."

Approved April 19, A. D. 1879.

Sub. H. B. No. 338.—An act to amend section 21 of "An act regulating the duties of tax collectors in reference to the seizure and sale of property of delinquent taxpayers and to define the further duties, powers, qualifications and liabilities of collectors of taxes and to regulate their compensation, approved August 21, 1876."

Approved April 19, A. D. 1879.

S. B. No. 301.—An act to provide for the organization and support of a normal school at Prairie View (formerly called Alta Vista) in Waller county, for the preparation and training of colored teachers.

Approved April 19, A. D. 1879.

S. B. No. 346.—An act to provide for the issuance and sale of bonds for the purpose of retiring the outstanding bonds of the state and to supply deficiencies in the revenue and to provide the mode and manner of the sale of said bonds.

Approved April 21, A. D. 1879.

S. B. No. 336.—An act amendatory of and supplemental to an act entitled "an act to consolidate in one act and amend the several acts incorporating the city of Houston, in Harris county," approved January 23, 1879, and the several acts amendatory thereof.

Approved April 21, A. D. 1879.

S. J. R. No. 306.—Joint resolution granting leave of absence from the state for one month to Hon. W. H. Burkhart, judge of the eighteenth judicial district.

Approved April 21, A. D. 1879.

S. B. No. 370.—An act to amend title 48, chapter 5 of an act entitled "an act to adopt and establish the Revised Civil Statutes of the State of Texas," passed February 21, 1879.

Approved April 21, A. D. 1879.

S. B. No. 73.—An act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property.

Approved April 21, A. D. 1879.

S. B. No. 300.—An act to establish a state normal school.

Approved April 21, A. D. 1879.

Sub. for H. B. No. 75.—An act to provide for appeals and writs of *certiorari* from judgments of justices' courts, in counties in which the civil and criminal jurisdiction or either of the county courts has been transferred to the district court.

Approved April 21, A. D. 1879.

S. B. No. 308.—An act to validate the sale of certain town lots and county lands in the county of McCulloch.

Approved April 21, A. D. 1879.

S. B. No. 179.—An act to define in what civil cases depositions of witnesses may be taken.

Approved April 21, A. D. 1879.

H. J. R. No. 64.—Joint resolution granting to Honorable Gustave Cook, judge of the criminal district court of Galveston and Harris counties, thirty days leave of absence from the state.

Approved April 21, A. D. 1879.

S. B. No. 118.—An act to amend title 58 of the Revised Civil Statutes of the State of Texas, passed February 21, 1879.

Approved April 22, A. D. 1879.

S. B. No. 350.—An act to amend article 1173 of the Revised Civil Statutes, passed by the Sixteenth Legislature.

Approved April 22, A. D. 1879.

S. B. No. 128.—An act to amend chapter 3 of "an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas," by adding another article to be called article 680a, prohibiting the use of any dumb animal, the property of another, without the consent of the owner, and prescribing a penalty therefor.

Approved April 22, A. D. 1879.

H. B. No. 497.—An act to amend articles 3955 and 3963 of the Revised Civil Statutes, passed at the present session of the Legislature.

Approved April 22, A. D. 1879.

S. H. B. No. 438.—An act to authorize Messrs. Cunningham & Ellis, lessees of the state penitentiary, to sue the state.

Approved April 22, A. D. 1879.

H. B. No. 445.—An act to provide for the assessment and collection of the taxes on lands and other property situated in the unorganized counties, and for the enforcement of the same.

Approved April 22, A. D. 1879.

H. B. No. 359.—An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the place where sentenced to the penitentiary.

Approved April 22, A. D. 1879.

H. B. No. 414.—An act amending and supplementing articles 4662, 4663, 4664, 4665, 4666, 4667 and 4668, inclusive, of chapter 1, title 94 of the Revised Civil Statutes, adopted February 21, 1879.

Approved April 22, A. D. 1879.

S. Sub. for H. B. No. 33.—An act to amend article 4767 of the Revised Civil Statutes of the State of Texas.

Approved April 22, A. D. 1879.

S. B. No. 388.—An act to attach the unorganized county of Runnels to the county of Coleman for surveying purposes.

Approved April 22, A. D. 1879.

H. B. No. 99.—An act to amend section 46 of "an act to encourage stockraising and for the protection of stockraisers," approved August 23, 1876.

Approved April 22, A. D. 1879.

H. B. No. 336, Sub. S. B. No. 320.—An act establishing and prescribing the manner of ascertaining the boundaries of counties.

Approved April 22, A. D. 1879.

H. B. No. 206.—An act in relation to chattel mortgages and other instruments intended to operate as mortgages of or liens upon personal property and the record thereof.

Approved April 22, A. D. 1879.

H. B. No. 121.—An act to ascertain the amount due teachers for services rendered in the public schools from September 1, 1873, to August 31, 1876, and to provide for the payment of the same.

Approved April 22, A. D. 1879.

S. B. No. 271.—An act to amend article 3193 of an act entitled "an act to adopt and establish the Revised Civil Statutes of the State of Texas."

Approved April 22, A. D. 1879.

S. B. No. 292.—An act to authorize the construction of a ship channel from Corpus Christi across Mustang Island, and to donate land for the same.

Approved April 22, A. D. 1879.

S. B. No. 252.—An act to amend chapter 2 of title 15, and chapter 1 of title 16, in the Code of Criminal Procedure, of an act entitled "an act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas."

Approved April 22, A. D. 1879.

Sub. S. B. No. 123.—An act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the day of February, 1879.

Approved April 22, A. D. 1879.

S. B. No. 90.—An act to suppress lawlessness and crime and to organize a force for that purpose.

Approved April 22, A. D. 1879.

S. B. No. 391.—An act to authorize the survivors of Terry's Texas rangers to erect a monument to the dead of that command, in the burying grounds belonging to the state, at Austin.

Approved April 23, A. D. 1879.

S. B. No. 382.—An act to change and define the times of holding the terms of the district courts in the fifth judicial district of the State of Texas.

Approved April 23, A. D. 1879.

H. B. No. 437.—An act prescribing the number of hours per day in which employes in the department of the state government shall labor.

Approved April 23, A. D. 1879.

H. B. No. 243.—An act to attach the unorganized counties of Archer, Baylor, Hardeman, Knox, Wilbarger and Wichita to the organized county of Clay, for judicial and other purposes.

Approved April 23, A. D. 1879.

H. B. No. 358.—An act to provide for the publication of notices of judicial sales in certain cases.

Approved April 23 A. D. 1879.

H. B. No. 356.—An act making the county judge of Tom Green county returning officer for the seventy-fifth representative district.

Approved April 23, A. D. 1879.

S. B. No. 332.—An act for the better protection of the harbors and ports of the State of Texas.

Approved April, 23, A. D. 1879.

S. B. No. 330.—An act to protect lands lying on county boundaries from double assessments.

Approved April 23, A. D. 1879.

S. B. No. 261.—An act requiring the proceeds arising from the leasing or renting of county school lands and from sales of timber thereon to be applied exclusively to educational purposes.

Approved April 23, A. D. 1879.

On motion of Senator Homan, the reading was dispensed with and same ordered entered on the journals.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 24, 1879. }

To the honorable Senate and House of Representatives in Legislature assembled:

GENTLEMEN—I herewith submit to your honorable bodies a list of captions of bills passed at present session.

Respectfully,

O. M. ROBERTS, *Governor.*

Sub. S. B. No. 130.—An act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881.

Approved (except three items, the one relating to the appropriation for free common schools, the one relating to the appropriation for payment of interest on the public debt, and the one relating to the appropriation for the sinking fund) April 23, A. D. 1879.

S. B. No. 385.—An act to amend title 53, chapter 2 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature, by adding article 2942a.

Approved April 24, A. D. 1879.

S. B. No. 341.—An act for the relief of actual occupants of the public lands.

Approved April 24, A. D. 1879.

S. B. No. 313.—An act to compel collectors of taxes in counties wherein subsidies have been granted to railroads or other works of internal improvements to receive the state and county taxes from persons who refuse to pay the tax levied for such purposes.

Approved April 24, A. D. 1879.

S. B. No. 372.—An act to amend article 4761 of the Revised Civil Statutes of the State of Texas, adopted at the present session of the Legislature.

Approved April 24, A. D. 1879.

H. B. No. 503.—An act requiring the assessor of taxes of Dallas county to perform additional duties.

Approved April 24, A. D. 1879.

S. B. No. 374.—An act to amend article 97, chapter 3, title 4, Penal Code, of "an act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas, passed February 21, 1879.

Approved April 24, A. D. 1879.

H. B. No. 422.—An act to provide for the assessment and collection of taxes on lands that have not been rendered for assessment and taxation from the year 1871 to 1876; and repealing "an act to enforce collection of delinquent taxes on lands assessed since January, 1870."

Approved April 24, A. D. 1879.

The following resolution was offered by Senator Homan:

Resolved, That the calendar clerk be retained in office for five days after the close of the session for the purpose of arranging and making the proper disposition of the unfinished business of the Senate, for which service he shall be paid five dollars a day out of the contingent fund of the Senate.

Adopted.

The following communication was submitted by Senator Motley:

WHEREAS, The journal secretary is supposed to know more about the journals than any one else, and as Mr. Whitehead, the present secretary, from the short time he has held the place, needs help to properly gather up and arrange the journals; and

Whereas, The present journal secretary is interested in seeing the property of the state turned over in good order to his successor, as he was the superintendent of public buildings and grounds when the Legislature received control of the capitol buildings and property;

The said secretary hereby tenders his services to the state to aid the present secretary for three days, to aid him with the journals, and to aid Mr. Fisher in turning over the public property, and he does it gratuitously, asking nothing for his services for the same.

Unanimously accepted.

Senator Hobby offered the following:

Resolved, That the secretary of Senate be empowered to purchase such stamps and stationery as may be necessary for the purpose of bringing out the journals of this session of the Legislature and forwarding them and the laws, general and special, as soon as published to the members of the Senate, and that the same be paid for out of the contingent fund of the Senate; and that he continue the publication of the laws with emergency clauses and those amendatory of the Revised Civil Statutes as under a previous resolution of the Senate, and that the expenses be paid out of the contingent fund.

Adopted.

The Senate took a recess until called to order by the president.

The president called the Senate to order.

Senator Ledbetter moved to appoint a committee to wait on the House and inform them that the Senate had concluded its labors, and was ready to adjourn *sine die*.

Senators Ledbetter, Homan and Buchanan were appointed as said committee.

The chairman reported the duty performed.

Senator Burnett called up the resolution of Senator McCulloch, offered on yesterday.

Senator Motley offered the following amendment:

"Add the first and second assistant secretaries of the Senate (W. A. Fields and W. N. Ramey), and the calendar clerk, J. W. Swindells."

Adopted and the resolution as amended was adopted.

Senator Burnett submitted the following remarks, which, on motion of Senator Motley, were ordered entered on the journals:

Mr. President—I am authorized by my fellow senators of the political minority in this body to say that the resolutions now before the Senate meet our hearty concurrence. We have been most sensibly impressed with the courtesy extended to us by the president and the other officers of the Senate. We have had a long and laborious session—the first since 1876; many important and some exciting questions have been discussed with more or less warmth of feeling, eliciting at times marked differences of opinion, and yet it is pleasant to note that at the close of our labors, we find no trace of personal animosity or partisan bitterness.

It is not unjust that in this age of partisan strife and bitterness, we as a body should claim credit for our moderate counsels and respect for each other's opinions; but let us not forget that the greater credit is due our honored president, whose example of moderation and dignified, courteous bearing has been so constantly and prominently before us. Justice demands that we also add that our presiding officer has exhibited so prompt, industrious and faithful a devotion to official duty, and such genial, social qualities, as has made his official and personal association with this body most gratifying and agreeable to all. As to the ability and impartiality of his rulings, the fact that during the entire session not one appeal has been taken from his decisions, speaks grander praises than words.

The secretary and assistants, the clerks, the sergeant-at-arms and assistant, our beloved chaplain, and noble-hearted "Old Bill," our veteran door-keeper, have all most faithfully and impartially discharged their several duties. They have labored with diligence, and their deportment in every respect has been honorable. The little boys who have served as pages have won our kind remembrance by their prompt discharge of duty and polite bearing; and all the employes have discharged their duties creditably and with satisfaction. We would not desire to make a single change in our corps of officers and employes were we compelled to remain in session the whole year, or longer.

To conclude, Mr. President, those of us in the minority here entertaining a grateful sense of the uniform courtesy extended to us by our fellow-senators and the officers of the Senate, all politically opposed to us, desire to offer, in parting, a sentiment which we know will meet your hearty response: Texas—the foremost state in the Union in the extent of her area, most fertile in soil and salubrious in climate, most beautiful in landscapes and picturesque in scenery, richest in her varied resources, noblest in her history, grandest in her veterans and heroes, justly proudest of her women—may no one, whatever be his political faith, who is not faithfully devoted to her prosperity and to the welfare of her noble citizenship, ever enter within the walls of her capitol!

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, April 24, 1879. }

To the honorable Senate and House of Representatives in the Legislature Assembled:

GENTLEMEN—Upon the eve of your adjournment, of which you have notified me, I take pleasure in bearing witness to the fact that you have most diligently devoted yourselves to the business of the country as legislators. While much of your time has been occupied in attending to matters of local interest, the public interest has not been entirely neglected. Nothing but a consciousness of having discharged your duty in the service of the country can adequately compensate you individually for the long neglect of your private interests and the deprivation of your home comforts. Your patience has doubtless been exhausted, and your return to your homes the prime object of desire at present. Our association officially and personally has been to me of the most pleasant character; and rest assured that on departing from the capitol you carry with you the best wishes of your obedient servant,

O. M. ROBERTS, *Governor.*

A message was received from the House announcing that the House refused to concur in House substitute for Senate substitute for House substitute to Senate substitute for Senate joint resolutions Nos. 5 and 102, reported by the joint free conference committee.

Senator Homan offered the following resolution:

Resolved, That the thanks of the Senate are hereby tendered the *Galveston News* for furnishing to this body and the country the only intelligible daily report of the Senate proceedings.

Senator Gooch moved to strike out "the only" and insert "their very."

Adopted and the resolution as amended adopted.

Senator Brown offered the following resolution:

Resolved, That the thanks of the Senate are hereby extended to the editors and proprietors of the *Daily Statesman* for the promptness and fidelity with which they have furnished the Senate with a report of its daily proceedings under the resolution adopted at the beginning of the session.

Adopted.

Senate bill No. 228 was taken up, and on motion of Senator Shannon, the Senate concurred in House amendments.

(President in the chair).

A message was received from the House announcing the passage by that body of Senate bill No. 203.

The president, after reading the caption, signed Senate joint resolution No. 393.

Various petitions and memorials were returned by standing committees to the Senate.

Senator Grace, chairman of committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined Senate bill No. 345, "An act to provide for the binding and distribution of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure, adopted and established at the present session of the Legislature;" also,

Senate joint resolution No. 393, "Joint resolution authorizing the appointment of a committee to sit during vacation of the Legislature to continue the investigation of land forgeries, and prescribing their powers and duties," and at 11:59 o'clock A. M. this day presented the same to the governor for his signature.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and compared and find correctly enrolled and properly signed Senate joint resolution No. 368, "prescribing the mode and manner of submitting constitutional amendments to the vote of the people;"

Senate bill No. 337, "An act granting a land certificate of six hundred and forty acres to each indigent veteran who was engaged in the struggle for Texan independence prior to and at the battle of San Jacinto, enrolled under act approved July 28, 1876;"

Senate bill, "An act to repeal articles 4039, 4040, 4041 and 4042 of the Revised Civil Statutes of the State of Texas, passed at the present session of the Legislature;"

Senate joint resolution No. 378, "granting leave of absence to W. B. Wall, county judge of Houston county;"

Senate bill No. 387, "An act to amend sections 15 and 20 of an act entitled 'an act to provide for the protection of the frontier of the State of Texas, against the invasion of hostile Indians, Mexicans or other marauding or thieving parties,' approved April 10, 1879," and have presented the same to the governor for his signature this day at 11:59 o'clock A. M.

GRACE, *Chairman.*

A message was received from the House announcing the passage of Senate joint resolution No. 378; Senate bill No. 337; Senate joint resolution No. 368; Senate bill No. 328, and Senate bill No. 387.

A committee was received from the House announcing that it had concluded its labors and was ready to adjourn *sine die*.

President of the Senate submitted a few eloquent remarks before adjournment; after which he declared the Senate adjourned without day.

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