

serts, that the Superintendent was not interested with him in the purchase, yet, inasmuch as he was restricted to a particular quarry, and not permitted to go into the market generally, the committee are clearly of the opinion that the Superintendent is justly censurable for permitting so great a loss to the State, when it might have been so easily avoided by direct purchase by the Superintendent or his subordinates.

In the testimony of W. C. Philips (No. 21, page 64), it will be seen that in the purchase of school registers \$1973 were expended, when books of the same kind and of as good quality could have been purchased of the *Galveston News* for \$960, and the State saved a useless expenditure of more than \$1000.

5. On pages sixty-two and sixty-nine respectively it will be observed that George W. Smith, W. H. Griffin and John N. Shafter received pay amounting to more than \$1300 for services as officers of the militia in Limestone and Freestone counties, and during the very same time also drew salaries as officers of the public free schools. (See pages sixty-two to sixty-five inclusive, and also page sixty-nine.) Your committee are of the opinion that the Superintendent, in permitting these men to draw "double pay," acted in utter disregard of the public interest, and was guilty of a favoritism for which no satisfactory apology can be offered. Nor can he shelter himself behind the opinion of the Attorney General that a position in the militia was not such an office as debarred one from being an officer in the public free schools. If Griffin, Smith and Shafter were rendering actual service in the field (to which fact the unfortunate people of Limestone and Freestone counties will testify), they certainly were not performing their duties at the same time and at a different place as officers of the free schools; and such being the case, we know of no law or rule of equity or principle of morality that authorizes their payment for services that they did not and could not perform. Upon the Superintendent rests the responsibility of thus expending the public moneys. Such conduct cannot be too severely reprehended. It indicates a looseness of official morality that stands in strange contrast with that of the officials of other days, and is the more conspicuous because it is exhibited in the conduct of one whose example should be worthy of all imitation.

According to the testimony of E. J. Davis (page eighty-seven), it will be seen that these men were directed to refund their commutation money. Their pay proper was retained. By reference to the report of the Adjutant General, giving an abstract of the disbursements of moneys, etc., it will be observed that the fuel commutation of these men did not amount to more than one hundred dollars; so that the pay they received as militia officers, after returning the commutation money, exceeded twelve hundred dollars. While upon the subject of the improper disbursement of public funds, which were under the exclusive control of the Superintendent, your committee would invite the further attention of this honorable Legislature to the following facts, as disclosed in the testimony of W. C. Philips (No. 21), J. D. McCall (pages sixty-nine to seventy-nine inclusive), W. D. Moore (No. 27), David Sheeks (No. 28), H. O. Hefster (No. 26), to-wit:

First. The appointment of Charles Parker by the Superintendent, as examiner in the Bureau of Education, and his payment as such, while he was in the service of the United States as a detective, and for which he drew pay from the general government.

Second. That Stanley Welch was paid as an employé in the Superintendent's office from the twenty-first day of December, 1872, and to the twenty-first of January, 1873, and at the same time he was in the employment of the *State Journal* office, at Austin, Texas.

Third. That the Superintendent himself drew double pay for the month of January, 1872, which was not rectified until discovered in the office of the Comptroller.

Fourth. That notwithstanding the Superintendent was furnished with a free ticket over the Central railroad, yet for trips on said road he drew, upon an average, more than twelve dollars per day for traveling expenses.

Fifth. That without the authority of law, he employed and caused to be paid out of the school fund, attorneys, when there were district attorneys to represent the State. From a careful examination of the evidence it will be discovered that there is no testimony tending to disprove the facts which have been last enumerated.

Mr. Welch (No. 38) says that he left the employ of the Educational Department on the twenty-second day of last January, but does not deny that he was, before leaving, in the employment of the *State Journal*, and Mr.

Newcomb (No. 41), one of the proprietors, himself testifies that Mr. Welch assisted him "in book-keeping matters" before formally employed—that is, before the twenty-second of January last. In order to justify the employment of attorneys we cannot think that the Superintendent will be permitted to plead the authority of the Board of Education. Your committee, after a most careful examination, have wholly failed to discover any law permitting the expenditure of the school fund for such a purpose; nor can your committee conceive the necessity for so doing, there being an attorney in each district whose duty it is to represent the State in all matters, civil as well as criminal.

Sixth. The unjustifiable diversion of the one per cent. school tax from the purposes for which it was designed by the law exhibits a character singularly willful and arbitrary, and has established a precedent hitherto unknown to the civil history of this country—that the law is to be respected only when it comports with the will of the officer, and whenever the necessity, however slight, occurs, affords no protection to the citizen, though its language be ever so strong.

7. As an evidence of the extravagance of the Superintendent, your committee invite attention to the cost of the "clerical force" in his office. (Page 122.) This does not include other expenses, which, if corresponding with the items above mentioned, would increase the cost of maintaining the central office of the department of public schools to an amount truly alarming.

8. ~~That the high and responsible office of Superintendent of Public Instruction has been used for political purposes, and made to subserve partisan ends, will, in the opinion of your committee, be the conclusion of every candid mind, from a careful survey of the evidence which your committee present for the consideration of this honorable Legislature. The testimony of Warren Norton (page 47) and C. Caldwell (No. 36), places the fact beyond dispute, and your committee are forced to the painful conclusion, that the department of public instruction, which ought to be entirely free from all political influences whatever, has been so contaminated by partyism, and the maladministration of its chief, as to be, in its present condition, a curse rather than a blessing to the people. Section three of the act of November 29, 1871.~~

gives the Superintendent an unlimited control of that portion of the school fund which is paid into the State Treasury ; and, availing himself of that provision in the law, he has not hesitated to withdraw from the possession of the proper custodian of the public money, large sums, and afterwards filing vouchers to cover the same. Statement No. 51 of the Comptroller shows that on the fourteenth day of August, 1871, the Superintendent drew, upon requisition, the sum of fifty thousand dollars, but did not obtain a corresponding credit until April, 1873, more than seven months afterwards. The Superintendent, having been permitted to draw moneys, by requisition, from the Treasury, thus relieving the Comptroller from duties which are particularly incident to his office, it has been entirely impracticable for your committee to ascertain whether or not any frauds have been practiced, other than such as appear in the evidence. Certainly, there was every opportunity, through the mode adopted for speculating with the public funds, and imposing upon those who may have held such accounts and vouchers as were payable out of said funds. It is not, therefore, to be presumed that, from the failure of this committee to bring to light any other irregularities and improprieties upon the part of the Superintendent and his subordinates, except those which are disclosed in the testimony, none others were perpetrated. Your committee have confined themselves to the presentation of such facts as are not contradicted, and with which the Superintendent is directly connected. There are many other facts contained in the evidence, equally pertinent with those that have been cited, which establish, beyond all dispute, the criminality of those engaged in their accomplishment.

In conclusion your committee say that the Superintendent of Public Instruction has been guilty of the most palpable abuse of his official position, doing those things which he ought not to have done, and leaving undone those things which he should have done, as is manifest from the testimony ; that with millions of dollars, subject to his own exclusive control, and every officer and teacher throughout the whole State utterly defenseless against the gratification of his slightest whim, however unreasonable and undeserved, his exercise of power has been such as is peculiar to tyrants only, and his expenditures of the public money reckless and extravagant beyond all prece-

dent. Your committee do not think it necessary to recommend any particular character of action by this honorable Legislature in regard to the Superintendent of Public Instruction. The facts presented are pregnant with suggestions as to the course that should be pursued. No crime should be held in greater abhorrence by the legislative department of any government than the willful abuse of a public trust.

JOS. D. SAYERS,  
Chairman Senate Committee.

H. J. AVINGER,

A. J. BALL,

Committee on the part of the Senate.

J. S. MILLS,

Chairman House Committee.

K. M. VAN ZANDT,  
STEPHEN POWERS.

J. W. KEMBLE,

L. E. GILLETTE,

W. D. WOOD,

J. PAYNE,

JAS. M. ANDERSON.

Senator Hall, a member of the special joint committee to investigate the official conduct and accounts of the Superintendent of Public Instruction, and of his subordinates, submitted the following minority report:

*Hon. E. B. Pickett, President of the Senate, and Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

It would be perhaps sufficient for the minority of the ~~special joint committee of investigation to say~~, that from the moment the majority of your committee decided to take all evidence against the Superintendent of Public Instruction in secret and *ex parte*, they hardly deemed it proper or just that they should attend the committee, as it seemed to have already settled upon their report by such action; but when the doors of the committee room were open to the Superintendent, and he was refused, as we think, an impartial investigation; when he was not allowed a clerk, and the rulings of the committee were against established rules of law, your minority remained away, with the exception of a few meetings, altogether. However, we desire to lay before the honorable Legislature a few facts in the testimony and action of the com-

mittee, and ask your attention thereto. We give appended hereto the different protests of the Superintendent of Public Instruction, which, in our opinion, should have been made part of the proceedings of the committee.

Regarding the evidence of Mr. Strange, as to Mr. Smith's reputation, establishes nothing. He states George W. Smith was known by reputation as the officer who commanded the Federal troops at Brenham when Brenham was burned. It was also well known that General Sheridan personally investigated this matter, and exonerated Smith. Smith being an educated man, fully capable of filling the position of inspector, received that appointment. That Mr. Strange does not know of his own knowledge that Smith ever examined a school in Grimes county, does not prove that he did not. If the committee believed he had not, why did they not establish this fact by sending for and examining some of the teachers?

As to W. B. Bonner having been charged with stuffing the ballot box in the election of Limestone and Freestone counties, Mr. Strange gives as a rumor, but the country well knows that out of a registered Republican vote of about six hundred, the Republican candidate only received twenty-eight votes; so, if Mr. Bonner stuffed the ballot box of Limestone county, of which county we are reliably informed he was registrar, he must have done so for the Democratic party.

We find, upon a careful perusal of the testimony, nothing whatever to show that the Superintendent corruptly or otherwise used the school money or any portion thereof; but, on the contrary, we find that he has made complete settlement with the Comptroller, as per statement attached to testimony, marked No. 51. This statement shows that he drew the last requisition on August 14, 1872, amounting to \$50,000, and settled that requisition in April, 1873. If the committee had any doubt as to what had been done with this money, why did they not apply to the State Treasurer, where they would have found that not one dollar of this amount had been drawn from the Treasury, except when paid to teachers and employes, after the Comptroller had audited their vouchers. Further, if the committee believed that any of the school funds had been used except for their legitimate purposes, it was well known that all school money drawn on

requisition had been deposited with Messrs. Raymond & Whitis, of Austin, whose evidence could have been procured at any moment.

The transaction of the purchase of slates seems to your minority committee, as far as the Superintendent is concerned, a legitimate transaction. We refer to the testimony in the cross-examination of Mr. A. S. Mair, page 7. And it will be further seen by the testimony of Hon. Wm. Alexander, Attorney General and member of the Board of Education, as well as by the testimony of Governor E. J. Davis, that the Attorney General recommended to the Board of Education the purchase of these slates, and called the attention of the board to this particular quarry. (See page 98 of the testimony.)

Two hundred and thirty-five thousand dollars were drawn by the Superintendent on requisition, and that amount has been settled by him to the satisfaction of the accounting officer of the State, the Comptroller. This is the only money which could, according to the laws of our State, pass through the Superintendent's hands, and not the millions spoken of by the majority of your committee.

How, then, can it be even intimated that he has speculated with public funds when there is not one iota of evidence to sustain such a charge?

As to the evidence of Messrs. Rucker and Lockett, where it is charged by the majority of your committee that the Superintendent has shown partiality in the salaries of teachers of white and colored schools, it is not true; he has allowed in the county of Washington six teachers, teaching colored schools, old rate salary, as he is permitted to do by regulations of Board of Education, as shown in the testimony of Mr. Rucker, page twenty-five. And in this matter we refer to the evidence of Rev. J. G. Lieb (No. 42), which shows that not a white person in Washington county could have been procured to teach a colored school, and it is well known throughout the State that it has been impossible to procure the services of Texans to teach colored schools at any price. Every witness of whom the question was asked, stated they did not know of any partiality having been shown by the Superintendent of Public Instruction to teachers; also that he never asked, either before or after their appointment, the politics of school directors, teachers, principals or in-

spectors, nor is it anywhere shown in the evidence that the Superintendent had used his office for political purposes, but it is shown to the contrary whenever the question was asked. (See evidence of Governor Davis, Senator Baker, Colonel Morrison, Governor Flanagan and others.)

As to the statement of Mr. Reed, principal of schools of Parker and Tarrant counties, he must have known that the law gave supervisors the power to appoint and remove school directors; so his complaints, if any were made, should have been to that officer, but in examining the list of witnesses whom the Superintendent requested to have summoned, and to which list he was required by the committee to make oath as to what he expected to prove by them, we find that he requested the summons of Hon. A. B. Norton, of Dallas, for the purpose of proving the character of the board of directors of Tarrant county, and that the statement of Mr. Reed in regard to the board was not correct; that he also requested the summons of Dr. Ewing and Mr. E. Hovencamp to prove the statements made by Mr. Reed were not correct.

The testimony of Mr. Maxwell, accountant of the Superintendent's office, shows that, in the examination and approval of about thirty thousand accounts, but five mistakes had been made in their examination—that is, five accounts had been approved twice. The evidence of Mr. McCall shows that these errors were rectified—the Superintendent's among the rest.

As to the evidence of Mr. Philips, regarding the purchase of teacher's registers, it is shown by the evidence of Mr. Raven (No. 45, page 116) that the ruling and binding alone could be done at his establishment at one dollar and fifty cents apiece—this without the paper and printing—while the State only paid one dollar apiece for them. It will, also, be seen, by the evidence of Mr. Philips, that he asked one of the proprietors of the Galveston *News* at what price they would furnish another department with certain books, and, after ascertaining the price, did not notify the Superintendent. What his object could have been we cannot conjecture.

Before closing this report we desire to call the attention of the Legislature to the fact that the committee was in session over two and one-half months; that during this time it sat in secret, and took evidence *ex parte* for about



three weeks, and gave the Superintendent, for the purpose of having his witnesses brought here and examined, eight days—that is, they gave him from the second of April to the ninth of April (originally to the eighth), subpoenaing witnesses in the city of Austin on the third, and giving him subpoenas for the witnesses for the State at large on the morning of the fourth of April, after the mail had left, thereby leaving him (excluding Sunday) four days in which to bring witnesses from long distances, and different parts of the State. Attention is especially invited to this action of the committee, and to his statement under oath as to what he desired to prove by his witnesses. The labors performed by the Superintendent of Public Instruction, in opening to the youth of the State two thousand and sixty-seven free schools, employing two thousand six hundred and twenty-five teachers, and placing into these schools over one hundred and twenty-seven thousand children, at an actual cost to the State of about one dollar and forty cents per scholar per month, with all expenses paid, in the first year of the operation of the school law, speaks for itself.

The testimony, in our opinion, shows that the Superintendent has performed his duty fully under the law which he has sworn to execute; if this law is not one the majority of your committee approves, it is not his fault.

The Superintendent had, no doubt, the power to make political capital with his office, but no evidence has been produced to show that he has done so, except that of Judge Caldwell, and he speaks of street rumors; he had also opportunities to speculate with school money, but no evidence has been elicited to show that he has done so; but on the contrary, the committee, while in secret session, and once afterwards (see evidence of Thomas H. Sharp, page 61, re-examination), did ask different witnesses questions affecting the honesty and integrity of the Superintendent, and were in all instances answered in his favor; but this evidence was not recorded, except in the case of Sharp.

We here call attention to the evidence of Mr. Philips (page 64, cross-examination), which shows that Col. Parker was never indebted to the State.

The superintendent, before approving the vouchers of Col. Parker and Col. Smith, traveling examiners, and Major Griffin, supervisor, while the two latter were serv-

ing as militia officers, and the former in the United States revenue service, asked the opinion of the Attorney General as to the justice of their claim as school officers ; upon his opinion (see page 98) their vouchers were approved. We also refer to the Attorney General's evidence, on pages 97 and 98, and of Mr. Eggleston, No. 44.

We call attention to the statement of Major John N. Shafter (page 101), who swears that he did not draw pay as supervisor and major of militia for the same time. Major Welch was an employé of the Superintendent's office to the twenty-first of January, 1873, which is shown by the testimony of Major Welch (No. 38, page 110), and also by Hon. J. P. Newcomb (No. 40, page 112), and nothing to the contrary is shown, except that he was in the *State Journal* office before that time, which may have been true, but it is not shown that he did not perform his services in the Superintendent's office ; he may have worked at the *Journal* office after office hours ; nothing is produced to show that he worked there during office hours.

The evidence of Warren Norton should not be taken into consideration. He states that Mr. Ribble was supervisor of schools when he taught at Sherman ; but the report of the Superintendent shows that Ribble had been discharged nearly a year before that time. (See testimony, page 46.) His entire testimony and letters, attached thereto, show that he is not reliable.

The majority of your committee refer to the employment of attorneys to represent the State in school tax cases, and blame the Superintendent severely for such action, when it is shown on page 100 that the Board of Education directed the Superintendent to so employ an attorney, and fix his salary. This has no doubt been done under section five of the school act, approved April 24, 1871. In justice to the Superintendent, we desire to state, that on the first day of the meeting of the Senate committee, he informed the chairman, Hon. J. D. Sayers, that newspapers had made serious charges against him regarding the purchase of slate blackboards, furniture and school books, taking the ground that he was interested in their sale. He requested the chairman then, and afterwards, to send interrogatories to the different houses from whom these articles were purchased, and ascertain whether these rumors were based on facts ; but this was

not done. The reason why this was not done, we cannot give, as the committee certainly should have sent to the fountain head to get facts, and not receive street rumors, and accept hearsay as evidence.

The minority of your committee deem hardly worth noticing that portion of the report of the majority of your committee which refers to the Superintendent drawing traveling expenses when he had a free pass over the Central Railroad, when it is well known that in this, as well as all other States, passes are given to persons by railroads, and not to offices they may occupy; and we have yet to learn that any member of the Legislature holding a free pass has ever refused to accept his mileage.

The suspicions the majority of your committee seem to entertain in reference to certain purchases, could, we opine, have been easily cleared up, if they had so desired, by sending interrogatories to the places of purchase.

In conclusion, we desire to say that the testimony, although taken in a great measure *ex parte*, fails to sustain the charges and insinuations contained in the report of the majority of your committee.

P. W. HALL,

For Minority of Committee.

The report was laid on the table for examination.

Mr. Sabin introduced a joint resolution providing for the publication of a volume of reports concerning the cases decided by the Supreme Court of the Republic of Texas. Referred to Judiciary Committee No. 1.

Also, joint resolution relative to our Senators and Representatives in Congress. Read first time, and referred to the Committee on Federal Relations.

Mr. Tom introduced a bill for the relief of John Henderson. Read first time; rules suspended, read second time and ordered engrossed. The bill was read third time.

Mr. Russell moved to refer it to the Committee on Private Land Claims. The House refused to refer.

On motion of Mr. Tom, the bill was then referred to the Committee on Private Land Claims.

Mr. Mills moved to reconsider the vote of yesterday, fixing the rate of pay for newspapers furnished up to March 6 at five cents per copy. The House refused to reconsider.

Mr. Watts introduced a bill to prohibit the sale or giving away of spirituous, vinous, malt, or other intoxicating liquors at certain places therein named. Read first time; rules suspended, read second time and ordered engrossed.

On motion of Mr. Watts, the rules were further suspended, the bill read third time and passed.

Mr. Powers presented a bill to incorporate the Texas detective police agency. Referred to the Committee on State Affairs.

The conference committee upon Senate bill No. 218, "An act to establish and maintain a system of public free schools in the State of Texas," submitted the following report:

*Hon. E. B. Pickett, President of the Senate, and the Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIRS: Your committee of free conference of the two houses, to whom was referred the questions of difference between the Senate and House of Representatives on Senate bill No. 218, to be entitled "An act to establish a system of public free schools in the State of Texas," have had the same under careful consideration, and beg leave to make the following report, viz:

That the House shall recede from the first and second amendments to section one.

That the House shall recede from the House amendment to section sixteen.

That the House shall recede from the third and fourth amendments to section twenty-two.

That the House shall recede from the amendment to section twenty-three, and that said section be stricken out and the following be inserted in lieu thereof:

SEC. 23. An *ad valorem* tax for the scholastic year commencing September 1, 1873, of twenty-five cents upon each one hundred dollars of taxable property, is hereby levied for the purpose of building and repairing school houses, which shall be collected in the same manner as other taxes are collected in the several school districts of the several counties; *provided*, that this tax, or any portion thereof, may be relinquished (before collection) to the tax payers of any district, by the board of directors, upon information from the board of trustees of said district that no such tax is necessary; *and provided further*,

that the tax herein provided for shall not go into the public school fund, but shall be expended in the district in which it may be collected; *and provided further*, that no district shall be taxed for the building or repairing of school houses situate in any other district; *and provided further*, that this tax shall not be collected in any district wherein no public free school is established, or proposed to be established.

That the House shall recede from the first amendment to section twenty-five.

That the Senate shall concur in the second amendment to section twenty-five.

That the House shall recede from the third amendment to section twenty-five.

That the Senate shall concur in the second amendment to section twenty-seven.

That the House shall recede from the first amendment to section thirty-two.

That the House shall recede from the second amendment to section thirty-two.

That the Senate shall concur in the second amendment to section thirty-four.

That the Senate shall concur in the amendment to section thirty-seven.

That the Senate shall concur in the House substitute for section thirty-eight.

That section thirty-eight shall be section thirty-nine.

E. L. DOHONEY,  
Chairman Senate Committee.  
J. W. KEMBLE,  
Chairman House Committee.

Mr. Wood moved to postpone the further consideration of the matter until May 2.

Mr. Harrison moved to lay that motion on the table, which motion carried.

The report was then adopted and the bill thus amended passed.

The following communication was ordered to be spread upon the journal :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: The undersigned being called off on yesterday evening upon the conference committee of the two Houses when the vote was taken upon the joint resolution calling

a constitutional convention, would respectfully ask that their names appear on the journal as voting for the proposition.

(Signed)

J. G. KILLOUGH,  
ED. CHAMBERS,  
J. W. KEMBLE.

The Speaker announced House bill No. 662, An act to release certain taxes to the residents of Cooke, Wise, Parker, Hood, Erath, Hamilton, Lampasas, Burnet, Blanco, Kendall, Bandera, Medina, Frio, McMullen, Duval, Starr and all the counties lying west and southwest of the same," with amendments by the Senate. The amendments were concurred in and the bill passed.

Senate bill No. 246, "An act to amend an act to organize the courts of justices of the peace and County Courts, and to define their jurisdiction and duties, approved August 13, 1870;" and to repeal so much of section three of said act as gives an appeal from justices's courts in judgments rendered in cases of forcible entry and detainer, was referred to Judiciary Committee No. 2.

Senate bill No. 274, "An act to validate and supplement the charter of the Bastrop Coal Company of Texas," was referred to the Committee on State Affairs.

Senate bill No. 302, "An act to incorporate the town of McDade, in Bastrop county, Texas," was taken up.

On motion of Mr. Anderson, the reading of the bill was dispensed with.

The bill was then read by caption, rules suspended, the bill read second time and passed to third reading.

On motion, the rules were further suspended, the bill read third time and passed.

Senate bill No. 306, "An act to incorporate the town of Wharton, in Wharton county," was taken up.

Reading dispensed with.

Rules suspended, read second time; rules further suspended, read third time by caption and passed.

The consideration of House bill No. 453, a bill regulating taxation, was then resumed, pending the amendment offered by Cook and the amendment thereto by Mr. Russell. Mr. Kleberg moved to lay the amendment to the amendment on the table, which carried.

Mr. Payne moved to lay the amendment on the table, which carried.

Mr. Cook offered the following amendment: Line one

hundred and eighty-eight, insert after the word "every" the word "protecting." Amendment adopted.

Mr. Sayers offered the following: Section three, line sixty-seven, strike out "fifty dollars" and insert "twenty-five dollars;" in line sixty-nine strike out "twenty-five dollars" and insert "fifteen dollars."

Mr. Sabin offered the following substitute for the amendment and section: "SEC. 3. That all occupations not mechanical or agricultural shall be taxed as follows: All occupations twenty-five dollars per annum, and all persons following the same shall pay the same before engaging therein."

Mr. Denton moved to lay the amendment and substitute on the table.

Division being called for, the question was put upon the substitute. The House tabled the substitute by the following vote:

Yeas—Messrs. Speaker, Adriance, Allison, Anderson, Armstrong, Bledsoe, Bordeaux, Broaddus, Brown of Upshur, Chambers, Cook, Davenport, Day, Denton, Ellett, Gaston, Ghent, Gillette, Gilpin, Hester, Hoffman, Ireland, Joseph, Kemble, Killough, Kleberg, Lane, Leyendecker, Manning, Nelson, Payne, Powers, Prendergast, Rainey, Robb, Rosborough, Sayers, Scott, Shaw, Smith of Colorado, Smith of Houston, Storey, Thurmond, Tilson, Van Zandt, Watts, Westfall, Winkler and Wood—49.

Nays—Messrs. Abbott, Booty, Brown of Dallas, Carroll, Cunningham, Doyle, Mabry, Mills, Moore, Morris, Noeggerath, Phelps, Roberts, Russell, Sabin, Salter, Schmidt, Shelton, Stockbridge, Tivy, Tom, Trolinger, Washington, Wilder and Williams—25.

Mr. Sayers then withdrew his amendment.

Mr. Brown of Dallas offered the following: Strike out the words "fifty" in line sixty-seven and "twenty-five" in line sixty-nine, and insert in each place the words "thirty-seven and a half;" strike out the words "fifty" in line seventy-three and "twenty-five" in line seventy-five, and insert in each case "thirty-seven and a half." The House refused to adopt the amendment.

Mr. Storey offered the following: Amend section three by inserting in line one hundred and fifty-seven, after the word "auctioneer," the words "in every town or city of not less than two thousand inhabitants;" and in line one hundred and fifty-eight, after the word "dollars," insert

the following: "And on all other auctioneers an annual direct tax of ten dollars." The House refused to adopt the amendment.

Mr. Anderson offered the following: Section three, line twenty, strike out "two hundred and fifty" and insert "five hundred."

Mr. Sayers moved to lay the amendment on the table, which carried.

Mr. Anderson offered the following: Line one hundred and seventeen, strike out "traveling agent," and insert "person." Amendment adopted.

Mr. Prendergast moved to reconsider the vote just taken. The vote was reconsidered.

Mr. Anderson then offered the following amendment to his amendment: Insert "traveling" before "person." Amendment adopted.

Mr. Anderson offered the following amendment: Lines one hundred and eighteen and one hundred and nineteen, strike out "patent or specific medicines," and insert after the word "dollars," in line one hundred and nineteen, "from every traveling person selling patent or other medicines by retail five hundred dollars, and the person so selling shall pay said tax before engaging therein."

Mr. Rainey offered the following substitute for the amendment: "From every person traveling through any county selling or bartering patent recipes or patent or specific medicines, five hundred dollars; *provided*, that this provision shall not be so construed as to apply to agents traveling for mercantile houses in any town or city."

The House refused to adopt the substitute. The amendment was then adopted.

Mr. Smith of Colorado offered the following: Strike out all of section three after the word "dollars," in line one hundred and fifty-eight, and insert in lieu thereof as follows: "For every practicing physician having a permanent home in this State, ten dollars, and for every physician or surgeon having no permanent home in this State, five hundred dollars in each county where he may practice his profession."

The Committee on Engrossed Bills submitted the following report:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SEN: Your Committee on Engrossed Bills have carefully examined the following bills:



No. 332, "An act supplemental to and amendatory of the several acts concerning injunctions."

No. 794, "An act to amend section seven of an act entitled an act to incorporate the city of Waco."

No. 50, a bill to be entitled "An act to regulate the practice of medicine."

No. 560, a bill to be entitled "An act to amend articles five hundred and twenty-seven and five hundred and twenty seven *α* of the code of criminal procedure."

And find the same correctly engrossed.

BOOTY, Chairman.

A message from the Senate announced the passage by that body of the following House bills:

No. 23, "An act to create and provide for the organization of the county of Gregg."

No. 411, a bill to be entitled, "An act to create the county of Waller."

No. 399, "An act to provide for the registration of births."

Also, of the following Senate bills:

No. 254, "An act to incorporate the city of El Paso."

Joint resolution No. 32, instructing our Senators and requesting our Representatives in Congress to endeavor to secure the improvement of the harbor of Galveston, and requesting for the memorial of the mayor and board of aldermen of the city of Galveston, upon that subject, the early and favorable consideration of the Congress of the United States.

No. 275, "An act to organize the county of Green."

No. 255, "An act to incorporate the Paris Street Railway Company."

No. 248, "An act to empower the Commissioner of the General Land Office to issue Willett Homes a headright certificate of one league and one labor of land."

No. 207, "An act to incorporate the Shelby County Agricultural, Mechanical and Industrial Association."

No. 184, "An act to incorporate the Germania, of Columbus."

Also, that the Senate had adopted the report of the Conference Committee upon the school bill.

On motion of Mr. Morris, the House then adjourned until 4 P. M.

## AFTERNOON SESSION.

House met pursuant to adjournment. Roll called, quorum present.

The following gentlemen were absent :

Messrs. Bewley, Day, Doyle, Ellett, Lyendecker and Phelps.

On motion, Mr. Hester was granted leave of absence for six days.

Mr. Hester moved to reconsider the vote of this morning, tabling amendments to the bill regulating taxation, offered by Messrs. Cook and Russell.

By consent, the matter was postponed until to-morrow morning.

The Texas Military Institute bill was then resumed, being unfinished business of yesterday.

Pending an amendment offered by Mr. Rainey, Mr. Mills submitted the following minority report upon the bill :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: We, the minority of your Committee on Education, respectfully present this as our report on House bill No. 393, "An act providing for the establishment of the Texas Military Institute and State Normal Academy."

After maturely considering the provisions of said bill, and after investigating the condition and workings of said institute, we are convinced that the objects to be obtained by said bill are very meritorious, and of great importance to the State.

1. It supplies what is now considered, and universally acknowledged to be the great want in our educational system—a normal school for the education of teachers.

2. It turns over to the control of the State, as a great head to its educational system, an organization which the State could only establish by years of experience and vast expenditures of money.

3. In full running order it will keep within the State \$100,000 gold, which would otherwise be taken out of the State for educational purposes.

4. Would furnish in due time educated men in the profession of arms to officer and discipline her volunteers and militia throughout the State. Every State should labor to have an efficient militia system. This end

would be attained without any additional expense to the State.

5. It is the duty of all parties to forward the higher education of the youth of our State; and we think State aid is as much due to the advancement of great educational enterprises as to internal improvements; and while we vote millions to subsidize vast monied corporations, can we not, to advance the material prosperity of the State, contribute this miserable pittance to advance the moral and intellectual standard of the young men of our glorious commonwealth? The appropriation asked is not a bonus to the present owners of the institution, but every county in our State is beneficiary; the spending of every dime is securely guarded, as all funds have to pass through the hands of visitors, two of whom are to be members of this honorable body.

All buildings, apparatus, etc., invested in for the institution, are to be held by them in trust for the State. The proprietors are only aided in being able to furnish additional accommodations and superior facilities to their students. They have already done as much as can be done by private means and private credit; and shall we let such an enterprise fail for the want of a few dollars, when we have millions appropriated and set aside for school purposes?

As to the constitutionality of said appropriation, we think it can be made, as the establishing and maintaining of a normal school is indirectly, if not directly, supporting the common school system. If the appropriation cannot come from that source, we recommend that it be taken from any funds in the Treasury not otherwise appropriated, until proper constitutional enactments are adopted looking to a provision from the school fund for normal purposes.

This institution opened the doors of its halls four years ago, and in its first session matriculated twenty-eight cadets. This session it has matriculated one hundred and fifty, and if sufficient accommodations had been provided would have numbered upon its rolls at least two hundred. This speaks well for the management and for the mental culture obtained there. We think its history without a parallel in that of the private schools of the country, and it is the duty of the State to encourage and foster such enterprises in her limits. Other States set us a noble example: witness Virginia, Louisiana, Rhode

Island and Mississippi what aid they give to such institutions. This is not a local enterprise as almost the entire patronage is from a distance. More than fifty counties have representatives within her walls.

We must, therefore, respectfully recommend that the bill pass.

J. S. MILLS.

Mr. Ireland moved to re-commit the bill to Judiciary Committee No. 2.

Mr. Rainey moved to amend the motion by requiring that the committee be required to report thereon on Monday next. The motion carried, and the bill was re-committed.

Mr. Smith, of Houston, called up House bill No. 594. "An act to incorporate the St. Louis and Mexican Gulf Railway, and to grant land in aid of the construction thereof."

The bill was taken up by sections.

Mr. Smith, of Colorado, offered the following amendment: Add at the end of section first "necessary to the construction, maintenance and business operations of the road and for depot purposes, except land received from the State of Texas." Amendment adopted.

On motion of Mr. Shaw, the name of Marshall Marsh, of Newark, Ohio, was added to the list of incorporators.

Mr. Rainey offered the following amendment to section two: After the word "of" in line twenty-two add "the court house or business centre of." The amendment was adopted.

Mr. Ireland moved to amend by inserting in line seven, section two, after the word "gauge," the words "of not less width than four feet eight and a half inches." Amendment adopted.

Mr. Russell offered the following amendment: "*Provided*, should the road in direct line run within five miles of any county town, then it shall run to and establish a depot for passengers and freight within one-half mile of the business portion of said town, the town giving right of way and sufficient land for depot purposes." Amendment adopted.

Mr. Wood offered the following amendment: Add to section three, "within the limits of the right of way herein granted out of the public domain of the State."

Mr. Morris moved to lay the amendment on the table, which carried.

Mr. Smith of Colorado offered the following: Add to section six: "*Provided*, the rail-roads and franchises, depots and shops shall not be mortgaged or hypothecated without a vote of a majority of the stockholders of the company, previously given in its favor." The House refused to adopt the amendment.

Mr. Manning moved to amend section seven by adding: "*Provided*, that in no case shall the State be in any way liable for deficiency of vacant domain." The amendment was adopted.

Mr. Smith offered the following amendment: Section nine, line twelve, after the word "road" insert "or as otherwise provided by law." The amendment was adopted.

Mr. Smith of Colorado offered the following: Section seven, line forty-two, after the word "company" insert: "the even sections shall be reserved to the common school fund, as provided by law." The amendment was adopted.

Mr. Shaw offered the following: Section ten, line nine, strike out "fifty" and insert "seventy-five." The House adopted the amendment.

Mr. Brown of Dallas offered the following: After the word "enacted," line twelve, section ten, insert "in relation to railroads." The amendment was adopted.

Mr. Smith, of Colorado, moved to amend section eleven, line eighteen, by inserting after the word "other" the word "railroad."

The amendment was adopted.

Mr. Prendergast offered the following: Section eleven, line eighteen, strike out all after the word "corporation" and insert the following: "and shall not be conveyed in trust for said railroad company, nor to any firm or company of which any officer or stockholder of said railroad company is a member, and a violation of the provisions of this act, or the general laws on the subject of railroads, or a failure to comply with the requirements hereof, and of such general laws, shall work a forfeiture of the benefits of this act.

The amendment was adopted.

Mr. Abbott moved to amend section twelve, line eight, by striking out "that," and inserting in lieu thereof "any." Amendment adopted.

Mr. Brown, of Dallas, moved to amend as follows:

“SEC. 13. That the said company shall not be allowed to rent, lease or sell to, or consolidate with any converging, competing or parallel railroad, and a violation of this provision, judicially ascertained, shall work a forfeiture of its charter.” Change section thirteen to fourteen.

The amendment was adopted.

Mr. Anderson moved to amend section seven by inserting after the word “mentioned,” in line ten, the words “within the State of Texas.”

The House adopted the amendment.

Mr. Storey moved to amend section seven by adding: “*Provided*, that this section shall not be construed so as to give said company more than sixteen sections of land per mile, on account of any part of said road being built double track.” Amendment adopted.

Mr. Ireland moved to amend section nine, line three, by inserting after the word “point” the words “in the State of Texas.”

The amendment was adopted.

Mr. Anderson moved to amend section two by inserting after the word “thereof,” in line twenty, the words “thence to Red River.”

The House adopted the amendment.

Mr. Smith, of Colorado, offered the following substitute for section twelve: “That this company shall not take any land from the State under this act for any part of its road that may be run on the road bed of the East Texas Railway Company, or parallel thereto, and within five miles thereof, and for which part of the road of the latter company bonus lands have heretofore been issued by the State. The commissioners appointed to inspect and receive said road shall, in their report, state the amount of land to be deducted, if any, to be made on account of lands heretofore received by the said East Texas Railway Company as aforesaid.”

The House refused to adopt the amendment.

Mr. Ireland moved to amend by adding to section twelve: “All lands heretofore granted to the East Texas Railway Company not alienated in good faith on the first day of April, 1873, shall hereby revert to the State.”

Mr. Washington moved the previous question, which being seconded, was put. The House refused to order the main question.

Mr. Anderson offered the following substitute for the

amendment: "Provided, that this company shall not receive any lands from the State heretofore granted to the East Texas Railroad."

The substitute was adopted, and the amendments adopted into the bill.

Mr. Brown of Dallas moved to amend section ten by striking out the word "September," in lines four and eight, and inserting in lieu thereof "November." The amendment was adopted, and the bill, thus amended, adopted.

The bill was then ordered engrossed.

On motion of Mr. Brown of Dallas, the rules were suspended, the bill read third time and passed by the following vote:

Yeas—Messrs. Speaker, Abbott, Adriance, Allison, Anderson, Armstrong, Bledsoe, Booty, Brown of Upshur, Brown of Dallas, Carroll, Cook, Cunningham, Dav-enport, Day, Denton, Doyle, Eastland, Ford, Gallaway, Gaston, Ghent, Gillette, Gilpin, Hollingsworth, Ireland, Manning, Mills, Moore, Morris, Nelson, Noeggerath, Payne, Phelps, Powers, Prendergast, Rainey, Robb, Russell, Sabin, Salter, Sayers, Schmidt, Scott, Shaw, Shelton, Short, Smith of Colorado, Smith of Houston, Storey, Stockbridge, Thurmond, Tilson, Tivy, Tom, Van Zandt, Washington, Watts, Westfall, Wilder, Williams, Winkler and Wood—63.

Nays—Messrs. Bordeaux, Chambers, Harrison, Hoffman and Trolinger—5.

On motion of Mr. Washington, the House adjourned until 9 A. M. to-morrow.

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HOUSE OF REPRESENTATIVES,  
AUSTIN, TEXAS, May 1, 1873.

House met pursuant to adjournment. Prayer by the chaplain. Roll called; quorum present.

Absent—Messrs. Bewley, Mills and Payne.

On motion of Mr. Kleberg, Mr. Leyendecker was excused for six days.

On motion of Mr. Bledsoe, the leave of absence of Mr. Veale was extended for five days.

On motion of Mr. Ireland the reading of the journal was dispensed with.

On motion of Mr. Ireland, Judiciary Committee No. 2 was granted leave to report, and submitted the following :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Judiciary Committee No. 2, to whom was referred joint resolution asking the appointment of a clerk of the District Court of Austin county, beg leave to report a bill herewith as a substitute for said resolution, and ask the passage of said bill.

IRELAND, Chairman.

The bill, being "An act to enable the district judges to make temporary appointments of clerks of the district courts in cases of vacancies," was read and adopted.

Rules suspended, read second time and ordered engrossed.

On motion, the rules were further suspended, the bill read third time and passed.

On motion of Mr. Anderson, the special committee upon the Bayland Orphans' Home bill was granted leave to report, and submitted a substitute bill, recommending its passage.

The bill, "An act to aid the Bayland 'Orphans' Home, situated on Galveston bay, in Harris county," was read first time and adopted.

Rules suspended, bill read second time and ordered engrossed.

On motion of Mr. Anderson, the rules were further suspended, the bill read third time and passed by the following vote :

Yeas—Messrs. Speaker, Abbott, Adriance, Allison, Anderson, Armstrong, Berends, Bledsoe, Booty, Bordeaux, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Chambers, Cook, Cunningham, Davenport, Day, Denton, Doyle, Eastland, Ellett, Ford, Gallaway, Gaston, Gillette, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Kemble, Killough, Kleberg, Mabry, Manning, Mills, Moore, Nelson, Noeggerath, Phelps, Powers, Prendergast, Rimes, Robb, Roberts, Rosborough, Russell, Sabin, Salter, Schmidt, Shaw, Shelton, Short, Smith of Colorado, Smith of Houston, Storey, Stockbridge, Thurmond, Tilson, Tivy, Tom, Trölinger, Van Zandt, Venters, Washington, Watts, Westfall, Wilder, Williams, Winkler and Wood—74.

Nays—None.



Mr. Sabin introduced a bill providing for the condemnation and sale of lands for taxes, which, upon his motion, was laid on the table, and one hundred copies were ordered printed.

Mr. Westfall presented a petition for the relief of the legal representatives of James Day and Sam T. Allen. Referred to the Committee on Private Land Claims.

Mr. Denton introduced a bill to enlarge the boundaries of Concho county.

Read first time ; rules suspended, read second time and ordered engrossed.

On motion of Mr. Denton, the rules were further suspended, the bill read third time and passed.

Mr. Adriance introduced a bill for the relief of the heirs of John A. Wharton, deceased. Referred to the Committee on Private Land Claims.

Also "An act for the relief of Timothy Hoyt." Referred to the Committee on Private Land Claims.

Mr. Roberts offered the following resolution :

*Resolved*, That the five minutes rule as to speaking on any question, be so changed as to admit of ten minutes, and that the same be, and is hereby changed from five to ten minutes.

Laid over under the rules.

Mr. Booty introduced a bill to provide for the purchase of Paschal's Annotated Digest, and payment for the same.

Read first time ; rules suspended, read second time.

Mr. Smith of Colorado moved to strike out "one thousand" and insert "five hundred."

Mr. Tilson moved to lay the motion on the table, which carried.

Mr. Morris moved to strike out "one thousand" and insert in lieu thereof "one copy for each organized county in the State."

Mr. Mills moved to amend the amendment by providing that "each justice of the peace be furnished with a copy of said digest."

Mr. Rainey moved the previous question, which being seconded was put, and the main question ordered.

The House then refused to adopt the amendment to the amendment.

The amendment was then put and failed to carry.

The House then refused to engross the bill.

Mr. Washington introduced a bill for the relief of Madison county. Referred to the Committee on Finance.

Mr. Shaw introduced a bill for the relief of R. D. Smith. Referred to the Committee on Private Land Claims.

Mr. Thurmond introduced a bill to incorporate the National Rio Grande and El Paso Railway and Telegraph Company. Referred to the Committee on Internal Improvements.

Mr. Hollingsworth introduced a bill to provide for an election of a commission to select a site for a branch penitentiary, etc. Read first time, laid on the table; made special order for Saturday, May 3, 10 A. M., and one hundred copies were ordered printed.

Mr. Denton moved to reconsider the vote passing the bill enlarging the boundaries of Concho county, which motion carried.

Mr. Brown of Dallas offered the following amendments: Amend by striking out all from the word "west," in line twelve, to the word "fifty," in line fourteen. Strike out the words, "parallel with the south boundary line," and insert in lieu thereof, "due west of the southwest corner of Concho county." Add to section one: "Thence north with the west line of Concho county to the beginning." The amendments were adopted, and the bill passed.

Mr. Anderson moved to suspend the rules, and take up House bill No. 546, "An act to provide for the sale of all lands heretofore given to counties for the purposes of education," which carried.

On motion of Mr. Anderson, the bill was laid on the table, and made special order for May 2, at 10 A. M.

Mr. Joseph introduced "An act to authorize the County Court of Galveston county to levy a special tax to build a jail and court house addition, and to issue bonds for that purpose." Referred to the Committee on Town and City Corporations.

Mr. Russell asked that his name appear as the author of the amendment to the amendment to House bill No. 453, instead of that of Mr. Wood, as erroneously appears in the morning journal; also, that his name appear as the author of the amendment requiring the St. Louis and Mexican Gulf Railway Company to establish a freight and passenger depot within one half mile of the

business portion of any county town within five miles of its direct route, instead of that of Mr. Wood, as appears in the evening journal of April 30. The corrections were made.

Mr. Hollingsworth moved to reconsider the vote of yesterday, indefinitely postponing Senate bill No. 132, "An act confirming the outstanding debt of the State of Texas, and providing for the settlement and payment of the same." The House refused to reconsider.

Senate bill No. 275, "An act to organize the county of Green," was read first time and referred to the Committee on Counties and County Boundaries.

Senate bill No. 255, "An act to incorporate the Paris Street Railway Company," was read first time and referred to the Committee on Internal Improvements.

Senate bill No. 207, "An act to incorporate the Shelby County Agricultural, Mechanical and Industrial Association," was read first time and referred to the Committee on Town and City Corporations.

Senate bill No. 248, "An act to empower the Commissioner of the General Land Office to issue to Willet Holmes a headright certificate of one league and one labor of land," was read first time and referred to the Committee on Private Land Claims.

Senate bill No. 319, "An act for the relief of the heirs of James W. Dickson, deceased," was read first time; rules suspended, read second time, and on motion of Mr. Prendergast, referred to the Committee on Private Land Claims.

Senate bill No. 184, "An act to incorporate the Germania of Columbus," was read first time; rules suspended, read second time and passed to third reading.

On motion of Mr. Smith of Colorado, the rules were further suspended, the bill read third time and passed.

Senate joint resolution No. 32, instructing our Senators, and requesting our Representatives in Congress to endeavor to secure the improvement of the harbor of Galveston, and requesting for the memorial of the mayor and board of aldermen of the city of Galveston, upon that subject the early and favorable consideration of the Congress of the United States, was read first time; rules suspended, read second time and passed to a third reading.

On motion, the rules were further suspended, the joint resolution read third time and passed.

On motion of Mr. Wood, Mr. Kleberg was excused for the remainder of the day, on account of sickness.

Mr. Westfall was granted leave to withdraw a petition from the Committee on State Affairs.

Mr. Bledsoe moved to take up House bill No. 133, to accurately define the land district of Palo Pinto, and to make valid the surveys and locations heretofore made therein, which motion was carried.

The Senate amendments thereto were read and concurred in and the bill passed.

Mr. Mills moved to suspend the rules and take up bills reported by committees upon the Speaker's table. The House refused to suspend.

Unfinished business, House bill No. 453, a bill regulating taxation, was then resumed, pending an amendment offered by Mr. Smith of Colorado.

Mr. Hester moved to reconsider the vote by which the House refused to adopt the amendment offered by Mr. Cook, and the amendment thereto by Mr. Russell.

Mr. Sayers moved to suspend the five minute's rule, so far as Mr. Russell was concerned. The House refused to suspend.

After discussion, Mr. Mills moved the previous question, which, being seconded, was put, and the main question ordered. The House then refused to reconsider.

The amendment offered by Mr. Smith of Colorado, was then adopted.

Mr. Killough offered the following amendment: Amend section three, line one hundred and twenty-seven, by adding after the word "dollar," "from every traveling fortune teller one hundred dollars, and from every traveling spiritualist, clairvoyant, mesmerist, or medium so called, who plies his or her vocation for money, five hundred dollars." The amendment was adopted.

Mr. Smith of Colorado moved to amend the amendment just adopted by striking out the word "traveling," which amendment was adopted.

Mr. Allison offered the following amendments: Section three, add after the word "dollars," in line one hundred and two, the following: "and more than twelve thousand dollars;" strike out lines one hundred and three and one hundred and four, and the following words in line one hundred and five, "of the fourth class," and substitute the following: "and a fourth class retail merchant is one

whose annual purchases amount to less than twelve thousand dollars." The amendments were adopted.

Mr. Kemble offered the following amendment: Add to line fourteen, section three, "And should any one who obtains a license under this act knowingly sell adulterated spirits or drugs, he shall forfeit his license and be deemed guilty of a misdemeanor, and on conviction before a proper court, be punished by a fine of not less one hundred nor more than five hundred dollars, and shall not obtain license to sell spirits or drugs in this State for five years, and this provision shall be embodied in the license hereafter granted to sell spirits or drugs; *and provided further*, should any fines be collected under this provision, the amount thereof shall be placed to the credit of the jury fund of the county where collected." The amendment failed to carry.

Mr. Armstrong offered the following: Section three, line seventeen, strike out the word "fifty" and insert "twenty-five;" line twenty strike out the words "and fifty."

Mr. Wood moved to lay the amendments on the table, which carried.

Mr. Cook offered the following amendment: Section three, line one hundred and eight, strike out from the word "from" to the end of line one hundred and sixty-one.

Mr. Payne moved to lay the amendment on the table, which carried.

Mr. Berends offered the following amendment: Amend section three, in line sixty-seven, in place of "fifty" insert "twenty-five;" in line sixty-nine, in place of "twenty-five" insert "fifteen," and in line seventy-one, after the word "dollars," add "*Provided*, that no boarding house shall be considered liable to occupation tax."

Mr. Gaston moved to lay the amendment on the table, which carried.

Mr. Sayers moved to amend section three by adding: "For every dentist ten dollars." The amendment was adopted.

Mr. Booty offered the following amendment: Add to section three the following: "For every person not a lawyer who practices conveyancing, or files inventories or appraisements of community or other estates, or does other things legitimately belonging to the practice of law,

ten dollars; and the acceptance of a fee for any such services shall be deemed to bring the party accepting the same within the provisions of this act."

Mr. Shaw moved to lay the amendment on the table, which carried.

Mr. Russell offered the following amendment: Strike out all after the word "occupation," in line twenty-eight, section three, to the word "or" in line thirty, and insert: "For every traveling vendor of fruit trees, ten dollars in each county in which he may pursue such occupation; *provided*, said trees were not raised within the State."

Mr. Tom moved to lay the amendment upon the table, which carried.

Mr. Anderson moved to amend section three, line twenty-one, by striking out "ten" and inserting "twenty-five." Line twenty-four, strike out "twenty-five" and insert "fifty." Line twenty-six, strike out "fifty" and insert "one hundred."

Mr. Payne moved to lay the amendments upon the table, which carried.

Mr. Sayers offered the following amendment: Section three, line one hundred and twenty-one, after the word "exchange" insert, "or discounting paper."

Mr. Gallaway moved to adjourn. The House refused to adjourn.

A message from the Senate announced the passage by that body of the following bills:

Senate bill No. 319, "An act for the relief of the heirs of James W. Dickson, deceased."

Senate bill No. 327, "An act supplemental to an act reimbursing Bastrop county, and appropriating the sum of two hundred and twenty-five dollars for that purpose, approved March 20, 1873."

A message from his Excellency the Governor was received, returning House bill No. 340, "An act to ascertain the amounts due the teachers of the public free schools of this State prior to the first day of March, A. D. 1873, and to provide for the payment of the same," with his objections to the same.

Also, enclosing a communication from F. L. Britton, Adjutant General, containing information asked by the House, relative to the defalcation of James A. Davidson, late Adjutant General.

Mr. Rainey moved to suspend the business before the

House, and take up the message of His Excellency the Governor, vetoing House bill No. 340, "An act to ascertain the amounts due the teachers of the public free schools of this State prior to the first day of March, A. D. 1873, and to provide for the payment of the same," which motion carried, and the message was read and ordered spread upon the journal.

EXECUTIVE OFFICE, STATE OF TEXAS, }  
AUSTIN, May 1, 1873. }

*Hon. M. D. K. Taylor, Speaker of the House of Representatives of the State of Texas:*

SIR: I return to the House of Representatives, where it originated, the act entitled, "An act to ascertain the amounts due the teachers of the public schools of this State prior to the first day of March, A. D. 1873, and to provide for the payment of the same," and ask that it be reconsidered.

There is a constitutional objection to the terms of this act that in itself renders the act void. The money herein appropriated is declared in section one to be "out of the available school fund. Now, the only available school fund we have is that derived from interest on the permanent school fund. and the income derived from from taxation for school purposes; but the Constitution, in section nine, article nine, expressly directs that the Legislature shall annually appropriate the money on hand from these sources to be equally distributed among all the scholastic population of the State. The money appropriated in this act is not intended to be distributed according to scholastic population. On the contrary, the wording of sections one, three and five, taken in connection with the fact that a provision originally in the act (as I am informed) directing such distribution was stricken out, makes it apparent that this money is not to be thus distributed, but is to be paid out at Austin, without regard to the rights of the respective school districts.

This misappropriation of the school fund should certainly not be permitted by the Legislature. It is manifestly unfair that the people of certain counties where the payment of the school tax has been evaded, and where, therefore, the teachers have not been paid, should be permitted to make up the deficiency out of that part of the available fund which of right belongs to counties where

the people have paid the tax, and thus owe nothing to their teachers. That Travis county, for instance, where wealthy people have evaded the tax by taking advantage of legal technicalities, and which is thus upwards of twenty-two thousands of dollars short in what is due its teachers, should take the quota of the school fund belonging to Williamson, Upshur, or Matagorda, where the people have promptly paid their tax, and thus owe nothing. This would be a species of injustice not to be supposed to have been within the contemplation of the Legislature in the passage of this act, yet the act can only be so construed.

Beyond this defect, however, there is another and very suspicious feature of the act, which must have been overlooked by the Legislature. It will be perceived that section four lays down a number of regulations which must be complied with by teachers before they can draw any pay under it. The numerous prerequisites are so many obstacles in the way of the teacher, that it is doubtful whether any considerable number of them would ever succeed in getting the Comptroller to pay their accounts; but not so with the speculator who has preyed upon the necessities of the teacher. By the interpolation of the brief proviso in that section four, that an approved voucher in accordance with the law now in force shall be taken as the account herein provided for, it is plain that the speculator who has, perhaps, purchased some starving teacher's approved voucher at a discount of twenty five or fifty per cent., is not to be put to any delay about the cashing of the voucher, while the teacher himself, if he has kept his voucher, may be sent to a distant part of the State, and be put to a delay of months in getting proof of service called for in that section.

When it is understood that the amount due teachers throughout the State, up to the first of March, is upward of \$600,000 (not \$400,000 as appropriated by this act), that the amount of available school fund, in cash now in the Treasury, to be distributed is considerably less than \$300,000, and that this act leaves it entirely within the discretion of the Comptroller to say who shall or shall not be paid, it will be apparent how wide the door is open to speculation and fraud, and how slight the prospect that the teachers will get any relief from this act.

But, though this act is impracticable and objectionable,



it need not stand in the way of a legitimate appropriation of the available school fund. The amount on hand should be distributed to the districts at once, there to be used in paying teachers and other expenses. The apportionment should be made by the Superintendent according to the ratio of the last scholastic census, and the act of appropriation might provide that vouchers in teachers' hands or in the hands of those who have paid the teachers at par for them should have a preference in payment.

I therefore request, if these suggestions be favorably considered, the early passage of such an act. The teachers may thereby, within a few days, receive substantial relief to the extent of the money in the Treasury.

Very respectfully,

EDMUND J. DAVIS, Governor.

Mr. Ellett moved to refer the bill and message to Judiciary Committee No. 1.

Mr. Smith of Houston moved to lay the motion on the table, which carried.

Mr. Killough moved that the bill do pass, notwithstanding the objections of his Excellency the Governor.

The bill then passed by the following two-thirds vote :

Yeas—Messrs. Speaker, Adriance, Allison, Anderson, Armstrong, Berends, Booty, Bordeaux, Brown of Upshur, Brown of Dallas, Carroll, Chambers, Cook, Cunningham, Davenport, Day, Denton, Doyle, Eastland, Ford, Galloway, Gaston, Ghent, Gillette, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Kemble, Killough, Lane, Manning, Noeggerath, Payne, Powers, Prendergast, Rainey, Rimes, Rosborough, Russell, Salter, Sayers, Schmidt, Scott, Shaw, Shelton, Smith of Colorado, Smith of Houston, Storey, Thurmond, Tilson, Tivy, Tom, Trolinger, Venters, Watts, Westfall, Winkler and Wood—61.

Nays—Messrs. Abbott, Ellett, Mabry, Moore, Morris, Phelps, Robb, Roberts, Sabin, Stockbridge, Washington, Wilder and Williams—13.

The Committee on Engrossed Bills submitted the following report :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Engrossed Bills have carefully examined following House bills:

No. 802, a bill to be entitled "An act to enable certain towns and cities to erect hospitals."

No. 721, a bill to be entitled "An act to regulate the assessment and collection of taxes."

No. 594, "An act to incorporate the St. Louis and Mexican Gulf Railroad Company; and to grant land to aid in the construction thereof."

No. 228, a bill to be entitled "An act to amend article four hundred and thirty-five of the code of Criminal Procedure."

No. 312, House joint resolution providing for a vote of the people calling a convention to frame a new Constitution for the State, and providing for the election of delegates thereto, and the time for the convening thereof.

And find the same correctly engrossed.

BOOTY, Chairman.

The Committee on Enrolled Bills submitted the following reports:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Enrolled Bills have carefully examined the following:

Bill No. 23, "An act to create and provide for the organization of the county of Gregg;" also, bill No. 411, "An act to create the county of Waller," and find the same correctly enrolled, and have this the first day of May, at 10 o'clock A. M., presented the same to the Governor for his signature.

W. A. SHAW, Chairman.

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Enrolled Bills have carefully examined and compared the following bills:

No. 254, "An act to authorize the County Court of Upshur county to issue interest-bearing bonds to finish paying for the building of a court house of said county, and to levy and collect a tax to pay the same."

No. 305, "An act authorizing and requiring the Commissioner of the General Land Office to issue certain land certificates therein named."

No. 448, "An act to incorporate the Austin Trust Company."

No. 347, "An act to incorporate the Leon River Bridge Company."

No. 420, "An act for the relief of the heirs of William Garrett, deceased."

No. 379, "An act to authorize James P. Dumas and such other persons as he may associate with him, and their successors, to construct and keep a toll bridge on, over, and across, Choctaw bayou, in Grayson county, Texas."

And find them correctly enrolled, and have this the thirtieth day of April, at 12 o'clock M., presented the same to the Governor for his signature.

W. A. SHAW, Chairman.

On motion of Mr. Denton, the House adjourned until 4 o'clock P. M.

AFTERNOON SESSION.

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

Absent—Messrs. Anderson, Ellett, Hoffman and Winkler.

The following message from His Excellency the Governor, with accompanying communication from the Adjutant General, were read and referred to the Committee on Finance:

EXECUTIVE OFFICE, STATE OF TEXAS, }  
AUSTIN, May 1, 1873. }

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Enclosed please find a communication from F. L. Britton, Adjutant General, containing the information called for in the resolution adopted by your honorable body on the twenty-fifth of April.

This is all the information I can give on this subject, there being none in the Executive office proper.

Very respectfully,

EDMUND J. DAVIS, Governor.

ADJUTANT GENERAL'S OFFICE, STATE OF TEXAS, }  
AUSTIN, April 30, 1873. }

SIR: In compliance with your request, I have the honor to furnish the following statement with reference to amount of funds embezzled by the late Adjutant General James Davidson, on account of frontier defense fund, and support of State police, as taken from my report for year 1872. (See page 5.)

Cash drawn from State Treasury on account of frontier defense fund, for which no vouchers were filed .....	\$2,907 27
Cash drawn from State Treasury on account of frontier defense fund, for which vouchers were filed, and stoppages made from pay of frontier forces, not paid over to proper parties (see exhibit marked "B" hereto attached).....	10,701 08
Warrants drawn from Comptroller's office for support of State police, for which no vouchers have been filed.....	19,093 23
Warrants drawn from Comptroller's office for which vouchers were filed and stoppages made, which have not been paid over to proper parties (see exhibit marked "D") .....	2,038 09
<b>Total</b> .....	<b>\$34,739 67</b>

Very respectfully, your obedient servant,  
**F. L. BRITTON,**

Adjutant General State of Texas,  
 To His Excellency EDMUND J. DAVIS, Governor State of Texas. Austin, Texas.

*Exhibit "B." (Page 222.)—Statement of stoppages from pay of frontier forces still due at Adjutant General's office.*

COMPANY "D," F. F.

John R. Kelso, stoppages from company, not to be paid until Kelso accounts for five mules, etc., (on hand).....	\$534 59
Stanley Welch, (on hand) .....	56 00
Half & Levy, (on hand).....	549 86
Brown & Martin .....	87 90
<b>Total</b> .....	<b>\$1,228 35</b>

COMPANY "E," F. F.

H. J. Richarz, certificate of indebtedness, stated by H. J. Richarz to have been stolen from him, presented by R. & W., not to be paid until real owner is found, (on hand).....

	\$643 80
Jas. Lamon.....	356 70
John Keinle.....	209 90
Joe Bader, from pay of Aug. Haller.....	19 25
E. A. Bates & Son, from pay of Aug. Haller...	19 25
Jos. Ney, from pay of Jesse Bacon.....	10 60
Bates & Son, from pay of Jesse Bacon.....	27 00
Brown & Martin, from pay of Jesse Bacon.....	16 50
<hr/>	
Total.....	\$1,344 25

COMPANY "F," F. F.

D. T. Smith, from pay of J. R. Enirs.....	\$10 00
A. M. Swift, from pay of J. Garner.....	10 00
J. W. Reid, from pay of J. M. Fitzgerald.....	130 00
E. B. Seglers, from pay of J. R. Eners.....	30 00
J. P. Townsend, from pay of D. T. Smith.....	10 00
Jas. Sheeler, from pay of C. Robinson.....	66 00
A. M. Swift, from pay of D. T. Smith.....	10 00
A. L. Lewis, from pay of E. B. Segler.....	45 00
— Estes, from pay of F. M. Sorrels.....	125 00
J. M. Chesser, from pay of A. J. Wilhart.....	125 00
S. Ripstein, from pay of E. H. Cobb.....	6 00
D. P. Baker, from pay of C. H. Figuires.....	10 00
A. C. Hill, from pay of C. H. Figuires.....	122 50
J. T. Segler, from pay of C. H. Figuires.....	11 00
S. Ripstein, from pay of C. H. Figuires.....	6 00
C. H. Figuires (himself).....	51 94
S. Brown & Co., from pay of J. W. H. Breaker,	17 53
S. Ripstein, from pay of J. W. H. Breaker...	6 00
S. Brown & Co., from pay of J. P. Townsend...	79 28
N. Hobson, from pay of J. P. Townsend.....	130 22
S. Ripstein, from pay of J. P. Townsend.....	6 00
D. P. Baker, balance stoppages in his favor....	115 26
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Total.....	\$1,122 73

Total, brought forward.....	\$1,122 73
Less overcoats and blankets paid for the following men of Company F, who have not yet signed vouchers for settlement of their accounts:	
W. Archer.....	\$19 50
W. Caruthers.....	15 50
J. E. Henry.....	15 50
E. B. Woodruff.....	5 25
George McPhail.....	13 75
Charles Bronn.....	12 00
John Hoyer.....	12 00
George Jackson.....	12 00
A. M. Swift.....	7 50--\$113 00
	<hr/>
	\$1,009 73

## COMPANY "T," F. F.

Toppermin, from stoppages from H. Biberstein..	\$47 70
Kuhn.....	22 50
Koenig.....	67 00
Kline.....	28 00
Behrends.....	83 00
Lequer.....	7 00
Elmendorff & Co.....	34 69
Ed. Braden.....	41 30
L. Heith.....	23 00
	<hr/>
Total.....	\$354 19

## COMPANY "H," F. F.

A. Rice, from stoppage of Peter Kleid (on hand)	\$90 00
Robt. Guering, certificate of indebtedness.....	314 06
	<hr/>
Total.....	\$384 06

## COMPANY "P," F. F.

George Lee, from pay of D. S. Ogle.....	\$19 00
W. B. Pace, from pay of J. E. Sliven.....	2 54
L. Levysen, from pay of J. Coffield.....	5 70
G. T. Gage, from pay of S. P. Elkins.....	17 10
	<hr/>
Total.....	\$74 34

COMPANY "D," F. F.

Half & Levy, from company.....	\$284 37
Brown & Martin, from company.....	83 06
J. Kuykendall, from Geo. Davis.....	30 00
Geo. Davis from W. Gearhart.....	12 12
Fitch, Frost & Bro.; from N. Newton.....	5 17
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Total.....	\$414 72

GENERAL ACCOUNTS.

Theodore Garza, services, Company A.....	\$295 00
Elmendorff & Co., quartermaster stores, Com- pany H.....	33 48
J. W. Wixon, transportation, Company H....	130 00
John Markwood, rations, Company K.....	200 64
Brown & Martin, transportation, Company H..	44 40
C. A. Patton, transportation, Company C.....	100 00
J. W. Sanson, ordnance stores, Company C...	77 48
D. P. Baker, quartermaster stores, Company F.	75 00
F. Radcliff, quartermaster stores, Company G.	22 00
Manerman & Co., ordnance stores, Company D.	263 50
H. L. Nelson, transportation, Company C.....	55 00
Diffendorffer & Co., transportation, Comp'y D.	4,594 96
<hr/>	
	\$5,891 46
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Total.....	\$10,701 08

*Exhibit D—Stoppages due Sundries, from pay of State Policemen.*

W. H. Thiell, retained from October pay.....	\$60 00
Robert Smith, " " " ".....	60 00
H. E. Smith, " " " ".....	60 00
M. M. Pinner, " " " ".....	60 00
J. H. Mounts, " " September and Octo- pay.....	118 00
J. F. Jennings, retained from October pay.....	60 00
A. C. Brown, " " " ".....	10 00
Z. T. Hudson, " " " ".....	80 00
Robert Ferguson, " " " ".....	60 00
S. W. Davis, " " " ".....	60 00

Daniel Arwine, retained from October pay.....	60 00
J. M. Redmon, " " " ".....	80 00
John S. Coffey, " " Septemb'r ".....	65 00
J. C. Farley, " " October ".....	60 00
J. Q. A. Carter, " " Septemb'r ".....	10 00
J. B. Porter, " " " ".....	18 00
Leroy Lee, " " " ".....	10 00
N. L. Hunter, " " October ".....	60 00
Jos. Schmerber, " " " ".....	40 00
Geo. W. Farrow, stopped from James Houston.	11 20
John R. Kelso, balance on December pay.....	4 00
B. S. Wilson to J. M. Arivarte, from March pay.	32 50
W. S. Durham, balance on August pay.....	40 00
Nat. Moore, from Simp. King.....	\$5 00
Nat. Moore, from J. J. Hollander.....	9 00
	<hr/>
	14 00
Less, paid on account.....	2 00
	<hr/>
	12 00
C. T. Allen, from Jocelyn.....	22 00
Jones & Stelfox, from O. E. Morgan.....	0 50
B. S. Wilson, from W. C. Slade.....	42 90
S. G. Kingsbury, from J. J. L. Hollander.....	12 00
John McClane, from G. F. B. Vega.....	20 00
J. L. Viguers, from G. F. B. Vega.....	11 25
J. E. Taylor, sundries.....	72 12
A. B. Hall, from W. Marshal.....	50 00
J. J. Kendrick, sundries.....	14 28
Pat. Rafferty, balance on October pay.....	20 00
George Thompson, reimbursement from George W. Smith.....	12 00
Taylor Watts, reimbursement from George W. Smith.....	12 00
Andrew Barrett, reimbursement from George W. Smith.....	12 00
W. H. Morris, from George Graves.....	28 00
W. Kluge, from H. M. Ryan.....	22 75
J. G. Tracy, for sundries to H. U.....	12 00
Deats & Sherdin, from L. Birdsell.....	23 07
John B. Rhodes, sundries.....	23 80
J. B. Farris, balance on Dan Taylor and P. Teague.....	7 00
P. G. Milstead, sundries.....	26 40
Charles Haughn, sundries.....	2 50



M. Delgada, balance October pay.....	2 00
George P. Buell, from W. Green.....	60 00
W. M. Waddell, from R. D. Johnson.....	18 00
M. York, balance August pay.....	7 62
W. H. Bell, from Irving Moore.....	70 25
J. K. McKenna, from E. P. Duke.....	41 75
A. G. Malloy, from W. W. Lewis.....	100 00
C. Welch, from W. W. Lewis.....	35 00
E. A. Quick, subs. sundries.....	21 00
W. Bonnet, balance October pay.....	3 00
J. E. Hollingsworth, balance on August pay of sundries.....	37 10
Ed. Creary, balance on December pay.....	17 00
Charles Jung, balance on September pay.....	6 00
Thomas Carson, balance on September pay.....	19 00
H. O. Rogers, balance on October pay.....	8 00
J. T. Watson, balance on October pay.....	12 00
T. Cooper, balance an October pay.....	3 00

\$2038 09

On motion of Mr. Berends, Judiciary Committee No. 1 were granted leave to make a special report, and submitted the following :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Judiciary Committee No. 1, to whom was referred House bill No. 586, to incorporate the San Antonio and Austin Railroad Company, have had the same under consideration, and instruct me to report the same back to the House, with a substitute for section eight as an amendment thereto, and as thus amended, to recommend its passage.

POWERS, for Committee.

Substitute for section eight offered by the committee :  
 "That said company shall receive sixteen sections of six hundred and forty acres each for every mile of road built and put in running order by it ; that certificates for such land shall be issued to said company upon the completion of each ten miles of said road. Upon the completion of the first ten miles and each successive ten miles the president of said road may report the fact of such completion to the Governor of the State under oath, whose duty it shall be at once to appoint a competent engineer to inspect the road so completed and reported, and if on inspection

the said engineer shall find the road so reported built and finished in a proper manner and in running order, he shall report the same to the Governor, who shall certify the fact to the Commissioner of the General Land Office, whose duty it shall then be, upon demand, to issue to said company sixteen certificates for six hundred and forty acres each for each mile of road so built, inspected and certified as above directed; *provided*, said company shall alienate the lands it may get under this act, one-third in six, one-third in twelve, and one-third in eighteen years from the date of location, and said company shall be subject to all general laws governing railway companies. That the certificates issued by this act shall be located and surveyed in alternate sections, and the odd sections to be patented to the company and the even alternate sections set apart for the use of the common school fund, as provided by law for the location, survey and returning maps thereof to the General Land Office of lands granted to railroad companies." The substitute was adopted.

The bill was laid on the table, made special order for Tuesday, May 6, 1873, at 4 P. M., and one hundred copies were ordered printed.

On motion of Mr. Bledsoe, the Committee on Internal Improvements were granted leave to make the following report:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 638, have had the same under consideration, and instruct me to report it back, with the recommendation that it do pass.

WATTS, for Committee.

The bill, being a bill to incorporate the Fort Worth, Cleburne and Waco Railway Company, and granting land in aid of the construction of said railway, was laid on the table and one hundred copies were ordered printed.

Mr. Brown of Dallas moved to suspend the rules and take up House bill No. 66, a bill to amend "An act to incorporate the Dallas and Wichita Railroad Company;" No. 111, a bill to incorporate the Dallas, Palestine and Southeast Texas Railway Company; No. 291, a bill to incorporate the Gulf, Colorado and Santa Fé Railway Company; No. 383, a bill to incorporate the Beaumont,

Corsicana and Fort Worth Railway Company ; No. 474, a bill to incorporate the Hearne, Belton and Northwestern Railroad Company, and aid in constructing the same ; No. 599, "An act to incorporate the Corpus Christi and Rio Grande Railway Company, and to aid in the construction of the same ;" and Senate bill No. 120, "An act amendatory of an act entitled an act to incorporate the Rio Grande Railway Company, approved August 13, 1870," and No. 654, "An act to amend an act amending sections two and twelve of an act to incorporate the Hempstead, Eastern and Western Railway Trunk Company," and act upon them according to priority of date, which motion carried.

Mr. Mills moved to lay the bills just taken upon the table, which motion carried.

On motion of Mr. Rimes, the Committee on State Affairs were granted leave to make a special report, and submitted the following :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on State Affairs, to whom was referred a bill, No. 610, entitled "An act to incorporate the City Bank of Dallas," have duly considered the same and beg leave to report the same back with the recommendation that it do pass.

RUSSELL, for Committee.

On motion, the reading of the bill was dispensed with, and the bill was ordered engrossed.

On motion the rules were further suspended and the bill was read third time.

Mr. Morris offered the following amendment: Add to section two the following: "*Provided*, that said company shall not be empowered to purchase more real estate than may be necessary to carry on a legitimate banking business."

The amendment was adopted.

Mr. Morris offered the following amendment: "*Provided*, said company shall not be authorized to take any mortgage on property, unless it be to secure bad or doubtful debts previously contracted." The House refused to adopt the amendment.

The bill then passed.

Mr. Winkler moved that the Committee on Internal Improvements be allowed to report upon Senate bills :

No. 13, "An act to consolidate the Houston Tap and Brazoria railway, the Huntsville Branch railway, and the Victoria and Columbia railroad, with the Houston and Great Northern railway."

No. 100, "An act to provide for the merger of the Waco and Northwestern Railway Company, with its properties, rights, privileges and franchises, in the Houston and Texas Central Railway Company."

No. 154, "An act to regulate the stoppage of passenger cars at railroad stations."

The motion was adopted.

The Committee on Internal Improvements submitted the following report :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 45, entitled, "An act to consolidate the Houston Tap and Brazoria railway, the Huntsville Branch railway, and the Victoria railroad, with the Houston and Great Northern railroad," and Senate bill No. 13, on the same subject, have considered the same, and have instructed me to recommend that House bill No. 45 lie on the table, and that Senate bill No. 13 be passed.

WINKLER, Chairman.

The bill was read second time and ordered engrossed. On motion of Mr. Ireland, the rules were further suspended and the bill read third time.

Mr. Mills offered the following amendment: "*Provided*, that the Houston Tap Railroad and Huntsville Branch Railway shall not have any lands given to them from the State counted in the main line of said Houston and Great Northern Railway."

Mr. Joseph moved to lay the amendment on the table, which carried. \*

Mr. Abbott moved to lay the bill on the table and have one hundred copies thereof printed. Mr. Ireland moved to lay that motion on the table, which motion carried. The bill then passed.

Leave being granted, Mr. Ireland offered the following resolution :

*Resolved*, That hereafter the committees shall be called in their order, and no other business shall be done until all the business reported by said committees is disposed of, unless by a four-fifths vote.

Laid over under the rules.

Leave being granted, Mr. Smith, of Colorado, offered the following resolution :

*Resolved*, That the rules fixing the time of the meeting of this House be so changed that there shall hereafter be held two meetings per day, Sunday excepted, as follows : one beginning at nine o'clock A. M. and the other at half-past seven P. M., for the residue of this session.

Laid over under the rules.

Mr. Gallaway offered the following resolution :

*Resolved*, That hereafter the House of Representatives shall proceed in strict accordance with the rules of the House as adopted at an early day of its session, and that said rules shall not be suspended in any case during the present session without a vote of four-fifths of the House, and that all resolutions heretofore adopted in regard to the order of business be, and the same are hereby, rescinded, annulled and set aside.

Laid over under the rules.

On motion of Mr. Sayers, the House then adjourned until 9 A. M. to-morrow.

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HOUSE OF REPRESENTATIVES, }  
AUSTIN, TEXAS, May 2, 1873. }

House met pursuant to adjournment. Prayer by the chaplain. Roll called ; quorum present.

Absent—Messrs Bewley, Cook and Smith of Colorado.

On motion of Mr. Bordeaux, Messrs. Van Zandt and Trolinger were excused on account of sickness.

On motion of Mr. Russell, Mr. Scott was excused for the day, on account of sickness.

On motion, the reading of the journal was dispensed with.

Mr. Morris submitted the following personal explanation, which was ordered spread upon the journal :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: It will be recollected that in the passage of the act to ascertain the amount due the teachers of public schools, and to provide for its payment, through this House, it received at every stage my cordial support. My atten-

tion was not directed, until the reading of the veto message, to the ninth section, article nine, of the Constitution, which expressly directs that the fund proposed to be appropriated by the bill shall be "*equally* distributed among the scholastic population of the State." In my view, the proposed act violates that provision of the Constitution; and, however great the just desire for the payment of the teachers of the public schools, on reconsideration of the measure, I felt constrained, under my construction of that instrument, to sustain the Governor's veto. The call of the previous question having precluded this explanation at the time of giving my vote, I avail myself of the constitutional right of placing this brief note of the same on the journal of the House of Representatives.

W. W. MORRIS.

Mr. Winkler moved to reconsider the vote which refused to engross House bill No. 813, a bill to provide for the purchase of Paschal's Annotated Digest, and payment for the same.

Mr. Ireland moved the previous question, which was seconded, put and carried.

The vote was reconsidered by the following vote:

Yeas—Messrs. Abbott, Adriance, Allison, Anderson, Bledsoe, Booty, Carroll, Cook, Doyle, Eastland, Ellett, Ford, Gallaway, Gilpin, Harrison, Ireland, Joseph, Kemble, Kleberg, Mabry, Phelps, Powers, Prendergast, Roberts, Sabin, Sayers, Storey, Stockbridge, Thurmond, Tilson, Tom, Venters, Washington, Watts, Westfall and Winkler—36.

Nays—Messrs. Speaker, Armstrong, Berends, Bordeaux, Broadus, Brown of Upshur, Cunningham, Dav-enport, Day, Denton, Gaston, Ghent, Gillette, Hoffman, Killough, Manning, Moore, Morris, Nelson, Noeggerath, Payne, Rainey, Rimes, Robb, Rosborough, Russell, Salter, Schmidt, Shelton, Short, Smith of Colorado, Smith of Houston, Tivy, Wilder and Wood—35.

On motion of Mr. Winkler, the bill was then referred to a special committee of five.

The Speaker appointed the following gentlemen on the committee: Messrs. Winkler, chairman, Booty, Broadus, Ireland and Joseph.

Mr. Armstrong moved to reconsider the vote which passed House bill No. 340. "An act to ascertain the

amounts due the teachers of the public schools of this State prior to the first day of March, A. D. 1873, and to provide for the payment of the same," notwithstanding the objections of his Excellency the Governor. The House refused to reconsider.

Mr. Nelson presented a petition from the citizens of Hopkins county, asking for the passage of a law prohibiting certain stock from running at large. Referred to the Committee on Agriculture and Stock Raising.

Upon his request leave was granted Mr. Kleberg to withdraw a petition for the relief of A. S. Thurmond, from the Committee on Military Affairs, and it was referred to the following special committee appointed by the Speaker: Messrs. Armstrong, chairman, Bordeaux, Gilpin, Short and Watts.

Mr. Killough introduced a bill amendatory of "An act entitled an act to incorporate the Bastrop Casino Association," approved October 27, 1866. Read first time, and, on motion of Mr. Killough, the rules were suspended, the bill read second time and ordered engrossed.

On motion of Mr. Killough the rules were further suspended, the bill read third time and passed.

Mr. Ireland introduced a bill to regulate sales of landed property made under decrees of courts. Read first time, and, on motion of Mr. Ireland, the rules were suspended, the bill read second time and referred to the following special committee: Messrs. Smith of Colorado and Powers.

The special order was then announced, being House bill No. 546, "An act to provide for the sale of all lands heretofore given to counties for the purposes of education."

Mr. Sayers moved to suspend the consideration of the special order, and take up the bill regulating taxation, resuming the special order when the tax bill should have been disposed of. The House refused to postpone.

Leave being granted, Mr. Winkler offered the following resolution:

*Resolved*, That Judiciary Committee No. 2 be directed to inquire into the propriety and expediency of so amending existing laws on the subject as to permit sheriffs holding properly audited warrants for services rendered by themselves, or their deputies, to the State, to retain in their hands of any money that may come into

their hands belonging to the State such amounts on settlement with the Treasury, and report by bill or otherwise.

The resolution was adopted, and referred to the Committee on the Penitentiary.

The special order was then taken up, and, on motion of Mr. Anderson, the House went into committee of the whole upon the bill.

After discussion, the committee arose, and through its chairman, Mr. Booty, reported no progress.

Mr. Ireland offered the following as a substitute for the pending bill: "An act to authorize the County Courts to dispose of the school lands."

Mr. Bordeaux offered the following amendments: Strike out the word "cash," and insert, "on five years credit, payable one-fifth annually, with ten per cent. interest." In section one, line five, insert the words, "without regard to the value of any improvements upon the same, and the settler shall be entitled to take the same at the highest bid."

Mr. Wood moved the previous question, which being seconded, was put, and the main question ordered by the following vote:

Yeas—Messrs. Speaker, Adriance, Allison, Armstrong, Booty, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Chambers, Davenport, Day, Denton, Eastland, Gallaway, Gaston, Ghent, Gillette, Gilpin, Hollingsworth, Ireland, Joseph, Kemble, Killough, Manning, Mills, Moore, Payne, Powers, Prendergast, Rainey, Rosborough, Russell, Sayers, Shelton, Short, Smith of Houston, Storey, Thurmond, Tivy, Tom, Washington, Watts, Winkler and Wood—45.

Nays—Messrs. Anderson, Berends, Bordeaux, Cook, Cunningham, Doyle, Ellett, Ford, Harrison, Hoffman, Lane, Mabry, Morris, Nelson, Phelps, Robb, Sabin, Shaw, Smith of Colorado, Stockbridge, Tilson, Westfall, Wilder and Williams—24.

The House then adopted the substitute by the following vote:

Yeas—Messrs. Adriance, Allison, Armstrong, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Chambers, Davenport, Day, Denton, Eastland, Gallaway, Gaston, Ghent, Gillette, Gilpin, Harrison, Ireland, Joseph, Kemble, Killough, Manning, Mills, Payne, Powers,



Prendergast, Rainey, Russell, Sayers, Shelton, Short, Smith of Houston, Storey, Thurmond, Tivy, Tom, Washington, Watts, Winkler and Wood—41.

Nays—Messrs. Anderson, Berends, Booty, Bordeaux, Cook, Cunningham, Doyle, Ellett, Ford, Hoffman, Hollingsworth, Lane, Mabry, Moore, Morris, Nelson, Phelps, Robb, Rosborough, Sabin, Shaw, Smith of Colorado, Stockbridge, Tilson, Westfall, Wilder and Williams—27.

On motion of Mr. Wood, the bill was then referred to the following special committee, appointed by the Speaker: Messrs. Ireland, chairman; Bordeaux, Cunningham, Doyle and Westfall.

Mr. Ireland moved to reconsider the final vote passing Senate bill No. 13, "An act to consolidate the Houston, Tap and Brazoria Railway, the Huntsville Branch Railway, and the Victoria and Columbia Railway with the Houston and Great Northern Railway."

Action upon the motion was postponed until the bill could be obtained.

A message from the Senate announced the passage by that body of House bill No. 125, a bill entitled "An act to prescribe the mode and manner of designating exempted homesteads in certain counties," with amendments by the Senate.

House bill No. 468, a bill for the relief of J. Lancaster, with amendments by the Senate.

Senate bill No. 292, "An act to incorporate the Sherman, Tyler and Henderson Railway Company, and to grant lands to aid in the construction thereof."

Senate bill No. 311, "An act to incorporate the Bastrop Turn Verein."

On motion of Mr. Booty, the House then adjourned until 4 P. M.

#### AFTERNOON SESSION.

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

On motion of Mr. Booty, Mr. Walker was excused indefinitely, on account of sickness in his family.

On motion of Mr. Trolinger, Mr. Doyle was excused for the evening, being in attendance on a sick friend.

On motion of Mr. Shelton, Mr. Robb was excused on account of official business.

On motion of Mr. Gallaway, Mr. Salter was excused for the evening on account of pressing business.

On motion of Mr. Allison, Mr. Morris was excused for five days from to-morrow.

Mr. Watts called up House bill No. 383, "An act to incorporate the Beaumont, Corsicana and Fort Worth Railway Company," with which was submitted the following report from the Committee on Internal Improvements :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 383, entitled "An act to incorporate the Beaumont, Corsicana and Fort Worth Railroad Company," have had the same under consideration, and have instructed me to report the same back to the House, and recommend the passage of the bill with the accompanying amendments.

WINKLER, Chairman.

1. Amend by striking out all after the word "provided," on second page, and inserting the following: "That said company shall establish a passenger and freight depot within one-half mile of the business portion of each of said towns; *provided*, said towns respectively shall donate to said company sufficient land for right of way, switches, side tracks and depot buildings, not to exceed in each case fifteen acres."

2. In latter part of section two, strike out all after the word "thereof" and insert in lieu thereof the following: "That said company shall commence the construction of their said road at Beaumont or Concord, and shall complete and put in good substantial running order fifty miles of said road by the first day of January, A. D. 1876, and shall thereafter annually construct and put in good, substantial running order twenty-five miles of said road, and upon failing to comply with the provisions of this section said company shall forfeit all right to the lands herein donated except upon completed road."

3. In first part of section eleven strike out all after the word "corporation" in line five, to the word "the" in line eight, and insert in lieu thereof the following: "And so soon as two hundred and fifty thousand dollars of the capital stock of said corporation shall be subscribed, and five per cent. thereof paid in and the balance thereof secured by promissory note."

4. In section nineteen strike out all after the word "require" in line four, to the word "the" in line six.

5. Strike out section twenty-three.

6. Strike out the word "consolidation" wherever it occurs in the bill.

7. Strike out section twenty-four, and insert the following as section twenty-three: "SEC. 23. That the State of Texas hereby donates and grants to said company sixteen sections of land, of six hundred and forty acres each, for each and every mile of road completed and put in good, substantial running order on said line, as hereinafter provided; that whenever and as often as said company shall construct and put in good, substantial running order a section of ten miles or more of said road, may inform the Governor of the fact, and it shall be his duty to appoint some skillful engineer to examine said section of road, and if upon the report of such engineer made to the Commissioner of the General Land Office, under oath, it shall appear that said road has been constructed and put in good, substantial running order, and in accordance with this act, and of the laws of this State, thereupon it shall be the duty of the Commissioner of the General Land Office to issue to said company sixteen land certificates of six hundred and forty acres each for each mile of such completed road. That all land certificates issued to said company under the provisions of this act may be located upon any of the unappropriated public domain of the State, and shall be surveyed in alternate sections; that is to say, said company shall cause to be surveyed for each certificate so issued, two sections of land of six hundred and forty acres each adjoining, and shall return to the General Land Office the field notes and maps of the same, and the Commissioner of the General Land Office shall thereupon number said sections so surveyed and shall cause to be issued to said company patents to the odd sections, the even sections being reserved to the school fund. *Provided*, that the State of Texas shall not be responsible for any deficiency in public land upon which to locate such certificates, and any of such certificates not located because the public lands are exhausted, shall constitute no claim against the State of Texas."

8. Strike out section twenty-five and insert the following as section twenty-four: "SEC. 24. That said com-

pany shall alienate the lands hereby donated except so far as may be necessary to the maintenance and running said road, as follows: One fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining one-fourth in twenty years from the date of the certificates, in such manner that the whole of such land shall pass out of the hands of said company within twenty years from the date of the certificates; *provided*, that said lands shall in no instance be alienated to any other railroad company except so far as may be absolutely necessary for the use and conducting the business of such company; nor to any other corporation or company of which any of the officers or stockholders of this company are members; nor to any other corporation, company, person or persons in trust for this company; and upon failure to comply with, or a violation of the provisions of this section, the company shall forfeit all right to such lands not alienated as herein required. That said company shall be subject to the laws of this State regulating railroads and railroad companies, now or hereafter to be in force."

9. Add as section twenty-five: "SEC. 25. That said company shall not have the right to consolidate with, or sell or lease to, or purchase or lease any competing, parallel or converging railroad line; and the violation of this section shall work a forfeiture of all rights secured by this act."

The amendments were adopted.

On motion of Mr. Mills, the reading of the bill was dispensed with, and it was passed to a second reading.

On motion of Mr. Brown of Dallas, the vote dispensing with the reading was reconsidered.

The bill was then taken up by sections.

Mr. Winkler moved to amend section nine by filling the first blank with the words "two years," and the second blank with the words "first day of July." The amendments were adopted.

Mr. Prendergast moved to amend section twenty-four by inserting after the word "with" as follows, "or a violation of." The amendment was adopted.

Mr. Brown of Dallas moved to amend section twenty-five, line four, by inserting after the word "converging" the word "railroad." The amendment was adopted.

The bill was then ordered engrossed.

On motion of Mr. Brown of Dallas, the rules were suspended, the bill read third time, and passed by the following vote:

Yeas—Messrs. Speaker, Adriance, Allison, Anderson, Armstrong, Berends, Bledsoe, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Cook, Davenport, Day, Eastland, Ford, Gallaway, Gaston, Ghent, Gillette, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Kemble, Killough, Kleberg, Lane, Mabry, Manning, Morris, Nelson, Noeggerath, Powers, Prendergast, Rainey, Roberts, Rosborough, Russell, Sabin, Sayers, Shaw, Smith of Colorado, Smith of Houston, Storey, Stockbridge, Thurmond, Tilson, Tivy, Tom, Watts, Westfall and Winkler—55.

Nays—Messrs. Bordeaux, Chambers, Cunningham, Denton, Mills, Moore, Shelton, Trolinger and Williams—9.

Mr. Bewley's name having been called, Mr. Brown of Dallas asked to be permitted to call up a bill for that gentleman, who had made a written request of him to that effect. The House refused to allow him to call up the bill.

Mr. Eastland called up House bill No. 474, a bill to incorporate the Hearne, Belton and Northwestern Railroad Company.

The following report thereon was submitted by the Committee on Internal Improvements:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 474, have considered the same, and beg leave to report the accompanying substitute, and recommend its passage.

FORD, for Committee.

Mr. Cook moved to lay the substitute on the table and have one hundred copies thereof printed. The House refused to print.

The substitute was then read and adopted.

Mr. Ireland offered the following amendment: Insert in section two, after the word "Constitution," the words "or laws." The amendment was adopted.

Mr. Nelson offered the following amendment: Amend by striking out "ninety-nine" and inserting "sixty." The amendment was adopted.

Mr. Prendergast offered the following amendment: Add

to section thirteen the following: "*And provided further*, that the lands hereby granted shall not be alienated to any other corporation or company, except so far as is necessary for the proper use and conducting of the business of such corporation or company, or to any person, firm or company, in trust for said railroad company; or to any company, corporation or firm, of which any officer or stockholder of said railroad company is a member; and a failure to comply with, or a violation of the provisions of this section, or of the general laws of this State concerning railroad companies, shall forfeit all benefits under this section." The amendment was adopted.

The bill was then ordered engrossed.

On motion of Mr. Eastland, the rules were suspended and the bill read by caption third time.

Mr. Cook offered the following amendment: "*Provided*, that in no event shall said Hearne, Belton and Northwestern Railway Company, or their successors, be allowed to sell or lease to, or consolidate said Hearne, Belton and Northwestern Railway Company with the Houston and Texas Central or International Railway Companies, or either of them, or to their successors; and any such sale or lease to, or consolidation with, either of said companies or their successors, shall operate as a forfeiture of the charter, chartered rights and franchises of said Hearne, Belton and Northwestern Company." The amendment was adopted.

The bill was then passed by the following vote:

Yeas—Messrs. Speaker, Adriance, Allison, Anderson, Berends, Booty, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Cook, Davenport, Day, Denton, Eastland, Ford, Gallaway, Gaston, Ghent, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Kemble, Killough, Kleberg, Lane, Mabry, Manning, Mills, Morris, Nelson, Noeggerath, Powers, Prendergast, Rainey, Roberts, Rosborough, Russell, Sabin, Sayers, Shaw, Shelton, Short, Smith of Colorado, Smith of Houston, Storey, Stockbridge, Thurmond, Tilson, Tivy, Tom, Watts, Westfall, Williams, Winkler and Wood—59.

Nays—Messrs. Chambers and Moore—2.

The Committee on Engrossed Bills submitted the following report:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Engrossed Bills have examined the following bills :

No. 760, "An act to authorize the holders of State warrants to surrender the same to the Treasurer, and receive State bonds for the same."

No. 610, a bill to be entitled "An act to incorporate the City Bank of Dallas."

No. 819, "An act amendatory of an act entitled an act to incorporate the Bastrop Casino Association, approved October 27, 1866."

No. 808, bill to enable the district judges to make temporary appointments of clerks of the District Courts in cases of vacancies.

No. 812, a bill to be entitled "An act to enlarge the boundaries of Concho county."

No. 618, a bill to aid the Bayland Orphans' Home, situated on Galveston Bay, in Harris county, Texas.

And find the same correctly engrossed.

BOOTY, Chairman.

The Committee on Enrolled Bills submitted the following reports :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Enrolled Bills have carefully examined House bill No. 662, "An act releasing certain frontier counties from taxation for certain reasons therein named," and find the same correctly enrolled, and have this the second day of May, at 4:30 o'clock P. M., presented the same to the Governor for his signature.

SHAW, Chairman.

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Enrolled Bills have carefully examined House bill No. 133, "An act to accurately define the land district of Palo Pinto, and to make valid the surveys and locations heretofore made therein," and find the same correctly enrolled, and have this day at 1 o'clock P. M., presented the same to the Governor for his signature.

SHAW, Chairman.

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Enrolled Bills have carefully examined the following bill, to-wit: Bill No. 399, "An act to provide for the registration of births," and find the same correctly enrolled, and have this the first day of May, at 1 o'clock P. M.; presented the same to the Governor for his signature.

SHAW, Chairman.

A message from the Senate announced the passage by that body of the following bills:

House bill No. 13, "An act to incorporate the city of Corsicana," with amendments by the Senate.

House bill No. 594, "An act to incorporate the Saint Louis and Mexican Gulf Railway Company, and to grant land to aid in the construction thereof," with amendments by the Senate.

House bill No. 517, a bill to be entitled "An act supplemental to an act to incorporate the Western Narrow Gauge Railway Company, approved August 4, 1870, and an act supplemental thereto, approved October 13, 1871," with amendments by the Senate.

On motion of Mr. Rainey, the House then adjourned until 9 A. M. to-morrow.

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HOUSE OF REPRESENTATIVES, }  
AUSTIN, TEXAS, May 3, 1873. }

House met pursuant to adjournment. Prayer by the chaplain. Roll called; quorum present.

Absent—Messrs. Bewley, Cook, Ellett and Short.

On motion of Mr. Kemble, Mr. Gillette was excused on account of sickness.

On motion of Mr. Roberts, Mr. Phelps was excused until the evening of the seventh instant, on account of family sickness.

On motion of Mr. Wilder, Mr. Washington was excused on account of important business.

On motion of Mr. Smith of Colorado, Mr. Mills was excused on account of sickness.

On motion of Mr. Harrison the reading of the journal was dispensed with.



On motion of Mr. Bordeaux, an amendment offered by him to House bill to authorize the county courts to dispose of the school lands, was ordered spread upon the journal of yesterday.

Mr. Abbott introduced a bill to authorize the County Court of Waller county to issue coupon interest-bearing bonds, for the building of a court house and jail, and transcribing deeds, etc., and to levy a tax for the same. Read first time; rules suspended, read second time and ordered engrossed.

On motion of Mr. Abbott, the rules were suspended and the bill read third time.

Mr. Killough moved to refer the bill to the Committee on Counties and County Boundaries. The House refused to refer. The bill then passed.

Mr. Powers introduced a bill for the relief of Wm. H. Russell. Referred to Judiciary Committee No. 2.

Mr. Schmidt introduced a bill to incorporate the Deutsche Volksfest Verein of Houston. Read first time; rules suspended, read second time and ordered engrossed.

On motion of Mr. Schmidt, the rules were further suspended, the bill read third time and passed.

Mr. Hollingsworth introduced a bill requiring the Commissioner of the General Land Office to furnish the surveyor's office of Hays county with a transcript of the surveys of said county up to 1869, and give original efficacy to them in the courts. Read first time; rules suspended, read second time and ordered engrossed.

On motion of Mr. Hollingsworth, the rules were suspended and the bill read third time.

Mr. Hollingsworth offered the following amendment: Section one, strike out of lines twelve and thirteen the words "from its organization." The amendment was adopted.

The bill then passed.

Mr. Sabin introduced a bill relating to the sale of county school lands. Referred to the select committee upon the bill authorizing the county courts to dispose of the school lands, Ireland, chairman.

Mr. Brown of Dallas introduced a bill to validate a certain bounty land warrant. Referred to Judiciary Committee No. 2.

Mr. Ireland offered the following resolution:

*Resolved*, That the report of the joint committee on the conduct of the Superintendent of Public Instruction be referred to a select committee of three to examine and report to this House by resolution or otherwise. That said committee be composed of Messrs. Kleberg, Bledsoe and Killough.

The resolution was adopted.

Mr. Westfall introduced a bill for the preservation of birds and game. Referred to the Committee on State Affairs.

Mr. Cook introduced a bill authorizing certified copies of deeds in certain cases to be recorded, and making certified copies of such records admissible in evidence. Referred to Judiciary Committee No. 1.

Also, a bill to incorporate the Crittenden Business College, of Houston, Harris county, Texas. Referred to the Committee on Town and City Corporations.

Mr. Adriance introduced a bill for the relief of John Robinett. Referred to the Committee on Private Land Claims.

Mr. Broaddus introduced a bill for the relief of Chester S. Corbet. Referred to the Committee on Private Land Claims.

Mr. Brown of Dallas offered the following resolution :

*Resolved*, That a special committee of five be appointed to take into consideration the necessity of re-arranging and re-publishing the various abstracts of land titles, including all titles issued since the last publication, and that they report by bill or otherwise.

The resolution was adopted.

Mr. Kemble introduced a concurrent resolution concerning the payment of scholastic census takers. The resolution was adopted.

The following communication was received from the Superintendent of Public Instruction, and referred, with the accompanying documents, to the special committee upon the report of the joint committee upon the official conduct of said Superintendent, said committee consisting of Messrs. Kleberg, Bledsoe and Killough.

On motion of Mr. Denton, Mr. Cook was added to the above committee.

DEPARTMENT OF EDUCATION, STATE OF TEXAS, }  
 AUSTIN, May 2, 1873. }

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: I have the honor to transmit herewith, in compliance with a resolution of your honorable body, dated March 12, 1873, a complete transcript from the books of my office, showing all accounts certified by members of boards of school directors, and approved by me, payable out of the proceeds of the one per cent. school tax.

There are now filed in this office for examination and approval, vouchers amounting to \$274,685.48, which have accumulated since the passage of the above resolution, to which should be added an estimate for the month of April, of \$90,000.

The reports of sheriffs not being complete as yet, I am unable to state the total amount collected of the one per cent. school tax; but so far as the reports of treasurers of boards of school directors have been received, they acknowledge the receipt of \$942,258.19, and report the disbursement of \$742,087.87.

The proceeds of the one per cent. school tax remain in the counties where it has been collected; and my only sources of information as to the disbursement of these proceeds are contained in the reports of the treasurers of boards. Of these reports I can furnish copies, if so desired.

I have the honor to be, very respectfully,

Your obedient servant,

J. C. DE GRESS,

Superintendent of Public Instruction.

House bill No. 13, "An act to incorporate the city of Corsicana," was taken up, the Senate amendments thereto read and concurred in, and the bill, thus amended, passed.

House bill No. 517, a bill to be entitled, "An act supplemental to an act to incorporate the Western Narrow Gauge Railway Company, approved August 4, 1870, and an act supplemental thereto, approved October 13, 1871," was taken up, the Senate amendments thereto read and concurred in, and the bill passed.

Senate amendments to House bill No. 594, "An act to incorporate the Saint Louis and Mexican Gulf Railroad Company, and to grant land to aid in the construction

thereof," were read and adopted, and the bill, thus amended, passed.

The resolution offered by Mr. Ireland, May 1, changing the order of business, having been read, Mr. Cook offered the following substitute therefor :

*Resolved*, That hereafter the committees shall be called in their established order, and each committee shall make report of that matter committed to it, upon which the committee is ready to report, and having precedence by number, and no other business shall be done until the matter reported by the committee is disposed of, when the next committee shall be called, and so on until the business in the hands of committees is disposed of, and this rule shall be inserted in the order of business so as to follow the call for bills and resolutions each morning.

On motion of Mr. Ireland the resolution and substitute were postponed until Monday, May 5.

The resolution offered by Mr. Smith of Colorado, changing the evening to a night session, was read.

Mr. Kleberg offered the following substitute therefor :

*Resolved*, That the rule fixing the daily sessions of this House be so changed that there shall hereafter be held one session per day, Sundays excepted, beginning at 9 o'clock A. M., and closing at 3 P. M., for the remainder of this session.

Mr. Harrison moved to lay the resolution and substitute on the table, which carried.

Resolution offered by Mr. Gallaway, changing the order of business, was read.

On motion of Mr. Chambers it was laid on the table.

Mr. Anderson offered the following resolution :

*Be it resolved*, That as J. C. De Gress, Superintendent of Public Instruction, designates himself in his communications to this House "the obedient servant" of the House, that granting him that position, it is the will of this House that he resign his position, as the public service would thereby be greatly subserved.

Mr. Ireland moved the previous question, which was seconded, put and carried.

The House then adopted the resolution by the following vote :

Yeas—Messrs. Speaker, Adriance, Anderson, Armstrong, Bledsoe, Booty, Broadbus, Brown of Upshur, Brown of Dallas, Chambers, Cook, Cunningham, Daven-

port, Day, Denton, Doyle, Eastland, Gallaway, Gaston, Ghent, Gilpin, Harrison, Hollingsworth, Ireland, Joseph, Kemble, Killough, Lane, Manning, Nelson, Noeggerath, Payne, Powers, Prendergast, Rainey, Robb, Roberts, Rosborough, Russell, Sabin, Sayers, Schmidt, Scott, Shaw, Shelton, Smith of Colorado, Smith of Houston, Storey, Thurmond, Tilson, Tivy, Tom, Trolinger, Venters, Watts, Westfall, Winkler, Wood—58.

Nays—Messrs. Abbott, Berends, Ford, Mabry, Moore, Stockbridge, Wilder, Williams—8.

On motion of Mr. Trolinger, Mr. Bordeaux was excused for the remainder of the day to allow him to attend a sick friend.

Report from Judiciary Committee No. 2 :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your committee to whom was referred Senate bill No. 12, "An act to amend an act entitled an act to provide for appeals from interlocutory judgments in the district courts of the State, approved November 1, 1871," instruct me to report said bill back, with the recommendation that the same do not pass.

IRELAND, Chairman.

Mr. Powers moved to recommit the bill to Judiciary Committee No. 2.

The House refused to recommit.

The report was then adopted and the bill indefinitely postponed.

House bill No. 453, a bill regulating taxation, was then taken up, pending an amendment offered by Mr. Sayers.

Mr. Sayers withdrew his amendment and offered the following substitute therefor: Amend by adding after the word "dollars," section three, line one hundred and twenty-seven, the following: "From every person, firm, or association of persons, discounting and shaving paper, or engaged in business as money brokers in any city or town exceeding five thousand inhabitants, an annual tax of one hundred dollars; and from every such person, firm, or association of persons, in any city or town of less than five thousand inhabitants, an annual tax of twenty-five dollars; *provided*, that no such person, firm, or association of persons, who have paid a tax for dealing in stocks or bills of exchange, shall be so taxed."

The amendment was adopted.

Mr. Prendergast offered the following amendment: Section three, strike out the words "each and every county" and "each county" wherever they occur. The amendment was lost.

Mr. Denton offered the following amendment: Section three, line fourteen, after the word "purposes" insert "*and provided further*, that this section shall not be so construed as to authorize druggists to sell spirituous or intoxicating liquors, except alcohol, except upon prescription of some practicing physician."

Mr. Trolinger offered the following substitute for the amendment: Section three, line thirteen, after the word "when" insert "such spirituous, vinous or malt liquors are." The House refused to adopt the substitute.

The amendment was then adopted by the following vote:

Yeas—Messrs. Adriance, Anderson, Bledsoe, Booty, Broaddus, Brown of Upshur, Cook, Davenport, Denton, Doyle, Eastland, Ford Gaston, Ghent, Hoffman, Kemble, Lane, Manning, Payne, Powers, Prendergast, Rainey, Rimes, Roberts, Rosborough, Sayers, Smith of Colorado, Smith of Houston, Storey, Tivy, Tom, Venters, Watts, Westfall, Winkler and Wood—36.

Nays—Messrs. Speaker, Allison, Armstrong, Berends, Brown of Dallas, Carroll, Chambers, Cunningham, Day, Harrison, Ireland, Joseph, Killough, Kleberg, Mabry, Moore, Nelson, Noeggerath, Russell, Sabin, Salter, Schmidt, Scott, Shaw, Shelton, Short, Stockbridge, Thurmond, Tilson, Trolinger, Wilder and Williams—32.

Mr. Berends offered the following amendment: Section three, line ten, strike out "ten gallons" and insert in lieu thereof "one quart."

Mr. Venters offered the following amendment to the amendment: Strike out line ten, section three, and insert "one quart two hundred dollars, and for quantities of one quart or more one hundred dollars." The House refused to adopt the amendment to the amendment.

The amendment was then put and failed to be carried.

Mr. Killough offered the following amendment: Section three, line ten, strike out "ten" and insert "one."

Mr. Wood called for a division of the question.

The motion to strike out "ten" was then put and failed to be carried, whereupon the amendment was declared to have been lost.

Mr. Ireland offered the following amendment: After "the purposes," in line fourteen, insert, "and for selling in quantities of ten gallons and over, one hundred dollars." The amendment was adopted.

Mr. Watts moved to amend section three, in line thirty, by inserting after the word "trees" the words "or books, pictures, maps and charts." The amendment was lost.

Mr. Denton moved to amend section three by striking out all after the word "follows," line seven, to the word "dollars," line . . . ., and inserting the following: "For selling vinous, malt or other intoxicating liquors in quantities less than one quart, two hundred and fifty dollars; in quantities over one quart and less than ten gallons, one hundred and fifty dollars."

Mr. Gallaway moved to lay the amendment on the table. The House refused to table.

The special order, House bill No. 816, "An act to provide for an election of a commission to select a site for a branch penitentiary," was announced.

Mr. Sayers moved to postpone the consideration of the special order until the pending bill should be disposed of, which motion was carried.

Mr. Harrison moved the previous question upon the amendment and section.

The previous question having been put and carried, the House then refused to adopt the amendment by the following vote:

Yeas—Messrs. Adriance, Anderson, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Davenport, Denton, Doyle, Eastland, Ellett, Gaston, Ghent, Hollingsworth, Kemble, Lane, Manning, Moore, Powers, Prendergast, Robb, Roberts, Rosborough, Sayers, Shelton, Smith of Colorado, Smith of Houston, Storey, Tom, Venters and Westfall—31.

Nays—Messrs. Speaker, Allison, Armstrong, Berends, Bledsoe, Booty, Chambers, Cook, Cunningham, Day, Gallaway, Gilpin, Harrison, Hoffman, Ireland, Joseph, Killough, Kleberg, Nelson, Noeggerath, Rainey, Russell, Sabin, Schmidt, Scott, Shaw, Stockbridge, Thurmond, Tilson, Tivy, Trolinger, Watts, Wilder, Williams, Winkler and Wood—36.

Mr. Ellett offered the following amendment: Add to section four: "That the County Courts of each county shall set apart out of the county revenues derived from

occupations a sufficient amount to pay the grand and petit jurors and their bailiffs for each year, and no part of such tax shall be used for any other purpose until such jurors and bailiffs are provided for."

Mr. Wood moved to lay the amendment on the table, which carried.

Mr. Powers moved to add to section four as follows: "*And provided further*, that the provisions of this act shall not be deemed to affect the provisions of any law especially authorizing any County Court to levy a different rate of tax." The amendment was adopted.

Mr. Watts moved to amend section four, line sixteen, by striking out the words "the true receipt from" and insert the following in lieu thereof: "the receipt of." The amendment was adopted.

Mr. Wood moved to amend section four by inserting after the word "amount," in line four, the words "of State tax." The amendment was adopted.

Mr. Tilson moved to amend section four, line seven, by inserting after the word "taxes" "only." The amendment was adopted.

Mr. Killough moved to amend by adding to section six: "*Provided*, that the taxes so collected on persons and property in cities or towns shall be turned over to the council of said city or town where said property is situated, to be expended on the streets of the same."

Mr. Harrison moved to strike out section six.

Mr. Sayers moved to lay the motion on the table, which carried.

On motion, of Mr. Sayers, the amendment offered by Mr. Killough was laid on the table.

Mr. Brown of Dallas offered the following amendment: "*Provided*, that the taxes so collected in towns may, when deemed fair and equitable by the County Court, in whole or in part, be expended on the highways within such town or towns." Amendment lost.

Mr. Harrison moved to amend section six, line two, by striking out "five," and inserting "eight." Amendment lost.

Mr. Tilson moved to insert after the word "of," in line eight, section six, "not less than." The amendment was lost.

Mr. Ellett offered the following substitute for section seven: "That there shall be levied an annual direct



*ad valorem* tax of twenty-five cents upon the one hundred dollars, on the value of all property subject to taxation, for the purpose of paying grand and petit jurors, and their bailiffs, and such tax shall not be used for any other purpose."

On motion of Mr. Wood the substitute was laid on the table.

Mr. Watts moved to amend by adding to section seven as follows: "*Provided*, that all *ad valorem* county tax, except that levied in section six of this act, may be paid in the jury and county scrip of their respective counties." The amendment was adopted.

Mr. Gaston moved to amend section eight, clause fourteen, by inserting after the words, "State bonds," the words, "and county bonds given as railroad subsidies." The amendment was adopted.

Mr. Kleberg moved to amend the third proviso of section eight as follows: "*And provided further*, that books, pictures, paintings, statuary, and works of art, belonging to the family, shall not be taxed." The amendment was adopted.

Mr. Sabin moved to amend by striking out "\$300," and inserting in lieu thereof "\$750." The amendment was lost.

Mr. Brown of Dallas moved to amend section eight by inserting, in the third line from the bottom, after the word "apparatus," the words "city or county hospitals, their grounds, medicines, furniture and fixtures." The amendment was adopted.

Mr. Kemble moved to insert, after the word "earrings," line twenty-three, section eight, the words, "also gold headed canes." The amendment was adopted.

Mr. Harrison moved to amend by inserting in page ten ninth line from bottom, the words, "and other articles." The amendment was lost.

Mr. Rainey moved to strike out the word "asses," in section eight, page ten, line twenty-seven, which motion carried.

Mr. Storey moved to strike out clause ten. The House refused to strike out.

Mr. Storey moved to amend, by adding after the word "family," "all implements of husbandry, tools, implements and books belonging to any trade or profession." The amendment was lost.

Mr. Berends moved to amend by inserting in third line from the bottom, after "their," the word "property." The amendment was adopted.

Mr. Hoffman moved to amend section nine, line twenty, by striking out, after the word "profit," "two hundred and fifty dollars," and inserting in lieu thereof "fifty dollars."

On motion of Mr. Wood, the amendment was laid on the table.

Mr. Powers moved to insert before the word "*provided*," in section three, line twenty-eight, the following: "*Provided* that no license tax for pursuing the occupation of a peddler shall be collected from any veteran who served in the army of the Republic of Texas during the year 1836, nor from any citizen of Texas who may have lost an arm or limb in the service of either army during the late war, or who was otherwise permanently disabled. The amendment was adopted.

Mr. Brown of Dallas offered the following amendment to section nine: "That all laws and parts of laws in conflict with this act be and are hereby repealed, and that this act shall take effect and be in force from and after its passage. The amendment was adopted.

Mr. Sayers moved the previous question, which carrying, the bill was ordered engrossed.

On motion, the rules were suspended and the bill read third time.

Mr. Gallaway moved to reconsider the vote engrossing the bill. The House refused to reconsider.

Mr. Cook moved to strike out the amendment offered by Mr. Powers, which motion carried, and the amendment was stricken out.

Mr. Berends offered the following amendment: Amend section three by striking out in line sixty-five, from the words "for every" to the word "dollars" in line seventy-one, and insert in lieu thereof "for every cook shop, eating house or boarding house fifteen dollars; *provided*, that no house be considered a boarding house unless there are kept as many as four regular boarders at one time, exclusive of all school children; *and provided further*, that no house shall be considered a boarding house whose annual income is less than three hundred dollars."

The House refused to adopt the amendment.

Mr. Thurmond offered the following amendment: "*Provided*, meerschaum pipes presented by distinguished friends are not exempt from an *ad valorem* tax by this act."

The House refused adopt the amendment.

Mr. Scott moved to amend by striking out of section three, line one hundred and eighty-eight, the word "ten" and insert "one hundred."

The House refused to adopt the amendment.

Mr. Schmidt moved to amend section three, line one hundred and eighty-eight, by striking out the word "ten" and inserting in lieu thereof "twenty-five."

The House refused to adopt the amendment. The bill then passed.

The special order, House bill No. 810, "An act to provide for an election of a commission to select a site for a branch penitentiary," was then announced.

On motion of Mr. Hollingsworth, it was postponed and made special order for Monday, May 5, 10 A. M.

On motion of Mr. Sayers, Senate bill No. 52, "An act to amend sections one, one hundred and fourteen, one hundred and ninety-two, two hundred and seventeen, two hundred and forty, two hundred and forty-two, two hundred and fifty, two hundred and fifty-one, two hundred and fifty-two, two hundred and sixty-six and three hundred and forty-one of an act entitled an act prescribing the mode of proceeding in District Courts in matters of probate, approved August 15, 1870," was made special order for Tuesday, May 6, 10 A. M.

A message from the Senate announced the passage by that body of House bill No. 618, "An act to aid the Bayland Orphans' Home, situated on Galveston Bay, in Harris county, Texas."

House bill No. 467, "An act to adjust and define the rights of the Texas and Pacific Railway Company within the State of Texas, in order to encourage the speedy construction of a railway through the State to the Pacific Ocean," with amendments by the Senate.

House bill No. 819, "An act amendatory of an act entitled an act to incorporate the Bastrop Casino Association, approved October 27, 1866."

And House bill No. 211, "An act for the relief of C. R. Gibson, of Ellis county."

The Committee on Enrolled Bills submitted the following reports :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Enrolled Bills have carefully examined the following bill, to-wit:

No. 618, "An act to aid the Bayland Orphans' Home, situated on Galveston bay, in Harris county, Texas."

And find the same correctly enrolled, and have this the . . . . . day of May, at 12:30 o'clock P. M., presented the same to the Governor for his signature.

SHAW, Chairman.

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Enrolled Bills have carefully examined the following bills:

No. 402, "An act to incorporate the Milam Real Estate and Immigration Association."

No. 262, "An act to amend the seventh section of an act entitled an act to incorporate the city of Rockport, approved May 26, 1871."

And find the same correctly enrolled, and have this day, the . . . . . of May, at 11 o'clock A. M., presented the same to the Governor for his signature.

SHAW, Chairman.

On motion of Mr. Harrison, the House adjourned till 4 P. M.

#### AFTERNOON SESSION.

House met pursuant to adjournment. Roll called; quorum present:

The following gentlemen were absent:

Messrs. Anderson, Bewly, Booty, Ellett, Ireland, Salter and Short.

On motion of Mr. Smith, of Houston, Mr. Rimes was excused on account of sickness.

On motion of Mr. Brown, of Upshur, Mr. Abbott was granted leave of absence until Monday next.

The Speaker announced the following committee on the resolution to re-arrange and republish abstracts of land titles: Messrs. Brown, of Dallas, chairman, Carroll, Ellett, Hoffman and Lane.

On motion of Mr. Nelson, the Committee on Internal Improvements were granted leave to make a report upon House bill No. 296, and submitted the following:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 596, entitled "An act amendatory of and supplementary to an act entitled an act to incorporate the East Line and Red River Railroad Company, approved March 22, 1871," have had the same under consideration, and a majority have instructed me to report the same back to the House and recommend that the bill pass, with the accompanying amendments.

WINKLER, Chairman.

In lieu of the bill and amendments, the committee offered a substitute bill of the same caption, which was read and adopted.

The bill was then read second time.

Mr. Brown, of Dallas, offered the following amendment: In section five, after the words "twenty years," insert "from the passage of this act."

The amendment was adopted.

Mr. Smith of Colorado offered the following amendment: In section four, second line, before the end of the section, after the word "State," insert "nor shall any other railroad company take, own or purchase any stock in this company; nor shall it sell, lease, transfer or consolidate their road or the management thereof to any other railroad company."

Mr. Sabin moved to lay the amendment on the table, which motion carried.

Mr. Nelson moved to amend by inserting after the word "county," in section one, line nineteen, "and thence to Greenville, in Hunt county." The amendment was adopted.

Mr. Nelson offered the following amendment: "*And provided further*, that nothing in this act shall be so construed as to require the people of Hopkins county to pay the money subsidy heretofore voted to the said East Line and Red River Railroad by the people of said county." The amendment was adopted.

The bill was then ordered engrossed.

On motion of Mr. Winkler, the rules were suspended, the bill read third time and passed by the following vote:

Yeas—Messrs. Speaker, Adriance, Allison, Berends, Booty, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Chambers, Davenport, Day, Denton, Doyle, East-

land, Ellett, Ford, Gaston, Ghent, Gilpin, Harrison, Hoffman, Hollingsworth, Joseph, Kemble, Killough, Kleberg, Lane, Mabry, Manning, Moore, Nelson, Noeggerath, Powers, Prendergast, Rainey, Robb, Roberts, Rosborough, Russell, Sabin, Sayers, Schmidt, Scott, Shaw, Shelton, Smith of Colorado, Smith of Houston, Storey, Stockbridge, Thurmond, Tilson, Tivy, Tom, Watts, Westfall, Wilder, Williams, Winkler and Wood—60.

Nays—Messrs. Armstrong, Payne, Trolinger, and Venters—4.

The Committee on Engrossed Bills submitted the following report:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Engrossed Bills have carefully examined House bill No. 474, "An act to incorporate the Hearne, Belton and Northwestern Railroad Company, and aid in constructing the same," and find it correctly engrossed.

BOOTY, Chairman.

On motion of Mr. Kleberg, the Committee on State Affairs was granted leave to report upon House joint resolution No. 553, for the relief of the widow of the late Hon. Louis Frankee, deceased.

The following report was submitted:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: The Committee on State Affairs, to whom was referred joint resolution No. 553, "For the relief of the widow of the late Hon. Louis Frankee, deceased," have considered the same and instruct me to report the accompanying substitute and recommend its passage.

KLEBERG, for Committee.

The substitute, being joint resolution authorizing Hon. J. G. Killough to draw the pay of Hon. Louis Frankee, deceased, was read and adopted.

The joint resolution was then read second time and ordered engrossed.

On motion the rules were suspended, the bill read third time and passed.

The following communication was received from his Excellency the Governor:

EXECUTIVE OFFICE, STATE OF TEXAS, }  
 AUSTIN, May 3, 1873. }

*To the Honorable Senate and House of Representatives  
 of the State of Texas :*

GENTLEMEN: I am just in receipt of a communication from his Excellency Marsh Giddings, Governor of New Mexico, replying to my communication of the fourteenth of March, 1873, written in compliance with a joint resolution of the Legislature, approved same date, inquiring whether the remains of Texas soldiers, who fell at the battle of Glorietta and Valverde, and of those who were buried at Albuquerque and Santa Fé, in New Mexico, during the late war, require further interment, and he informs me "that no action is requisite in the matter, as all those who fell in battle, and all those in regard to whom information is sought, have been decently and properly interred in the public cemeteries of the territory of New Mexico."

Very respectfully,

EDMUND J. DAVIS, Governor.

Mr. Prendergast moved that the House adjourn. The House refused to adjourn.

On motion of Mr. Harrison, the Committee on Internal Improvements were granted leave to make a special report, and submitted the following :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Internal Improvements, to whom was referred House bill No. 111, "An act to incorporate the Dallas, Palestine and Southeast Texas Railway Company," have had the same under consideration, and have instructed me to report the same back to the House with the following amendments, and on the adoption of the same recommend that the bill do pass.

PAYNE, for Committee.

Amendments offered by the committee: Add to section seven: "Thereupon it shall become the duty of the Commissioner of the General Land Office to issue to said company certificates of six hundred and forty acres each, equal in amount to sixteen sections per mile of road so completed, which said certificates shall be located and surveyed in alternate sections, and field notes and maps to be returned to the General Land Office, and the odd sections patented to said company, and all the alternate

or even sections shall be reserved and set apart and appropriated to, and constitute a part of the common school fund as provided by law; and the lands granted to said company by virtue of the provisions of this act shall be alienated by said company except so far as may be necessary to the maintenance and running of its road, as follows, to-wit: one-fourth in eight years, one fourth in ten years, one-fourth in twelve years, and one-fourth in sixteen years from the time of acquiring of said lands; *provided*, said lands shall not be alienated directly nor indirectly to any other corporation for its use, except so far as may be necessary for the proper uses and convenience of the business of such corporation, and on failure to alienate said lands as herein directed, they shall be proceeded against as the laws in force may direct; *and provided further*, that the State of Texas shall not be held liable for a deficiency in the lands hereinbefore mentioned."

Add the following section: "SEC. . . . That the State reserves the right to regulate the rates of freight and passage on said road by any general law of the State applicable to railroads, and also to place the officers and employés of the same under the provisions of any general law which is now in force or may hereafter be enacted to prevent wrong towards passengers or other patrons of the road; and said company shall be subject to any law now in force or hereafter enacted in relation to railroads in this State."

The amendments were adopted and the bill read second time.

Mr. Winkler offered the following amendment: Amend as to the duration of the charter by striking out "ninety-nine," and inserting in lieu thereof, "sixty." The amendment was adopted.

Mr. Brown of Dallas moved to amend section seven by inserting after the words "favorable report," the words, "under oath." The amendment was adopted.

Mr. Prendergast offered the following amendment: Amend section seven by inserting after the word . . . . ., the following, "except as far as may be necessary for its proper uses, and conducting its business, nor to any person, firm or company in trust for said railroad company, or to any firm or company of which any officer or stockholder of said railroad company is a member, and a



failure to comply with, or a violation of the provisions of this section, shall work a forfeiture of all the benefits of this act." The amendment was adopted.

The bill was then ordered engrossed. On motion the rules were suspended, and the bill read third time.

Mr. Cook offered the following amendment: "Nor shall said Dallas, Palestine, and Southeast Texas Railway Company, or their successors, be allowed to sell or lease to, or consolidate with any other railroad company, without the consent of the Legislature, and any such sale or lease to, or consolidation with any other railroad company, without such consent, shall work a forfeiture of the charter, chartered rights and franchises of the said company."

Mr. Booty moved to lay the amendment on the table, which motion carried.

The bill then passed by the following vote :

Yeas—Messrs. Speaker, Adriance, Allison, Berends, Booty, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Chambers, Davenport, Eastland, Ford, Galloway, Gaston, Ghent, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Kemble, Lane, Mabry, Manning, Nelson, Noeggerath, Payne, Powers, Robb, Roberts, Rosborough, Russell, Sabin, Sayers, Schmidt, Scott, Shaw, Smith of Colorado, Smith of Houston, Storey, Thurmond, Tilson, Tivy, Tom, Watts, Westfall, Wilder, Williams and Winkler—51.

Nays—Messrs. Armstrong, Cook, Cunningham, Day, Ellett, Moore, Shelton, Short, Trolinger and Wood—10.

Mr. Sayers moved that the Committee on Private Land Claims be allowed to report on Senate bill No. 271. The motion was lost.

Mr. Smith of Colorado moved to take up House bill No. 482, "An act to aid in the construction of the Galveston, Harrisburg and San Antonio Railway." The motion carried.

Mr. Roberts moved that the House adjourn until 9 A. M. Monday, which motion carried.

HOUSE OF REPRESENTATIVES, }  
AUSTIN, TEXAS, May 5, 1873. }

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

Absent—Bewley, Brown of Dallas, Cook and Mills.

On motion of Mr. Allison, Mr Booty was excused on account of pressing business.

On motion of Mr. Carroll, Mr Gillette was excused indefinitely on account of sickness, and Mr. Kemble to attend his sick friend.

On motion of Mr. Wilder, Mr. Stockbridge was excused for the day on account of sickness.

On motion of Mr. Kleberg, the reading of the journal of Saturday was dispensed with.

Mr. Thurmond moved to reconsider the vote taken on Saturday upon the final passage of House bill No. 596, entitled "An act amendatory of and supplementary to an act entitled an act to incorporate the East Line and Red River Railroad Company, approved March 22, 1871."

The vote was reconsidered by the following vote :

Yeas—Messrs. Adriance, Allison, Anderson, Armstrong, Berends, Bledsoe, Bordeaux, Broaddus, Brown of Dallas, Chambers, Cook, Cunningham, Davenport, Day, Denton, Doyle, Eastland, Ellett, Ford, Gaston, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Killough, Kleberg, Mabry, Nelson, Noeggerath, Powers, Prendergast, Rainey, Robb, Rosborough, Salter, Sayers, Schmidt, Shelton, Smith of Colorado, Smith of Houston, Storey, Thurmond, Tivy, Tom, Trolinger, Venters, Watts, Westfall and Winkler—51.

Nays—Messrs. Speaker, Brown of Upshur, Carroll, Gallaway, Lane, Manning, Moore, Roberts, Russell, Sabin, Scott, Shaw, Tilson, Wilder, Williams and Wood—16.

On motion of Mr. Bordeaux the bill was then made special order for Tuesday, May 6, at 5 P. M.

Mr. Kleberg offered a concurrent resolution authorizing and requiring the Speaker of the House of Representatives and the President of the Senate to adjourn their respective Houses *sine die* May 15, 12 M., 1873.

On motion of Mr. Kleberg the resolution was postponed until Tuesday, May 6, at 10 A. M.

Mr. Ireland introduced a bill providing compensation for persons examining railroads. Read first time; rules suspended and read second time.

Mr. Anderson moved to amend by inserting after the word "performed," third line from the end, the following: "to be paid into the treasury in advance."

The motion carried and the amendment was made.

The bill was then ordered engrossed.

On motion of Mr. Ireland the rules were further suspended, the bill read third time and passed.

Mr. Ireland introduced a second bill, providing for the trial and removal from office of certain officials. Read first time; rules suspended, read second time and ordered engrossed.

On motion of Mr. Ireland the rules were suspended, the bill read third time and passed.

Mr. Watts introduced a bill to be entitled "An act for the relief of railroad companies." Read first time; rules suspended, read second time, laid on the table and one hundred copies ordered printed.

Mr. Galloway introduced a bill to amend section four of "An act to authorize Adam Sullivan to construct a bridge across the Sabine river." Read first time and referred to Judiciary Committee No. 1.

Mr. Sayers offered the following resolution:

*Resolved*, That the Committee on Constitutional Amendments be requested to report on the various amendments that have been submitted to it, to the end that this House may determine upon those that should be submitted to the people at the next general election.

Adopted.

Mr. Cook introduced a bill to provide for the institution and prosecution of proceedings in the nature of *quo warranto* against railroad and other incorporated companies. Read and referred to Judiciary Committee No. 2.

Mr. Hollingsworth introduced a bill to incorporate the San Marcos, Guadalupe and Galveston Canal Company. Read first time, laid on the table and one hundred copies ordered printed.

Mr. Smith of Colorado introduced a bill for the relief of sheriffs. Read first time and referred to Judiciary Committee No. 2.

Mr. Winkler introduced the following resolution:  
*Resolved*, That the Committee on State Affairs be in-

structed to inquire into the propriety and necessity of providing by law for the office of State Engineer, and report by bill or otherwise.

Adopted.

Mr. Nelson offered the following resolution :

*Resolved*, That the use of this hall be tendered to Dr. W. C. Hurley, of Hopkins county, on next Thursday evening at 8 o'clock, for the purpose of delivering a lecture, the subject to be upon the "Races of Men."

Adopted.

On motion of Mr. Kleberg, Mr. Smith of Colorado was added to the special committee upon the report on the official conduct of the Superintendent of Public Instruction.

The Speaker announced House bill No. 467, "An act to adjust and define the rights of the Texas Pacific Railway Company within the State of Texas, in order to encourage the speedy construction of a railway through the State to the Pacific ocean," with amendments by the Senate.

The amendments having been read, on motion of Mr. Smith of Colorado the House refused to concur therein.

The Committee on Engrossed Bills submitted the following report :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Engrossed bills have carefully examined the following bills, to-wit :

No. 553, substitute offered by Committee on State Affairs for joint resolution No. 553, authorizing Hon. I. G. Killough to draw the pay of the Hon. Louis Frankee, deceased.

No. 383, a bill to be entitled "An act to incorporate the Beaumont, Corsicana and Fort Worth Railroad Company."

And find the same correctly engrossed.

BOOTY, Chairman.

A message from the Senate announced the passage by that body of the following House bills :

No. 218, "An act to be entitled an act to incorporate the Pioneer Fire Company No. 1, of the city of Corpus Christi, State of Texas."

No. 808, "An act to enable the district judges to make temporary appointments of clerks of the district courts in cases of vacancies."

No. 747, "An act to authorize the County Court of Freestone county to levy and collect a special tax to repair the court house and jail in said county."

Special order, House bill No. 816, "An act to provide for an election of a commission to select a site for a branch penitentiary," was then announced.

On motion of Mr. Sayers, its consideration was postponed until Senate bill No. 52 should be disposed of.

Senate bill No. 52, "An act to amend sections one, one hundred and fourteen, one hundred and ninety-two, two hundred and seventeen, two hundred and thirty-five, two hundred and forty, two hundred and forty-two, two hundred and fifty, two hundred and fifty-one, two hundred and fifty-two, two hundred and sixty-six and three hundred and forty-one of an act entitled an act prescribing the mode of proceeding in District Courts in matters of probate, approved August 15, 1870," was then taken up and considered by sections, pending amendments offered by the committee, which were printed with the bill.

Mr. Ireland moved to amend section one by striking out of line sixteen, the words "habitual drunkards." The amendment was adopted.

Mr. Ireland moved to amend further by striking out of line forty, section one, the word "at," and inserting in lieu thereof "or," which motion carried.

Mr. Smith of Houston moved to strike out of line thirty-seven, section two, the word "ten," and insert in lieu thereof the word "twenty," which motion carried.

The second amendment offered by the committee, as follows: Change the number of section two to seven, and strike out section three; change section four to fourteen, was adopted.

Mr. Ireland moved to strike out of section five, line four, the words, "for the payment of debts," which motion carried.

The following amendments offered by the committee were adopted:

3. After word "posted," in line seven of section five, amend by inserting "in three public places in the county, one of which shall be at the court house door, for ten days prior to the granting of such order;" and change section five to fifteen; change section six to sixteen; change section seven to seventeen.

4. Strike out sections eight and nine.

5. Change section ten to twenty-one, and amend it as follows: After the word "filing," in third line, strike out all to the word "of," in fifth line; after the word "accounts," in sixth line, insert, "or exhibits shall be."

6. Change the number of section eleven to twenty-two, and twelve to twenty-six.

7. Add: "SEC. 2. That section twenty of said recited act shall be amended to hereafter read as follows: SEC. 20. That in every question of disputed fact, any party interested in the estate or administration shall, on demand, be entitled to a jury."

"SEC. 3. Section forty-three of said act shall be so amended as to hereafter read as follows: SEC. 43. What are called temporary letters of administration in this act, to-wit, such as are issued by the clerk in vacation, without previous notice, shall continue in force and effect till the appointment and qualification of a permanent administrator or executor; and should there be no application to the clerk in vacation for permanent letters, and no such application pending before the court in term time, if there is no opposition, the court may, by order, without any notice, appoint such temporary administrator permanent administrator, exacting a new bond if the same be necessary."

Further amendment offered by the committee:

"SEC. 4. Said recited act shall be amended, to-wit: Section forty-five of same to read hereafter as follows: SEC. 45. After four years have elapsed, the presumption is, that no debts exist against the estate, or that they are barred by limitation, and that the property has gone into the hands of the heirs at law, or such persons as are entitled to receive the same. However, if debts exist, the creditor has his remedy, by suit in a court of competent jurisdiction, against the heir or other party in possession of the property of the testate or intestate; *provided* such property, at the time suit commenced, would, if administration be permitted, be assets in the hands of the administrator or executor, or liable to be reduced by possession as assets to pay debt; and if such creditor shall establish his debt, he shall recover judgment against the heir or other party in possession of the property, to the amount of his debt; *provided, however, that such judgment shall never exceed in amount the value of the property so held by the heir or other party. In all cases applicable, the*

State shall have the same remedy as any other creditor for the recovery of a debt or of escheated property. And it is hereby declared that the lawful and *bona fide* debts of the testate or intestate are a lien and charge upon his property in the hands of the heir or legatee, or any other person whose possession or title to the same is not acquired *bona fide* and for a valuable consideration."

Mr. Kleberg offered the following amendments to the amendment: Line four, strike out "is" and insert in lieu thereof "shall be;" line nine, strike out "has" and insert in lieu thereof "may have." The amendments were adopted.

Mr. Ireland offered the following amendment: Line sixteen, strike out "by" and insert in lieu thereof "to." The amendment was adopted.

Mr. Powers moved to amend by striking out of line twenty-eight, section four, the word "of" and inserting in lieu thereof "due by," and by changing "testate" to "testator," which amendment was adopted.

The amendment thus amended was adopted.

Further amendment by the committee: "SEC. 5. That subdivision three of section sixty-three of said recited act shall be amended to hereafter read as follows: Subdivision 3. If he neither resided, at the time of his death, nor died in the State, then in the county where one or more of his nearest relatives reside; or if he left no relative in the State at the date of his death, then in the county where the principal portion of his estate is situated."

Mr. Prendergast moved to amend by inserting after the word "resided," line four, the words "in the State," which amendment was adopted.

The amendment thus amended was then adopted.

The following amendments were adopted: "SEC. 6. That section sixty-eight of said act shall be amended to hereafter read as follows: Sec. 68. When bond shall be filed and approved and oath taken, an order shall be entered on the minutes of the court by the clerk to that effect, and he shall deliver to the party a certificate to that effect, under his hand and the seal of the court.

"SEC. 8. Section one hundred and twenty-nine of the aforesaid act shall be amended to read as follows: Sec. 129. The appraised value shall be set opposite each item in the inventory, and the real property shall be computed

separate from the personal, to which said appraisement and inventory the appraisers, or a majority of them, shall subscribe their names, and make affidavit before some officer authorized to administer an oath, that said appraisement and inventory is just and correct, to the best of their knowledge and belief; that they are disinterested parties, and not of kin to the administrator or executor.

“SEC. 9. That section one hundred and thirty-nine of the said act shall be amended to read as follows: SEC. 139. The report of the commissioners shall be signed by them, or a majority of them, to which shall be attached their sworn statement, made before some officer authorized to administer an oath that the partition made by them as set out in their report is just and fair, to the best of their knowledge and information; that they have no interest in said partition; that they are not kin to any of the parties to the partition; or, as the case may be, that they believe no just division of the land can be made, or other property.”

Further amendment by the committee: “SEC. 10. That section one hundred and forty-six of said act shall be amended so as to read as follows: Sec. 146. It follows from the preceding sections that executors and administrators may sue and be sued for possession of real property; and when ordered by the court may bring trespass to try title, any other character of suit in which the title to land may be decided, and in such case the judgment of the court shall bind the heir, distributee or legatee, except the proceedings be tainted by fraud. In all cases where the testate or intestate has sued or been sued for the title in his lifetime, such suit shall not abate by reason of the death of any of the parties, but the same may revive by or against their executors, or administrators, and the case proceed to judgment, and the same shall be as binding on the heirs, legatees, and distributees as if rendered in the lifetime of the testate or intestate.”

Mr. Wood moved to amend by striking out of line fifteen the word “revive” and inserting in lieu thereof “be revived,” which amendment was adopted.

Mr. Kleberg moved to change “testate” in lines twelve and twenty to “testator,” which motion was carried.

The amendment thus amended was then adopted.

Further amendment by the committee: “SEC. 11. That section one hundred and seventy-six of said act shall be amended to read as follows: Sec. 176. The executor or



administrator shall within one month after his qualification notify all persons concerned to present their claims for allowance, within the period of twelve months from date of such notice, otherwise if presented after that date they will be postponed in payment till those presented within that date are paid, which notice shall be published for three weeks in a newspaper, if one be published in the county, if not by posting in three public places in the county, the court house door being one of the places."

Mr. Tilson moved to amend by striking out in line eight the word "in" and inserting in lieu thereof "for," which amendment was adopted.

The section thus amended was adopted.

The following amendments offered by the committee were then adopted: "SEC. 12. That section one hundred and eighty-two of said act shall be so amended as to read as follows: Sec. 182. The administrator or executor shall not allow any claim, or the court or clerk approve the same, unless it shall have an affidavit attached, made by the owner, his agent or attorney, before some officer having a seal of office and generally authorized to administer oaths, to the effect as follows: That said claim is a just debt against the estate, and that the same is due and unpaid, after deducting all payments credits and setoffs to affiant known.

"SEC. 13. Section one hundred and ninety-two of said recited act shall be amended to read hereafter as follows: Sec. 192. That at each term of the court all claims which have been accepted by the administrator or executor and filed, and not approved by the clerk in vacation, shall be examined by the court and approved or rejected, in whole or in part, by endorsement on same, signed by the court; and such approval or disapproval by the court, or by the clerk in vacation, shall have the effect of a judgment or decree by the court, and shall bind the administrator, executor, heirs, legatees and distributees until avoided and set aside by due course of law. All claims which have been presented, whether allowed or approved or not, shall be assigned to their proper class. Claims may be referred by the court to an auditor and the action of the court based on his report."

Further amendment by the committee: "SEC. 18. Section two hundred and forty-three of the aforesaid

act shall be amended to read hereafter as follows: Sec. 243. All sales of real estate made by the order or decree of the District Court in matters of probate shall be conducted, as to advertisement, time and place of sale, in accordance with the law governing and regulating sales made of similar property on execution. The executor or administrator shall make return of all sales of real estate in manner and form, as is required in section one hundred and sixty-three, for the sale of personal property. Any person bidding off any property, real or personal, at any administrator's or executor's sale, and shall fail to comply with the terms of sale in five days, then the executor or administrator shall proceed to advertise and sell the same again; and if, at such second sale, said property does not bring the amount bid by the antecedent purchaser, such antecedent purchaser shall forfeit and pay to the executor or administrator, for the benefit of the estate, the difference between what he bid and what said property brought at said second sale; and, in addition thereto, ten per cent. damages, to be sued for and recovered for the benefit of the estate, before any court of competent jurisdiction; and if such purchaser, on the day of sale, shall manifest his intention not to take such property by complying with the terms of sale, the executor or administrator may, if there is time, put said property up the second time on the same day, and sell same. The ten per cent. damage given in this section is on the amount of the defaulting purchaser's bid."

Mr. Anderson moved to amend by striking out of lines fifteen and sixteen the words, "in five days," and inserting in lieu thereof, "on day of sale." Line eighteen, strike out "advertise and;" and after the word "again," same line, insert as follows: "On same day, or in his discretion, re-advertise and sell the same on some succeeding sale day." The amendments were adopted.

Mr. Anderson offered the following amendment: Section eighteen, insert after the word "executor," wherever it occurs, the words "or guardian." The amendment was adopted.

Mr. Ireland moved to amend by striking out the word "ten," wherever it occurs in the section, and insert in lieu thereof "twenty," which amendment was adopted.

Mr. Wood offered the following amendment: Strike

out from the top of page fifteen to the words "execution" inclusive, and insert in lieu thereof as follows: "All sales of real estate made by the order or decree of the District Court in matters of probate, shall be advertised by posting written or printed notices of the time and place of sale in at least three public places in the county where the land is situated, one of which places shall be the court house door; and such notices shall contain a brief description of the property to be sold, and terms of sale. If the land is sold in a county other than the county where administration is pending, such sale shall be advertised as herein required in the county where the land is situated, and where administration is pending as herein required." The amendment was adopted.

The section thus amended was then adopted.

The following amendments were then adopted: "Sec. 19. That section two hundred and forty-six (246) of said recited act shall be amended to hereafter read as follows: Sec. 246. The terms of sale of all real estate, when made on a credit—and the court may, if it deems proper, order such credit to be twelve months—are that the purchaser give a note with approved personal sureties and to execute a mortgage on the land to secure the payment of the purchase money, which said mortgage it shall be the duty of the administrator or executor to have recorded in the proper county; but if he fails to perform this duty, the notes for the purchase money, till paid, shall have preference and priority over any right, title or claim the purchaser at the sale, by virtue of such purchase and the deed from the executor or administrator, can confer on any third person; and all such purchasers shall be deemed to have full notice of the lien in favor of the estate for the purchase money.

"Sec. 20. Section two hundred and fifty-one of said aforecited act shall be so amended as to read as follows: Sec. 251. Every account or exhibit presented by an executor or administrator to the court shall be acted on by the court at the time of filing, if the same have not been acted on by the clerk, except a final account or exhibit, which shall not be acted on finally till the proper publication as to the same has been made.

"Sec. 23. Section two hundred and ninety-one of the aforecited act shall be amended to hereafter read as follows: Sec. 291. Such sales shall be made, advertised,

returned, confirmed and completed, as is directed by section two hundred and forty-three of said recited act, as amended by this act, and terms of sale same as is required in section two hundred and forty-six as amended by this act.

SEC. 217. That sections one hundred and twenty-seven, two hundred and thirty-one, two hundred and thirty-two, two hundred and fifty and two hundred and fifty-one of said aforesaid act be and the same are hereby repealed, and all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed; and that this act take effect and be in force from and after its passage."

Further amendment offered by the committee: Amend caption: "An act entitled an act to amend an act prescribing the mode of proceeding in district courts in matters of probate, approved August 15, A. D. 1870." The amendment was adopted.

Mr. Ireland moved to add to section six, page twelve, the following: "Which shall be proof of his fiduciary character in all the courts of this State." The amendment was adopted.

On motion of Mr. Hollingsworth, Mr. Anderson was excused for the remainder of the day on account of pressing business.

Mr. Sayers offered the following amendment: Amend sections thirty-three and three hundred and four, of the act entitled, "An act prescribing the mode of proceeding in District Courts in matters of probate, approved August 15, 1870," so as hereafter to read as follows, respectively: "SEC. 33. When the wife dies, her husband surviving, administration is unnecessary, except as to any separate estate which may have belonged to her. The husband continues to have the same power of disposition over the community property which he possessed during the continuance of the marriage; but he shall be required to return an inventory and appraisement of all such property, and to file a bond, signed by one or more sureties, to be approved by and payable to the district clerk of the county, in an amount equal to the value of the whole of the community property, to the effect that he will faithfully administer the same, and pay over one half of the surplus, after the payment of the debts, with which the whole is properly chargeable, to such person or per-

sons as shall be entitled to receive it; *provided*, that this section shall not apply to community property of estates where the surviving husband or wife, prior to the passage of the act to which this is an amendment, obtained the right to manage, control and dispose of said community property, under and by virtue of the provisions of the act entitled, "An act supplementary to the act of March 13, 1848, entitled, an act better defining the marital rights of parties, approved August 26, 1856;" and such surviving husband or wife shall manage, control and dispose of such community estate, and make settlement and partition thereof, under and in accordance with the provisions of said act, approved August 26, 1856, as though the same had not been repealed."

"SEC. 304. All proceedings in relation to the settlement, partition and distribution of estates of deceased persons that now remain unsettled in the county courts where the administration has been commenced shall be transferred to the district court of the same county, and shall be concluded under the provisions of this act; *provided*, this section does not apply to community estates where the surviving husband or wife, prior to the passage of an act to which this is an amendment, obtained the right to manage, control and dispose of the community property without administration; *provided further*, that no remedy to which a creditor is entitled under the provisions of the laws heretofore in force shall be impaired by this act. Proceedings heretofore had in the county courts, in matters of probate, may be revised by motion in the district court, specifying the errors or irregularities sought to be corrected, giving ten days' notice thereof to the party or parties adversely interested."

Mr. Powers moved to lay the amendment on the table, which motion carried.

Mr. Cook moved to strike out of section one, lines twenty-one and twenty-two, the words "to probate wills."

Mr. Wood moved to lay the amendment on the table, which motion carried.

Mr. Ireland moved to strike out of section thirteen the following: "Nor shall it be competent for a deputy to exercise the powers and authority herein conferred upon the clerk."

The amendment was adopted.

Mr. Ireland moved to amend by inserting the following additional section: "That all temporary letters of administration shall be granted on the first and third Mondays in each month, and at no other time."

Mr. Sayers moved the previous question, which was seconded, put and carried.

The amendment offered by Mr. Ireland was then adopted.

The bill was then ordered engrossed.

On motion of Mr. Wood the rules were suspended and the bill read a third time.

Mr. Powers moved to amend section nine by transposing the words "or other property" at the end of the section, and placing them after the word "land," in last line but one, which amendment was adopted.

Mr. Mills moved the previous question, which was seconded, put and carried. The bill then passed.

Mr. Mills offered a concurrent resolution declaring that this Legislature will adjourn *sine die* on the thirty-first day of May, A. D. 1873.

A message from the Senate announced the passage by that body of Senate joint resolution No. 140, authorizing and requiring the sheriff of Williamson county, by himself or deputy, to summon a *posse* for the purpose of pursuing and arresting certain persons accused of crime, and providing rewards for such arrests.

Mr. Ireland moved to suspend the consideration of the special order, being House bill No. 816, "An act to provide for an election of a commission to select a site for a branch penitentiary," etc., until Tuesday, May 6, 11 A. M., and take up the message just received from the Senate, which motion carried.

The joint resolution was then read first time; rules suspended and read a second time.

Mr. Ireland offered as a substitute therefor a concurrent resolution authorizing and requiring the Governor to offer a reward of two hundred dollars each for the arrest and conviction of the parties who broke open the jail in Williamson county on the second instant, and an appropriation of three thousand dollars therefor.

A message from the Senate announced that that body refused to recede from its amendments to House bill No. 467, to adjust and define the rights of the Texas and Pacific Railroad Company within the State of Texas, in

order to encourage the speedy construction of a railroad through the State to the Pacific Ocean, and had appointed Senators Planagan, Ball and Latimer a conference committee on the disagreement between the two Houses.

On motion of Mr. Winkler, the House then adjourned until 4 o'clock P. M.

AFTERNOON SESSION.

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

Absent—Messrs. Kleberg and Tivy.

On motion of Mr. Brown of Upshur, Mr. Gallaway was excused for four days, on account of pressing business.

A message from the Senate announced the passage by that body of the following Senate bills:

No. 258, "An act to amend sections seven, ten and twenty, of an act entitled an act to incorporate the Tyler Tap Railroad Company, approved December 1, 1871, and to grant land to said company to aid in the construction of its road."

No. 331, "An act to prohibit the sale of intoxicating liquors within two miles of Pattonville, in Lamar county."

No. 39. "Joint resolution memorializing Congress to provide for the improvement of the entrance into Mataorda Bay."

Mr. Cook, on behalf of himself and co-signers, presented the following protest, which was ordered spread upon the journal of the House of Representatives:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: The undersigned members of the House respectfully claim the right to have entered upon the journal of this House their protest against the bill, No. 52, originating in the Senate, being "An act entitled an act to amend an act prescribing the mode of proceeding in district courts in matters of probate," which this day passed this House. While we do not desire to appear conspicuous, our conscientious convictions of the palpable unconstitutionality of the act, as well as the manifest tendency to place the management of the estates of deceased persons entirely under the control of the district clerks, make it due to ourselves that we claim our constitutional privilege of entering this, our protest, against the passage of

said act, upon the journal of the House of Representatives.

The great evils which we feel convinced must result from the enforcement of the act, compel us to take this step in order that we may be in no way held responsible for its passage. With the greatest deference for the opinions of this House, from which we feel thus obliged to express our dissent, we beg leave to subscribe ourselves,

JAMES ARMSTRONG,  
GUSTAVE COOK,  
A. S. BROADDUS,  
W. H. TILSON,  
W. H. WESTFALL,

Leave being granted, Mr. Brown of Dallas offered the following resolution :

*Resolved*, That after the adoption of this resolution at the afternoon session of the House, the roll of members shall be called as follows :

1. The first name on the list.
2. The last name on the list.
3. The second name on the list.
4. The name next to the last on the list.

And so on from the top and bottom alternately until all the names shall be called, and as each member's name may be called, he shall have the right to call up any bill he may prefer for the action of the House.

*Resolved*, That all existing rules contrary to the provisions of the foregoing resolution are hereby revoked.

Laid over under the rules.

Mr. Robb, called up Senate bill No. 173, "An act to prohibit the sale of intoxicating liquors within two miles of Linn Flat High School House, in Nacogdoches county."

The Committee on State Affairs submitted the following report upon the bill :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on State Affairs, to whom was referred Senate bill No. 173, entitled "An act to prohibit the sale of intoxicating liquors within two miles of Linn Flat High School House, in Nacogdoches county," have considered the same, and recommend its passage.

VENTERS, for Committee.

The bill was read first time; rules suspended, read second time and passed to third reading.



On motion of Mr. Robb, the rules were further suspended, the bill read third time and passed.

Mr. Harrison called up House bill No. 291, to incorporate the Gulf, Colorado and Santa Fé Railway Company.

The following amendments offered by the Committee on Internal Improvements were read and adopted :

1. Amend section eight by inserting in line ten, after the word "to," the words "the town of Caldwell, in Burleson county, thence to the town of Cameron, in Milam county, thence to the town of."

2. Amend same section by inserting in line eleven, after the word "county," the words "and in event that the citizens of each of said towns shall donate to said company the necessary right of way for road, switches and turnouts to and through said towns, and sufficient grounds for depot purposes, the depot shall be located within half a mile of the court house in each of said towns."

3. Amend section ten by adding thereto, "wherever said railway shall be constructed over any part of the public domain of this State, the right of way not exceeding two hundred feet in width along such portion of said line, and all necessary grounds for depots, buildings, turn-tables, turnouts and side tracts, is hereby granted to said company ; and also the right to take from said public domain and use all rock, timber, earth or other material thereon, necessary in the construction and maintenance of such portion of said railway."

4. Amend section thirteen by striking out the word "thirty" in line five, and inserting in lieu thereof the word "sixty."

5. Amend section fourteen by striking out all after the word "receive," line five, and inserting the following : "And the State of Texas hereby grants and donates to the said Gulf, Colorado and Santa Fé Railway Company, sixteen sections of land for each and every mile of said road completed ; and whenever the Governor shall be informed that ten miles of said road shall have been completed, he shall at once appoint some competent person to inspect the same ; and if the report of the inspector be favorable, the Governor shall immediately notify the Commissioner of the General Land Office, whose duty it shall be immediately to issue to said company sixteen land certificates, of six hundred and forty acres each, for

each and every mile of road completed, and so on for every additional ten miles of road completed, which said certificates shall be located, surveyed and patented according to the provisions of the general railroad law on the principle of alternate sections; *provided*, that each succeeding section of ten miles, after the first, shall be inspected in like manner, as provided in this section for the first ten miles; *provided further*, that in no case shall the State be in any way liable for deficiency of vacant domain; *and provided further*, that this company shall not have the right to sell, rent, lease to or consolidate with, any parallel or competing railroad in this State; *and provided further*, that said company shall alienate the lands hereby granted and donated, except so far as may be necessary for the ordinary uses and operating said road, as follows, viz.: one-fourth in eight years, one-fourth in twelve years, one-fourth in sixteen years, and the remaining fourth in twenty years from the date of the issuance of the certificates, in such manner that the whole of such lands shall pass out of the hands of said company within twenty years from the date of the certificates; *provided*, that said lands shall not be alienated to any other railroad corporation, except so far as may be necessary for the proper use and conducting of the business of such corporation; and, on failure to comply with the provisions of this section, and the general laws of the State on this subject, the said company shall forfeit all right to lands secured by this act, not alienated as required by law."

The bill was then considered by sections.

Mr. Sabin moved to amend section one by inserting the following names: "George Lawrence, Wm. R. Smith, N. B. Yard, C. E. Broussard." The amendment was adopted.

Mr. Westfall moved to amend section fourteen by inserting after the word "inspector" the words "made under oath." The amendment was adopted.

Mr. Ireland moved to amend section twelve by striking out of line seven the word "called," which amendment was adopted.

Mr. Prendergast moved to amend section fourteen as follows: Amend the amendment of the committee as follows: Insert after the word "railroad," line forty-seven, the words "or other;" also, insert after the word "corporation," line fifty of same amendment, as follows: "Nor shall land be conveyed to any person, firm or com-

pany in trust for said railroad company, or to any firm or company of which any officer or stockholder of said railroad company is a member;" also, in line fifty-one of the same amendment, after the word "with," insert the following: "or a violation of." The amendments were adopted.

Mr. Smith of Colorado moved to amend section fourteen by striking out all after the word "date," in line three, and inserting in lieu thereof "of this act." The amendment was adopted.

Mr. Sayers moved to amend section fourteen by inserting after the word "corporation," in line fifty, the words "*and provided further*, that said company shall not alienate its stock to any other railroad company." The House refused to adopt the amendment.

Mr. Cook moved to insert the following as an independent section to follow section fourteen: "That in no event shall the said Gulf, Colorado and Santa Fé Railway sell or lease to or consolidate with any other railway company unless by the consent of the Legislature of Texas, first had and obtained; and any such sale, or lease to or consolidation with any other railway company shall be otherwise invalid, but shall work a forfeiture of the charter, chartered rights and franchises of the said Gulf, Colorado and Santa Fé Railway Company."

Mr. Rosborough moved to lay the amendment on the table, which motion carried.

Mr. Nelson offered the following proviso to section fourteen: "*And provided further*, that no land shall be donated to that portion of this road lying east of the county of Burleson."

Mr. Sayers moved to lay the amendment on the table, which motion carried.

Mr. Joseph moved to amend by striking out all after the word "not," in line three, section fifteen, to include the word "inches" in line five, and inserting in lieu thereof, "not less than four feet eight and one-half inches." The amendment was adopted.

Mr. Prendergast offered the following amendment to section sixteen: Amend by adding as follows: "*And the right is expressly reserved to the Legislature to fix the rate of charges for freight and passage on said railroad.*" The amendment was adopted.

Mr. Cook moved to amend section sixteen by striking out of line four the words "the company deem," and in-

serting in lieu thereof, "be." The amendment was adopted.

Mr. Ireland moved to amend section sixteen by inserting after the word "exceed," in line six, as follows: "Those that may be established by law." The amendment was adopted.

Mr. Smith of Colorado moved to amend section seven-teen by striking out in line six, "thirty," and inserting in lieu thereof "fifty." The amendment was adopted.

Mr. Watts offered the following: Amend section seven-teen by inserting after the word "miles," in line four, the following: "Of their said railroad." The amendment was adopted.

Mr. Winkler moved to amend section twelve by striking out of lines two and three the words, "or other bills of credit." The amendment was adopted.

Mr. Booty moved to amend by inserting in section three, line three, before the word "five," the words "not less than," and by striking out all after the word "in" in line four. The amendment was adopted.

Mr. Westfall moved to add to section eight as follows: "*Provided*, that when the direct route of said railway shall run within five miles of any county site, then said road shall run to said county site, and establish and maintain a freight and passenger depot at such town; *provided*, said town shall donate to said road the right of way for a single track, with all the necessary switches, turn-outs, side-tracks, etc., together with sufficient grounds for depot purposes, not to exceed ten acres."

The amendment was adopted.

Mr. Scott offered the following amendment: Strike out all after the word "building," in section ten, line thirteen.

The amendment was adopted.

Mr. Brown, of Dallas, moved to insert, in section eight, after the word "there" the word "after," so as to make it read "thereafter."

The House refused to adopt the amendment.

Mr. Smith, of Colorado, moved to add to the end of section three as follows: "*Provided*, it be on the right of way of the company."

The House refused to adopt the amendment.

The bill was then ordered engrossed.

On motion of Mr. Joseph the rules were suspended, the bill read third time and passed by the following vote:

Yeas—Messrs. Speaker, Adriance, Allison, Anderson, Berends, Bewley, Betsy, Broaddus, Brown of Upshur, Brown of Dallas, Carroll, Cook, Cunningham, Davenport, Day, Doyle, Ford, Gaston, Ghent, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Kemble, Killough, Lane, Mabry, Manning, Noeggerath, Powers, Prendergast, Rainey, Robb, Roberts, Rosborough, Russell, Sabin, Salter, Sayers, Schmidt, Scott, Shaw, Short, Smith of Colorado, Smith of Houston, Storey, Thurmond, Tilson, Tivy, Watts, Westfall, Wilder, Williams, Winkler—56.

Nays—Messrs. Armstrong, Chambers, Denton, Eastland, Moore, Nelson, Shelton, Tom, Trolinger, Wood—10.

A message from the Senate announced the passage by that body of House bill No. 47, "An act supplemental to and amendatory of an act entitled an act to incorporate the Rockport, Fulton, Laredo and Mexican Pacific Railroad Company," passed November 11, 1871.

The Committee on Enrolled Bills submitted the following reports:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Enrolled Bills have carefully examined and compared the following bills:

No. 517, "An act supplemental to an act to incorporate the Western Narrow Gauge Railway Company, approved August 4, 1870, and an act supplemental thereto, approved October 13, 1871."

No. 13, "An act to incorporate the city of Corsicana, in Navarro county, Texas."

And find them correctly enrolled, and have this the fifth day of May, at 4:45 o'clock P. M., presented the same to the Governor for his signature.

W. A. SHAW, Chairman.

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

Sir, Your Committee on Enrolled Bills have carefully examined the following bills to-wit:

No. 594, "An act to incorporate the St. Louis and Mexican Gulf Railroad Company, and to grant land to aid in the construction thereof."

No. 819, "An act amendatory of an act entitled an act to incorporate the Bastrop Casino Association, approved October 27, 1866."

And find them correctly enrolled, and have this the fifth day of May, at 11 o'clock A. M., presented the same to the Governor for his signature.

SHAW, Chairman.

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: Your Committee on Enrolled Bills have carefully examined House bill No. 211, entitled "An act making an appropriation for C. R. Gibson," and find the same correctly enrolled, and have this, the fifth day of May, at 11 o'clock, presented the same to the Governor for his signature.

SHAW, Chairman.

The following communication was received from His Excellency the Governor, ordered spread upon the journal, and, on motion of Mr. Winkler, referred to the Committee on Counties and County Boundaries :

EXECUTIVE OFFICE, STATE OF TEXAS, }  
AUSTIN, MAY 5, 1873.. }

*Hon. H. B. Pickett, President of the Senate, and Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

GENTLEMEN: I call your attention to the two bill sent me on the first instant, providing for the organization of the two new counties, Waller and Gregg.

These two proposed counties are in area largely less than the constitutional limit, and they also leave the counties from which they are taken of such less area, but as they passed both houses of the Legislature by a vote very considerably larger than the constitutional requirement of two-thirds, I have not thought it advisable to return them with objections. But the creation of such counties is clearly contrary to good policy; the county organization must necessarily be too weak for efficiency, and will probably continue so for many years, this remark applying to the newly created counties as well as the counties from which they are taken. It must be remembered that there are scarcely a half dozen counties in the State having good jails and court houses, and the excuse for this is constantly given that the counties are too weak in population and wealth.

I seriously doubt whether the people in the old or new counties affected by these changes have any particular desire that they should be made.

At any rate, I would make the suggestion that the question of the creation of these new counties be submitted by a supplemental bill to a vote of those people before they are allowed to take effect. The same suggestion might apply to the other counties created at this session.

I ask the consideration of this matter by the houses.

Respectfully,

EDMUND J. DAVIS, Governor.

Under instructions from the House the Speaker appointed the following gentlemen a conference committee on the part of the House, upon the disagreement of the two houses upon House bill No. 467, known as the Texas and Pacific bill: Messrs. Smith, of Colorado, Tilson and Ireland.

The committee were instructed to report on Thursday, May 8, at 4 P. M.

On motion of Mr. Kemble, House bill No. 286, "An act to suppress gambling," was taken up, laid on the table, and made special order for Tuesday, May 6, at 10 A. M.

The Committee on Engrossed Bills submitted the following report:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your Committee on Engrossed Bills have carefully examined the following bill:

No. 111, a bill to be entitled "An act to incorporate the Dallas, Palestine and Southeast Texas Railroad Company,"

And find the same correctly engrossed.

BOOTY, Chairman.

The invitation from the directors of the Houston State Fair to the Legislature, to attend the fourth annual fair, was taken up.

Mr. Sabin moved to accept the invitation.

Mr. Ireland moved to amend so as only to return the thanks of the House of Representatives for the invitation.

Mr. Killough moved to amend so as to appoint a committee of five on the part of the House of Representatives to attend the fair officially.

Division of the question being called for, the House refused to raise the committee by the following vote:

Yeas—Messrs. Adriance, Booty, Cook, Doyle, Harrison, Hoffman, Hollingsworth, Joseph, Killough, Mabry,

Mills, Prendergast, Sabin, Salter, Schmidt, Short, Smith of Colorado, Thurmond, Winkler and Wood—20.

Nays—Messrs. Speaker, Armstrong, Berends, Bledsoe, Bordeaux, Broaddus, Brown of Upshur, Carroll, Chambers, Cunningham, Davenport, Day, Denton, Eastland, Gaston, Ghent, Gilpin, Ireland, Kemble, Manning, Moore, Nelson, Noeggerath, Powers, Rainey, Rimes, Robb, Roberts, Rosborough, Russell, Sayers, Scott, Shaw, Shelton, Smith of Houston, Storey, Tilson, Tivy, Tom, Trolinger, Venters, Westfall, Wilder and Williams—44.

On motion of Mr. Russell, Mr. Short was granted an indefinite leave of absence after Monday, May 12, to allow him to attend the State Fair.

Mr. Cook asked for an indefinite leave of absence for Mr. Doyle for the same time and purpose.

There being no quorum voting, on motion of Mr. Sayers, the House then adjourned until 9 o'clock A. M. to-morrow.

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HOUSE OF REPRESENTATIVES, }  
AUSTIN, TEXAS, May 6, 1873. }

House met pursuant to adjournment. Prayer by the chaplain. Roll called; quorum present.

Absent—Messrs. Ellett and Killough.

On motion of Mr. Denton the reading of the journal was dispensed with.

On motion of Mr. Brown of Dallas, the special committee upon Senate bill No. 296, "An act prescribing the times of holding general elections in this State," was granted leave to report, and submitted the following:

*Hon. M. D. K. Taylor, Speaker of the House of Representatives:*

SIR: Your committee, to whom was referred Senate bill No. 296, beg leave to report the same back with the recommendation that it do pass.

IRELAND, Chairman.

The bill was read second time and passed to third reading.

On motion of Mr. Brown of Dallas, the rules were suspended, the bill read third time and passed by the following vote:



Yeas—Messrs. Speaker, Adriance, Allison, Anderson, Armstrong, Berends, Bewley, Bledsoe, Booty, Broadus, Brown of Upshur, Brown of Dallas, Carroll, Chambers, Cook, Cunningham, Davenport, Day, Denton, Doyle, Eastland, Ford, Gaston, Ghent, Gilpin, Harrison, Hoffman, Hollingsworth, Ireland, Joseph, Kemble, Kleberg, Lane, Manning, Mills, Morris, Nelson, Noeggerath, Payne, Powers, Prendergast, Rainey, Rimes, Robb, Rosborough, Russell, Salter, Sayers, Schmidt, Scott, Shaw, Shelton, Short, Smith of Colorado, Smith of Houston, Storey, Stockbridge, Thurmond, Tilson, Tivy, Trolinger, Van Zandt, Venters, Watts, Westfall, Williams, Winkler and Wood—68.

Nays—Messrs. Mabry, Moore, Roberts, Sabin, and Wilder—5.

Mr. Westfall presented a petition for relief for W. G. Hall, a soldier of the Texas Revolution. Referred to the Committee on Private Land Claims.

Mr. Kleberg presented a petition from citizens of Calhoun county, protesting against the passage of a fence law. Referred to the Committee on Agriculture and Stock Raising.

Mr. Payne presented a petition for relief of William M. Cook. Referred to the Committee on Private Land Claims.

Mr. Rainey moved to dispense with the call for bills and resolutions and take up House bill No. 595, "An act to divide the State of Texas into six congressional districts.

The House refused to dispense with the call.

Mr. Payne introduced a bill to provide for the filling of vacancies in the office of sheriff. Referred to Judiciary Committee No. 1.

Also, a bill for the relief of William M. Cook. Referred to the Committee on Private Land Claims.

Also, a joint resolution proposing an amendment to section eight of article nine of the Constitution of the State of Texas. Referred to the Committee on Constitutional Amendments.

Mr. Thurmond introduced a bill for the relief of William T. Townsend. Referred to the Committee on Private Land Claims.

Mr. Joseph introduced a bill granting a donation warrant to the heirs of David N. Burke, deceased. Referred to the Committee on Private Land Claims.

Mr. Williams introduced a bill to authorize the County Court of Walker county to levy a special tax to repair the court house and jail in said county. Read first time; rules suspended, read second time and ordered engrossed.

On motion of Mr. Williams, the rules were further suspended, the bill read third time and passed.

Mr. Chambers introduced the following resolution :

*Resolved*, That the Speaker of the House be, and he is hereby, authorized to appoint a special committee of five, to which shall be referred all railroad bills now pending, and that it shall be the duty of said committee to revise said bills and to guard them with the uniform restrictions which have become the settled policy of this body.

*Resolved further*, That Hon. D. M. Prendergast be appointed chairman of said committee.

Mr. Mills moved to lay the resolution on the table.

The House refused to table.

The resolution was adopted, and the Speaker appointed the following gentlemen said committee: Bledsoe, Manning, Storey and Watts.

Mr. Brown, of Dallas, moved to take up the congressional apportionment bill, No. 595. The motion carried.

Mr. Rainey offered the following substitute therefor: "A bill making a new apportionment of the congressional districts of the State of Texas."

On motion of Mr. Winkler, the bill was laid on the table and one hundred copies ordered printed, and both bill and substitute were made the special order for Thursday, May 8, at 10 A. M.

On motion of Mr. Short, the Committee on Privileges and Elections were granted leave to make a special report, and submitted the following :

*Hon. M. D. K. Taylor, Speaker of the House of Representatives :*

SIR: The Committee on Privileges and Elections, to whom was referred Senate bill No. 181, entitled "An act regulating contested elections," have had the same under consideration, and have ordered me to report the same back to the House and recommend that it do pass.

SHORT, Chairman.

The bill was read second time and passed to third reading.

On motion of Mr. Short, the rules were suspended, the bill read third time and passed.

On motion of Mr. Smith of Houston the standing committee on the Comptroller's and Treasurer's offices were granted leave to sit during the sessions of the House for this day.

The special order was then announced, House bill No. 816, "An act to provide for the election of a commission to select a site for a branch penitentiary."

On motion of Mr. Sayers, it was postponed temporarily to take up House bill No. 286, "An act to suppress gambling."

The bill was then considered by sections.

Mr. Wood offered the following amendment to section three: "Every person whose usual business is gambling, and who follows no laudable occupation for a livelihood, or has no other visible means of support, shall be held and deemed a common gamester, within the meaning of this act."

On motion of Mr. Sayers, the amendment was laid on the table.

Mr. Prendergast offered the following amendment: Section four, line one, after the word "possessions," insert the words "and control."

The amendment was adopted.

Mr. Sabin moved to strike out section five.

The House refused to strike out.

Mr. Anderson moved to amend section two by inserting after the word "cards," in line two, the following: "in any public place or place of public business."

Mr. Cunningham moved to lay the amendment on the table, which carried.

Mr. Payne moved to strike out of section five all of said section from the word "days," in line five.

The amendment was adopted.

Mr. Storey offered the following amendments: Amend section five by striking out the word "fifty," in line three, and insert in lieu thereof "twenty-five." Strike out all after the word "dollars," in line four.

Mr. Sayers moved to lay the amendment on the table, which carried.

Mr. Anderson moved to amend section five by striking out of lines three and four the words "one hundred" and inserting in lieu thereof "five hundred."

The House refused to adopt the amendment.

Mr. Kleberg moved to strike out section ten.

The House refused to strike out.

Mr. Ireland moved to amend section eleven by inserting after the word "same" the words "under oath."

The amendment was adopted.

Mr. Anderson moved to amend section ten by inserting in line one, after the words "any person," the words "or the parents or guardian or next friend of any minor, or the wife of any person."

The House adopted the amendment.

Mr. Kemble moved to add to section thirteen as follows: "This act to take effect and be in force thirty days from and after its passage."

Mr. Robb moved to amend the amendment by striking out the word "thirty."

The House refused to strike out.

The amendment was then adopted.

Mr. Storey moved to amend section six by striking out the words "not more than two thousand," in line seven.

The House refused to adopt the amendment.

Mr. Storey moved to amend section eight by striking out all after the word "found," in line sixteen, to "and," in line seventeen.

The House refused to adopt the amendment.

Mr. Tivy offered the following amendment: "Any person convicted a second time of a violation of any of the provisions of this act, shall be liable to double the penalties specified in the preceding sections." The House refused to adopt the amendment.

The bill was then ordered engrossed.

On motion of Mr. Booty the rules were suspended, and the bill read third time.

The yeas and nays were called upon its passage, with the following result:

Yeas—Messrs. Speaker, Anderson, Bledsoe, Booty, Bordeaux, Brown of Upshur, Chambers, Cook, Cunningham, Davenport, Day, Doyle, Eastland, Ford, Gaston, Ghent, Hoffman, Kemble, Mabry, Manning, Nelson, Prendergast, Robb, Roberts, Rosborough, Russell, Sayers, Scott, Shelton, Smith of Houston, Tilson, Tivy, Tom, Watts, Westfall and Winkler—36.

Nays—Messrs. Armstrong, Denton, Ellett, Harrison, Ireland, Joseph, Kleberg, Lane, Moore, Morris, Noeggerath, Powers, Sabin, Salter, Schmidt, Storey, Stockbridge, Trolinger, Washington, Wilder, Williams and Wood—22.