

Senator Swain moved to reconsider the vote adopting section 16.

Lost.

Senator Burnett offered the following amendment:

Add to section 73 "*provided, that on the first day of January, 1780, or as soon thereafter as practicable, the governor and the commissioners shall require all convicts to be confined at labor inside the walls of the penitentiaries.*"

Adopted.

Senator Burton offered the following amendment:

Amend section 6, line twenty-seven, by striking out the word "the" and insert the word "they."

Adopted.

Senator Ripetoe offered the following amendment:

Strike out of section 73 all before the word "but" in line twenty-six, page fourteen:

Lost by the following vote:

YEAS.		
Burnett,	Homan,	Ripetoe,
Burton,	McCormick,	Stewart—6.
NAYS.		
Blassingame,	Guy,	McCulloch,
Brown,	Hobby,	Patton,
Buchanan,	Houston,	Shannon,
Davenport,	Lane,	Storey,
Duncan,	Lair,	Swain,
Gooch,	Ledbetter,	Terrell,
Grace,	Martin,	Tilson—21.

The bill was then ordered engrossed.

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

YEAS.		
Blassingame,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCormick,	Tilson—26.
Guy,	McCulloch,	
NAYS—Ripetoe—1.		

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

YEAS.		
Blassingame,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Ledbetter,	Swain,
Gooch,	Martin,	Terrell,
Grace,	McCormick,	Tilson—26.
Guy,	McCulloch,	
NAYS.		
Ford,		Ripetoe—2.

A message was received from the House announcing the adoption of Senate concurrent resolution "To examine and report what furniture and

repairs are needed for the executive mansion," and that Messrs. Taylor, of Marion, Upton and Crow have been appointed as a committee on the part of the House.

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, }
AUSTIN, February 5, 1879. }

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

The schools of different grades in Texas demand the attention and fostering care of the Legislature. Upon their present condition and operation I beg leave to submit some views for your consideration. And, first, upon the University of Texas:

As early as 1839 fifty leagues of land were donated, and afterwards set apart for a state university. That land has been surveyed and is situated in the counties of Cooke, Fannin, Grayson, Hunt, Collin, Lamar, McLennan, Shackelford and Callahan; there being now unsold 219,906½ acres, much of which is very valuable, compared to other lands in the State.

By the act of 1874, page seventy-two, as amended by the act of 1876, page seventy-five, it is obviously intended to have these lands sold to settlers and to persons who will settle them in tracts of one hundred and sixty acres to one person, to be valued at not less than \$1 50 per acre, payable in ten annual installments with ten per cent. interest. The land being in league tracts, the compensation for surveying and valuing the small tracts thus sold renders their sale expensive. They are selling very slowly as shown by the amount of the permanent university fund derived from their sale.

When, about forty years ago, this liberal donation was made, it could hardly have been anticipated that at this remote period there would be no university in Texas. It has happened from the policy of selling it in small parcels, and by almost hiring settlers to buy it by a long credit at a low valuation by their neighbors.

Settlers in a tide of immigration have passed over many of these lands of the finest quality for hundreds of miles and bought lands from private owners. If the same policy is persisted in it will be twenty years, and it may be forty years more before Texas will have a university, when its founders and most of their children shall have disappeared from the stage of action. The constitution of 1876 donates to the university one million acres of the public domain, to be surveyed and sold as other university lands, which has not been done.

The means, then, of the university may be stated as follows:

Lands unsold and surveyed, acres.....	219,906½
Lands appropriated, but not surveyed, acres.....	1,000,000
	1,219,906½
Texas state bonds, 6 per cent.....	\$175,500 00
" " " 7 " ".....	9,000 00
" " " 10 " ".....	44,496 00
Cash to be invested in bonds.....	8,875 18
	\$237,870 18
Notes for land sold.....	207,600 00
	\$445,470 18

If steps should be taken now to have the one million of acres of public land set apart and all the lands sold, as I have recommended, we may expect in a few years to have a university in Texas. This is equally important as to have common schools, for while the one elevates the masses to a certain degree in the scale of civilization, the other is a necessity in this age to properly direct it in the progress to power and prosperity. It is declared expressly in the constitution of 1876 that "the University of Texas" shall be located by a vote of the people.

In the same instrument is found the following provision: "The Agricultural and Mechanical College of Texas, established by an act of the Legislature, passed April 17, 1871, located in the county of Brazos, is hereby made and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith."

This is an authoritative construction by the convention, inserted in the constitution, of the act of Congress that made the donation for the support of such an institution in this State. That act provides that the principal of the fund, now amounting to over \$200,000 invested in our state bonds, shall not be diminished, and no part of it or its interest be used in the erection of buildings or the repairs thereof, but that the interest, now amounting annually to over \$14,000, shall be appropriated by the State "to the endowment, support and maintenance of at least one college, where the leading object shall be, without excluding other classical and scientific studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts in such manner as the Legislature may prescribe."

Under this law of Congress Texas might have erected a college in which the pupils were supported and taught agriculture and the mechanic arts practically and scientifically, for the purpose of increasing the skilled labor in the country, which seems to be the object mainly contemplated by the convention by the direction given, as above quoted, in making this institution at Bryan a branch of the University of Texas, to be hereafter located by a vote of the people. But before this direction was given by the constitution of 1876, a law was passed by the Legislature, March 9, 1877, organizing this institution in which it was provided that the interest of the fund should be applied by the board of directors appointed for its management, to the payment of the directors, officers and professors of the college.

Under this law the institution has been carried on up to the present time. The board of directors is composed of the governor, lieutenant governor, speaker of the house of representatives, and one director chosen by joint ballot of both branches of the Legislature every two years from each congressional district. Said board meets twice in each year, in June at the college, and in January at the capitol of the State. At its last meeting in last month at Austin, I, as president of the board, was requested to communicate to the Legislature certain resolutions passed at said meeting, together with a report of the history and condition of the institution, from its foundation to the present time, made by the elected members of the board, whose directorship will terminate with the election of their successors at this session of the Legislature, all of which is most respectfully submitted for your favorable consideration. Their report will be found also to exhibit the history and condition of the branch of that college, for the education of colored youths, situated near Hempstead.

By the resolution adopted at said last meeting it will be seen that the college at Bryan has been given a direction more in harmony with the provision in the constitution "for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith." This is obviously intended to be its sphere of action in and as part "of the University of Texas," as contemplated by our organic law; and in reference to it in this point of view, there are certain unquestionable facts that should be borne in mind, namely:

That it could not have been designed by Congress in furnishing to the states donations of land to found agricultural and mechanical colleges to promote the cause of literary and scientific education as taught generally in colleges, universities and academies all over the United States, but rather to educate skilled laborers, as they are taught in Europe, and thereby secure skilled labor at home, instead of importing it from abroad as has always been heretofore done to a very large extent, from the earliest settlement of this continent by Europeans; that those who are highly educated in literature and the sciences generally are seldom found to spend their lives between the plow handles, or in the work shop or otherwise, where such learning is or can be made contributory to the elevation or improvement of labor; that we lack in Texas skilled laborers more than men learned in literature and science that fit them for and induce them to follow the learned professions.

Agriculture is, and will long continue to be, the great interest in Texas, and the mechanic arts should be encouraged to come in aid of it; and it is certain that those who will practically follow those pursuits will not graduate in colleges of general learning, for they will not be able to pay their way there. That our colored population will not be able to get any of the benefit of this fund, for many years, which was intended for them as well as the white population, if they are required to pay for the board, clothing and tuition of their children, which is fully demonstrated by the report relating to the branch of the college for colored youths now submitted to you.

That the production of Texas may be largely increased, if not doubled, by the same amount of labor and capital, if practical scientific knowledge in agriculture and the mechanic arts could be imparted generally throughout the country to those who do and will follow those pursuits through life. And thereby the national wealth will be increased, individual prosperity promoted, and the dignity of labor secured.

Therefore, in order to enable the directory to further increase the direction of this institution in harmony with the constitutional provisions, which is equally if not more imperative than a legislative direction prescribed by a law enacted, I respectfully recommend that so much of the law that has been referred to, which requires the interest of the fund to be appropriated alone to the payment of "the directors, officers and professors of the college," be repealed, and that a law be passed authorizing the directors to use it for the endowment, support and maintenance "of the college" in the terms of the law of Congress making the donation and in accordance with the terms of the constitution of 1876, giving directions for its use "for instruction in agriculture, the mechanic arts and natural sciences connected therewith." I would cheerfully make other recommendations including appropriations to promote the interest of the institution, if I did not think that the present condition of our finances forbids it. As to the branch of college for the education of

colored youths near Hempstead, I respectfully recommend that it be safely rented out for the year, and until it can be so employed by the directors as to secure pupils to be taught in it. It is now taken care of by a person without cost, under the authority of the president, Gathright.

Having examined thoroughly into the management and present condition of this college at Bryan, I must say, on behalf of the directors and faculty, and especially on behalf of its president, that their conduct deserves the highest commendation for the extraordinary efforts successfully made by them with the means at their command, to promote the best interests of the college under, and in pursuance of the law of the Legislature under which it was organized, and has been carried on up to this time.

O. M. ROBERTS.

REPORT OF THE OUTGOING DIRECTORS AT THE JANUARY SESSION OF THE BOARD, 1879.

To the Honorable Legislature of the State of Texas :

The undersigned the only members present of the board of directors, elected by the Fourteenth Legislature, to administer the affairs of the Agricultural and Mechanical College of the State of Texas, have been appointed by the board, as now organized, to present to your honorable body a statement of what has been done in the organization and development of the college from the date at which it came into their charge to the present time.

Referring to the origin of the college, the Congress of the United States, by the act of July 2, 1862, made to all the states a donation of land, in amount proportional to their representation in Congress, the interest of the money derived from the sale thereof to be devoted to the endowment, support and maintenance of at least one college, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the states may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life."

The State accepted the donations, sold the land scrip, invested the money in seven per cent. frontier bonds, on which interest accruing prior to the completion of the buildings required by the act of Congress to be erected by the State, was reinvested by order of the Legislature, and the aggregate annual interest subject to the action of this board, for running the college, has been for the past year \$14,280, whereas the present annual cost for professors is \$17,400, showing an annual expenditure of \$3120, which the permanent fund does not cover and which has been provided for by the revenue arising from scholarships, the election of two adjunct professors as assistants and the inauguration of a new professorship during the past year, having carried the requirement for pay of faculty beyond the capacity of the permanent fund. Hereafter the permanent fund will yield annually \$14,280, and the requirement for pay of faculty in consequence of reduction of salaries, at this meeting of the board, will be only \$13,500.

The State erected, by successive appropriations, a main college building, a steward's hall, dwellings for the president and five professors, at a cost of \$187,000, all of which, except the \$40,000 appropriated by the Fifteenth Legislature, was expended prior to our charge of the institution,

This last appropriation was for building dwellings for professors, and for furniture for the dormitories and mess hall—not a dollar of it for running the college, which has not at any time drawn one dollar from the state treasury for running expenses. The institution was put in operation by the election of a president and five professors, and on the first Monday in October, 1876, the opening of the college was inaugurated by an address by Governor Coke, president of the board, there being six students in attendance, and at the end of that term only forty-eight. At the close of the annual session this number had increased to one hundred and six. The opening term was not encouraging, but the examinations had been so satisfactory and the rapid improvement of the students so palpable that when the college session commenced in the October following, the students present numbered two hundred. This number increased until on the first of December there were two hundred and fifty-three and the president declined to receive more for lack of rooms to put them in. Two hundred and fifty of these continued to June, 1878, the period of the annual commencement exercises.

The president and faculty had afforded satisfactory evidence of fitness and capacity, and the closing exercises were enthusiastically received by large audiences. Four hundred and sixteen applications for scholarships had been filed, but they could not all be received for want of room, although extraordinary efforts had been made to meet the emergency by erecting two substantial wooden buildings in rear of the main college building, each of which accommodated seventy-two students with bed and study rooms, fitted with the necessary furniture. These buildings were erected and furnished out of the revenues of the college derived from the scholars, and have been paid for at a cost of between six and seven thousand dollars, without calling on the State Legislature for a dollar.

The directors of the college have felt gratified in an eminent degree by the material improvement and development of the students, and they have the assurance of past success that, with the assistance of the Legislature, they could build up a great state institution, from which no boy in Texas, who could compass the small amount required for board, instruction, clothing, surgeon's fee, and all incidentals (\$200), should be turned aside by any plea whatever, if he had good habits; and could feel that he had no need to go elsewhere, for any class of education, from the preparatory to the highest grades known to universities, and by which we could retain within our borders the large amount of money heretofore sent abroad for educational purposes, and build up an elevated state pride and an exalted patriotism. This has been our hope, but it cannot be realized without adequate buildings and adequate apparatus and a respectable library such as are possessed by all colleges of note. These are indispensable and needed now, for we have no library, nor any apparatus worth mention.

The act of Congress, while it proposes to assist in providing "a liberal practical education of the industrial classes in the several pursuits and professions of life," indicates unmistakably that a leading object shall be the teaching of "such branches of learning as pertain to agriculture and the mechanic arts." This admonition has not been forgotten, but the daily expenses of the college, coupled with the erection of buildings, construction of cisterns, etc., have pressed so closely upon all receipts, indeed anticipated them, that not much has been accomplished. More

land should be enclosed, workshops should be erected, machinery obtained, farm implements, mules, etc. Then systematic and practical instruction in agriculture and mechanics may begin on a suitable scale, and opportunity be afforded to such as desire it, to cultivate ground to pay college expenses in whole or in part. A little has been done. One hundred and sixty acres have been enclosed with a substantial plank fence, fifty acres have been broken and cultivated. One thousand apple trees have been set out, and most of them are in good condition, and ornamental shrubs and trees to beautify the grounds have also been set. It is undeniable, however, that not enough has been done to carry out fully the main objects of the grant, and for this short coming the directory can only justify themselves by the positive deficiency of means, which they hope may be furnished to their successors. Could they have used for agricultural development the money put into the new dormitories, much might have been done, but without dormitories we could not have scholars, and without scholars we could not build up a great State institution of learning, and those who have applied for instruction so far have not demanded instruction in agriculture or mechanics. We would like to have the capacity given to the college to instruct thoroughly in these practical branches, for we are well aware that what are usually termed the learned professions are over-full of practitioners, while agriculture and mechanics in the south need learning and skill to elaborate them into prosperity. We have said that there has been no demand by scholars in this direction; but if we had attractive facilities and could demonstrate palpably valuable results, then, as we think, we should have numerous applicants for agricultural and mechanical education. We feel proud of what we have accomplished. We know that we have been carefully economical of our means from the beginning of our administration, having reduced salaries of professors more than a year ago to correspond with the increased purchasing power of money, and having at this meeting, in conjunction with the new official members, agreed upon another reduction; but we know that the great work is not half done and can only be effectually carried out by pecuniary aid from the Legislature, yet we want it fully understood that the college is self-supporting as it is—more than self-supporting. The aid desired is only for the enlargement of permanent teaching facilities that it may have the usual attachments of a great institution of learning, and be enabled to perfect its mission in all the branches indicated and to give entrance and education to every son of Texas who may knock at its portals and ask for it.

The military department of the college is a necessity growing out of the terms of the grant by the general government, but costs literally nothing to the State as the general government furnishes the military instructor and pays his salary as an officer of the army, and also furnishes the arms necessary for the exercises. This officer also teaches a class in mathematics, and is subject to the orders of the president of the college. The military system of government has been found a valuable assistant in enforcing the discipline of the college, as it is undoubtedly greatly beneficial in inculcating deportment and systematic action through life. This officer was detailed by the secretary of war upon application of the board, which in procuring this detail saved to the permanent fund the entire cost of a professorship.

During our administration the board had concluded that by abolishing the office of steward there might accrue a material addition to the college

fund. The building occupied by the steward's family had been built for the president's family, and there were not residences for all the professors, and are not now. These two inducements combining, the board, in January, 1878, resolved to dispense with the office of steward and substitute an unofficial culinary superintendent, who should be a practical laborer, in connection with that department. The object was to increase the available college fund, and it has succeeded. The fund has been increased materially, and the debt growing out of various constructions, absolutely necessary to the success of the institution, is now virtually extinguished, and the college out of debt. The president occupies his proper residence, and another professor obtains a residence thereby. The change from an official stewardship, created by the board, without experience, to an unofficial culinary manager and laborer, employed and subject to discharge at any time when unsatisfactory to the college, assures prompt and acceptable discharge of duty, and has worked well. The results have fully justified the judgment of the board, financially and otherwise.

In conclusion this committee requests that your honorable body will appoint a joint committee to investigate closely the condition of the college as to efficiency and economy of management, and verify all our statements in relation to the administration and progress. Its enlargement of capacities depends upon you. Without another permanent dormitory building, a library, a laboratory, workshops and machinery and agricultural implements, it is not in the power of the faculty to place the state college on the attitude which it should occupy to make it an honor to the State and a great permanent benefit to its young men, who are soon to assume our places and become the people of the State and the rulers of the states, and either do honor to it or perhaps lessen its present rank as a member of the Union. This committee has no interest in this matter other than your interests, common to the people of the State. Our official terms will soon cease, and we feel that we have done our whole duty. Our hope is that our successors, with your aid, may be able to do more than we have, and that the state college of Texas may become a source of continued pride to all the people of the State and cause its value to be felt to the remotest corner of our territory.

Respectfully,

CHARLES DEMORSE,
T. M. SCOTT,
A. J. PEELER,
B. H. DAVIS,
E. B. PICKETT.

AGRICULTURAL AND MECHANICAL COLLEGE FOR COLORED YOUTHS AT
ALTA VISTA.

In pursuance of section 14, article 7, of our present constitution, the Fifteenth Legislature, by an act approved August 14, 1876, authorized the establishment of an agricultural and mechanical college for the benefit of colored youths, and to accomplish this object appropriated the sum of \$20,000. The commissioners appointed under said act, consisting of the Honorable Ashbel Smith, now a member of the House in the Sixteenth Legislature; J. D. Giddings and Jas. H. Raymond, selected a tract of land situated sixteen miles from Hempstead, in Waller county, and known as Alta Vista, upon which were valuable buildings suitable for collegiate use, and improvements fitted for agricultural purposes. The

commissioners in their written report state that in their opinion the selection of the location is an eminently eligible one for healthfulness and convenience of location and superior suitability for farming and general agricultural purposes. After completing their labors by putting the building in suitable repair, the commissioners, about the twenty-first day of January, 1878, formally turned over the property to this board, to whom its supervision and control was confided by said act of August 14, 1876.

The amount expended by the commissioners in the purchase of the lands and buildings and in making necessary repairs before turning the property over to this board, was about \$15,787 67, leaving to the credit of the \$20,000 00 appropriation the sum of \$4,212 33. The board at once (January 22, 1878) took steps to put the institution into operation by electing Prof. T. S. Gathright, the president of the Agricultural and Mechanical College, also president of this without additional salary, and authorizing him to employ necessary instructors, purchase furniture, etc., so as to be ready for the reception of students at the earliest day practicable. Proper furniture for the house, dining-room and kitchen for twenty students was purchased, fifty acres enclosed with a substantial fence, Prof. L. W. Minor employed as instructor, and the school opened on the eleventh day of March, 1878. Notwithstanding the opening of the school had been advertised in the local paper at Hempstead and by a large number of circulars distributed generally among our colored citizens, only eight scholars entered and the number has decreased until it is now entirely without students. Prof. Minor's engagement will terminate on the thirteenth day of February, 1879, and there is money enough left of the balance of \$4,383 02 out of the \$20,000 appropriation to pay him and meet all other expenses incurred, so that the institution is not in debt.

The cost of board, lodging, clothing and tuition were reduced at this institution \$70 below that charged at the Agricultural and Mechanical College near Bryan, and Prof. Minor, a colored man himself, of fine education and excellent character, has, in addition to the ordinary means of advertising in newspapers and by circular, appealed directly and by numerous private letters to persons of influence among his own race to come to the aid of the institution, but the fact is, as stated by Prof. Gathright, there is no demand for higher education among the blacks, and such as this, dependent upon them alone, will not be patronized and cannot be made self-sustaining. We appreciate the justice and propriety of the effort made by the Fifteenth Legislature to extend to our colored citizens the opportunity of higher education, and still believe that in some practical way they should be allowed to share in the benefit of the congressional donation, which was intended for all alike, and we further believe that every reasonable effort should be continued to educate and elevate them.

President, professors and officers of the Agricultural and Mechanical College at Bryan: Thos. S. Gathright, president and professor of mental and moral philosophy and book-keeping; Alex. Hogg, professor of pure mathematics; C. P. B. Martin, professor of natural sciences and agriculture; W. A. Banks, professor of modern languages; John T. Hand, professor of ancient languages; R. P. W. Morris, professor of natural philosophy and engineering; L. M. Lewis, professor of English languages and

literature; J. E. Binsley, adjunct professor of mathematics; L. L. M. Innis, adjunct professor of ancient languages and English; Captain Geo. T. Olmsted, U. S. A., commandant; Dr. D. Port Smythe, surgeon.

Resolutions adopted by the board at its January session, 1878:

Resolved, That in the future the following schedule and payments for the students be made to commence October 1, 1879: October 1, \$95; December 1, \$35; February 14, \$35; April 1, \$35.

Resolved, That the governor, as president of the board, be respectfully requested to communicate to the Legislature now in session, the fact that the Agricultural and Mechanical College for colored youths, located at Alta Vista, is without students, and to request that honorable body to give the continuance of this institute and its future management its early attention.

It was further resolved that a committee of three, composed of Col. DeMorse, Governor Pickett and T. M. Scott, are hereby appointed to draw up a statement of the condition of the Agricultural and Mechanical College, and present it to the Legislature at its present session, to which committee A. J. Peeler was added.

Resolved, That the salary of the president for the year beginning the first of October, 1879, shall be \$2,500, and that the salaries of the professors shall be \$1,800 dollars each, and of the assistant professors \$1,000 each.

Resolved, That after the expiration of the present session, the professorships of modern and ancient languages shall be combined under the title of professor of languages, to which chair a competent professor shall be elected, who shall have the assistance of one of the adjunct professors now in the college, and thereafter, until it shall be found desirable to the interest of the college, there shall be no distinct chair of ancient languages.

Resolved, That the professor of agriculture shall be a person qualified to instruct in the field as well as in the lecture room, and that the duties of said professor shall require him to instruct his scholars as fully as practicable in the nature and composition of soils, and their analysis and relations to special products in the cultivation of fruit and forest trees, and all the other practical matters connected with products of the soil cultivated for profit, and in pursuit of this object he shall, not less than three times per week, take his scholars into the grounds in cultivation in the college enclosure and by practical application teach them all the elements of husbandry, and have them give such personal attention and practice as will enable them to become practical farmers, with a knowledge of the advantages which scientific research and analysis, tested by practice, have already given to agriculture.

Resolved, That for the purpose of carrying out the two foregoing resolutions, information shall be given through the public press that an election for professor of languages and an election for professor of agriculture will be held by the directors at the next meeting in June at the college.

Resolved, That the president is required to see that the superintendent of the farm shall have fifty additional acres of land well broken, and as thoroughly prepared as practicable for culture in the spring.

Resolved, That any student desiring to cultivate land as a means of

paying his college expenses, in whole or in part, shall have assigned to him a tract of such size as the time he proposes to labor will enable him to cultivate, to be determined by the professor of agriculture, and that the crops when ready for market, subject to deduction of the customary charge for use and feed of animals, shall be sold under authority of the professor of agriculture, and the proceeds placed to the credit of said student upon the books of the college.

Resolved, That the professor of agriculture, with the advice of the president, shall, as fast as the carrying out of the culture above named shall require, purchase upon the best market terms suitable mules to make the cultivation; and, furthermore, that every student, to whom a mule shall be assigned, shall be instructed by the professor of agriculture or by the farm superintendent in the best mode of feeding, caring for and working said mule to keep him in efficient working condition.

Resolved, That the report of the members of the old board be made to the Legislature through his excellency the governor, as chairman of the board, with the request that he submit it with such recommendations as his judgment may dictate.

Resolved, That hereafter the students be furnished their uniforms at a cost of not to exceed thirty dollars, or at actual cost, be the same more or less, and that the first payment be reduced to eighty-five dollars.

Members of the board, when the foregoing resolutions were adopted at the January session, 1879:

O. M. ROBERTS,

Governor and President of the Board.

J. D. SAYERS,

Lieutenant Governor.

J. H. COCHRAN,

Speaker of the House of Representatives.

B. H. DAVIS,

CHAS. DEMORSE,

A. J. PEELER,

T. M. SCOTT,

E. B. PICKETT,

F. S. STOCKDALE (not present).

Senator Homan moved to suspend the reading of the message, and that 1000 copies be printed.

Lost.

The message was then read, and on motion of Senator Storey 2500 copies of the message and accompanying documents were ordered printed for the benefit of the Senate.

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

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed the following bills, viz: Senate bill No. 58, entitled "An act defining the boundaries of, and prescribing the times of holding the district courts in the twelfth judicial district of Texas." Senate bill No. 78, entitled "An act to provide for designating and working public roads, streets and sidewalks in unincorporated towns and villages." Senate bill No. 24, entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees or trustees for the benefit of creditors."

BROWN, *Chairman.*

(The president in the chair.)

The special order being Senate bill No. 43, entitled "An act to change the jurisdiction of the county courts and conform the jurisdiction of the district court to such change," was taken up and read second time."

A message was received from the House announcing the passage by that body of House joint resolution No. 21, authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to her university lands in McLennan and Hill counties, and to remove all clouds upon said title.

Senator Homan offered the following amendment to the pending bill: Amend by striking out all after the word "courts," in line fourteen, section 1.

Senator Edwards moved to postpone the further consideration of the bill and amendment.

On motion of Senator Davenport, the Senate adjourned until 10 o'clock A. M. to-morrow.

TWENTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 6, 1879. }

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

On motion of Senator Burton the reading of the journals of yesterday was dispensed with.

Senator Storey called attention to an error in the printed journals:

That his motion to print 2500 copies of the governor's message of yesterday was printed "3500."

Senator Homan called attention to a similar error in the journals:

That his motion to print 1000 copies of the governor's message was printed "100."

Upon examination the manuscript journals were found to be correct and the errors only typographical.

The printed journal was then corrected and journals of yesterday adopted.

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

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 3, entitled "An act to provide for and regulate judgment liens on land," and find it correctly engrossed.

BROWN, *Chairman.*

Senator Storey introduced a bill entitled "An act making it a penal offense to hold or exercise more than one office of profit or trust."

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

The following House bills and joint resolutions were taken up and referred to appropriate committees:

House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," was referred to the committee on finance.

House bill No. 10, entitled "An act to amend section 4 of an act entitled 'an act to amend an act entitled an act to provide for the supply-

ing of lost records in the several counties in this State,' approved April 14, 1874, approved July 13, 1876."

Referred to judiciary committee No. 2.

House joint resolution No. 21, authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said title.

Referred to committee on state affairs.

On motion of Senator Houston, the rules were suspended and House joint resolution No. 23, "in regard to Aransas Pass bar," was taken up and read first time.

Senator Houston moved to suspend the rules and place the joint resolution on its second reading.

Carried by the following vote :

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

Resolution read second time.

On motion of Senator Houston, the rules were still further suspended to place the resolution on its third and final reading by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

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

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

Senator Edwards moved that the committee on constitutional amendments be empowered to employ a clerk.

Senator Grace moved to amend the motion of Senator Edwards by adding "that the clerk employed by the committee on constitutional amendments also act for the committee on military affairs, and that of Indian affairs and frontier protection."

Amendment accepted by Senator Edwards, and the motion, as amended, was adopted.

On motion of Senator Guy, Senator Martin was added to the committee on private land claims.

Senator Lane (by leave) introduced a bill entitled "An act amendatory of an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876."

Read by caption and referred to committee on judicial districts.

On motion of Senator Ford, Senator Storey was added to the committee on Indian affairs and frontier protection.

Senator Duncan (by request) presented the memorial of the Jordan Horticultural Company, of St. Louis, asking for an appropriation to pay an account of \$122 50 for trees, shrubs, plants, etc., bought of them in 1875 by Captain Fred. Voight, superintendent of public buildings and grounds, to be planted in the capitol grounds at Austin, Texas.

Referred to the committee on claims and accounts.

On motion of Senator Gooch, the rules were suspended and Senate bill No. 97, entitled "An act to provide for the payment and redemption of bonds of the State of Texas that will become redeemable on the 1st day of July, A. D. 1879, and for the payment of approved pension certificates by the sale of 5 per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," was taken up and made the special order for Monday at 11 o'clock A. M., and from day to day until disposed of.

On motion of Senator Shannon, the rules were suspended and Senate bill No. 77, entitled "An act to regulate and control the assessment of taxes on real estate," was taken up and made the special order for Tuesday next directly after the morning call, and from day to day until disposed of.

On motion of Senator Edwards, Senator Hobby was added to the committee on constitutional amendments.

On motion of Senator Shannon, Senator Tilson was added to the committee on internal improvements.

On motion of Senator Duncan, the rules were suspended and Senate bill No. 62, entitled "An act for the suppression of tramping and punishment of tramps," was taken up and made the special order for next Wednesday, immediately after the morning call, and from day to day until disposed of.

Senator Homan moved to suspend the rules and take up House bill No. 2, entitled "An act to repeal an act entitled 'an act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same.'"

Motion objected to and rules not suspended.

Senator Duncan moved to suspend the rules and take up Senate bill No. 93, entitled "An act to provide for transcribing county records in certain cases," and make it the special order for Thursday next, just after the morning call, and from day to day until disposed of.

Carried by the following vote:

YEAS.		
Buchanan,	Ford,	Moore,
Burnett,	Guy,	Patton,
Burton,	Hobby,	Ripetoe,
Davenport,	Lane,	Shannon,
Duncan,	McCormick,	Storey,
Edwards,	McCulloch,	Tilson—18.
NAYS.		
Blassingame,	Grace,	Ledbetter,
Brown,	Homan,	Martin,
Gooch,	Lair,	Stewart—9.

On motion of Senator Edwards, the Senate adjourned until Saturday morning at 10 o'clock.

TWENTY-THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 8, 1879. }

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

On motion of Senator Gooch, the reading of the journals of Thursday was dispensed with and the same adopted.

The president of the senate, after reading its caption in open Senate, signed House joint resolution No. 23, "in regard to Aransas bar."

Senator Burnett presented a petition from the delegates of a convention of citizens of Madison and Grimes counties, "asking for a reduction of twenty-five per cent. in the salaries of state and county officers."

Referred to committee on retrenchment and reform.

Senator Davenport presented the petition of the attorneys and physicians of Bosque county, "asking the repeal of the law imposing occupation taxes," and giving several reasons therefor.

Referred to committee on finance.

Senator Shannon presented the petition of many citizens of Jack county, asking that the Sunday law be so amended as to require that no secular labor be performed on the Sabbath day, and that all business houses and offices shall be closed on that day, also providing adequate penalties for the violation of said law.

Referred to the committee on state affairs.

A message was received from the House announcing the passage by that body of House bill No. 141, entitled "An act making appropriations for the support of the state government for the time beginning January 1, 1879, and ending March 1, 1879;" House bill No. 8, entitled "An act for the preservation of oysters and oyster beds and protecting the rights of persons to the same;" House bill No. 137, entitled "An act to repeal an act entitled 'an act to authorize and require all forced sales of real estate and sales of negroes made by executors and administrators in the county of Travis to be made on Congress avenue at the southeast corner of block No. 70,' approved November 28, 1857;" House bill No. 202, entitled "An act to authorize and require the state board of education to cancel school certificate No. 63, heretofore issued by said board to Wm. Umdenstock, and to issue a duplicate thereof to Reuben Knight, county

treasurer of Harrison county;" Senate bill No. 61, entitled "Joint resolution granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district;" House joint resolution No. 11, "instructing our senators and requesting our representatives in Congress to aid in securing the passage of a law fixing the standard value of Mexican coin and making the same a legal tender for all public and private debts and in payment of import duties," and the defeat of Senate bill No. 16, entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged."

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration House joint resolution No. 21, "authorizing and directing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said title," and a majority of the committee instruct me to report the same back to the Senate with the accompanying amendment, and the recommendation that it do pass as amended.

Houston, Chairman.

Amend section 2—

Strike out the words "in case it should become necessary the attorney general is authorized to employ assistant counsel in the prosecution of said suits and."

Houston, Chairman.

Senator Shannon, chairman of the committee on judicial districts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 139, entitled "An act fixing the time of holding the district courts in the twenty-third judicial district," have had the same under consideration and instruct me to report it back to the Senate and recommend its passage.

Shannon, Chairman.

Senator Stewart introduced a bill entitled "An act to incorporate the Grand Lodge of Ancient Free and Accepted Masons in and for the State of Texas, under and by the name and style of 'The Grand Lodge of Texas.'"

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

Senator Houston introduced a bill entitled "An act to regulate the admission and practice of attorneys and counselors-at-law."

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

Senator Ford introduced a bill entitled "An act to attach certain counties therein named to the twenty-fifth judicial district."

Read by caption and referred to committee on judicial districts.

Senator Buchanan introduced a bill entitled "An act to increase the civil and criminal jurisdiction of the county courts of Hunt, Kaufman, Collin and Denton."

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

Senator Houston introduced a joint resolution "instructing the Senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico."

Read and referred to committee on commerce and manufactures.

Senator McCulloch introduced a bill entitled "An act prohibiting the sale of liquor to inebriates, habitual drunkards and the sale of the same on the Sabbath, between the hours of 8 o'clock in the morning and 6 o'clock in the evening."

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

Senator Burton introduced a bill entitled "An act to amend section 1 and section 26 of an act to regulate grand juries and juries in civil and criminal cases in the courts of the State, approved August 1, 1876."

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

Senator Burnett introduced a bill entitled "An act to prevent and punish the aiding and abetting the escape of state and county convicts."

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

On motion of Senator Storey the rules were suspended and House bill No. 141, entitled "An act making appropriations for the support of the state government, for the time beginning January 1, 1879, and ending March 1, 1879," was taken up and referred to the committee on finance.

The following message was received from his excellency, the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 6, 1879. }

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

The charitable institutions located at the capital, have uniformly received the special attention of the Legislature, and of course should continue to do so. They are all styled asylums in the constitution of 1876, though that for the deaf and dumb and that for the blind are really institutions of learning. During the last fiscal year, ending August 31, 1878, as shown by the reports, there were nearly 400 inmates in these institutions, who were maintained by the State at a cost of about \$80,000, making the average expense about \$200 for each one, which is the amount that it costs to send a student to the Agricultural and Mechanical College at Bryan.

There is for each of these institutions appointed by the governor a superintendent, who holds his office for two years. On the 29th day of July, 1878, the present incumbents, instead of holding over after their terms of office had expired, were reappointed by the governor, and are now holding under said appointments with terms not yet expired.

In the organization and management of these institutions great pains have been taken to secure a proper administration of their affairs by instituting boards for their supervision and control, composed of gentlemen of high standing in the vicinity, and by checks placed upon the mode of obtaining supplies. After all, however, success in the proper and economical management of these institutions must depend mainly upon the character, qualifications and fitness of their respective superintendents. These institutions being here at the capital and so accessible to the inspection of the Legislature, I have not thought it necessary to do more than call your attention to a few subjects in relation to them. Their salaries are stipulated in the act of appropriation, as it is done with respect to other officers employed by the State. In addition to this, by custom, they receive a support for themselves and their families out of the appropriation for the support of the institution. For instance, the superintendent receives a salary of \$2000, and has himself and family supported and waited on by servants in addition to the salary. And hence

these offices are most earnestly sought by numerous persons as the most profitable salaried offices of the State. The amount really paid is measured, not by the services rendered, but by the size of the family. Considering the character and locality of the service rendered, these offices should be profitable to those engaged in them. But I respectfully suggest that it might be more just to stipulate the entire compensation in the salary, so that it might be known what each person receives, and that the compensation should not be dependent upon the size of the family.

The means belonging to these institutions are as follows:

LUNATIC ASYLUM.

Acres of land surveyed.....	100,000
Bonds of State, 10 per cent.....	\$3,500 00
Cash on hand.....	1,339 47
	<u>\$4,839 47</u>
Notes for sale of land unpaid.....	10,040 00
	<u>\$14,879 47</u>

BLIND INSTITUTE.

Acres of land unsurveyed.....	102,642
Bonds of State, 10 per cent.....	\$ 4,470 00
Cash on hand.....	167 00
Notes for sales of land unpaid.....	13,500 00
	<u>\$18,137 00</u>

DEAF AND DUMB INSTITUTE.

Acres of land surveyed.....	101,644
Bonds of State, 10 per cent.....	\$ 3,500 00
Bonds of State, 7 per cent.....	4,000 00
Cash on hand.....	1,793 38
Notes for sales of lands unpaid.....	14,465 00
	<u>\$23,758 38</u>

These lands are situated in the counties of Callahan, Comanche, Eastland, Jones, Shackelford, Stephens, Taylor and Tom Green. There are also in the same counties 103,229 acres of land belonging to the orphan asylum, which has never yet been set in operation by any law. These lands are being sold on a credit as the university lands are, and if they were sold and invested as has been recommended, permanent funds for each might soon be raised, the annual interest of which would to that extent relieve the people from taxation for their support.

Each one of these institutions should be enlarged by extensive additions to their improvements as soon as the financial condition of the State will permit; for it is reasonably certain that twice the number of persons should be in them if there were accommodations for them.

In the deaf and dumb institution of learning there is a printing establishment, in which there are a few of the pupils employed in printing,

under the charge of a practical printer, and which is now doing a part of the public printing. The pupils, as I am informed, are anxious to learn this trade, as a means of livelihood after they shall have left the institution. The number thus engaged might be increased to twenty-five, and constitute a force capable of doing the printing for the State. It would take, perhaps, as much as \$20,000 to furnish the necessary buildings, presses and other things necessary to fit up and carry on such an enlarged establishment. I respectfully recommend that that amount be appropriated for the year 1880, to be used only upon condition that its use for that purpose will not prevent the revenue collected from being as much as the expenses of the state government.

I desire to call attention to the fact that the supplies for these institutions are furnished quarterly by contract, let out to the lowest responsible bidder, for the articles desired. This was devised as a means of preventing extravagance in the outlays, by favoritism or by other cause, and to encourage competition and prevent combinations. This might furnish the easiest possible mode of favoritism, or of combinations to raise the price of articles, by the manner in which estimates for the articles are made out by designating therein certain brands or qualities of goods. And, therefore, the law should require, as a further security, that the articles included in the estimates should be those which are known to be most abundant and in common use and for sale in the markets of the State, and I respectfully recommend the passage of a law to that effect.

Considering the fact that the superintendents were appointed by my predecessor, and are holding unexpired terms under his appointment, and the additional fact that the Legislature would meet before I could be inaugurated and have any authoritative control, I have not made any personal examinations of these institutions, and, therefore, have no authentic facts to communicate to you now in reference to them. I, therefore, recommend that the Legislature will examine thoroughly into the manner in which said institutions are carried on, both in reference to the treatment of those belonging to them and to the financial management of them.

O. M. ROBERTS.

On motion of Senator Davenport, 1000 copies of the governor's message were ordered printed for the use of the Senate.

Senator Storey, chairman of the committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate concurrent resolution, calling for an expression of the contemplated meaning of article 7, section 3, of the constitution, have duly considered the same, and I am instructed to report to the Senate that it is the unanimous opinion of the committee present that the constitution does require the Legislature to appropriate and set apart some part of the revenue derived from *ad valorem* and occupation taxes for the benefit of the public free schools.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 117, entitled "An act to provide for the sale of the public domain, and to apply the proceeds from the sale thereof to the public school fund and to

the payment of the public debt," have duly considered the same, and I am instructed by a majority of the committee to report the bill back to the Senate with the recommendation that the same do pass.

STOREY, *Chairman.*

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

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 121, to be entitled "An act supplemental and amendatory of an act entitled 'an act to enable part owners of land to obtain partition thereof, and for other purposes,' passed March 5, 1840," have considered the same, and instruct me to report it back with the accompanying amendment, and recommend that as amended the bill do pass.

TERRELL, *Chairman.*

Section 2. A statement of the facts proven in the trial of any cause affecting the interest of unknown owners shall be incorporated in the record, and no judgment shall be rendered against any unknown owner of lands unless it appear from the facts in evidence that diligent efforts have been made to ascertain the unknown parties, which shall be judged of by the courts, and also incorporated in the judgment.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 94, to be entitled "An act to create a lien in favor of proprietors of livery and other public stables, and to provide for the manner in which same may be enforced," have considered the same, and instruct me to report it back and recommend the passage of the bill.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 125, to be entitled "An act to ratify and declare valid a compromise by the commissioners' court of Brazoria county and the issuance of county bonds and levy of tax therefor, in settlement of bonds of said county, issued under an act of the Legislature passed September 1, 1856, entitled 'an act to permit the county of Brazoria to levy a special tax for purposes of internal improvements, and the judgments in the federal court,'" have considered the same, and instruct me to report it back with the recommendation that it do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 138, to be entitled "An act to amend an act to amend article 766 of the Penal Code, approved May 17, 1873," have considered the same, and instruct me to report it back with the recommendation that the bill do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 1, to whom was referred Senate bill No. 132, to be entitled "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county," have considered the same and instruct me to report it back and recommend its passage.

TERRELL, *Chairman.*

On motion of Senator McCormick, the rules were suspended and Senate bill No. 24, entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees or trustees for the benefit of creditors," was taken up, read the third time and passed.

On motion of Senator Duncan the rules were suspended and Senate bill No. 6, entitled "An act regulating the election of clerks of the district and county courts, in counties having less than eight thousand inhabitants and to validate the acts of persons heretofore and now holding both of said offices," was taken up and read the third time.

Senator Duncan moved to strike out the word "and" where it last occurs in the caption and insert in lieu thereof the word "or."

Adopted.

Senator Duncan offered the following amendments: Add to section 4 the words "and it is so enacted."

Adopted by the following vote:

YEAS.

Brown,	Homan,	Moore,
Buchanan,	Houston,	Patton,
Burnett,	Lane,	Ripetoe,
Burton,	Ledbetter,	Stewart,
Davenport,	Martin,	Shannon,
Edwards,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—22.
Hobby,		

NAYS.

Storey, Swain—2.

The bill was then passed by the following vote:

YEAS.

Brown,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Burnett,	Houston,	Ripetoe,
Burton,	Lane,	Stewart,
Davenport,	Ledbetter,	Shannon,
Duncan,	McCormick,	Terrell,
Guy,	McCulloch,	Tilson—21.

NAYS.

Edwards, Storey, Swain—4.
Martin,

On motion of Senator Terrell the rules were suspended and Senate bill No. 91, entitled "An act to regulate the payment of public money out by state treasurer," was taken up, read first time, and fifty copies ordered printed.

On motion of Senator Lane the rules were suspended and Senate bill No. 139, entitled "An act amendatory of an act entitled 'an act fixing the time of holding the district court of the twenty-third judicial district,' approved August 9, 1876," was taken up and read first time.

On motion of Senator Lane, the rules were suspended and the bill placed on its second reading by the following vote:

YEAS.

Brown,	Edwards,	Lane,
Buchanan,	Gooch,	Ledbetter,
Burnett,	Guy,	Martin,
Burton,	Hobby,	McCormick,
Davenport,	Homan,	McCulloch,
Duncan,	Houston,	Moore,

Patton,
Ripetoe,
Stewart,

Shannon,
Storey,
Swain,

Terrell,
Tilson—26.

NAYS—none.

Bill read second time and ordered engrossed.

Senator Lane moved to still further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—none.

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

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS.—none.

On motion of Senator Davenport, the rules were suspended and Senate bill No. 132, entitled "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county," was taken up and read first time.

Senator Davenport moved to further suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

The bill was read second time and ordered engrossed.

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

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

The bill was then read the third time.

Senator Davenport offered the following amendment to the bill:

Amend by adding "the cloud cast on the titles of purchasers from the commissioners and the necessity for removing it creates an imperative necessity that the law take effect and be in force from and after its passage."

Adopted.

The bill was then passed by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Lane,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

On motion of Senator Burton, the rules were suspended and House bill No. 2, entitled "An act to be entitled an act to repeal an act entitled 'an act to levy a tax on the privilege of keeping and harboring dogs, and to provide for the assessment and collection of the same,'" was taken up by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,

Gooch,
Guy,
Hobby,
Homan,
Lane,
Martin,

McCulloch,
Moore,
Ripetoe,
Shannon,
Terrell,
Tilson—18.

NAYS.

Brown,
Ledbetter,

McCormick,
Stewart,

Storey,
Swain—6.

The bill was then read a third time.

Senator McCormick moved a call of the House.

Call sustained.

Roll called.

Absent—Senators Blassingame, Grace, Lair and Patton.

Senator Edwards moved to excuse Senators Blassingame, Grace and Lair, as they were absent on committee duty.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,
Lane,
Ledbetter,
Martin,
McCulloch,

Moore,
Ripetoe,
Stewart,
Shannon,
Swain,
Terrell,
Tilson—23.

NAYS.

McCormick,

Storey—2.

Senator Homan moved the previous question.

Senator Edwards made the point of order that the previous question could not be moved when the house was under a call.

Point of order sustained.

Senator Ledbetter moved to take up Senate bill No. 96, entitled "An act for the disposal of the public free school lands, and to secure the proceeds thereof for the benefit of said schools."

Lost by the following vote:

YEAS.

Brown,
Duncan,
Houston,

Lane,
Ledbetter,
Stewart,

Storey.
Swain—8.

NAYS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Gooch,
Guy,
Hobby,
Homan,
Martin,
McCormick,

McCulloch,
Moore,
Ripetoe,
Shannon,
Terrell,
Tilson—18.

On motion of Senator Gooch, the call of the house was suspended.

Senator Homan moved the previous question on the passage of the bill.

The main question was ordered by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,

Gooch,
Guy,
Homan,
Lane,
Ledbetter,

Martin,
Moore,
Ripetoe.
Shannon,
Tilson—15.

NAYS.

Brown,
Duncan,
Ford,
Hobby,

Houston,
McCormick,
McCulloch,

Stewart,
Storey,
Swain—10.

The bill was then passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Gooch,
Guy,
Homan,
Lane,
Ledbetter,
Martin,

Moore,
Ripetoe,
Shannon,
Terrell,
Tilson.—17.

NAYS.

Brown,
Duncan,
Hobby,

Homan,
Houston,
McCormick,

Stewart,
Storey,
Swain—9.

Senator Duncan moved to suspend the rules and take up Senate bill No. 19, entitled "An act to authorize the levy and collection of a special tax in the counties where it may be necessary to construct or to complete payment for court houses and jails."

Carried by the following vote:

YEAS.		
Buchanan,	Hobby,	McCulloch,
Davenport,	Homan,	Stewart,
Duncan,	Houston,	Shannon,
Ford,	Lane,	Swain,
Gooch,	Martin,	Terrell--17.
Guy,	McCormick,	
NAYS.		
Brown,	Edwards,	Storey,
Burnett,	Ledbetter,	Tilson--8.
Burton,	Ripetoe,	

Bill read second time.

Senator Duncan offered the following amendment:

"Whereas, in many counties of this State it is necessary to build or finish paying for court houses and jails, and the present law not furnishing authority to raise means therefor, and consequently a public imperative necessity exists that the rules be suspended for the passage of this bill therefore."

Adopted.

Senator Storey moved to order fifty copies of the bill printed, postpone the same, and make it the special order for Tuesday next after the morning call, and from day to day until disposed of.

On motion of Senator Brown, the question was divided into two propositions.

The first proposition, to print fifty copies of the bill, was adopted by following vote:

YEAS.		
Brown,	Ford,	Moore,
Burnett,	Hobby,	Ripetoe,
Burton,	Houston,	Storey,
Edwards,	Lane,	Swain--12.
NAYS.		
Buchanan,	Guy,	Stewart,
Davenport,	Homan,	Shannon,
Duncan,	Ledbetter,	Terrell,
Gooch,	McCormick,	Tilson--12.

The second proposition of the question, "to postpone and make special order," etc., was then adopted.

Senator Terrell (by leave) presented the memorial of Mrs. Emma M. Moore, widow and executrix of Commodore Edwin W. Moore, late post captain of the Texan navy, against the State of Texas.

Referred to the committee on public debt.

On motion of Senator Tilson, the rules were suspended, and Senate bill No. 49, entitled "An act to give effect to section 2, article 9, of the constitution, regulating the manner of removing and locating county seats," was taken up and read the second time.

Senator Buchanan offered the following amendment: Amend by inserting after the word "subject," in the second line from the top of second page, the following language: "Nor shall any county seat be moved from a point more than five miles from the geographical center of

any county to any other point more than five miles from such center, nor from a point within five miles of the geographical center to any other point within five miles of such center, except by a two-thirds vote of all the electors in said county voting on the subject."

Senator Homan offered the following as a substitute for the amendment just offered: Strike out in section 1, lines one and two, the words "situated within five miles of the geographical center."

Adopted.

Senator Homan offered the following as an amendment to the pending amendment: Strike out all of section 1 after the word "subject," line two.

Lost.

Senator Shannon moved to adjourn until 10 o'clock Monday morning.

Lost by the following vote:

YEAS.		
Brown,	Houston,	Ripetoe,
Ford,	Moore,	Shannon--7.
Guy,		
NAYS.		
Buchanan.	Hobby,	Stewart,
Burnett,	Homan,	Storey,
Burton,	Lane,	Swain,
Davenport,	Ledbetter,	Terrell,
Edwards,	Martin,	Tilson--17.
Gooch,	McCormick,	

Senator Edwards moved a reconsideration of the vote adopting Senator Homan's substitute for Senator Buchanan's amendment.

Carried by the following vote:

YEAS.		
Brown,	Gooch,	McCulloch,
Buchanan,	Guy,	Moore,
Burnett,	Hobby,	Stewart,
Burton,	Houston,	Storey,
Davenport,	Lane,	Swain,
Edwards,	Ledbetter,	Tilson--20.
Ford,	Martin,	
NAYS.		
Duncan,	McCormick,	Terrell--5.
Homan,	Shannon,	

Senator Homan then withdrew his substitute.

The pending amendment of Senator Buchanan was then adopted.

Senator Buchanan then offered the following amendment:

Also strike out all after the word "county," in the ninth line from the top, second page, and before the word "it," in the tenth line.

Adopted.

Also the following amendment: Strike out sections 5 and 6 and insert the following as section 5:

Section 5. When the entry mentioned in the preceding section has been made, the county seat, if the election be held to move the county seat from a point within five miles of the geographical center to a point more or less than five miles from the geographical center, or from a point more than five miles from the geographical center to any other point more than five miles from such center, shall be removed to the place receiving two-thirds of all the electors voting on the subject, and such

place shall thereafter be the county seat of such county. But if the election be held to move the county seat from a point more than five miles from the geographical center to a point within five miles of such center, then the county seat shall be removed to the place receiving a majority of all the electors in the county voting at such election, and such place shall thereafter be the county seat of such county.

Senator Burton offered the following amendment:

Amend section 10, line twenty, by striking out "five" and inserting "ten."

Adopted.

Senator Homan offered the following:

Amend by inserting the following additional section to be No. 12, and section 12 to be No. 13:

Section 12. All elections under this act shall be held on the day of a general election for county officers.

Lost.

The bill was then ordered engrossed.

Senator Duncan moved to suspend the rules and take up Senate bill No. 28, entitled "An act to give forfeitures *nisi* on bail bonds and recognizances in criminal cases the force and effect of judgments," and make it the special order for next Saturday just after the morning call, and from day to day until disposed of.

Senator Edwards moved to amend by ordering 50 copies printed.

The amendment of Senator Edwards was accepted by Senator Duncan, and the motion as amended was then adopted.

On motion of Senator Homan, the rules were suspended and House bill No. 202, entitled "An act to authorize and require the state board of education to cancel school certificate No. 63, heretofore issued by said board to William Umbdenstock, and to issue a duplicate thereof to Reuben Knight, county treasurer of Harrison county," was taken up and referred to judiciary committee No. 2.

Senator Lane moved to order 100 copies printed of Senate bill No. 117, "To sell the public domain to pay the public debt, and for the benefit of public schools," etc.

Senator Duncan moved to amend by striking out 100 and insert 500 copies.

Accepted by Senator Lane, and the motion, as amended, was adopted.

On motion of Senator Ripetoe, the Senate adjourned until Monday morning at 10 o'clock.

TWENTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 10, 1879. }

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

On motion of Senator Moore, the reading of the journals of Saturday was dispensed with and the same adopted.

Senator Lair presented the petition of numerous citizens of Collin county "asking that a law be passed limiting the charges of physicians in the practice of medicine, and imposing penalties for its violation; also favoring the repeal of the occupation tax; that physicians be allowed to

practice with or without diplomas, and requesting the repeal of the produce tax."

Referred to the committee on statistics of industry, public health, etc.

Senator Stewart (by request) presented the memorial of several citizens of Harris county, asking the passage of laws, first, to prevent the adulteration or placing of poisonous ingredients in spirituous liquors, and advising the appointment of a learned and skillful chemist to examine such before sold; secondly, asking penal laws against the sale or use of intoxicating liquors at elections, not allowing persons to vote or approach the polls when under the influence of liquor, and, thirdly, that parties selling liquors to persons intoxicated be held as *particeps criminis* to every illegal act committed by said parties, etc.

Referred to the committee on state affairs.

Also, a memorial from the board of trade of Houston against imposing restrictions upon the traffic rates and operations of the different railroads of the State; particularly, the principles of the bill pending in the House of Representatives known as the "Merritt bill," and against making these restrictions applicable alone to railroads, giving many reasons for their suggestions.

Referred to the committee on internal improvements.

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

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred the memorial from the citizens of Fannin county, asking the repeal of occupation tax, have instructed me to report the same back to the Senate and ask that it be referred to the committee on finance. STEWART, *Chairman.*

Report of committee adopted and the bill referred to the committee on finance.

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of the Grand Lodge of Texas," and finding that due notice of the application for such special legislation has been given, I am instructed by said committee to report said bill to the Senate with their recommendation that it do pass. STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 10, entitled "An act to amend an act approved June 20, 1876, entitled 'an act to amend article 382, title 2, chapter 3, of Penal Code,'" have duly considered the same and finding that the purpose of this bill has been accomplished by the Penal Code already passed by the Senate at its present session, I am instructed by said committee to report said bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 76, entitled "An act to provide for the speedy and authoritative publication of the opinions of the supreme court and the court of appeals of the State of Texas in the *Texas Law Journal*," have considered the same, and

I am instructed by said committee to report said bill back to the Senate with the recommendation that it do not pass.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judiciary No. 2, having considered Senate bill No. 118, entitled "An act extending the landlord's lien for rents to owners of residences, storehouses and other buildings," respectfully report that said bill remedies a defect in the present law, which does not extend to rent liens to owners of buildings occupied as residences or for carrying on business, and we therefore respectfully recommend the passage of the bill.

STEWART, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 2 have had under consideration Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts, when and where the same may be necessary," and I am instructed by said committee to report said bill back to the Senate with the recommendation that it do pass.

STEWART, *Chairman.*

Senator Moore, chairman of the committee on commerce and manufactures, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on commerce and manufactures, to whom was referred Senate joint resolution No. 145, "instructing our senators and representatives in Congress to favor commercial relations with Mexico," have had the same under consideration and recommend its passage.

MOORE, *Chairman.*

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed, Senate bill No. 33, entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas," and presented the same to the governor for his signature, at 9:35 o'clock this morning.

GRACE, *Chairman.*

A message was received from the House announcing the passage by that body of House joint resolution No. 27, "Instructing our senators and requesting our representatives in Congress to ask the United States government payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878, and the payment of the unexpended balance of the \$7,750,810 left with the United States government by this State for the payment of the debt of the late Republic of Texas;" House joint resolution No. 26, "Instructing our senators and requesting our representatives in Congress to take the necessary steps at once, by bill or otherwise, to secure the appointment of United States commissioners with like commissioners on behalf of Texas, to settle and definitely adjust the controversy as to boundary between the United States and Texas involving the territory lying between the north and south forks of Red river, known as the county of "Greer," and that the House has concurred in the Senate amendment to House bill No. 2, entitled "An act to repeal an act entitled 'an act to levy a

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

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred Senate bill No. 116, entitled "An act to amend section 12 of 'an act to establish and provide for the support and maintenance of an efficient system of public free schools,' approved August 16, 1876," have carefully considered the same, and I am instructed by the committee to report the same back to the Senate with the accompanying substitute, and to recommend the passage of the substitute.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was referred House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending March 1, 1879," have duly considered the same and I am instructed by the committee present to report the same back to the Senate with the accompanying amendments, and, as amended, to recommend its passage.

STOREY, *Chairman.*

Strike out the words "March 1," wherever they occur in the title and section 1, and insert "February 28." Under the head "Judiciary," strike out the amount, "\$1777 70," for salary of three supreme judges, and insert the amount "\$1775." Under the same head, strike out the amount "\$1800," for salaries of three appellate judges, and insert the amount "\$1775." Under the same head, in the item "Pay of sheriffs in attendance on court of appeals," strike out the word "sheriffs" and insert the word "bailiffs," and strike out the amount, "\$166 66," and insert the amount "\$236." Under the same head, in the item "For librarian for supreme court and court of appeals," strike out the proviso. Under the same head, in the item "For fuel and light for supreme court," strike out the amount "\$42," and insert the amount "\$75." Under the same head, in the item, "For fuel and light for court of appeals," strike out the amount "\$42," and insert the amount "\$75."

Under the same head, immediately following the item "Salary of porter of court of appeals," add the additional item, "For contingent fund for supreme and appellate courts, \$50."

Under the head "lunatic asylum," strike out the item "For support of lunatic asylum, \$10,000."

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred memorial No. 14, from citizens of Bell county, asking for the repeal of the occupation tax; and memorial No. 15, from many citizens of Kaufman county, asking the repeal of the law imposing occupation taxes, have carefully considered the same, and I am instructed by the committee present to report the said memorials back to the Senate, and to state that in the present financial condition of the State the relief prayed for cannot be safely granted.

STOREY, *Chairman.*

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 10, 1879. }

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

The Indians have been a constant source of annoyance, expense and injury to Texas for more than a hundred years under its different governments. Robbery and murder constitute their occupations. They are now, as they have been, the public enemies of Texas. We are liable to have our frontier settlements attacked by them at any time. The history of the past sufficiently attests, without any enumeration of well known facts, that the danger is constantly impending. They come not as individual robbers, but in organized bands, prepared for warlike attack and defense. We can have no notice of their intended invasion. It is only upon these grounds that the State of Texas, under the constitution of the United States, is justified in keeping a military force on the frontier, as a State guard, to defend our people and their property against the perpetual liability of a hostile invasion, of which we can have no previous notice. Part of these Indians reside in Mexico, and take shelter there from the pursuit of our forces, after their fiendish excursions into Texas. We are debarred thereby from following them in large force and making regular war upon them across the border. The balance of the Indians that infest our frontier are two reserves in charge of the United States authorities, and are there fed, clothed and protected, immediately beyond our northern boundary line. These reserve Indians are permitted to come into Texas with military escort, or they come without it, for the purpose of hunting or under the pretense of hunting for buffalo or other game, well armed and equipped, and then they commit their depredations upon our citizens. If we were to follow them back into their reserves with a force sufficient to punish them and thereby make their tribes responsible for the control of their own members, as was formerly the case in Indian wars, we would be met by the military power of the United States for their protection. Texas, then, occupies the singular and extraordinary position of having now, and of long having continuously had known public enemies in these tribes of wild Indians under the protection and control of Mexico and the United States.

Texas has heretofore had to protect her citizens (with the aid we get from the regular army) against them on her own soil without pursuing them to their homes, and by retaliatory punishment make them afraid to invade its territory as was formerly done by other states or by the forces of the United States. This has caused us to keep a force in the field as a state guard that has required much expense to be incurred. To say nothing of former periods, in 1874 there was appropriated for it three hundred thousand dollars, and one hundred and fifty thousand every year since that time. Notwithstanding it is the duty of the United States to protect us and that they have a large military force on our frontier, we have had to keep a frontier force of our own to aid in our protection. We have authentic information that a large number of these reserve Indians are now upon our northern border, encamped and taking the cattle of our citizens, and are in such numbers as that we have no adequate force to expel them. I am not officially authorized to say so, but I feel assured, from what I do know, that the able and esteemed commander of the United States forces in Texas, Gen. Ord, will attest the fact that our frontier battalion has been of most essential service in aiding him

with his forces to give us protection, and that is still necessary. The reasons for this are numerous, and well known to those who are at all acquainted with the subject.

Under these circumstances I respectfully recommend that a law be passed authorizing the appointment of an agent, with a conditional fee, to act in aid of and to co-operate with our members of Congress, in the prosecution of this claim, together with all our other claims, before the Congress of the United States.

And for our immediate and future protection and self-defense against these public enemies within our own State, I respectfully recommend that a law be passed making it a felony for these Indians, and all those co-operating with them, or having them in charge under pretense of hunting, to come and be found within the limits of this State, with such heavy penalties as will probably keep them out of it in the future, with the addition of a public declaration, justified by experience of many years, that these Indians are public enemies of the Texas people, whenever they are found within the limits of the State. We have no right to make treaties with them, and they would not observe them if we had. They are not citizens of the United States, nor are they citizens of foreign nations at peace with the United States; and if the State should prohibit their coming within its limits, the United States would not, as it is presumed, claim any right to protect them within this State. Such a declaration would not be, nor be designed to be a declaration of war, as it is denied to the states by the constitution of the United States, but a fixing by law of the status of these wild savages, when found within this State, with reference to our own citizens according to the existing fact, evidenced by their barbarities and plunder for ages past, as well as now.

O. M. ROBERTS.

On motion of Senator Shannon 1000 copies of the governor's message just read were ordered printed for the use of the Senate.

Senator Gooch introduced a resolution to amend section 10 of article 1 of the constitution of the State of Texas.

Referred to the committee on constitutional amendments.

Senator Houston introduced a bill entitled "An act to encourage the construction of artesian wells."

Read by caption and referred to the committee on public lands.

Senator Tilson introduced a bill entitled "An act to provide for the change of the location of the court house of Marion county."

Read by caption and referred to committee on counties and county boundaries.

Senator Duncan introduced a bill entitled "An act to authorize counties to compromise existing bonded indebtedness and to issue new bonds at a lower rate of interest in lieu thereof."

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

Senator Terrell introduced a bill to be entitled "An act to provide for the erection of a new state capitol."

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

Senator McCormick introduced a bill entitled "An act to provide for the payment of claims for purchases of books, apparatus and furniture for public schools, made by boards of school directors under the authority of an act entitled 'an act to establish a system of public free schools for the State of Texas, approved August 13, 1870, and under an act entitled

an act to organize and maintain a system of public free schools in the State of Texas,' approved April 24, 1871."

Read by caption and referred to the committee on education.

Senator Buchanan introduced a bill entitled "An act to provide for the assessment and collection of certain back school taxes due from railway corporations."

Read by caption and referred to the committee on finance.

Senator Burton introduced a bill entitled "An act to change the jurisdiction of the courts of justices of the peace and to conform the jurisdiction of the county courts to such change."

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

Senator Terrell introduced a bill entitled "An act to punish trespassers."

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

On motion of Senator McCormick the Senate went into executive session.

(In Senate.)

On motion of Senator Storey the secretary of the senate was instructed to inform his excellency, the governor, that the Senate does advise and consent to his nomination of Thomas J. Goree as superintendent of the penitentiary.

The president of the senate, after reading its caption in open Senate, signed Senate joint resolution No. 61, entitled "Joint resolution granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district."

Senator Grace, chairman of committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and signed Senate joint resolution No. 61, entitled "Joint resolution granting leave of absence from the State to Hon. Allen Blacker, judge of the twentieth judicial district," and presented the same to the governor for his signature at 10:20 o'clock this morning.

GRACE, *Chairman.*

(Senator Terrell in the chair.)

On motion of Senator Storey, the special order was postponed temporarily, the rules were suspended and House bill No. 141, entitled "An act to make an appropriation for the support of the state government for the time beginning January 1, 1879, and ending March 1, 1879," was taken up and read first time.

On motion of Senator Storey, the rules were further suspended and bill placed on its second reading by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--28.

NAYS—none.

The bill was then read the second time.

On motion of Senator Storey the amendments of the committee were adopted.

Senator Edwards offered the following amendment:

Add under head of department of insurance, statistics and history a fourth line, as follows: "For postage, printing, wood and lights, \$83 33."

Adopted.

Senator Swain offered the following amendment:

Seventh page, third line from bottom, amend by inserting the following before the salary of district attorneys, etc., "costs to be paid sheriffs, clerks and county attorneys in district, county and justices' courts, \$12,000."

Adopted.

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

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—30.

NAYS—none.

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

YEAS.

Blassingame,
Brown,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

NAYS.—none.

(The president in the chair.)

The following message was received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 10, 1879. }

To the honorable the Senate and House of Representatives in Legislature assembled:

The free common schools have their foundation in the constitution of the State. The mode and means of creating a permanent fund therefor, and of an available fund, with the manner of its distribution annually, are prescribed in the same instrument. It results in fixing it as a duty upon the government of the State, and not as a charity, to educate the rising generation.

Its permanent fund consists of surveyed lands about 21,000,000 acres, and half of all the vacant domain, making 15,000,000 of acres more, set apart by the constitution. There are now over \$3,000,000 of state and railroad bonds.

Notes for the sale of lands unpaid \$269,000. Cash on hand from sales of land \$6940. As the lands are sold, and amounts collected, the comptroller is required to invest the money in state or United States bonds. These lands are sold on a credit to settlers, payable with interest in ten annual instalments and at considerable expense, at the minimum price of \$1 50 per acre, and are consequently thereby increasing the permanent fund very slowly. The probable fact is easily demonstrated that when three millions more of bonds are thus purchased by their sale, settlers upon those lands and upon the railroad lands surveyed in connection with them, will have introduced into the State children of the scholastic age enough to require the interest on this increase of the fund on their education. And by the increase in the scholastic population in other parts of the State, the proportion of the fund, already accumulated to the scholastic population, except those thus introduced, will continually diminish from year to year and therefore an increase of taxation would be required, if the constitution permitted it, to keep up the schools to an average of four months in the year. But by a more rapid sale of the lands, as has been recommended, the fund may be increased before the increased scholastic population is introduced into the State by immigration. The lands sold being taxed before they are settled, the general revenue will be increased. By this means the schools may be supported by the interest of the fund, with a much less appropriation of the revenue than at the present time, which is one-fourth of the state taxes and one dollar poll tax. For the present year the board of education set apart \$900,000 to the free common schools. This included an amount over \$300,000 that had accumulated in the treasury from the collection of previous years' taxes. It is, therefore, estimated by the comptroller that the amount to be set apart for the next year will be about \$200,000 less.

In the effort to perfect the free common school system certain fixed guides, as prescribed in the constitution, must be acted on, as follows :

The permanent fund cannot be used otherwise than by the annual appropriation of the interest accruing from it. To which may be added not more than one-fourth of the annual state taxes and one dollar poll tax. Whatever amount is set apart must be distributed by the board of education to each county, according to its scholastic population, irrespective of whether or not the children are taught by the county. The counties receiving it must apply it in such manner as may be provided by law. The discretion then left to the Legislature is to determine what amount of the state tax, so it does not exceed one-fourth of it, shall be appropriated for this object, and to regulate by law the manner in which the counties shall apply it in carrying on free common schools. The present school law, it is believed, is a foundation upon which may be built a system as far as practicable adapted to the wants of the country. It is to be remarked, however, that it proceeds upon the idea of providing for the compensation of the teachers more effectually than for the teaching of the scholars, for whom the money has been distributed to the counties. A teacher employed by the trustees of a school community to teach a certain number of scholars gets his pay whether all the scholars come to

school or not, and indeed it is for his convenience that half of them should not come. The punctual attendance of the scholars depends upon the efforts of the teacher to secure it, and if practicable he should be made pecuniarily interested in making the efforts. This is shown by the reports of the last scholastic year, in which it appears that the scholastic population was \$164,294, for whom, as they resided in each county, the whole of the money allowed for that year was distributed. Out of that number there were 23,963 who did not attend any school in the State, and 17,348 of them were not enrolled in any school community. Still the counties got the money according to the terms of the constitution; and, as we may suppose, it was given to the teachers who taught the balance of them. Thus nearly one-seventh of the children for whom the money was appropriated received no benefit from it, and over one-ninth of them were not enrolled in any school community. Since the meeting of the Legislature there has assembled at Austin a convention of teachers, from different parts of the State, composed of gentlemen of experience and distinguished ability in their profession, who have presented a memorial, to be presented through me to the Legislature, containing their views upon the manner in which our free common schools may be improved. Their memorial, attached to this message, is respectfully submitted for your favorable consideration.

In attendance upon said convention was also Dr. B. Sears, general agent of the Peabody education fund, who addressed the following letter to me :

“AUSTIN, February 1, 1879.

“*His Excellency, O. M. Roberts, Governor of Texas :*

“SIR—I beg leave to address, through you, to the General Assembly of the State the following proposition, to-wit: If the Legislature shall see fit to establish a first-class normal school, and to appropriate for its current expenses \$6000 per annum, the trustees of the Peabody educational fund will duplicate that sum for the same purpose for a period of two years, with the expectation of renewing the arrangement from year to year after that period during the pleasure of both parties.

“Your obedient servant,

“B. SEARS, *General Agent.*”

The first question is, can the Legislature constitutionally accede to and comply with this liberal offer, if it be so inclined ?

The constitution provides that “taxes shall be levied and collected by general laws, and for public purposes only.” In the enumeration of the objects alone for which the Legislature shall have the right to levy taxes is included, “the support of public schools in which shall be included colleges and universities established by the State.” A normal school might most properly be regarded as a public school in connection with and auxiliary to free common schools. The greatest want in our common schools is a supply of competent teachers, who would teach upon the most improved modern plan of teaching.

The second question is, how shall the pupils be procured at such a school ? Few persons, in different parts of the State, who might desire to be teachers of common schools, would have the means to spend two or three hundred dollars in going to such a school. Persons who had education enough to enter such a school to learn the science and practice of teaching school, would most likely go to some higher school to learn those

things which would fit them for some of the learned professions. A normal school for the education of teachers must, therefore, be a very cheap school in order to attract pupils.

I would respectfully suggest that should such a school be established, the building for which might be easily obtained by gift or rent, the Legislature might direct the counties to reserve that portion of the money appropriated to them each year, for which no scholars are taught, or even that for which no scholars are enrolled in school communities, and set it apart annually as a fund for the support of scholars at the normal school to the extent of paying their board and tuition.

These scholars, selected by the county court of each county having such a fund reserve, might be pledged to return to the county from which they were sent and teach so many years in its free common schools. Such moneys would be well spent in the promotion of the purposes of free common schools by spreading educated teachers all over the State, without which our system never can, and never will, be perfected, however lavishly the money of the people may be devoted to it. I respectfully submit, also, in this connection, a condensed summary of the views of the secretary of the board of education of the State as to the laws necessary to the improvement of our school system. He has been connected with this business as superintendent and secretary for five years, and his views deserve consideration.

O. M. ROBERTS.

To His Excellency, O. M. Roberts, Governor of Texas:

In pursuance of the invitation made by your excellency to the teachers of Texas, "to meet in convention and investigate the present school law, and suggest such practicable improvements as can and should be made in our system of education," a meeting was held in the city of Austin, commencing on the 28th of January, 1879, and continued in session for three days. Many important matters were considered and discussed, and the undersigned, a committee appointed by said convention, have the honor to submit as the result of their deliberations the following suggestions, and respectfully ask your excellency to transmit the same, with such recommendations as you may deem proper, to the honorable Legislature now in session:

1. We recommend that the generous offer made by the trustees of the Peabody education fund, through the Rev. Dr. Barnes Sears, the general agent, to duplicate an appropriation of six thousand dollars per annum for the support of a normal school by the State be accepted, and that the State establish a first-class normal school, which shall be exclusively devoted to the education of teachers, as early as practicable. It affords the committee great pleasure to state that Dr. Sears, in consultation with us, has given unqualified assurance that the appropriation from the Peabody fund will be increased and continued as may be required by this important department of education.

2. We recommend that an appropriation of twenty thousand dollars be made to the State Agricultural and Mechanical College of Texas, to establish a course of practical instruction in agriculture.

3. We recommend that not more than two school communities be allowed to be formed in any village, town or city not taking control of its own schools, and that one community shall include all the white and the other all the colored children in said village, town or city.

4. We recommend that there be three grades of certificates: Applicants who shall pass an examination in orthography, reading, writing, geography and arithmetic, as far as simple proportion, getting general average of seventy, and not lower than fifty in any branch, shall be entitled to a third grade certificate, valid for one year. Applicants who, in addition to the studies of the third grade, shall pass an examination in grammar, composition and history of the United States, getting a general average of eighty, and not less than sixty in any branch, shall be entitled to a second grade certificate, valid for two years. Applicants who, in addition to the studies of the first and second grades, shall pass an examination in the elements of algebra, geometry, physics, and the theory and practice of teaching, attaining a general average of ninety, and not less than seventy in any branch, shall be entitled to a first grade certificate, valid for three years.

5. We recommend that pupils under the instructions of a teacher holding a third grade certificate, receive one dollar per month; those under a teacher holding a second grade certificate, receive one dollar and a half per month; those under a teacher holding a first grade certificate, receive two dollars per month.

6. We recommend that the state board of education divide the State, by counties, into six districts having reference to scholastic population and contiguous territory, and that said board of education appoint in each district, as superintendent of schools in the same, a man, who, in addition to the other necessary qualifications, shall be a practical teacher; who shall devote his entire time to the work of supervision, and shall hold his office for three years, and shall receive an annual salary of \$2300, payable quarterly, from which he shall defray all traveling and incidental expenses.

7. We recommend that the six district superintendents, with the secretary of the state board of education, be constituted the board of supervision for the State, with power to prescribe regulations relating to the examination of teachers, the organization, gradation and general management of schools, not inconsistent with the law or the regulations of the state board of education. Said board of supervision shall hold their meetings at the capital, and a majority shall constitute a quorum, but a two-thirds vote of the members present shall be necessary to make or alter any regulation.

8. The several district superintendents shall appoint in each of the counties under their jurisdiction a school examiner, who shall be a practical teacher in good repute, whose duty it shall be to examine all persons desiring a certificate of competency to teach, hold county institutes, perform all the duties relating to the public schools which have heretofore devolved upon the county judge, and such other duties as may be prescribed by the district superintendent.

9. We recommend that the county treasurer be allowed one-half of one per cent. for receiving and disbursing the public school funds. We recommend this plan of supervision for two reasons. First, because some form of supervision is essential to an efficient system of public schools. In proof of this truth we beg leave to refer you to the remarks made on this subject in the excellent report of Hon. O. N. Hollingsworth, secretary of the board of education, page —. Second, because this form of supervision through district superintendents, whose duties nearly correspond with those of state superin-

tendents in smaller states, and county examiners in each county, whose duties nearly coincide with those of a county superintendent, combines economy with the highest degree of efficiency which we believe attainable at present.

We invite your consideration of the following comparison of the expense of the present plan and of the proposed system of supervision.

Under the present plan:

156 county judges receive an average of \$110 each, not less than.....	\$17,160 00
County treasurers receive.....	9,000 00

Making a total of.....\$26,160 00

Under the proposed system:

156 county examiners will receive for postage, stationery and printing.....	\$3,900 00
6 district superintendents.....	13,800 00
County treasurers, for receiving and disbursing.....	4,500 00

Making a total of.....\$22,200 00

Total without supervisors.....	\$26,160 00
Total with supervisors.....	22,200 00

Difference..... \$3,960 00

This estimate shows a clear saving to the public school fund, by the plan of supervision, of three thousand nine hundred and sixty dollars.

Respectfully submitted,

W. C. CRANE,
 W. C. ROTE,
 MILTON COOPER,
 R. C. BURLERSON,
 T. L. NORWOOD,
 OSCAR H. COOPER,

Committee State Teachers' Convention.

DEPARTMENT OF EDUCATION, STATE OF TEXAS, }
 AUSTIN, February 7, 1879. }

To His Excellency O. M. Roberts, Governor of the State of Texas:

I have the honor to acknowledge receipt of your favor of the third instant, asking for information with reference to expenditures in the support of our public free school establishment, and in reply respectfully state as follows:

1. Excepting the board of education and the secretary thereof we have under the present school law four classes of officers charged with duties in connection with its administration, viz: Judges, county treasurers, assessors and clerks of the respective counties of the State. Of these officers there is only one whose services can be entirely dispensed with without detriment to the public school interest, to wit, the county clerk. The duties required of this officer under the school law, which are simply the filing and recording of certain papers, can be imposed on the

county judge without increasing the official labors of said officer, for there need be no further record of the papers referred to than is now required of the county judge.

2. The result sought to be accomplished by means of our public school system can be more effectually attained by the following amendments to the school law:

First amendment:

Require assessors to make return of the scholastic population of their respective counties on or before the first day of June of each year.

Second amendment:

Require county judges to forward abstract of scholastic population of their respective counties to the department of education on or before the fifteenth day of June of each year.

Third amendment:

Require the board of education to declare the apportionment of the available school fund to the several counties of the State on the first day of July of each year.

These amendments would enable county judges to make their apportionments, and to notify trustees of the sums credited to their respective committees in time for trustees to employ teachers before the beginning of the scholastic year. As the law is now the board of education cannot make an apportionment of the school fund until the first day of September; and hence in many instances a month or even more of the school year has passed before trustees are apprised as to what amount of fund they will receive, and are consequently delayed in making contracts for opening their schools.

Fourth amendment:

Charge the county judges with the duties imposed by the present school law upon county clerks.

Fifth amendment:

Regulate the compensation allowed county judges for services in the administration of the school law according to the amount of funds disbursed in support of public schools.

Sixth amendment:

Establish a minimum average daily attendance, which must be maintained in order to guarantee a continuation of the school.

Seventh amendment:

Authorize county judges to apportion the school fund of their respective counties to the organized school communities to the exclusion of the unorganized population.

This amendment would utilize the entire fund, and would secure to such as desire to avail themselves of the benefits of the law a longer school term.

Eighth amendment:

Classify certificates granted to teachers into three grades, and establish compensation accordingly; allowing teachers holding a first-class certificate not more than \$2 per pupil; teachers holding a second-class certificate not more than \$1 50, and teachers holding a third-class certificate not more than \$1 per month.

Ninth amendment:

Authorize the board of education to appoint a county superintendent of public schools, for such counties as receive \$8000 or over, for support of public schools. Let said superintendents receive as a salary 10 per

cent. upon the sum disbursed for public school purposes; *provided*, in no event should the salary allowed exceed \$1500 per annum; the said superintendent should be a bonded officer.

No department of government is as dependent upon constant and intelligent supervision for success as the school department, both in county and in state.

It matters not how excellent may be our school statutes, if we have not efficient and zealous supervision the results will never be responsive to the means expended. Faithful supervision is economy, while, on the other hand, partial supervision is extravagance.

A careful observation of the workings of the law for the past two years, as made through extensive official correspondence with officers who have tested its efficiency by the keen edge of experience, leads me to propose for your respectful consideration these suggestions.

Respectfully your obedient servant,

O. N. HOLLINGSWORTH,
Secretary Board of Education.

Senator Edwards moved that the reading be suspended and 1000 copies of the governor's message just placed before the Senate (on free schools) be printed.

Senator Swain moved to amend by striking out "1000" and inserting "100."

Senator Moore moved to amend by striking out "1000" and inserting "500."

Accepted by Senator Edwards.

Senator Duncan moved the previous question on the original motion and amendments, which was seconded and the main question ordered.

The motion of Senator Edwards, as amended by the motion of Senator Moore, was then adopted by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Guy,

Hobby,
Homan,
Houston,
Ledbetter,
Martin,
McCormick,
Moore,

Patton,
Ripetoe,
Stewart.
Shannon,
Storey,
Terrell,
Tilson—22.

NAYS.

Blassingame,
Burnett,
Grace,

Lane,
Lair,

McCulloch,
Swain—7.

Senator Storey (by leave) introduced a bill entitled "An act to make appropriation for the support of the lunatic asylum for the time beginning January 1, 1879, and ending February 28, 1879."

Read by caption and referred to committee on finance.

Senator Edwards offered the following resolution:

Resolved, That the printing committee of the Senate be instructed to have printed in pamphlet form 600 copies of all the acts of the Sixteenth Legislature that take effect from and after their passage, for general distribution by the Senate.

Read and adopted.

The special order being Senate bill No. 43, entitled "An act to change the jurisdiction of the county courts and to conform the jurisdiction of the district court to such change," was taken up as unfinished business on the speaker's table.

Senator Stewart moved to postpone the bill.

Carried by the following vote:

YEAS.		
Blassingame,	Guy,	Ripetoe,
Buchanan,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Edwards,	Martin,	Storey,
Gooch,	McCulloch,	Swain,
Grace,	Moore,	Terrell—18.
NAYS.		
Brown,	Hobby,	McCormick,
Burnett,	Homan,	Motley,
Davenport,	Lair,	Patton,
Duncan,	Ledbetter,	Tilson—13.
Ford,		

The special order being Senate bill No. 69, entitled "An act requiring the owners of land to pay the taxes due thereon, before recording the titles thereto," was taken up and read first time.

The special order being Senate bill No. 46, entitled "An act to provide for the election of a district attorney in certain judicial districts of the State of Texas," was taken up.

Senator Houston moved to postpone the special order for half an hour.
Lost.

Senator Burton offered the following amendment: "Amend by exempting the counties of Waller, Fort Bend and Wharton from the operation of this act."

Senator Stewart moved to amend Senator Burton's amendment by adding the counties of Harris and Montgomery.

Accepted by Senator Burton.

Senator Stewart then withdrew his amendment.

Senator Storey then offered the following:

That the bill and pending amendment be recommitted to judiciary committee No. 1, and that said committee inquire into the constitutional right of the Legislature to exempt any part of a district from the operations of the bill.

Adopted and the bill referred to judiciary committee No. 1.

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

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 139, entitled "An act fixing the times of holding the district courts of the twenty-third judicial district, approved August 9, 1876," and find it correctly engrossed.

BROWN, *Chairman.*

Special order being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," was taken up, when Senator McCulloch moved to adjourn until 10 A. M. to-morrow.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Grace,
Guy,

Lane,
Lair,
Martin,
McCormick,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--21.

NAYS.

Burnett,
Edwards,
Ford,

Gooch,
Hobby,

Homan,
Ledbetter--7.

TWENTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 11, 1879. }

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

On motion of Senator Burton the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Ledbetter presented a petition from the members of the bar of Bastrop county against the changing of the civil and criminal jurisdiction of the county courts of the State, stating that such a change would be exceedingly unwise, inexpedient and impracticable; that the county court of Bastrop county has been self-sustaining and has given entire satisfaction, and that the abolition of its present jurisdiction would be detrimental to the interest of the entire people of the county. Also, asking if the change is made that their county be excepted from the provisions of the law.

Referred to judiciary committee No. 1.

Senator Homan presented a petition from the bar association of Washington county in the form of resolutions adopted by said association:

1. That the civil and criminal jurisdiction of the county court be taken away and the same be transferred to the district court, and that the number of judicial districts be so increased as to be enabled to hold three times a year.

2. That the Legislature adopt a system of rules for the government of the district courts of the State.

3. Asking that their judicial district be so reorganized as to embrace Washington, Lee, Burleson and Milam counties in the order named.

Referred to the committee on constitutional amendments.

Senator Duncan presented a petition from many citizens of the State, asking that article 4608 of Paschal's Digest on judgments be materially amended, accompanied with a bill proposing amendments to said law.

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

Senator Tilson presented a petition from numerous citizens of Texarkana and Bowie county, asking that the Legislature take such action as will require the Texas and Pacific railway company to build and establish depots and buildings in the city of Texarkana, in the State of Texas, at the terminus of their road on the Arkansas line, as said railroad company pledged itself to do; that they sold lots and blocks at said terminus under a pledge to the purchasers thereof that such depots would be established at their terminus on the State line, but that they had estab-

lished such depots in the State of Arkansas, greatly to the injury and inconvenience of petitioners, etc.

Referred to the committee on internal improvements.

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance to whom was referred Senate bill No. 158, entitled "An act to make appropriation for the support of the lunatic asylum for the time beginning January 1, 1879, and ending February 28, 1879," have carefully considered the same, and I am instructed by the committee present to report the bill to the Senate with the recommendation that it pass.

STOREY, *Chairman.*

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

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have examined Senate bill No. 132, entitled "An act to legalize and make valid the acts of E. L. Walker, county judge of Stephens county, as commissioner to dispose of the real estate belonging to said county," and find it correctly engrossed.

BROWN, *Chairman.*

Senator Houston, from the committee on judiciary No. 2, submitted following report:

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled "an act to establish a Code of Criminal Procedure for the State of Texas," and a majority of said committee instruct me to report the same back to the Senate with the recommendation that it do pass.

HOUSTON, *for the Committee.*

Senator Stewart, for the minority of judiciary committee No. 2, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

The undersigned, a minority of judiciary committee No. 2, to whom was referred Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled "an act to establish a Code of Criminal Procedure for the State of Texas," respectfully dissent from the opinion expressed by the majority of this committee in recommending the passage of this bill, and in doing so beg leave to express their reasons therefor: The Senate has but recently passed the Code of Criminal Procedure, after having given to it mature consideration, and the minority are of the opinion that no change should be made in it unless there is an apparent necessity for doing so. The bill in question is but a re-enactment of the old law and as it is expressed in the code with but two exceptions, viz: section 6 provides that the application shall show that there is no reasonable expectation that the attendance of the witness can be secured during the present term of the court by a postponement of the trial to some future day of said term. This amendment was doubtless suggested by some individual case, but we are of the opinion that in its general application it will be found unnecessary and work no practical good; but, to the contrary, will operate so as to produce hardship upon other witnesses

who, at great expense, will be detained at court to await some future day thereof for no other purpose than to see the case finally continued for the term. The next change proposed by this bill is as follows: "And the truth of the first or any subsequent application, as well as the merits of the grounds set forth therein, and its sufficiency shall be addressed to the sound discretion of the court called to pass upon the same, and shall not be granted as a matter of right; *provided*, that should an application for continuance be overruled and the defendant convicted, if it appear upon the trial that the evidence of the witness or witnesses named in the application was of a material character, and the facts set forth in said application were probably true, a new trial should be granted."

The minority of your committee see no reason for enlarging the discretion of the presiding judge, and object to the truth or materiality of an application for a continuance to be determined by the results of a trial. We think the court should, in the first instance, be possessed of enough learning and discrimination to determine relevancy and materiality of testimony without subjecting the party making the application to the ordeal of a trial in order to determine upon the sufficiency of his application.

Besides, the law as it now is, has been so for many years, and has been often judicially construed and we see no good accomplished in ever changing statutory enactments so that now and then they may be accommodated to individual cases.

STEWART, *for minority.*

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration Senate bill No. 109, entitled "An act to provide for painting the portraits of the presidents of the Republic of Texas and of the former governors of Texas," and a majority of the committee instruct me to report the same back to the Senate with the accompanying amendment, and recommendation that it do pass as amended.

HOUSTON, *Chairman.*

Amend by adding—section 3. As but few citizens survive who can judge of the fidelity of all the portraits to be painted, a necessity and emergency exists for the immediate passage of this bill.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration petition No. 28, from citizens of Jack county, "Asking amendments to the 'Sunday laws,'" and instruct me to report that the subject matter of the petition is already before the Legislature by bill, and that no action is necessary upon this petition.

HOUSTON, *Chairman.*

Senator Tilson, chairman of the committee on counties and county boundaries, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on counties and county boundaries, to whom was referred Senate bill No. 149, to be entitled "An act to provide for the change of location of the court house of Marion county," have had the same under consideration and find that publication of the same has been made as required by law; that the same is intended to be local in its

effects, therefore said committee instruct me to report the said bill back to the Senate with the recommendation that it do pass.

TILSON, *Chairman.*

Senator Terrell introduced a bill entitled "An act to create the office of state librarian."

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

Senator Gooch introduced a bill entitled "An act to provide a method for determining what claims, locations, surveys, grants and titles to lands are forfeited to the State."

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

Senator Blassingame introduced a bill entitled "An act to create and establish a state board of health for the State of Texas, and to define their powers and duties."

Read by caption and referred to the committee on statistics of industries, public health, etc.

Senator McCulloch introduced a bill entitled "An act for the relief of James A. Barker, of Brazos county."

Read by caption and referred to the committee on private land claims.

Senator Lane introduced joint resolution proposing "An amendment to section 40, article 16, of the constitution of the State of Texas."

Referred to the committee on constitutional amendments.

Senator Burnett introduced a bill entitled "An act for the relief of Miles N. Taylor, of Grimes county."

Read by caption and referred to committee on private land claims.

Senator Homan introduced a bill entitled "An act to prescribe the requisites of indictments in certain cases."

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

Senator Ford, chairman of committee on Indian affairs and frontier protection (by leave), submitted the following report:

Hon. J. D. Sayers, President of the Senate:

A majority of the committee on Indian affairs and frontier protection, to whom was referred a bill to be entitled "An act to suppress lawlessness and crime and to organize a force for that purpose," have had the same under consideration, and have instructed me to report the same back and recommend its passage.

FORD, *Chairman.*

Senator Blassingame introduced a bill entitled "An act requiring the commissioner of the general land office to issue patents to parties purchasing university lands in accordance with the original sub-divisions made under the act, approved August 30, 1856."

Read by caption and referred to the committee on public lands.

Senator Martin offered the following resolution:

Resolved, That the finance committee be instructed to examine the comptroller's office and ascertain why "An act to enforce the collection of delinquent taxes on lands assessed since January, 1870," has not been complied with, and report if further legislation and appropriations are necessary to carry out the provisions of said act.

Senator Terrell offered the following amendment to the resolution:

After the word "report" add the words "such bill as may be necessary to meet the necessities of the case."

Accepted by Senator Martin, and the resolution as amended was then adopted.

The following House joint resolutions were taken up and referred to appropriate committees:

House joint resolution No. 26, "Instructing our senators and requesting our representatives in Congress to take the necessary steps at once, by bill or otherwise, to secure the appointment of United States commissioners to act with like commissioners on behalf of Texas, to settle and definitely adjust the controversy as to boundary between the territory lying between the north and south forks of Red river, known as the county of Greer."

Referred to the committee on federal relations.

And House joint resolution No. 27, "Instructing our senators and requesting our representatives in Congress to ask the United States government for payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878, and the payment of the unexpired balance of the \$7,750,810 left with the United States government by this State for the payment of the debt of the late Republic of Texas."

Referred to the committee on federal relations.

The special order, pending on adjournment yesterday, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands, and to secure the proceeds thereof for the benefit of said schools," was taken up and read the second time.

Senator Davenport offered the following:

Resolved, That Senate bill No. 96 be referred to judiciary committee No. 2, and that said committee be instructed to report, at as early a day as possible, a bill making uniform the price and interest.

Senator Gooch moved the previous question on the pending resolution. Motion seconded and main question ordered by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—27.

NAYS.

Duncan,

McCormick,

Swain—3.

The resolution was then put and lost.

Senator Shannon offered the following amendment:

Amend section 3 by striking out in line ten all after the word "acre."

Senator Patton offered the following as a substitute for the pending amendment of Senator Shannon:

Amend section 3 by striking out "fifty cents" between "than" and "per" in ninth line, and inserting "two dollars," and by striking out of the words that follow the word "acre" when it first occurs in the tenth line.

Senator Davenport moved to adjourn until to-morrow at 10 o'clock A. M.

Senator Gooch moved to adjourn until 3 o'clock P. M. to-day.

Senator Edwards made the point of order that Senator Gooch's motion to adjourn could not be entertained while another motion to adjourn was pending.

Not sustained.

Senator Davenport's motion to adjourn was then lost by the following vote:

YEAS.		
Blassingame, Buchanan, Davenport, Hobby, Homan,	Houston, Lane, Lair, McCormick,	McCulloch, Patton, Shannon, Storey—13.
NAYS.		
Brown, Burnett, Burton, Duncan, Edwards, Ford,	Gooch, Grace, Ledbetter, Martin, Moore,	Ripetoe, Stewart, Swain, Terrell, Tilson—16.

Senator Gooch's amendment to adjourn was then considered.

Senator Edwards raised the point of order that another motion to adjourn could not be acted upon by the Senate until some other business had intervened.

Overruled, and Senator Gooch's motion was then voted upon and lost by the following vote:

YEAS.		
Gooch, Grace, Houston,	Lane, Ledbetter,	McCulloch, Moore—7.
NAYS.		
Blassingame, Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Edwards,	Ford, Hobby, Homan, Lair, Martin, McCormick, Patton,	Ripetoe, Stewart, Shannon, Storey, Swain, Terrell, Tilson—22.

Senator Ledbetter moved the previous question on the pending amendment of Senator Shannon and the substitute of Senator Patton.

Motion seconded and the main question ordered by the following vote:

YEAS.		
Blassingame, Buchanan, Gooch, Grace, Homan,	Houston, Lair, Ledbetter, Martin, McCulloch,	Moore, Ripetoe, Storey, Terrell, Tilson—15.
NAYS.		
Brown, Burnett, Burton, Davenport, Duncan,	Edwards, Hobby, Lane, McCormick.	Patton, Stewart, Shannon, Swain—13.

The substitute of Senator Patton was then lost by the following vote:

YEAS.		
Buchanan, Davenport,	Duncan, Homan,	McCormick, Patton—6.
NAYS.		
Blassingame, Brown, Burnett,	Burton, Edwards, Ford,	Gooch, Grace, Hobby,

Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCulloch,
Moore,
Ripetoe,
Stewart,
Shannon,

Storey,
Swain,
Terrell,
Tilson—23.

Senator Shannon's amendment was then lost by the following vote:

YEAS.

Blassingame,
Burnett,

Burton,
Gooch,

Shannon,
Ripetoe—6.

NAYS.

Brown,
Buchanan,
Duncan,
Edwards,
Ford,
Grace,
Hobby,
Homan,

Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Stewart,
Storey,
Swain,
Terrell,
Tilson—22.

Senator Terrell offered the following amendment, which was pending on adjournment:

Amend the bill by adding the following sections, viz:

Section 18. Before the appointment of the agents authorized by section 1, the county commissioners' court of each county in which school lands are situated shall, as soon as practicable, transmit to the commissioner of the general land office a true statement of the value of each unsold section of school land, and also the value of the alternate section which was surveyed with it. Such report shall designate what lands were valuable chiefly for pasturage and what for agriculture, and thereupon the governor shall, on the appointment of said agents for selling said land, instruct them before selling any pasture lands to negotiate with the owners of the alternate sections of such lands for the exchange of titles to lands of equal value, which were titled to railroads and other corporations, so as to consolidate in as large quantities as practicable all lands valuable only for pasture and be effectual. Such exchange of land titles shall be made by the commissioner of the land office on the order of the governor.

Section 19. The county commissioners' court of each county to which is attached an unorganized county shall make report, as required in the preceding section, regarding the value and character of all lands in such unorganized county, from the best sources of information attainable, and to this end said court may require the attendance of surveyors and other witnesses and examine them under oath.

Section 20. The report required from the commissioners' court shall specify what each school section or half section situate in the county and in the unorganized counties to which it is attached is worth per acre, and no sales shall be made for a less sum than is specified in said report.

On motion of Senator Story, the Senate adjourned until 10 o'clock A. M. to-morrow.

TWENTY-SIXTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 12, 1879. }

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

On motion of Senator Ledbetter the reading of the journals of yesterday was dispensed with and the same adopted.

A message was received from the House announcing the passage by that body of House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar, in this State, from the payment of taxes assessed, and now due for the year 1878, in consequence of a great public calamity;" and Senate bill No. 139, entitled "An act amendatory to an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876."

Senator Stewart introduced a bill entitled "An act to amend an act entitled 'an act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof.'"

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

Senator Houston introduced a bill entitled "An act to amend section 18 of an act entitled 'an act regulating elections,' approved August 23, 1876, and to repeal section 22 thereof."

Read by caption and referred to the committee on finance.

Senator Ripetoe offered the following resolution:

WHEREAS, Nearly half the session of the Legislature has already been consumed, and mainly in preliminary matters; and

WHEREAS, There is much yet to do that is demanded by the public interest, and in order to hasten necessary legislation and cut off useless matter,

Resolved, That the Legislature adjourn on the 15th of March next, at 12 m.

On motion of Senator Storey, the resolution was referred to the committee on state affairs.

Senator Stewart introduced the following joint resolution, requesting the Congress of the United States to pass an act for the compensation of members of Congress elected from Texas in 1866.

Referred to the committee on state affairs.

Senator Edwards introduced a bill entitled "An act to authorize and require county clerks to issue license for the retail of spirituous, vinous and other intoxicating liquors in quantities less than one quart, and to prohibit such sale without license."

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

Also a bill entitled "An act to amend section 38 of an act entitled 'an act to establish and provide for the support and maintenance of an efficient system of public free schools,' approved August 19, 1876."

Read by caption and referred to the committee on education.

Senator Guy introduced a bill entitled "An act to amend section 5 of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this State that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved August 21, 1876:"

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

Also a joint resolution "proposing an amendment to the constitution of the State of Texas," (changing sections 50 and 51 of article 16, with regard to homesteads).

Referred to the committee on constitutional amendments.

Senator Homan introduced a bill entitled "An act to prohibit the sale, exchange or gift of intoxicating liquors within three miles of Frainville high school, in Burleson county."

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

Senator Shannon introduced a bill entitled "An act establishing the tenth, twelfth, thirteenth, twenty-eighth, twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the election of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts."

Read by caption and referred to the committee on judicial districts.

Senator Terrell introduced a bill entitled "An act for the relief of Dr. S. W. Baker, late superintendent of the blind asylum."

Read by caption and referred to the committee on claims and accounts.

Senator Gooch introduced a bill entitled "An act regulating the sale and extent of land under executions."

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

Senator Homan offered the following resolution:

Resolved, That the committee on retrenchment and reform be and they are hereby instructed to take into consideration and report whether the offices of commissioners of penitentiaries, superintendent of public buildings and grounds, commissioner of insurance, statistics and history, and adjutant general, can be dispensed with without detriment to the public good, and whether the number and salaries of the clerks in the several departments of the state government should be reduced.

Read and referred to committee on retrenchment and reform.

The following House bills and joint resolutions were taken up for reference to appropriate committees:

House bill No. 217, entitled "An act to release certain inhabitants in the county of Lamar, in this State, from the payment of taxes assessed and now due for the year 1878, in consequence of a great public calamity."

Referred to committee on finance.

House bill No. 137, entitled "An act to repeal an act entitled 'an act to require all forced sales of real estate and sales of negroes made by executors and administrators in the county of Travis to be made on Congress Avenue, at the southeast corner of block No. 70,' approved November 28, 1857."

Referred to judiciary committee No. 1.

Substitute for House bill No. 8, entitled "An act for the preservation of oysters and oyster beds and protecting the rights of persons to the same."

Referred to committee on state affairs.

House joint resolution No. 11, "Instructing our senators and requesting our representatives in Congress to aid in securing the passage of a law fixing the standard value of Mexican coin and making the same a legal tender for all public and private debts and in payment of import duties."

Referred to committee on state affairs.

On motion of Senator Houston, the special order being the unfinished

business of yesterday, was postponed fifteen minutes, the rules were suspended, and Senate joint resolution No. 145, "Instructing our senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico," was taken up and read first time.

Senator Houston moved to suspend the rules and place the resolution on its second reading.

Carried by the following vote :

YEAS.		
Blassingame,	Guy,	Moore,
Brown,	Homan,	Patton,
Buchanan,	Houston,	Ripetoe,
Burnett,	Lane,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Storey,
Duncan,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—26.
Grace,	McCulloch,	

NAYS—none.

Bill read second time and ordered engrossed.

The rules, on motion of Senator Houston, were still further suspended, resolution placed on its third and final reading by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Buchanan,	Guy,	Moore,
Brown,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson - 30.

NAYS—none.

Resolution read third time and passed by the following vote:

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

NAYS—Homan—1.

The special order and the unfinished business of yesterday, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds for the benefit of said schools," was taken up, the pending question being the amendment of Senator Terrell.

Senator Stewart offered the following as a substitute for Senator Terrell's amendment:

Amend section 16, in fifth line, after the word "act," by adding these words: "And shall contain such restrictions to the price of the lands to be sold as the governor in his discretion may see proper to impose; but in no event shall said lands be sold for a less amount per acre, for arable

and pasture lands, than that fixed by this act, and such letter of authority restricting agents about price may be changed by the governor whenever he in his discretion may deem it for the best interests of the State to do so."

Senator Lane offered the following as an amendment to Senator Stewart's substitute:

After the word "impose," in fourth line, add, "upon the sale of any land by the provisions of this act, the agent shall report the same to the governor, accompanied by the affidavit of the surveyor of the county in which the land is situated, and which affidavit shall contain an appraised value of the land sold, and of the adjoining surveys, with a description and classification of the same, and the agent to compensate from his commissions the surveyor for such services in all cases on such terms as they may agree to."

Accepted by Senator Stewart.

Senator Patton moved the previous question on the pending amendment and substitute.

Motion seconded, but the main question was lost by the following vote:

YEAS.

Blassingame,
Buchanan,
Burnett,
Davenport,
Duncan,

Gooch,
Lair,
McCulloch,
Moore,
Patton,

Ripetoe,
Storey,
Swain,
Tilson--14.

NAYS.

Brown,
Burton,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,

Ledbetter,
Martin,
Stewart,
Shannon--14.

Senator Duncan moved to recommit the bill and pending amendments to the committee on education.

Senator Grace made the point of order that the motion of Senator Duncan was out of order, as a motion to amend has precedence over a motion to commit.

Point of order not sustained.

Senator Duncan then withdrew his motion to commit, and moved to postpone the further consideration of the bill and amendments until tomorrow, just after the morning call.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Davenport,
Duncan,

Ford,
Guy,
Homan,
Lair,
Martin,
McCormick,

Patton,
Shannon,
Storey,
Terrell,
Tilson--17.

NAYS.

Burton,
Edwards,
Gooch,
Grace,
Hobby,

Houston,
Lane,
Ledbetter,
McCulloch,

Moore,
Ripetoe,
Stewart,
Swain--13.

On motion of Senator Edwards, Senator Hobby was added to the committee on insurance, statistics and history.

Your committee went through every room in the mansion, and regret to say that there is but little there, either in bedding or table ware, for the ordinary comfort of a family. We have estimates carefully made of cost of repairs and necessary purchases, and now report that the sum of three thousand three hundred and thirty-eight dollars will be required, and that no less sum should be appropriated. We therefore report the accompanying joint resolution and recommend its adoption.

JOHN S. FORD,

A. W. TERRELL,

On the part of the Senate.

W. T. UPTON,

M. D. K. TAYLOR,

On the part of the House.

Joint resolution providing for repairs on the executive mansion and fencing and to provide for furnishing the same:

Be it Resolved by the Legislature of the State of Texas, That the sum of \$3338 be and the same is hereby appropriated to repair the executive mansion and fencing and to properly furnish the same.

2. That the condition of the executive mansion, which is suffering for immediate repairs, and the unfinished condition of the same creates an emergency and necessity for the immediate passage of this resolution, and that the same take effect and be in force from and after its passage.

On motion of Senator Ford, the rules were suspended and the joint resolution just reported by the joint committee on governor's mansion, etc., was taken up and read first time.

Senator Edwards moved the further suspension of the rules to place the resolution on its second reading.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--30.

NAYS—none.

Resolution read second time and ordered engrossed.

On motion of Senator Edwards, the rules were suspended and resolution placed on its third reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Shannon,
Storey,
Swain,
Terrell,
Tilson--29.

NAYS—none.

Resolution read the third time and passed by the following vote:

YEAS.

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

NAYS—none.

On motion of Senator Edwards the special order was postponed.

Senator Duncan moved to adjourn until 3 o'clock P. M.

Withdrawn.

Senator Storey moved to suspend the rules and take up Senate bill No. 158, entitled "An act to make an appropriation for the support of the lunatic asylum for the time beginning January 1, 1879, and ending February 28, 1879."

Carried.

The bill was taken up and read the first time.

On motion of Senator Storey the rules were suspended and the bill placed on its second reading by the following vote:

YEAS.

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

NAYS—none.

Bill read second time and ordered engrossed.

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

YEAS.

Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport.	Lane,	Shannon,
Duncan,	Lair,	Storey,
Edwards,	Ledbetter,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—30.

NAYS—none.

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

YEAS.

Blassingame,	Burton,	Ford,
Brown,	Davenport.	Gooch,
Buchanan,	Duncan,	Grace,
Burnett,	Edwards,	Guy,

The president, after reading its caption, signed Senate bill No. 139, entitled "An act amendatory of an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876."

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

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and report correctly engrossed the following bills, viz: Senate bill No. 49, entitled "An act to give effect to section 2, article 9 of the constitution, regulating the manner of removing and locating county seats." Senate bill No. 103, entitled "An act to provide for the organization of the state penitentiaries and to regulate the management of the convicts therein."

BROWN, *Chairman.*

On motion of Senator Stewart, the special order was postponed for fifteen minutes, the rules suspended and Senate bill No. 98, entitled "An act to fix the fees of the department of state in certain cases," was taken up and read the first time.

Senator Stewart moved that the rules be suspended and the bill placed on its second reading.

Carried by the following vote:

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

YEAS.

Grace,
Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—29.

NAYS—Ripetoe—1.

Bill was read the second time.

Senator Stewart offered the following amendment:

Amend section 2 by adding after the word "commision" the words "and for every official certificate the sum of two dollars."

To section 3 add: "And whereas, a daily loss accrues to the State for the want of an act fixing the fees of the department of state, thereby creating an imperative public necessity and emergency for the immediate passage of this act, and it is enacted that this act take effect from and after its passage."

Adopted.

Senator Terrell offered the following amendment:

"It shall be the duty of the secretary of state to pay over at once all money collected under the act to the state treasurer."

Adopted and bill ordered engrossed.

Senator Burnett offered the following amendment:

Strike out "\$25" and insert "\$5" instead; and in addition thereto "twenty-five cents for each hundred words of any charter so recorded."

Lost by the following vote:

Brown,
Burnett,
Burton,

YEAS.

Edwards,
Ford,

Lane,
Ripetoe—7.

Blassingame,
Buchanan,
Davenport,
Duncan,
Gooch,
Guy,
Hobby,
Homan,

NAYS.

Houston,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—21.

Senator Stewart moved that the rules be suspended and bill placed on its third reading.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Grace,
Guy,
Hobby,
Homan,
Houston,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—27.

NAYS—none.

Bill read third time and passed by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—24.

NAYS.

Burnett,

Burton,

Ripetoe—3.

On motion of Senator Ford, the special order was postponed for ten minutes, the rules suspended and the special joint committee to examine and report on the condition of the governor's mansion, etc., were permitted to make a report, which was as follows:

Hon. J. D. Sayers, President of the Senate; Hon. John H. Cochran, Speaker of the House of Representatives:

The undersigned, who compose the joint committee appointed by you to examine and report what sum is necessary to repair the state property occupied as a residence by the governor, and to properly furnish the same, now report that they have performed the duty assigned them, and find that the property has been much neglected, and its preservation requires that repairs be promptly made. The roof leaks over every room, the plastering has been broken on account of water leaking on it, and has fallen off in the upper rooms in many places. The entire building must be repainted to prevent permanent injury. The fences have also been neglected, and the plank and posts have rotted until they should be replaced. The same is true of the porch floors. The carpeting is generally worn out and should be replaced, and nearly every piece of furniture needs repairing.

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,

Martin,
McCormick,
McCulloch,
Moore,
Patton,
Ripetoe,

Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—30.

NAYS.—none.

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

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined and find correctly engrossed Senate bill No. 145, being a joint resolution instructing the senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico. **BROWN, Chairman.**

Senator Grace, chairman of the committee on enrolled bills, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined, and find correctly enrolled and properly signed, Senate bill No. 139, entitled "An act amendatory of an act entitled 'an act fixing the times of holding the district courts of the twenty-third judicial district,' approved August 9, 1876," and the same was presented to the governor for his signature at 12:25 P. M. this day. **GRACE, Chairman.**

Senator Edwards moved to postpone the special order fifteen minutes, suspend the rules and take up Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of 'the Grand Lodge of Texas.'"

Carried and the bill was taken up and read first time.

On motion of Senator Edwards the rules were suspended and bill placed on its second reading by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—28.

NAYS—none.

Bill read second time and ordered engrossed.

Senator Edwards moved to still further suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,

Duncan,
Edwards,
Ford,
Gooch,
Guy,
Hobby,

Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,

McCormick,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,

Storey,
Terrell,
Tilson—28.

NAYS—none.

Bill read third time and passed by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—28.

NAYS—none.

A message was received from the House announcing the passage by that body of Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State of Texas," with amendment.

On motion of Senator Hobby, the rules were suspended and Senate bill No. 20, just reported from the House, was taken up and the bill, with House amendments, was referred to the committee on revision of the code.

Senator Tllson moved to adjourn until 3 P. M.
Lost by the following vote:

YEAS.

Duncan,
Gooch,

Houston,
Ledbetter,

McCulloch— 5.

NAYS.

Blassingame,
Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Ford,

Guy,
Hobby,
Homan,
Lane,
Lair,
Martin,
McCormick,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell,
Tilson—23.

Senator Gooch moved to adjourn till 9 A. M. to-morrow.

Senator Terrell moved to adjourn till 10 A. M. to-morrow.

Senator Blassingame made the point of order that no business having intervened since the motion of Senator Tllson to adjourn was acted on, that the last motions to adjourn were out of order.

Point of order sustained.

Senator Gooch moved to postpone the special order five minutes.

Senator Blassingame then moved to adjourn until 10 o'clock to-morrow morning.

Carried by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Ford,
Guy,

Hobby,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,

Moore,
Patton,
Ripetoe,
Stewart,
Storey,
Terrell—18.

NAYS.		
Davenport, Duncan, Edwards,	Gooch, Homan, Houston,	Shannon, Tilson—8.

TWENTY-SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 13, 1879. }

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

On motion of Senator Moore, the reading of the journals of yesterday was suspended and the same adopted.

Senator Buchanan presented a memorial from the members of the bar of the town and county of Kaufman, asking that the civil and criminal jurisdiction of the county courts of the State be not reduced, particularly the county court of Kaufman county. They also suggest that it would be better to increase the jurisdiction of the county courts than to decrease the same, and they especially request an increase of such jurisdiction in Kaufman county.

Referred to judiciary committee No. 1.

Senator Storey presented the petition of many citizens of Hays county, asking the passage of stringent laws against the liquor traffic, setting forth many of its evils in strong language; also, endorsing the local option law and recommending its amendment so as to make it more effective.

Referred to judiciary committee No. 1.

Senator Hobby, chairman of committee on revision of the code, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the code, to whom was referred Senate bill No. 20, entitled "An act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas," and the House amendments thereto, have instructed me to report the bill and amendments back to the Senate with the recommendation that the Senate concur in the first amendment of the House "to amend article 326 of the Penal Code;" also, to concur in House amendments "to strike out articles 688 and 689 of the Penal Code;" also, to concur in House amendment to article 752 of the Penal Code; and House amendment "to strike out article 758a of the Penal Code;" also, the preamble by the House; and that the Senate disagree to House amendments to article 495 of the Penal Code; also, to article 186 of the Penal Code, and article 430a of the Penal Code.

HOBBY, *Chairman.*

Senator Tilson, from the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred the memorial of the grand jurors of Collin county, looking to the prohibition of rolling or ten pin alleys, beg leave to report that they have duly considered the same, and, in order to attain the object therein indicated, have instructed me to report the accompanying bill to be entitled "An act

to amend article 358, chapter, of the Penal Code, approved, 1879," and recommend that the same do pass. *TILSON, for committee.*

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

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 128, entitled "An act to permit the taking up and using of any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another, without his consent," and I am instructed by said committee to report said bill back to the Senate with the recommendation that it do pass.

STEWART, Chairman.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration the memorial from the convention of sheriffs of Texas, and have given it that consideration its importance demands. Your committee are pleased to say that the memorial contains many valuable suggestions in regard to our criminal law, some of which have already been acted upon by this Legislature, and it is hoped that others therein made will also be embodied in statutory enactments before the session is over, and I am instructed by said committee to report said memorial back to the Senate, and ask that the committee be relieved from the further consideration of the same.

STEWART, Chairman.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2, to whom was referred Senate bill No. 148, entitled "An act to prevent and punish the aiding and abetting the escape of state and county convicts," have considered the same and instructed me to report it back and recommend its passage.

STEWART, Chairman.

Hon. J. D. Sayers, President of the Senate :

Your judiciary committee No. 2 have had under consideration Senate bill No. 87, entitled "An act regulating juries in capital cases," and I am instructed by said committee to report said bill back to the Senate with their recommendation that it do pass.

STEWART, Chairman.

Senator Gooch introduced a bill entitled "An act to define in what civil cases depositions of witnesses may be taken."

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

A message was received from the House announcing the passage by that body of House bill No. 132, entitled "An act to require persons and corporations, to whom patents for land have been granted, to pay the fees thereon within sixty days from the passage of this act, and to provide a penalty for failure to pay such fees, and to provide for the manner and means of enforcing the provisions hereof;" and Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors or agents, to pay their wages when due, and to provide a lien for such wages;" and that the House concurs in part of the Senate amendments to House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending March 1, 1879," and refuses to concur in others as shown in the report of the action of the House accompanying the bill.

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

Hon. J. D. Sayers, President of the Senate :

Your committee on engrossed bills have examined and report correctly engrossed the following bills, viz: Senate bill No. 98, entitled "An act to fix the fees of the department of state in certain cases." Senate bill No. 174, being a joint resolution providing for repairs on the executive mansion and fencing, and to provide for furnishing the mansion. Senate bill No. 158, entitled "An act to make an appropriation for the support of the lunatic asylum for the period beginning January 1, 1879, and ending February 28, 1879." BROWN, *Chairman.*

The special order for unfinished business of yesterday, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," was taken up for consideration.

Senator Terrell, by leave of the Senate, withdrew his amendment, which was pending on adjournment yesterday.

Senator Stewart (by leave) then withdrew his substitute for Senator Terrell's amendment as amended by the amendment of Senator Lane, and also pending on adjournment yesterday, when Senator Terrell offered the following amendment:

Section —. The governor may, in his discretion, before authorizing the agents to be appointed under this act to proceed with sales, require the commissioners' courts of the several counties to make out in a uniform manner to be prescribed, and return to the commissioner of the general land office, a report of the valuation placed by said court on all unsold school sections of land, and the adjoining unoccupied sections surveyed with them. All sales made of said lands shall be confirmed by the governor before titles shall issue, and the comptroller shall promptly inform the governor, when required, of the average value at which the sections of land surveyed with the school sections have been assessed in any county in which sales have been negotiated, at the last assessment thereof.

Senator Hobby offered the following substitute for the amendment just offered by Senator Terrell:

Amend section 11, by adding after the word "sell" in line sixteen, "and the governor may require of the officers of the State or county such information as they may have, relative to the value and character of said land."

Adopted by the following vote:

YEAS.		
Blassingame,	Lane,	Moore,
Edwards,	Lair,	Patton,
Gooch,	Ledbetter,	Stewart,
Grace,	Martin,	Swain,
Hobby,	McCormick,	Tilson--17.
Houston,	McCulloch,	
NAYS.		
Brown,	Duncan,	Ripetoe,
Burnett,	Guy,	Shannon,
Davenport,	Homan,	Terrell--9.

The pending amendment, as substituted by the amendment of Senator Hobby, was then adopted.

Senator Davenport offered the following amendment:

Add to section 3 the following: "Provided, That the purchasers of the alternate sections of land under the act of April 24, 1874, entitled "An act to provide for the sale of the alternate sections of lands as surveyed by railroad companies, and set apart for the benefit of the common school fund," shall have the benefit of any reduction in the price fixed upon the lands by this act, and if said purchasers have paid under said act of April 24, 1874, a greater price than is provided for by this act, than the excess in the amount paid under this act of 24th of April, 1874, above the amount specified in this act, shall be placed to the credit of said purchaser, so that purchasers, under laws heretofore passed, may not pay a larger price for said lands than is provided for purchasers under this act."

Amendment lost.

Senator Davenport offered the following amendment:

Amend section 5 by adding: "Provided, where any of the public free school lands have heretofore been sold, or may hereafter be sold, to actual settlers under any law of this State, such purchasers, their heirs and assigns, shall suffer no forfeiture thereof, or of prior payments made thereon, so long as the interest annually accruing thereon is regularly and promptly paid."

Senator Martin offered the following amendment to the amendment of Senator Davenport:

Amend by adding after the word "interest" the words "and all taxes."

Accepted by Senator Davenport.

Senator Davenport's amendment, as amended by Senator Martin's amendment, was then adopted by the following vote:

YEAS.

Blassingame,	Hobby,	Moore,
Buchanan,	Homan,	Patton,
Brown,	Lane,	Ripetoe,
Burnett,	Lair,	Shannon,
Davenport,	Martin,	Swain,
Gooch,	McCormick,	Terrell--18.

NAYS.

Burton,	Grace,	McCulloch,
Duncan,	Guy,	Stewart,
Edwards,	Houston,	Storey--11.
Ford,	Ledbetter,	

Senator Lair offered the following amendment:

In section 8, line thirty, after the word "cash" strike out "two and a half" and insert "one and a half."

Senator Stewart offered the following substitute for Senator Lair's amendment:

Section 8, line thirty, after the word "cash" insert "not to exceed."

Adopted, and the amendment of Senator Lair, as substituted by Senator Stewart's amendment, was then lost by the following vote:

YEAS.

Brown,	Hobby,	McCulloch,
Burnett,	Houston,	Stewart,
Edwards,	Lane,	Shannon,
Ford,	Ledbetter,	Storey--14.
Grace,	Martin,	

NAYS.

Blassingame,
Burton,
Buchanan,
Davenport,
Duncan,

Gooch,
Guy,
Homan,
Lair,
McCormick,

Moore,
Patton,
Ripetoe,
Terrell,
Tilson—15.

Senator McCormick offered the following amendment:

Amend by adding the following as section 16, to come in after section 15 of the printed bill, and change the numbering of the subsequent sections to correspond:

Section 16. Said land shall be subject to taxation from date of sale, and all taxes, both state and county, which may hereafter accrue on any of the lands hereafter or heretofore sold out of the public free school lands, shall be separately assessed and the proceeds when collected, exclusive of the cost of collection, shall be placed to the credit of the available school fund, provided the proceeds of any county tax thereon, exclusive of the costs of collection, shall be distributed to the counties respectively in which the land is situated, in addition to the share of such county in the available school fund otherwise derived.

Pending on adjournment.

On motion of Senator Edwards, Senator Ledbetter was excused until Wednesday next.

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

AFTERNOON SESSION.

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

The question pending on adjournment, being the amendment of Senator McCormick, was then considered.

(Senator Guy in the chair.)

Senator Edwards offered the following amendment to the amendment of Senator McCormick:

Amend by striking out the words, in the third line, "taxes, both state and county," and insert instead thereof the words "state taxes," and strike out the proviso.

A message was received from the House announcing the passage by that body of Senate joint resolution No. 145, "instructing the senators and requesting the representatives of Texas in Congress to favor commercial relations with Mexico."

(President in the chair.)

The president, after reading its caption, signed Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors to pay their wages when due."

Senator Duncan moved to indefinitely postpone the bill under consideration with pending amendments.

Senator Stewart moved to lay the motion of Senator Duncan on the table.

Carried by the following vote:

YEAS.

Blassingame,
Brown,

Burnett,
Burton,

Davenport,
Edwards,

Ford,
Gooch,
Grace,
Guy,
Hobby,
Homan,
Houston,

Lane,
Lair,
Ledbetter,
Martin,
McCulloch,
Moore,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—25.

Buchanan,
Duncan,

NAYS.
McCormick,

Patton—4.

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

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 141, entitled "An act to incorporate the Grand Lodge of Ancient, Free and Accepted Masons in and for the State of Texas, under and by the name and style of the Grand Lodge of Texas," and find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Ripetoe, the Senate adjourned until to-morrow morning at 10 o'clock.

TWENTY-EIGHTH DAY.

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

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

On motion of Senator Duncan, the reading of the journals of yesterday was dispensed with and the same adopted.

Senator Burton presented the petition of many citizens of Waller, Fort Bend and Austin counties, asking that the Sunday law be made more stringent, so as to prohibit all secular labor and the keeping open of offices and business houses on the Sabbath day, and to provide adequate penalties for the violation of the same.

Referred to committee on state affairs.

Senator Houston presented the memorial of the citizens of Menard county in the form of resolutions adopted by said citizens at a public meeting held in Menardville, in said county, on the 11th instant, requesting the continuance of frontier protection by the State, eulogizing the late officers and privates of the state troops for their valuable services to their section of the State, and showing still greater reasons for the protection of the frontier in the future than have existed in the past, etc.

Referred to the committee on Indian affairs and frontier protection.

Senator McCulloch, chairman of the committee on statistics of industry, public health and history of Texas, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on statistics of industry, public health and history of Texas, to whom was referred Senate memorial No. 27, of citizens of Collin county praying the passage of a law regulating the fees and mileage of physicians, have considered the same, and I am instructed to report it back and recommend that it do not pass, for the reason that

physicians, generally speaking, are poorly paid for their services and they can regulate their own fees. McCULLOCH, *Chairman.*

Senator Duncan, from judiciary committee No. 1, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1, to whom was referred Senate bill No. 152, to be entitled "An act to authorize counties, cities and towns to compromise existing railroad bonded indebtedness, and to issue new bonds at a lower rate of interest in lieu thereof," have had the same under consideration and instruct me to report the same back with the recommendation that it do pass. DUNCAN, *for committee.*

Senator McCulloch, chairman of the committee on statistics, industry, etc., submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on statistics of industry, public health and history of Texas, to whom was referred Senate bills Nos. 25 and 163, entitled "Acts to create and establish a state board of health for the State of Texas and to define their powers and duties," have had the same under consideration. They are unanimous in the conclusion that if chemical analysis and the light of the electric beam could make their revelations in southern, eastern and central Texas during the months of July, August and September, many loaded firearms would be found in our midst, ready to destroy our lives only upon the application of the match.

The essential features of the bill are borrowed by the committee appointed by the State Medical Association, to frame an act from the bill No. 25, introduced at the beginning of the session. I am unanimously instructed by the committee to return the bill No. 163, with the recommendation that it do pass. McCULLOCH, *Chairman.*

On motion of Senator McCulloch, 100 copies of the bill and report just reported from the committee were ordered printed.

(Senator Shannon in the chair.)

Senator Terrell introduced a bill entitled "An act to reorganize the sixteenth judicial district of the State of Texas, and provide for the time of holding court therein."

Read by caption and referred to committee on judicial districts.

Senator Lane introduced a bill entitled "An act amendatory of an act entitled 'an act to prohibit the sale, exchange or gift of intoxicating liquors in any county, justice's precinct, city or town in this State that may so elect, prescribing the mode of election and affixing a punishment for its violation,' approved June 24, 1876."

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

Senator Edwards introduced a bill entitled "An act to amend 'an act to better protect the papers, records and files in the general land office,' approved June 2, 1873."

Read by caption and referred to the committee on general land office.

The following House bills were taken up for reference to appropriate committees:

House bill No. 132, entitled "An act to require persons and corporations to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty

for failure to so pay said fees, and to provide the manner and means of enforcing the provisions thereof."

Referred to the committee on finance.

House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending March 1, 1879."

Referred to committee on finance.

On motion of Senator Moore, the unfinished business was postponed ten minutes, the rules suspended and House joint resolution No. 21, authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said title, was taken up and read first time.

Senator Moore moved to suspend the rules and place the resolution on its second reading.

Carried by the following vote:

YEAS.		
Blassingame,	Guy,	McCulloch,
Brown,	Hobby,	Moore,
Burnett,	Homan,	Patton,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Storey,
Ford,	Martin,	Terrell,
Gooch,	McCormick,	Tilson—25.
Grace,		

NAYS—none.

Resolution read second time.

Senator Storey offered the following amendment:

Amend section 1 by inserting after the word "empowered" in line three, the following words: "If deemed necessary to protect the rights of the State."

Adopted.

On motion of Senator Moore the rules were suspended and resolution placed on its third reading by the following vote:

YEAS.		
Blassingame,	Guy,	Moore,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Houston,	Stewart,
Burton,	Lane,	Shannon,
Davenport,	Lair,	Storey,
Duncan,	Martin,	Swain,
Gooch,	McCormick,	Terrell,
Grace,	McCulloch,	Tilson—27.

NAYS—none.

Resolution read third time and passed by the following vote:

YEAS.		
Blassingame,	Grace,	McCulloch,
Brown,	Guy,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Shannon,
Duncan,	Lair,	Terrell,
Edwards,	Martin,	Tilson—26.
Gooch,	McCormick,	

NAYS.

Storey,

Swain—2.

(President in the chair.)

The president, after reading its caption, signed Senate joint resolution No. 145, "instructing the senators and requesting the representatives of the State of Texas in Congress to favor commercial relations with Mexico."

On motion of Senator Hobby, the unfinished business was postponed fifteen minutes, the rules suspended and Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure," was taken up and the report of the committee on revision of the code on House amendments to the bill was read and considered.

House amendment to article 326 of the Penal Code was read and adopted.

House amendment "to strike out articles 688 and 689 of the Penal Code," was adopted by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Davenport,
Edwards,
Grace,
Guy,

Hobby,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—23.

NAYS.

Blossingame,
Duncan,

Homan,

McCormick—4.

House amendment to article 752 of Penal Code was adopted.

Senator Hobby moved that the Senate do not concur in House amendment to article 758*a* of Penal Code.

Carried by the following vote:

YEAS.

Brown,
Buchanan,
Burnett,
Burton,
Duncan,

Edwards,
Guy,
Hobby,
Homan,
McCormick,

Moore,
Ripetoe,
Stewart,
Swain,
Tilson—15.

NAYS.

Davenport,
Ford,
Gooch,
Grace,
Houston,

Lane,
Lair,
Martin,
McCulloch,

Patton,
Shannon,
Storey,
Terrell—13.

Senator Terrell moved the previous question on House amendment to strike out article 86 of Penal Code, etc.

Motion seconded and main question ordered.

The Senate refused to disagree to the said House amendment by the following vote:

YEAS.

Brown,
Davenport,
Edwards,
Ford,
Guy,

Hobby,
Homan,
Houston,
Lane,

McCulloch,
Patton,
Stewart,
Shannon—13.

NAYS.

Blassingame, Buchanan, Burnett, Burton, Duncan,	Gooch, Grace, Lair, McCormick, Moore,	Ripetoe, Storey, Swain, Terrell, Tilson - 15.
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Senator Terrell moved to reconsider the vote just taken.
Lost by the following vote:

YEAS.

Brown, Davenport, Edwards, Ford, Guy,	Hobby, Homan, Houston, Lane, Martin,	Patton, Stewart, Shannon, Terrell--14.
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NAYS.

Blassingame, Buchanan, Burnett, Burton, Duncan,	Gooch, Grace, Lair, McCormick, McCulloch,	Moore, Ripetoe, Storey, Swain, Tilson--15.
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The Senate then refused to disagree to House amendment to article 430a of Penal Code by the following vote:

YEAS.

Brown, Burnett, Burton, Duncan, Ford,	Houston, Lane, McCormick, Patton,	Ripetoe, Stewart, Storey, Terrell- 13.
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NAYS.

Blassingame, Davenport, Edwards, Grace, Guy,	Hobby, Homan, Lair, Martin, McCulloch,	Moore, Shannon, Swain, Tilson--14.
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Senator Ford moved to reconsider the vote just taken.
Motion lost.

On motion of Senator Hobby, the Senate disagreed to House amendment to article 495.

On motion of Senator Hobby, the Senate concurred in House amendment to preamble.

Senator Grace, chairman of the committee on enrolled bills, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate bill No. 15, entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors or agents to pay their wages when due and to provide a lien for such wages," and presented the same to the governor at 10:40 A. M. for his signature.

GRACE, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on enrolled bills have carefully examined and find correctly enrolled and properly signed Senate joint resolution No. 145, "Instructing the senators and requesting the representatives of Texas in

Congress to favor commercial relations with Mexico," and presented the same to the governor at 10:40 A. M. for his signature.

GRACE, *Chairman.*

On motion of Senator Burton, the rules were suspended, the unfinished business postponed for five minutes, when the senator offered the following resolution:

Resolved, That the committee on finance be requested to report House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879."

Adopted.

The unfinished business, being Senate bill No. 96, entitled "An act for the disposal of the public free school lands and to secure the proceeds thereof for the benefit of said schools," was taken up.

The pending question on adjournment, being the amendment of Senator Edwards to the amendment of Senator McCormick, was adopted by the following vote:

YEAS.		
Blassingame,	Grace,	Moore,
Brown,	Guy,	Ripetoe,
Buchanan,	Hobby,	Stewart,
Burnett,	Lane,	Storey,
Edwards,	Lair,	Swain,
Ford,	Martin,	Terrell,
Gooch,	McCulloch,	Tilson—21.
NAYS.		
Davenport,	Houston,	Patton,
Duncan,	McCormick,	Shannon—7.
Homan,		

Senator Homan offered the following amendment to that of Senator McCormick, pending on adjournment yesterday:

Strike out the word "sale," in second line, and insert as follows: "The obligation of the State to be executed by the commissioner of the general land office, as provided in the fifth section of this act."

Adopted.

Senator Lair moved the previous question on Senator McCormick's amendment.

Motion seconded and the main question ordered.

Senator McCormick's amendment, as amended by the amendments of Senator Edwards and Senator Homan, was then adopted by the following vote:

YEAS.		
Blassingame,	Guy,	McCulloch,
Buchanan,	Hobby,	Moore,
Burnett,	Homan,	Patton,
Burton,	Houston,	Ripetoe,
Davenport,	Lane,	Stewart,
Duncan,	Lair,	Storey,
Edwards,	McCormick,	Tilson—22.
Gooch,		
NAYS.		
Brown,	Martin,	Swain,
Ford,	Shannon,	Terrell—6.

Senator Storey moved to reconsider the vote just taken.

Senator McCormick moved to lay the motion to reconsider on the table.

Carried by the following vote:

YEAS.		
Buchanan,	Guy,	McCulloch,
Burnett,	Homan,	Moore,
Burton,	Houston,	Patton,
Davenport,	Lane,	Ripetoe,
Duncan,	Lair,	Stewart—17.
Gooch,	McCormick.	
NAYS.		
Blassingame,	Grace,	Swain,
Brown,	Martin,	Terrell,
Edwards,	Shannon,	Tilson—11.
Ford,	Storey,	

Senator Patton offered the following amendment as a substitute for section 8 of the bill:

Substitute for section 8:

Section 8. Agents appointed to sell lands under this act shall for their services receive in cash, out of the money actually collected from sales made by them, a commission of two and a half per cent. until they get the sum of \$5000, and, in addition to this sum, each agent shall receive a commission of one per cent. on the amount realized through sales of land by him exceeding the value of two dollars per acre and less than three dollars per acre, and two per cent. on amounts exceeding three dollars and less than four dollars per acre, and two and a half per cent. on all amounts realized at a sale of over five dollars per acre, said commissions to be paid in the ratio and as the money is realized from the sales aforesaid, on warrants issued by the comptroller upon the treasurer, and in no other way shall such agents be paid by the State, and under no circumstances shall extra compensation be paid by the State to such agents; *and it is further provided*, that the commissions of said agents on lands sold by them for a less sum than two dollars per acre shall not exceed five thousand dollars.

Senator Storey offered the following as a substitute for the amendment of Senator Patton:

Amend section 8 by inserting after the word "made" in line thirty-one, the following: "On the first five hundred thousand dollars (\$500,000) worth of sales, and one per cent. on all sales over five hundred thousand dollars."

Adopted, and the amendment of Senator Patton, as substituted by the substitute of Senator Storey, was then adopted.

Senator Brown offered the following amendment:

Insert after the word "shall," in first line of section 8, the word "each."

Adopted.

Senator Storey offered the following amendment:

Amend section 3, line nine, by inserting after the word "sold" the following: "Subject to the approval of the governor."

Adopted.

Senator Patton offered the following amendment:

Amend section 3 by inserting in line nine, between the words "than" and "fifty," "one dollar and," and in line ten striking out all of the words after "acre," where it first occurs in said line.

Senator Tilson offered the following amendment as a substitute for the amendment of Senator Patton:

After the word "at," in section 3, line nine, strike out the words "a

price not less than fifty cents per acre for pasture land and not less than \$1 per acre for arable lands," and insert "\$2."

Senator Edwards made the point of order that, as the substance of the amendment of Senator Tilson had already been acted upon, the amendment could not be entertained.

Point of order sustained.

Senator Stewart offered the following as a substitute for the amendment of Senator Patton:

Amend section 16, in the fifth line, after the word "act," by adding the words "and shall contain such restriction to the price of the lands to be sold as the governor in his discretion may see proper to impose, but in no event shall said lands be sold for a less amount per acre, for arable and pasture lands, than that fixed by this act; and such letter of authority, restricting agents about price, may be changed by the governor whenever he in his discretion may deem it for the best interest of the State to do so."

Senator Brown offered the following amendment to the substitute of Senator Stewart:

Strike out of section 16, as amended, the words: "But in no event shall said lands be sold for less price per acre, for arable and pasture lands, than that fixed by this act."

Senator Swain moved to adjourn till 3 o'clock P. M.

Lost by the following vote:

YEAS.		
Burnett, Duncan,	McCulloch,	Swain—4.
NAYS.		
Blassingame, Brown, Buchanan, Burton, Davenport, Edwards, Ford, Gooch, Grace,	Guy, Hobby, Homan, Houston, Lane, Lair, Martin, McCormick,	Moore, Patton, Ripetoe, Stewart, Shannon, Storey, Terrell, Tilson—25.

Senator Lair moved the previous question on the bill and pending amendments, which was seconded, but the Senate refused to order the main question by the following vote:

YEAS.		
Blassingame, Buchanan, Guy,	Houston, Lair, McCormick,	Moore, Ripetoe—8.
NAYS.		
Brown, Burton, Davenport, Duncan, Edwards, Ford, Gooch,	Grace, Homan, Lane, Martin, McCulloch, Patton,	Stewart, Shannon, Storey, Swain, Terrell, Tilson—19.

Senator Edwards moved the previous question on the pending amendments and the amendments upon the president's desk.

Motion seconded and the main question ordered by the following vote:

YEAS.

Blassingame,
Brown,
Buchanan,
Burton,
Davenport,
Duncan,
Edwards,
Ford,

Gooch,
Grace,
Guy,
Homan,
Houston,
Lair,
Martin,
McCormick,

McCulloch,
Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Terrell—24.

NAYS.

Lane.

Swain,

Tilson—3.

Senator Brown's amendment to the substitute of Senator Stewart was then voted on by the Senate and lost.

Senator Patton made the point of order that the substitute of Senator Stewart for his amendment was not properly a substitute for the same. Not sustained.

The substitute of Senator Stewart was then adopted and the amendment of Senator Patton, as substituted by the amendment of Senator Stewart, was then adopted.

Senator Swain offered the following amendment:

Amend after the enacting clause inserting the following in lieu of sections 1 and 2:

Section 1. That the governor, comptroller and commissioner of the general land office of the State of Texas are herein constituted a board of commissioners for the sale of lands set apart for the public schools, and are hereby authorized and empowered to sell not more than 18,000,000 acres of said lands upon the terms and conditions hereinafter provided.

Section 2. Said board shall have authority to appoint a secretary at a salary of not more than \$2000 per annum, which salary shall be paid out of the proceeds of the sales of said lands.

Lost by the following vote:

YEAS.

Brown,
Buchanan,
Davenport,
Duncan,
Gooch,

Homan,
McCormick,
Patton,
Shannon,

Storey,
Swain,
Terrell,
Tilson—13.

NAYS.

Blassingame,
Burton,
Edwards,
Ford,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,

Martin,
McCulloch,
Moore,
Ripetoe,
Stewart—15.

Senator Burton offered the following amendment:

Amend section 3 by adding "*provided*, that the money arising from the sale of said lands shall not be used for any other purpose than the benefit of public free schools."

Adopted.

Senator Lane offered the following amendment:

Amend section 16, after the word "act" in the last line, "and upon the sale of any lands, under the provisions of this act, the agent shall report the same to the governor, accompanied by the affidavit of the surveyor of the county or district in which the land is situated, and which affidavit shall contain an appraised value of the land sold and of the adjoining surveys with a description and classification of the same, and

the agent shall compensate from his commission the surveyor for such services in all cases, upon such terms as they may agree on, and should the surveyor knowingly undervalue the marketable value of the land, then he shall be liable upon his official bond for the difference between the marketable value of the same and the sum paid by the purchaser therefor, which may be recovered in the name of the State of Texas for the benefit of the permanent school fund."

Adopted by the following vote:

YEAS.

Brown,
Buchanan,
Duncan,
Edwards,
Ford,
Hobby

Homan,
Houston,
Lane,
McCormick,
McCulloch,

Patton,
Storey,
Swain,
Terrell,
Tilson—16.

NAYS.

Blassingame,
Burton,
Davenport,
Gooch,

Grace,
Guy,
Lair,
Martin,

Moore,
Ripetoe,
Stewart,
Shannon—12.

Senator Lane offered the following amendment:

Amend section 14 by adding after the word "void," in the last line, "and any such sales upon judicial inquiry shall be canceled, the purchase money thereof be forfeited to the use of the public school fund, and the land be again subject to sale under the provisions of this act."

Adopted.

Senator Brown moved to adjourn until to-morrow at 10 o'clock.

The motion was ruled out of order, the previous question having been ordered on the pending business.

Senator Grace offered the following amendment:

Amend by inserting after the word "purchases" in line twelve, section 10, the words "not less than eighty acres, unless it be a fractional part less than eighty acres."

Lost.

Senator Houston offered the following amendment:

Amend by inserting in section 15, page 4, line two, before the word "purchase," the words "contract of."

Adopted.

Senator Brown moved a call of the house.

The motion was ruled out of order, as the previous question had been ordered on the pending question.

Senator Houston offered the following amendment:

Amend section 5, page 2, line nine, by adding after the word "Texas," the words "for the use and benefit of the public school fund."

Adopted.

Senator Gooch offered the following amendment:

Add after the last word in section 3, "and said land, not already enclosed, may be leased for a term of years, not exceeding twenty, for an annual sum of not less than two cents an acre, and said land already enclosed for an annual sum of not less than four cents an acre. The rent money shall be paid annually in advance to the comptroller of the state, and by him to the treasurer of the state, as a part of the available school fund. The lease shall prohibit the cutting of the timber except for building and fencing purposes on the land leased, and that the failure to

fence the same within one year, or the failure to pay the annual rent shall forfeit the money paid and the improvements made before then and shall avoid the contract of lease. The agent of the State who shall be authorized to sell shall also be authorized to lease, and the agent shall reserve twenty-five per cent. of the first year's rent, and no more, for his service in making the lease."

Lost by the following vote:

YEAS.		
Brown, Davenport. Duncan,	Gooch, Homan, McCormick,	Patton, Storey, Swain—9.
NAYS.		
Blassingame, Buchanan, Burton, Ford, Grace, Guy,	Hobby, Houston, Lane, Lair, Martin, McCulloch,	Moore, Ripetoe, Stewart, Shannon, Terrell, Tilson—18.

The following amendment, recommended by the committee as section 17 of the bill, was adopted:

Section 17. That an act to provide for the sale of the alternate sections of land as surveyed by railroad companies and set apart for the benefit of the common school fund, approved April 24, 1874, be and the same is hereby repealed; *provided*, that all sales and contracts made under said act shall be carried out according to the provisions of said act.

Senator Duncan moved to adjourn until 10 o'clock to-morrow morning.

Lost by the following vote:

YEAS.		
Brown, Buchanan, Davenport,	Duncan, Patton,	McCulloch, Storey—7.
NAYS.		
Blassingame, Edwards, Ford, Gooch, Grace, Guy, Hobby,	Homan, Houston, Lane, Lair, Martin, McCormick, Moore,	Ripetoe, Stewart, Shannon, Swain, Terrell, Tilson—20.

Senator Duncan moved that the bill be read for information.

Motion lost by the following vote:

YEAS.		
Brown, Buchanan, Burnett,	Duncan, Homan,	McCulloch, Patton—7.
NAYS.		
Blassingame, Burton, Davenport, Edwards, Ford, Gooch, Grace, Guy,	Hobby, Houston, Lane, Lair, Martin, McCormick, Moore,	Ripetoe, Stewart, Shannon, Storey, Swain, Terrell, Tilson—22.

The bill was then ordered engrossed by the following vote:

YEAS.

Blassingame,
Burnett,
Burton,
Davenport,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Houston,
Lane,
Lair,
Martin,
McCormick.

McCulloch,
Moore,
Ripetoë,
Stewart,
Shannon,
Storey,
Terrell—22.

NAYS.

Brown,
Buchanan,
Duncan,

Homan,
Patton,

Swain,
Tilson—7.

Senator Homan gave his reasons, as follows, for his vote just given: "I vote no, because the minimum limit upon the price at which said land shall be sold is too small."

Senator Terrell gave the following in explanation of his vote: "I vote aye, though the bill is not guarded as I desired, and one of its provisions, which dedicates all taxes to arise from the land to the available school fund, is at least of doubtful constitutionality. The compensation of agents is also extravagant, but I waive these objections to secure a change of policy as to school lands, than which nothing can be more injurious than the present."

On motion of Senator Burton, the Senate adjourned until to-morrow morning at 10 o'clock.

TWENTY-NINTH DAY.

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

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

On motion of Senator Homan, the reading of the journals of yesterday was dispensed with and the same adopted.

On motion of Senator Lair, Senator Blassingame was excused indefinitely in consequence of sickness in his family.

Senator Shannon, chairman of the committees on internal improvements and judicial districts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on internal improvements, to whom was referred Senate bill No. 12 entitled "An act to regulate the management of railroad companies," have had the same under consideration and have instructed me to report the same back to the Senate with the accompanying substitute, and recommend the adoption of the substitute and the passage of the same.

SHANNON, *Chairman.*

Report and substitute read.

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 176, entitled "An act establishing the tenth, twelfth, twenty-eighth, twenty-ninth and thirtieth judicial districts, providing the time of holding the district courts therein, and providing for the election of district judges for the twenty-eighth, twenty-ninth and thirtieth districts," have had the same under consideration and instruct me to report that your

committee are of the opinion that the constitution only provides for the election of district judges at the general biennial elections for state and county officers, and that it provides that all vacancies in the office of district judge must be filled by appointment by the governor until the succeeding general election for state and county officers, and they recommend the following amendments, and, when so amended, unanimously favor its passage:

Amend first the caption by striking out "election," where it occurs therein, and insert "appointment."

Amend section 15 by striking out of said section "issue his proclamation directing an election to be held in the said twenty-eighth, twenty-ninth and thirtieth judicial districts," and insert "appoint suitable persons as judges of the twenty-eighth, twenty-ninth and thirtieth judicial districts."

SHANNON, *Chairman.*

Senator Edwards, chairman of the committee on constitutional amendments, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on constitutional amendments have had under consideration Senate bill No. 102, entitled "An act proposing an amendment to article 5 of the constitution," also joint resolution No. 5, amending sections 1, 2, 3, 4, 5, 6, 8 and 16, of article 5 of the constitution, and to make valid laws passed in harmony therewith by the Sixteenth Legislature;" also resolution suggesting changes in the judiciary system, and request me to report, as a substitute therefor, the accompanying joint resolution "proposing an amendment to article 5, of the constitution of the State of Texas," with the recommendation that it do pass.

EDWARDS, *Chairman.*

The report of the committee and accompanying substitute were read.

Senator Storey, chairman of committee on finance, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on finance, to whom was referred House bill No. 9, entitled "An act making appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," have carefully considered the same, and I am instructed by a majority of the committee present to amend the same by striking out, in section 1, the words "six hundred thousand," and inserting instead thereof the words "four hundred and fifteen thousand," and as amended, report the bill back to the Senate and to recommend its passage.

STOREY, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your finance committee, to whom was referred House bill No. 132, entitled "An act to require persons and corporations to whom patents for land have been granted to pay the fees thereon within sixty days from the passage of this act, and to prescribe a penalty for failure to pay said fees, and to provide the manner and means of enforcing the provisions thereof," have carefully considered the same, and I am instructed by the committee present to report the bill, with the accompanying amendments, back to the Senate, and as amended to recommend its passage.

STOREY, *Chairman.*

Amendments by the committee:

Amend caption of bill by striking out the same and inserting the fol-

lowing: "A bill to be entitled 'an act to regulate the issuance and delivery of land patents and to secure the payment of fees due thereon.'"

Amend section 2 by inserting the following after the word "land," in fourth line from the end of the section: "Certified copy thereof, field notes or certificates relative thereto."

Amend section 4 by adding to the same the following, commencing after the word "commissioner," in last line, "and by publishing four weeks in some newspaper published at the city of Austin, a list of the patents in the general land office ready for delivery to the parties owning the same, said publication to continue for the period of four weeks in each case, and the cost to be charged to the owners or claimant of the land so patented as a part of the penalty or cost incurred."

Amend by adding the following section:

Section 5. No title shall vest either in law or equity by virtue of any sale or deed hereafter made of land, the patent whereof may be ready for delivery in the general land office, until after the full payment of all fees required by this act.

Amend section 5 by striking out the number 5 and inserting in lieu thereof the number 6.

Senator Grace, chairman of special committee to investigate alleged exposures of the executive session of the Senate, etc., submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee appointed to investigate the matter of alleged exposure of the proceedings of this body in executive session, and published in the *Galveston News*, have had before them Mr. Doremus, reporter of said paper, and he has refused to answer the questions propounded by your committee. By such action of Mr. Doremus a majority of your committee are forced to the conclusion that he is able to give his authority for his statements in said paper, but your committee, feeling that they had no authority to compel the witness to answer, report the matter back to the Senate for its action.

GRACE, *Chairman.*

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

Hon. J. D. Sayers, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 96, entitled "An act for the disposal of the public free school lands, and to secure the proceeds thereof for the benefit of said schools," and report it correctly engrossed.

BROWN, *Chairman.*

(Senator Swain in the chair.)

Senator Ford introduced a bill entitled "An act to fix the times of holding the district courts in the twenty-fifth judicial district of the State of Texas."

Read by caption and referred to the committee on judicial districts.

Senator Homan introduced a bill entitled "An act to provide against the evils resulting from the sale of intoxicating liquors in the State of Texas."

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

On motion of Senator Houston, the special order was postponed ten minutes, the rules suspended and Senate bill No. 67, entitled "An act prescribing the times of holding the courts in the twenty-fourth judicial district," was taken up and read first time.

Senator Houston moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.—none.

Bill read second time and ordered engrossed.

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

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS—none.

Bill read third time and passed by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Tilson—23.

NAYS—none.

Senator Grace arose to a question of privilege, and moved to suspend the rules and take up the report of the special committee made this morning with regard to alleged exposures of the executive session of the Senate.

Carried, and the report taken up and read.

(President in the chair.)

Senator Storey offered the following resolution :

Resolved, That the report of the committee and the matter to which it refers be recommitted to the same committee, with instructions to report such resolutions as the committee may think necessary to protect the Senate, and to compel the witness to answer.

Senator Brown offered the following as a substitute for the resolution of Senator Storey :

Resolved by the Senate, That the report be received, and that the committee be discharged from further consideration of the subject.

Senator Terrell offered the following as a substitute for the resolution of Senator Brown :

Resolved, That since it is notorious that through misadventure on the part of the Senate in securing the privacy of its executive session from those who were in the hall and porch of the capitol, its dignity is not involved in further prosecuting an inquiry regarding the publication in the *Galveston News*. The fact that no Senator could have given the information is apparent from the fact that a portion of the article referred to is without foundation.

Accepted by Senator Brown as a substitute for his resolution.

Senator Terrell moved the previous question on the whole pending business.

Motion seconded, and the Senate refused to order the main question by the following vote:

YEAS.		
Brown, Buchanan, Burnett, Davenport,	Gooch, Houston, McCulloch, Moore,	Patton, Ripetoe, Shannon, Swain—12.
NAYS.		
Duncan, Edwards, Ford, Grace, Guy,	Homan, Hobby, Lane, Lair,	Martin, Stewart, Storey, Tilson—13.

Senator Lair moved to lay the whole pending business on the table.

Lost by the following vote:

YEAS.		
Brown, Burnett,	Davenport, Lair,	McCulloch—5.
NAYS.		
Buchanan, Burton, Duncan, Edwards, Ford, Gooch, Grace, Guy,	Hobby, Homan, Houston, Lane, Martin, Moore, Patton,	Ripetoe, Stewart, Shannon, Storey, Swain, Terrell, Tilson—22.

Senator Storey's resolution was then substituted by the resolution of Senator Terrell (which had been accepted as a substitute for the resolution of Senator Brown) and adopted by the following vote:

YEAS.		
Brown, Burnett, Burton, Davenport, Gooch,	Homan, Houston, Martin, McCulloch, Moore,	Ripetoe, Stewart, Shannon, Terrell—14.
NAYS.		
Buchanan, Duncan, Edwards, Ford, Grace,	Guy, Hobby, Lane, Lair,	Patton, Storey, Swain, Tilson—13.

On motion of Senator Gooch, the special order was postponed thirty minutes, the rules suspended and Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas, that will become redeemable on the first day of July, A. D. 1879,

and for the payment of approved pension certificates by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," was taken up and read first time.

Senator Duncan moved to adjourn until 3 o'clock P. M.

Lost by the following vote:

	YEAS.	
Duncan,	Lair,	Patton--3.
	NAYS.	
Buchanan,	Guy,	Ripetoe,
Burton,	Homan,	Stewart,
Davenport,	Houston,	Shannon,
Edwards,	Lane,	Storey,
Ford,	Martin,	Swain,
Gooch,	McCulloch,	Terrell,
Grace,	Moore,	Tilson--21.

Senator Edwards moved to postpone pending business for one minute, suspend the rules and take up the joint resolution substituting article 5 of the state constitution reported from the committee on constitutional amendments this morning.

Motion carried.

Senator Homan then (by leave) introduced a substitute for the said joint resolution.

Senator Edwards then moved that the joint resolution just taken up be made the special order for Tuesday next just after the morning call, and from day to day until disposed of, and that 300 copies of it and substitute and reports be printed.

Carried.

(Senator Homan in the chair.)

Senator Gooch moved to suspend the rules and place Senate bill No. 97, the pending bill, on its second reading, upon which motion the vote resulted as follows:

	YEAS.	
Brown,	Lane,	Stewart,
Davenport,	Lair,	Shannon,
Edwards,	Martin,	Storey,
Ford,	McCulloch,	Swain,
Gooch,	Moore,	Terrell,
Hobby,	Patton,	Tilson--20.
Houston,	Ripetoe,	
	NAYS.	

Burnett,

Homan 2.

Declared by the chair to be lost.

Senator Patton, chairman of the committee on claims and accounts (by leave) submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts instruct me to report that they have had under consideration the memorial of Moran Brothers, and have found it advisable to take the testimony of absent witnesses in behalf of the State; that the memorialists are represented by attorneys, and that your committee have postponed the further investigation of the claim until Monday, the twenty-fourth of this month, and they ask that the attorney general be requested to represent the State before the committee, and in taking the depositions of absent witnesses to be used in said investigation.

PATTON, *Chairman.*

The report was read and adopted and the request of the committee granted.

On motion of Senator Houston, the special order was postponed, rules suspended and the following Senate bills were called up and fifty copies each ordered printed:

Senate bill No. 87, entitled "An act regulating juries in capital cases;"
Senate bill No. 88, entitled "An act to amend sections 518 and 519 of an act entitled 'an act to establish a Code of Criminal Procedure, for the State of Texas;'" Senate bill No. 116, entitled "An act to amend section 12 of 'an act to establish and provide for the support and maintenance of an efficient system of public free schools,' approved August 16, 1876;"
Senate bill No. 127, entitled "An act to provide for the holding of special terms of the district courts when and where the same may be necessary;"
Senate bill No. 152, entitled "An act to authorize counties, towns and cities to compromise existing railroad bonds and indebtedness and to issue new bonds at a lower rate of interest in lieu thereof."

(The president in the chair.)

On motion of Senator Shannon, 100 copies of the substitute for Senate bill No. 12, entitled "An act to regulate the management of railroad companies," with the accompanying report of committee, were ordered printed.

On motion of Senator Storey, the rules were suspended and House bill No. 9, entitled "An act making an appropriation for the support of the public free schools for the scholastic year ending August 31, 1879," was taken up and bill read first time.

Senator Storey moved to suspend the rules and place the bill on its second reading.

Carried by the following vote:

YEAS.		
Brown,	Grace,	Moore,
Buchanan,	Hobby,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Houston,	Stewart,
Davenport,	Lane,	Storey,
Duncan,	Lair,	Swain,
Edwards,	Martin,	Shannon,
Gooch,	McCulloch,	Tilson—24.
	NAYS—none.	

Bill read second time.

Senator Duncan moved to disagree to the amendment recommended by the committee on finance, which reported the bill.

Motion ruled out of order, the chair holding that a motion to disagree would not apply to an amendment by a committee.

A message was received from the House announcing that the House had had under consideration Senate bill No. 20, entitled "An act to establish a Penal Code and Code of Criminal Procedure for the State," and recedes from its amendment to article 495, and refuses to recede from its amendment striking out article 758a, and asks for a conference committee of three on the part of the House, and a like number on the part of the Senate, and that the House had appointed as said committee Representatives Finlay, Frost and Johnson, of Shelby.

The president then appointed as said committee, on the part of the Senate, Senators Edwards, Storey and Stewart.

Senator Burnett moved to lay the committee amendment to House bill No. 9, now pending, on the table.

Carried by the following vote:

YEAS.		
Buchanan,	Guy,	Patton,
Burnett,	Homan,	Ripetoe,
Burton,	Lair,	Stewart,
Duncan,	McCulloch,	Shannon,
Ford,	Moore,	Swain—16.
Grace,		
NAYS.		
Brown,	Hobby,	Storey,
Davenport,	Houston,	Terrell,
Edwards,	Martin,	Tilson—10
Gooch,		

A message was received from the House announcing the passage by that body of House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State of Texas and to fix the times for holding courts in the different counties composing same," and that the House has concurred in Senate amendment to House joint resolution No. 21, "authorizing the attorney general to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to the university lands in McLennan and Hill counties, and to remove all clouds upon said titles."

Senator Gooch moved to reconsider the vote by which Senator Terrell's substitute on the investigation of the alleged exposure of the executive session of the Senate was adopted.

On motion of Senator Brown, Senator McCormick was excused for ten days.

Senator Duncan moved to suspend the rules and place the bill under consideration upon its second reading.

Ruled out of order.

Senator Edwards moved to adjourn until 10 o'clock A. M. Monday.

Lost by the following vote:

YEAS.		
Brown,	Hobby,	Moore,
Davenport,	Lane,	Storey,
Edwards,	Martin,	Terrell—11.
Gooch,	McCulloch,	
NAYS.		
Buchanan,	Guy,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Houston,	Shannon,
Duncan,	Lair,	Swain,
Ford,	Patton,	Tilson—16.
Grace,		

Senator Burnett moved the previous question on passing the pending bill to its third reading.

Senator Edwards moved a call of the House.

Call sustained.

Roll called and none absent.

The previous question moved by Senator Burnett was then seconded and main question ordered.

Senator Edwards moved to reconsider the vote ordering the main question.

Senator Burnett made the point of order that the motion to reconsider was out of order pending the operation of the previous question.

Point of order sustained.

The bill was then placed on its third reading by the following vote:

YEAS.

Buchanan,
Burnett,
Burton,
Duncan,
Edwards,
Ford,
Gooch,
Grace,
Guy,

Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—25.

NAYS.

Brown,

Davenport—2.

Senator Edwards moved to reconsider the vote just taken, but afterwards withdrew it.

Senator Edwards moved to adjourn until 10 o'clock Monday morning, upon which motion the vote resulted as follows:

YEAS.

Brown,
Davenport,
Edwards,
Gooch,
Hobby,

Houston,
Lane,
McCulloch,
Moore,

Storey,
Swain,
Terrell,
Tilson—13.

NAYS.

Buchanan,
Burnett,
Burton,
Duncan,
Ford,

Grace,
Guy,
Homan,
Lair,

Patton,
Ripetoe,
Stewart,
Shannon—13.

The president then declared the Senate adjourned until 10 o'clock Monday morning.

THIRTIETH DAY.

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

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

On motion of Senator Guy, the reading of the journals of Saturday was dispensed with and the same adopted.

Senator Shannon presented a memorial from the commissioners' court of Young county, asking that an act with regard to the disposal of public lands known as the "Indian reservation" be so changed as to allow the commissioners appointed to sell said lands to sell the same without regard to the limitations of maximum and minimum rates in said act, as the land is generally rocky and poor and cannot be sold at the present rates; and also to give the present occupants the prior right of purchase, and that the improvements be exempt from valuation in the sale of said land.

Referred to the committee on state affairs.

Senator Houston presented a memorial from the commissioners' court and county officers of Mason county, asking the continued protection of

the frontier by the state troops, enlogizing the officers and men of said force, and giving many reasons for the continuance of frontier protection against both the Indians and desperadoes which abound throughout said border, and among them they state that without such protection the frontier will be driven back at least eighty miles, and that many counties will be abandoned.

Referred to committee on Indian affairs and frontier protection.

Also, the memorial and account of Patrick Mullins for work done in repairing the state capitol in 1876, under contract with the superintendent of public buildings and grounds at that time (Captain Fred. Voigt), for the amount of \$278.

Referred to the committee on claims and accounts.

Senator Tilson presented the petition of many citizens of Bowie county asking that the pension law be so extended in its application as to allow pensions to all the old Texas soldiers who served in the armies up to and embracing the campaigns of 1841, stating that many of them are poor, needy, etc.

Referred to the committee on finance.

Senator Ford presented a memorial from the commissioners' court of Frio county, considered and adopted in open court, "asking the Legislature to donate the state tax of said county for the years 1879 and 1880, in consequence of the destruction of their court house by fire (the work of incendiaries) and the loss of their land records by theft, and that they also in addition be permitted to levy and collect an annual tax of fifty cents on the one hundred dollars worth of taxable property in the county for the years referred to, to enable them to restore their public buildings, etc."

Referred to the committee on finance.

Senator Shannon, chairman of committee on internal improvements, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on internal improvements, to whom was referred petition No. 32, "of sundry citizens of Bowie county praying for the establishment of depot, other buildings, etc., on the Texas side of the state line between Texas and Arkansas," have duly considered the same, and I am instructed to report the same back to the Senate with the accompanying bill and recommend the passage of the bill.

SHANNON, *Chairman.*

• Bill read first time.

Senator Storey, chairman of committee on finance, submitted the following report:

Hon. J. D. Sayers, President of the Senate :

Your committee on finance, to whom was referred House bill No. 141, entitled "An act making appropriations for the support of the State government for the time beginning January 1, 1879, and ending February 28, 1879," have duly considered the refusal of the House to concur in the Senate amendments to the same, and I am instructed by the committee to report the bill back to the Senate with the recommendation that the Senate adhere to its amendments.

STOREY, *Chairman.*

The report of the committee was read, and, on motion of Senator Storey, was adopted.

Senator Swain, chairman of the committee on penitentiary, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on penitentiary have instructed me to inform the Senate that the accompanying report of the joint sub-committee, appointed to visit the penitentiaries at Huntsville and Rusk, has been made to your committee, and said committee instructs me to report the same for the information of the Senate.

SWAIN, *Chairman.*

AUSTIN, February 10, 1879.

To the Senate and House Committees on Penitentiaries:

Your joint sub-committee, appointed to visit the penitentiaries at Huntsville and Rusk, and inquire into the management and condition of the same, beg leave to report that your committee left the capital on the 28th day of January last and proceeded directly to Huntsville, arriving at said place on the evening of the 29th of January.

On the morning after the arrival of your committee at the penitentiary it went into the work of a careful examination of all the departments and surroundings of the same, visiting in person the various workshops and other buildings, including the cells. During the labors of your committee they were allowed every facility for making a most careful and thorough inspection of the management and condition of the prison—Messrs. Cunningham & Ellis, the lessees, and Capt. Goree, the superintendent, conducting your committee through every department of the same. Your committee had before them a number of witnesses, amongst whom were the officers, employes and convicts of the prison, and some citizens of Huntsville and vicinity, who testified with reference to the present management. Your committee also privately interviewed many of the convicts, and as the result of its investigations does not hesitate to pronounce the management, under the present lease, exceptionally good in the prison proper. The convicts are well fed, well clothed and humanely treated, and subjected to only such restraints and punishments as are necessary to their safe keeping. The entire establishment presented a neat and healthful condition, and the convicts seemed as contented and happy as could be expected of persons so circumstanced. No convict complained to your committee of bad treatment, too much labor or want of food, notwithstanding every facility of doing so was given them by the members of your committee. Your committee ascertained that there were a few instances of harsh treatment in some of the camps, but the evidence shows that the sergeants and guards guilty of the same are in every instance promptly discharged by the lessees, when they were informed of the facts.

The old cell building accommodates about 345 convicts, and if the building was otherwise safe, so that two men could be put in one cell, would accommodate as many more. The new cell building contains 101 cells, sufficiently large to accommodate two convicts each. These cells are not floored and are without doors. Under the contract of Messrs. Cunningham & Ellis, they are to complete these cells as soon as practicable. If it is found practicable to keep all the convicts within the prison walls, and machinery can be supplied for the employment of the same, we submit that the lessees ought to be required to complete this building immediately; otherwise, it is unnecessary to require the work except at their convenience. Before more convicts than are at present

employed within the walls can be employed there profitably, there will have to be an outlay of a large sum of money for repairs and new machinery. The machinery in want for the manufacture of cotton and woolen fabrics is old and worn out beyond repair. If possible, the old machinery of the prison should be sold and the prison supplied with modern improved machinery. The fabrics made on the old machinery are so depreciated in value as to form some inducement for the outlay. Your committee found many of the hinges on the cells so badly adjusted as to render the cells insecure. The outer guard walks on the building should be protected by railing, and the steps leading up the walls are too narrow, many of the stairways are decaying and have become dangerous. The main walls of the building are in bad condition generally, many of the brick decaying and falling from their places. There are 390 locks with eighty different keys. In case of fire, from the necessary delay in unlocking cells, the lives of the convicts would be jeopardized.

If practicable, the lever-lock should be substituted, by which all the cells could be unlocked at once. The institution is now supplied with cisterns, but is without the appliances requisite to the use of the water in extinguishing fire. If practicable these appliances should be at once furnished, since your committee believe the prison constantly in danger of being destroyed by fire. If so much money can be expended for that purpose, your committee think that the walls should be built on two sides of the prison, so as to form a court into which the convicts could be placed in case of fire and kept secure. These walls would also make the prison much more secure from efforts on the part of the convicts to escape from within and assaults on the part of their friends from without. These walls and many other improvements could be made by the lessees with convict labor, the State paying for the same out of the moneys due and to be paid by the lessees under their contract with the State. The new cell building is covered with shingles. Your committee think that it would diminish the danger from fire if a metallic or slate roof was put on the same. It would be much better if the dining room could be increased to twice its present size and provisions made for a chapel above. At the end of this house it would be better to erect a new cooking establishment, and the old one (which is much dilapidated) removed. In the contract with lessees the State has reserved only one room in the administration building, which is used as the office of the superintendent. In the absence of legislation on the subject, this renders it impossible for the superintendent to reside within the walls.

Your committee learned that by some mistake the cemetery for convicts was placed on the land of Colonel Grant, adjoining the State land. Colonel Grant expressed himself to your committee as being willing to exchange this land for State land if the State would give him two acres for one, or that he would take \$25 per acre for it. Your committee recommend an exchange, and requested Colonel Grant to furnish them with a plat of fifteen acres of his land which would include the cemetery, and a plat of thirty acres of the State land which he proposed to take in exchange. He promised to do so at an early day, and your committee hope to present them to you shortly.

Your committee cannot refrain from saying that although the escapes from the prison proper and the camps have not been so frequent under the present management as under former lessees, it does seem that more convicts have escaped than necessary under proper care and management.

Your committee ascertained some facts with reference to the manner in which the commissioners of the penitentiary have performed their duties, which is deemed proper to lay before you. The law requires the commissioners to visit the prison proper twice every month, and each camp once a month. The commissioners have usually performed the first duty by assembling at Huntsville on the last day of the month and remaining until the first day of the next month. Your committee does not think that all the camps were visited with perfect regularity once every month by a commissioner.

Your committee were informed while at Huntsville that there was some question connected with the title to some of the State land. To ascertain the precise condition of the matter, Dr. Carr, a practical surveyor, was employed to examine said title and to plot all the State land, for which he was to receive fifteen dollars. He has not reported to your committee yet, but it is hoped will do so in a short time.

Having finished its duties at Huntsville your committee proceeded to Rusk and inspected the new penitentiary, situated about one mile from that place. Your committee found a magnificent building in appearance, containing five hundred and twenty-eight cells, capable of imprisoning about one thousand convicts. The center or administration building is an imposing structure, flanked on either side by the cell building. The floors of the cell building are made of cement, or artificial stone, while those of the administration building are of wood. The basement floors of the administration building are of wood and from dampness and want of ventilation are fast decaying. The buildings were constructed by Messrs. Kanmacher & Denig, and your committee believe is fully up to the contract made for their erection. So far as your committee was able to judge, the work is excellently and honestly done. They are constructed mostly of red sandstone found in that locality. Your committee cannot say whether this material will stand the test of time or not. It is now quite soft. There are no walls around the buildings, neither are there any workshops in connection therewith, and your committee cannot see how the institution can be utilized without both.

Messrs. Kaumacher & Denig estimate the value of a wall extending from each end of the cell building far enough back to enclose chattel, sick room, laundry, cook room, etc., and brick shops at \$40,000. They estimate the cost of workshops at \$20,000. The basement of the administration building, in which is the dining room, kitchen, etc., is underground. Unless the earth is removed from the walls on the outside the building will greatly damage in a very short time. One side of the building in which is situated the sick room, chapel, etc., is in a like condition.

Your committee call attention to the fact that in the arrangement of this prison the hospital and pest room are situated directly over the laundry and cooking establishment. These rooms will not be comfortable for the sick during the summer months. About 800 yards north of the penitentiary are situated a number of never-failing springs of water. The lowest of these springs is about sixty-eight feet higher than the grounds of the building. These springs can be united and the water conducted to the building in such quantities as to supply the institution with water for all purposes. Heavy excavations would have to be made if this water was attempted to be conducted on a direct line, but a ravine can be followed and very little of this work be found necessary.

Your committee learned that this water is on the land of Col. Guinn, and that he had deeded the privilege of using the same to the State, but your committee was informed that this deed is not of record.

Iron ore is said to exist in large quantities near the prison, and your committee found considerable quantities of the same on the surface, but were unable to determine its precise quality. Coal also abounds in the vicinity, but there seems a diversity of opinion as to whether it would be valuable in smelting iron or not. The better opinion seems to be that it would not. The tract of State and on which this penitentiary is situated contains about eleven acres. The cell buildings extend to within a few feet on either side of the penitentiary, and in front there is not room left for a walk. The lands surrounding are owned by private parties, and should be purchased by the State to give room for the erection of a wall, and to keep undesirable settlements from being made near the penitentiary. If this penitentiary is to be finished by the erection of walls, workshops, etc., your committee are of opinion that convict labor can be profitably employed to do the same.

In conclusion, your committee would say that the best interest of the State demands that all the convicts be confined within the walls of the penitentiary at as early a day as practicable. To that end it is advisable that the penitentiary be put in a condition to receive convicts as soon as possible. When the new cell buildings at Huntsville and the other improvements needed there are finished, and the penitentiary at Rusk is completed, it is believed that it will be found possible for the State to establish industries at both these places which will make the plan feasible. The present financial condition of the State causes your committee to fear that these things cannot be accomplished at once, and these suggestions are only made that you may have the full benefit of our labors and investigations.

W. J. SWAIN,

Chairman Senate Committee.

B. M. BAKER,

Chairman House Committee.

STEWART, of Delta,

COLEMAN,

BLASSINGAME,

Senator Edwards, chairman of the committee of conference on Senate bill No. 20, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee of conference, to act with a like committee on the part of the House, to whom was referred Senate bill No. 20, and the House amendments thereto, have had the same under consideration, and I am instructed to report to the Senate that committee of conference could not agree, and to recommend that it be referred to a committee of free conference, consisting of three members from each house.

EDWARDS, *Chairman Senate Committee.*

FINLAY, *Chairman House Committee.*

The report of the committee was read and adopted, and the president appointed as members of the free conference committee asked for and granted, Senators Edwards, Stewart and Storey.

Senator Martin, chairman of committee on agricultural affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on agricultural affairs, to whom was referred Senate bill No. 167, entitled "An act amendatory of an act creating the office of public weigher and regulating the appointment and defining the duties and liabilities thereof," have carefully considered the same, and I am instructed by the committee to report the bill with the accompanying amendments back to the Senate and, as amended, to recommend its passage.

MARTIN, *Chairman.*

Amend by striking out the words "grain, cotton, seed-oil and other produce" wherever they occur in the bill. Amend section 3 by inserting after the word "thereof," in last line the following: "And he shall also keep copies of the weights of all articles weighed by him, and shall furnish a certified copy of the same at any time to the owner or his agents, or the purchaser thereof, on demand." Section 4—Strike out the word "four" and insert "three." Insert after the word "purchase," in eleventh line, the words "or sale." Strike out in ninth line the word "provided," and in tenth line the word "that" and insert in tenth line before the word "no," the word "and." Section 6—Strike out in eighth line the word "to," and in ninth line the word "pick," and insert in eighth line, after the word "allowed," the word "pay," and insert in ninth line, before the word "any," the words "for picking." Amend section 9—Strike out the word "title," in second line, and insert the word "act." Strike out sections 11 and 12.

A message was received from the House announcing the passage by that body of Senate bill No. 98, entitled "An act to fix the fees of the department of state in certain cases," with amendments by the House.

Senator Houston, chairman of the committee on state affairs, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have carefully examined and considered the memorial of Messrs. R. T. Merrick and J. A. Durant, together with the evidence presented by memorialists, and I am instructed to report the same back to the Senate with the statement that memorialists, with a knowledge of all their rights under the contract upon which the memorial is based, accepted \$8000 in satisfaction of any claim which they might have had, and they are concluded from asking legislative action. I am further instructed to recommend that the prayer of memorialists be not granted.

HOUSTON, *Chairman.*

(Senator Duncan in the chair.)

Senator Hobby, chairman of committee on revision of the code, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on revision of the code have had under consideration Senate bill No. 54, entitled "An act to adopt and establish the Revised Statutes of the State of Texas," which consists of about 800 pages of printed matter, embracing an entire code of laws, intended to be applicable to and sufficient for the civil government of the State. In the examination of the bill referred, your committee was confronted at the threshold of its labors with many practical difficulties not generally experienced in the consideration of bills ordinarily, the most notable of which was found in the restriction of the Senate's session by the consti-

tution to a period of time entirely inadequate to a prolonged and detailed examination of a bill of this character, and the additional discharge of other pressing legislative duties demanding attention. After several weeks devoted by the individual members of the committee to an examination of the portions of the Code referred to them, and after a comparison of views relative to the proposed changes respectively suggested to the titles investigated, it was the judgment of the committee that the public interests will be better subserved by adopting it as a whole, and, by prompt supplemental legislation, effect whatever changes may be desirable, than to embody in a report the separate amendments of each member of the committee as amendments to the bill. It is believed by your committee that the advantage is great of consolidating into one volume the now numerous laws running through many session acts, thereby rendering it accessible and convenient to the public, and I am instructed by your committee to report the bill back to the Senate and recommend its passage.

Hobby, *Chairman.*

Senator Tilson introduced a bill entitled "An act to amend chapter 17 of the Penal Code of the State of Texas," approved A. D. 1879.

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

Senator Storey offered the following resolution:

Resolved, That judiciary committee No. 1 inquire if there is any further legislation needed to exempt from taxation the buildings, books and furniture and the grounds attached to such buildings belonging to boarding schools of high grade, necessary to the proper occupancy and enjoyment of the same; and that said committee report by bill or otherwise.

Read and referred to judiciary committee No. 1.

Senator Grace offered the following resolution:

Be it resolved, That the Senate hold night sessions for the purpose of considering the Civil Code, reported by the committee on the revision of the code.

The resolution was then read and considered.

Senator McCulloch offered the following amendment:

Strike out "night session" and insert "evening session, beginning at 3 P. M."

Lost.

Senator Edwards offered the following amendment:

And during said session no senator shall speak longer than five minutes at any one time.

Accepted by Senator Grace.

Senator Burton offered the following amendment:

Amend after the word "time," by inserting "unless by leave of the Senate."

Adopted.

The resolution of Senator Grace, as amended, was then voted on and lost by the following vote, it taking a two-thirds vote to adopt:

YEAS.

Davenport,
Duncan,
Edwards,
Grace,
Guy,

Hobby,
Houston,
Lair,
Moore,
Stewart,

Shannon,
Storey,
Swain,
Tilson—14.

NAYS.

Brown,
Buchanan,
Burnett,
Burton,

Ford,
Gooch,
Homan,
Lane,

McCulloch,
Patton,
Ripetoe,
Terrell—12.

A message was received from the House announcing the passage by that body of House joint resolution No. 2, amending section 2 of article 8 of the constitution of the State of Texas.

(President in the chair.)

Senator Shannon (by leave) introduced a bill to be entitled "An act to authorize M. B. Starkey and R. A. Eddleman to erect a dam across the Clear Fork of the Brazos river, at Crystal Falls, in Stephens county, Texas."

Read by caption and referred to committee on state affairs.

Senator Houston (by leave) presented a memorial of the county officers and many citizens of Kimball county, asking the continued protection of the frontier—contrasting its condition before the furnishing of troops to protect the same and at the present time, and stating that if the troops are withdrawn that the Indians and outlaws will overrun and ruin the country; that it is now rapidly settling up and improving, but if protection is not given this will be prevented and the frontier reduced in population and property and to former conditions of murder, robbery, theft, etc.

Referred to the committee on Indian affairs and frontier protection.

Senator Edwards offered the following resolution:

Resolved, That the clerk of the committee on codes, J. P. C. Whitehead, act as reading clerk of the Senate and general committee clerk.

Adopted.

Senator Patton, chairman of the committee on claims and accounts, submitted the following report:

Hon. J. D. Sayers, President of the Senate:

Your committee on public claims and accounts have had under consideration the memorial of Louis de Tejada, asking compensation for services rendered the State, and the majority of said committee instruct me to report that they find that the services have been rendered, and are of opinion that the petition of memorialist should be granted, and they recommend that the committee on finance report an appropriation not to exceed \$750 to pay memorialist for said services.

PATTON, *Chairman.*

Senators Gooch and Patton, from the committee on claims and accounts, submitted the following minority report:

Hon. J. D. Sayers, President of the Senate:

A minority of your committee being unable to concur in the opinion of the majority in their report on memorial No. 5, beg leave to present this minority report:

The memorial of Mr. Louis de Tejada shows that he performed the service rendered with a knowledge that there was no authority of law for his appointment. It may have been and was necessary work, in our judgment, yet the law required the secretary of state to perform it. He could not translate the documents and permitted memorialist to do so with the understanding that he must look to future legislation for compensation. Section 44, article 3, of the constitution of 1875, in our

judgment, prohibits the Legislature from granting compensation for service rendered under the circumstances, which the service of the memorialist appears to have been rendered.

Gooch,
Patton.

The president, after reading its caption, signed House joint resolution No. 21, "authorizing the attorney general to institute such legal proceedings as may be necessary to establish the title of the State to her university lands in McLennan and Hill counties, and remove all clouds upon said titles."

Senator Lane offered the following resolution:

Resolved, That the Senate do pass upon the Civil Code as recommended by the committees, without amendment or discussion.

Senator Duncan made the point of order that the resolution just offered was out of order, as it was contrary to the rules of the Senate, founded upon a constitutional provision which requires that a bill shall not have the force and effect of a law until it has been read on three several days in each house, and free discussion allowed thereon.

Point of order sustained.

(President *pro tempore* in the chair.)

Senator Stewart moved to reconsider the vote passing House bill No. 9, entitled "An act making an appropriation for the support of public free schools for the scholastic year ending August 31, 1879," to its third reading.

Senator Swain moved to lay the motion to reconsider on the table.

Senator Edwards moved a call of the house.

Call sustained.

Roll called, and the Senate being full the call was suspended.

The motion of Senator Swain, to table the motion to reconsider, was then carried by the following vote:

YEAS.

Buchanan,	Gooch,	Moore,
Burnett,	Guy,	Patton,
Burton,	Homan,	Ripetoe,
Duncan,	Lair,	Swain,
Ford,	McCulloch,	Shannon—15.

NAYS.

Brown,	Hobby,	Stewart,
Davenport,	Houston,	Storey,
Edwards,	Lane,	Terrell,
Grace,	Martin,	Tilson—12.

Senator Burnett moved the previous question.

Senator Edwards made the point of order that the bill was not before the Senate.

Point of order sustained.

Senator Storey moved to postpone the special order for ten minutes, suspend the rules and take up House bill No. 9, entitled "An act making an appropriation for the support of public free schools for the scholastic year ending August 31, 1879."

Carried by the following vote:

YEAS.

Buchanan,	Ford,	Hobby,
Burnett,	Gooch,	Homan,
Burton,	Grace,	Houston,
Duncan,	Guy,	Lane,

Lair,
McCulloch,
Moore,
Patton,

Ripetoe,
Stewart,
Shannon,
Storey,

Swain,
Terrell,
Tilson—23.

NAYS.

Brown,
Davenport,

Edwards,

Martin—4.

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

YEAS.

Buchanan,
Burnett,
Burton,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Guy,
Hobby,
Homan,
Houston,
Lane,
Lair,
Martin,
McCulloch,
Moore,

Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson—26.

NAYS—Brown—1.

The undersigned Senators presented the following protest to be placed on the journals in connection with this bill:

The undersigned, though voting for the bill, have done so only because some appropriation is necessary, but we protest that the action of the Senate in voting down the amendment to limit the appropriation for the rest of this scholastic year to \$415,000 was unwise, as that amount would have made the appropriation for this year about equal to the last year, and the passage of this bill renders it almost certain that the payment of the \$600,000 appropriated by the bill will leave a deficiency of about \$200,000 to be covered by State bonds, thus increasing our debt that amount. Much as we favor the cause of public free schools, we protest that it is unwise to increase the State debt even for their benefit. We must either retrench the amount devoted to schools or increase taxation, and we do not believe the people desire, or that the Legislature will increase taxation.

EDWARDS,
TERRELL,
MARTIN,
LANE.

On motion of Senator Gooch, the special order was postponed, rules suspended and Senate bill No. 97, entitled "An act to provide for the payment and redemption of the bonds of the State of Texas that will become redeemable on the first day of July, A. D. 1879, and for the payment of approved pension certificates by the sale of five per cent. bonds of the State, and to make an appropriation to carry into effect the provisions of the same," was taken up and read second time.

Senator Brown offered the following amendment:

Amend by inserting in the committee's amendment, between the words "full" and "with," the words "upon full and satisfactory proof of identity of persons holding certificates and approved claims."

Senator Houston offered the following as a substitute for the amendment of Senator Brown:

Amend the amendment of committee, by adding after the word "full," in line thirteen, the following: "Upon applicant making proof of identity as required in section 12 of the act of April 21, 1874, upon which the certificates or claims were approved."

Accepted by Senator Brown and adopted as a part of the committee's report.

Senator Duncan moved the previous question on the pending amendments.

Motion seconded, the main question ordered and the amendments of the committee lost by the following vote:

YEAS.		
Brown, Burnett, Burton,	Edwards, Ford, Homan,	Houston, Lane, Stewart—9.
NAYS.		
Buchanan, Davenport, Duncan, Gooch, Grace, Guy,	Hobby, Lair, Martin, McCulloch, Moore, Patton,	Storey, Shannon, Swain, Terrell, Tilson—17.

Senator Burton moved to adjourn until 10 o'clock A. M. to-morrow. Lost by the following vote:

YEAS.		
Burnett,		Burton—2.
NAYS.		
Buchanan, Brown, Davenport, Duncan, Edwards, Gooch, Grace, Guy,	Hobby, Homan, Houston, Lane, Lair, Martin, McCulloch, Moore,	Patton, Stewart, Shannon, Storey, Swain, Terrell, Tilson—23.

Senator Swain offered the following amendment:

Amend by striking out "five per cent." where it occurs in the bill, and insert "four per cent."

Senator Grace moved to adjourn until 7:30 o'clock to-night.

Lost by the following vote:

YEAS.		
Brown, Duncan, Edwards, Grace,	Guy, Homan, Lair,	Martin, Stewart, Shannon—10.
NAYS.		
Buchanan, Burnett, Burton, Ford, Gooch, Hobby,	Houston, Lane, McCulloch, Moore, Patton,	Ripetoe, Storey, Swain, Terrell, Tilson—16.

Senator McCulloch moved to postpone the pending business, suspend the rules, and take up House bill No. 255, entitled "An act to reorganize the fourth judicial district of the State."

On request of Senator Edwards, the motion was withdrawn until to-morrow.

Senator Swain moved to adjourn until 3:30 P. M.

Lost by the following vote:

	YEAS.	
Burnett, Burton, Duncan,	Grace, Lair, McCulloch,	Stewart, Swain—8.
	NAYS.	
Brown, Buchanan, Davenport, Edwards, Ford, Gooch,	Guy, Hobby, Homan, Houston, Lane, Martin,	Moore, Patton, Shannon, Storey, Terrell, Tilson—18.

Senator Gooch moved the previous question on the pending amendment and the engrossment of the bill, which was seconded, and the main question ordered by the following vote:

	YEAS.	
Brown, Buchanan, Davenport, Duncan, Ford, Gooch, Grace,	Guy, Hobby, Houston, Lane, Lair, Martin, McCulloch,	Moore, Patton, Stewart, Storey, Swain, Terrell, Tilson—21.
	NAYS.	
Burnett, Burton,	Edwards, Homan,	Ripetoe, Shannon—6.

The pending amendment of Senator Swain was lost by the following vote:

	YEAS.	
Brown, Buchanan, Burnett, Edwards,	Grace, Homan, Lane,	Martin, Ripetoe, Swain—10.
	NAYS.	
Burton, Davenport, Duncan, Ford, Gooch, Guy,	Hobby, Houston, Lair, McCulloch, Moore, Patton,	Stewart, Shannon, Storey, Terrell, Tilson—17.

The bill was then ordered engrossed by the following vote:

	YEAS.	
Brown, Buchanan, Burnett, Burton, Davenport, Duncan, Edwards, Ford, Gooch,	Grace, Guy, Hobby, Homan, Houston, Lane, Lair, Martin, McCulloch,	Moore, Patton, Ripetoe, Stewart, Shannon, Storey, Terrell, Tilson—26.
	NAYS—none.	

The following senators presented the following protest to be entered on the journals in connection with this bill:

“We vote ‘aye’ on this bill (Senate bill No. 97) as we cannot withhold our assent to any measure calculated to reduce the interest on the public debt, but we protest against the action of the majority in defeating the

amendments of a majority of the committee, whereby the veterans who now hold pension certificates in the comptroller's office were discriminated against and deprived of interest on the same, and in defeating the amendment reducing the rate of interest at four per cent., and we also protest against the passage of the bill under the 'previous question,' by which further amendments could not be proposed. We think the bonds should be payable in lawful money of the United States instead of gold coin, and that the denomination of the bonds should be much less than \$1000.

"BURNETT,
"HOMAN,
"RIPETOE,
"BURTON."

Senator Terrell moved to adjourn until to-morrow morning 10 o'clock. Carried by the following vote:

YEAS.		
Brown,	Ford,	Moore,
Buchanan,	Guy,	Patton,
Burnett,	Hobby,	Ripetoe,
Burton,	Homan,	Stewart,
Davenport,	Lane,	Terrell,
Edwards,	Martin,	Tilson---18.
NAYS.		
Duncan,	Houston,	Shannon,
Gooch,	Lair,	Storey,
Grace,	McCulloch,	Swain---9.

THIRTY-FIRST DAY.

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

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

On motion of Senator Moore, the reading of the journals of yesterday was suspended and the same adopted.

On motion of Senator Davenport, the sergeant-at-arms of the Senate was excused for two days in consequence of sickness.

A message was received from the House announcing the passing by that body of Senate bill No. 21, entitled "An act to provide for designating and surveying 3,050,000 acres of the unappropriated public domain for the erection of a new State capitol and other necessary public buildings at the seat of government," with amendments by the House, and requesting the return of House joint resolution No. 2, "amending section 2 of article 8 of the constitution of the State of Texas."

The president, by consent of the Senate, ordered the return of the joint resolution asked for.

Senator Houston presented the memorial of Edward Miles, committee-man of the thirtieth senatorial district state veteran association, with other old Texas veterans of said district, "asking the enactment of a better pension law—one that will be perpetual and impose as few restrictions and as little cost on applicants as possible, setting out the defects in the previous pension laws and stating that they operated injuriously to the old pensioners, particularly to those living west of the Colorado river, etc."

Referred to the committee on finance.

Senator Buchanan, chairman of committee on federal relations, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on federal relations have had under consideration House joint resolution No. 21, instructing our Senators and requesting our Representatives in Congress to take the necessary steps at once, by bill or otherwise, to secure the appointment of United States commissioners to act with like commissioners on the part of Texas to settle and definitely adjust the controversy as to boundary between the United States and Texas, involving the territory lying between the north and south forks of Red river, known as the county of Greer, and I am instructed to report the resolution back with the recommendation that it do pass.

BUCHANAN, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on federal relations have had under consideration House joint resolution No. 27, "Instructing our Senators and requesting our Representatives in Congress to ask of the United States government payment of all sums expended by Texas for frontier defense between February 28, 1855, and August 31, 1878, and the payment of the unexpended balance of \$7,750,810, left with the United States government by the State, for the payment of the debt of the late Republic of Texas," and I am instructed to report the same back to the Senate, and recommend that it pass.

BUCHANAN, *Chairman.*

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

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration Senate bill No. 113, being "An act for the preservation of fish, and to build fish ways and fish ladders," and have instructed me to report the bill back to the Senate with the recommendation that it do pass.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration House bill No. 137, being "An act to repeal an act entitled 'an act to authorize and require all forced sales of real estate and sale of negroes made by executors and administrators in the county of Travis to be made on Congress Avenue at the southeast corner of block No. 70,'" approved November 28, 1857, and have instructed me to report the same back to the Senate and recommend its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have considered Senate bill No. 135, being a bill entitled "An act for the relief of the Aransas Road Company," and have instructed me to report the same back to the Senate and recommend its passage.

TERRELL, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your judiciary committee No. 1 have had under consideration Senate bill No. 171, being "An act to authorize and require county clerks to issue license for the retail of spirituous, vinous and other intoxicating liquors in quantities less than one quart, and to prohibit such sale with-

out license," and have instructed me to report the same back to the Senate with accompanying amendment, and as amended recommend its passage.

TERRELL, *Chairman.*

Amend by inserting in section 3, line ten, after the word "learning," the following language: "or habitual drunkards or inebriates."

Senator Houston, chairman of the committee on state affairs, submitted the following reports:

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs have had under consideration Senate bill No. 153, entitled "An act to provide for building a new state capitol," and instruct me to report the same back to the Senate and recommend its passage, and that two hundred copies of the bill be printed for the use of the Senate.

HOUSTON, *Chairman.*

The request of the committee was granted, and two hundred copies ordered printed.

Hon. J. D. Sayers, President of the Senate :

Your committee on State affairs, to whom was referred the resolution "requiring the adjournment of the Legislature on the sixteenth instant," have instructed me to report the same back to the Senate with the accompanying substitute, with the recommendation that the substitute be adopted.

HOUSTON, *Chairman.*

Substitute of the committee:

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the Legislature of Texas do adjourn on the 31st of March, A. D. 1879.

The report and resolution read.

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs, to whom was referred a resolution instructing them to inquire into the propriety of suppressing the indiscriminate slaughter of buffaloes within the limits of the State, and to report by bill or otherwise, have instructed me to report that they have duly considered the same, and, believing that Congress is the proper authority to undertake the regulation and prevention of the evil complained of, and with that view recommend the passage of the accompanying joint resolution.

HOUSTON, *Chairman.*

"Joint resolution instructing our senators and requesting our representatives in the Congress of the United States to use their best endeavors to stop the indiscriminate slaughter of buffalo within the limits of the State of Texas."

The report and resolution read.

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs, to whom was referred Senate bill No. 161, being "An act to create the office of state librarian," have instructed me to report the bill back to the Senate and recommend that it be referred to the committee on statistics, history and insurance.

HOUSTON, *Chairman.*

Report adopted and the bill referred as requested.

Hon. J. D. Sayers, President of the Senate :

Your committee on state affairs have had under consideration Senate

joint resolution No. 169, being a resolution "Requesting the United States Congress to pass an act for the compensation of members of congress elected from Texas in 1866," and have instructed me to report the same back to the Senate and recommend its passage.

HOUSTON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs, to whom was referred Senate bill No. —, being an act entitled "An act prohibiting the sale of liquor to inebriates, habitual drunkards, and the sale of the same on the Sabbath between the hours of 8 o'clock A. M. and 6 o'clock P. M.," after considering the same, have instructed me to report the bill back to the Senate and recommend that it be referred to judiciary committee No 1.

HOUSTON, *Chairman.*

Report of committee read, adopted and bill referred as requested.

Hon. J. D. Sayers, President of the Senate:

Your committee on state affairs have had under consideration memorial No. 29, "From citizens of Harris county in relation to the sale of intoxicating liquors," and instruct me to report the same back to the Senate with the statement that legislation upon the subject matter of the memorial is now under consideration by bill, and that any further action at this time is deemed unnecessary.

HOUSTON, *Chairman.*

The president of the senate appointed Senators Terrell, Lane and Gooch, on the part of the Senate, as a committee of conference on the disagreement of the Senate and House to Senate amendments to House bill No. 141, entitled "An act making appropriations for the support of the state government for the time beginning January 1, 1879, and ending February 28, 1879," and a like committee was requested by the Senate on the part of the House.

Senator Shannon, chairman of the committee on judicial districts, submitted the following reports:

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 184, entitled "An act to fix the time of holding the district courts in the twenty-fifth judicial district of the State of Texas," have had the same under consideration, and I am instructed by said committee to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

Hon. J. D. Sayers, President of the Senate:

Your committee on judicial districts, to whom was referred Senate bill No. 143, entitled "An act to attach certain counties therein named to the twenty-fifth judicial district," have had the same under consideration and instruct me to report it back to the Senate and recommend its passage.

SHANNON, *Chairman.*

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

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, February 18, 1879. }

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

There are some matters connected with the election of county officers