

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.

Blossingame,
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. Blassingame 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,	Hobby,	Motley,
Brown,	Homan,	Patton,
Buchanan,	Houston,	Ripetoe,
Burton,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Duncan,	Ledbetter,	Storey,
Edwards,	Martin,	Swain,
Ford,	McCormick,	Terrell,
Gooch,	McCulloch,	Tilson—29.
Guy,	Moore,	

NAYS—none.

The bill was read third time and passed by the following vote:

YEAS.

Blassingame,	Homan,	Moore,
Brown,	Houston,	Patton,
Buchanan,	Lane,	Ripetoe,
Davenport,	Lair,	Stewart,
Duncan,	Ledbetter,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCormick,	Swain,
Gooch,	McCulloch,	Terrell,
Guy,	Motley,	Tilson—28.
Hobby,		

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.