Carried by the following vote:

YEAS.

Blassingame,	Edwards,	Lane,	Stewart,
Brown,	Ford,	Ledbetter,	Storey,
Buchanan,	Gooch,	Martin,	Street,
Burnett,	Guy,	McCulloch,	Swain,
Burton,	Houston,	Motley,	Terrell—20.

NAYS.

Davenport,	Grace,	Ripetoe—3.

Not voting—Duncan, Hobby, Lair, Moore, Patton, Shannon.

Bill read third time and passed by the following vote:

YEAS.

Blassingame,	Ford,	Martin,	Storey,
Brown,	Gooch,	McCulloch,	Street,
Buchanan,	Lane,	Motley,	Swain,
Burnett,	Ledbetter,	Patton,	Terrell—17.
Edwards,			

NAYS.

Burton,	Guy,	Houston,	Shannon,
Davenport,	Homan,	Ripetoe,	Stewart—9.
Grace,			

Not voting—Duncan, Hobby, Lair, Moore.

Senator Blassingame moved to adjourn until 9 o'clock A. M. Monday.

Carried by the following vote:

YEAS.

Blassingame,	Burton,	Homan,	Shannon,
Brown,	Ford,	Houston,	Stewart,
Buchanan,	Grace,	Motley,	Swain,
Burnett,	Guy,	Patton,	Terrell—16.

NAYS.

Davenport,	Lane,	McCulloch,	Storey,
Edwards,	Ledbetter,	Ripetoe,	Street—10.
Gooch,	Martin.		

Not voting—Duncan, Hobby, Lair, Moore.

TWENTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 7, 1879.

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

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

Senator Shannon presented a memorial from the citizens of Parker and Palo Pinto counties, asking for the passage of a special act authorizing the establishing of a ferry over the Brazos river at Pollard's crossing on said river, giving as a reason that the parties proposing to establish the ferry will and can do so and charge much cheaper rates of ferriage than allowed by the commissioners' court under the provision of the general act on that subject, etc.

Referred to the committee on state affairs.

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

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your judiciary committee No. 2 have considered Senate bill No. 93, entitled "An act to amend article 4664, title 95, chapter 1 of the Revised Civil Statutes," and I am instructed by said committee to report said bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Bill read first time.

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your judiciary committee No. 2 have considered House bill No. 48, entitled "An act to repeal 'an act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property,' approved April 21, 1879," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend its passage. STEWART, *Chairman.*

Bill read first time.

The undersigned senators submitted the following minority report:

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your judiciary committee No. 2 have had under consideration House bill No. 48, entitled "An act to repeal 'an act to provide for the record of contracts relating to land in a manner that will distinguish community from separate property,' approved April 21, 1879," and a majority of the committee have instructed the chairman to report that said repealing bill do pass.

The undersigned, minority of said committee, beg leave to present this minority report:

The act sought to be repealed requires certain facts to be recited in a contract relating to land, before it shall be recorded, viz: "Whether the grantor or land owner was married or single at the time he or she acquired his or her interest in the land; and if he or she was then married, the name of the husband or wife; and whether the husband or wife is dead and which one; and whether the land is separate or community property of the grantor; and whether the grantee is a single or married man." If these recitals are not made in the contract ordered, they may be supplied by supplements or affidavits and then be recorded. *The recital of these facts* are made *prima facie* evidence. Those who dispute them assume the burden of proof.

It seems to us that it is unwise to repeal this act, unless some other is passed better calculated to attain the same objects.

It is necessary to state, in order to clearly present the object of the bill sought to be repealed, that under our law all property, both real and personal, acquired by either husband or wife during the marriage, except that which is acquired by gift, devise or decent, shall be deemed the common or community property of the husband and wife. During coverture the husband has the power to sell the property. After the death of the wife, one-half of the property descends to the children of the marriage, if there be any. The husband ceases to have the power to sell the wife's half at her death, unless the community estate owes debts, in which case he retains power to sell for the purpose of paying the debts.

It will be seen, that by reason of our community property laws and laws of decent and distribution, it becomes and is a part of our present land system that a married grantee in a deed with regular chain of title to lands under certain circumstances, is deprived of his power to sell; and this is done in a manner that is no notice to the world. The record shows that he has a title, when it is not true in fact. The supreme court decided, in case of Yancy *vs.* Battle, 48 Texas Reports, page 46, *et seq.*, that proof of purchase during marriage, and death of the wife before sale, entitles the children of the marriage to recover one-half of the land from a purchaser unless an equitable defence be set up and proved by the purchaser." It will be remembered that ignorance of facts, which the law presumes everybody knows (such as marriage and a continuance of the relations, and death of the wife) is no excuse, and will not be a valid defense to a suit for the land by the heirs, though the purchaser may have purchased in good faith, for value paid, without notice. It would, however, be an equitable defence that the community estate owed debts, and that the land was sold by the husband to pay the same. But by said above-named decision, and others referred to therein, the burden of proving that such debts existed, and that the sale was made to pay the same, is declared to rest on the purchaser.

In speaking of this question and these decisions, Mr. Justice Moore, among other things, said (see page 78): "This rule will be a source of continued disturbance of society and lead to the stirring up of strife and litigation, over stale and long-forgotten transactions, after the parties by whom they should have been settled have passed away, and after the property involved have passed through many different hands, who know nothing of the facts and circumstances connected with them and who have no opportunity of learning the truth in relation to them. They can but be fountains of fraud and perjury, poisoning the minds of children, inculcating lessons of selfish distrust and disrespect in place of reverence, filial affection and domestic harmony. Such a train of decision," says the justice (and we the minority of the committee think that a failure to change the rule, when it has been established by the courts, will have a like effect), "must cast a cloud on almost every title to land in the state, and when generally known, reduce the value of real estate, embarrass its transfer obstruct settlement, retard improvement, drive away emigration, alarm capital and produce general uneasiness and disquiet, with all the attendant evil consequences resulting where men are made to feel insecure in their property and homes. * * *. With the most diligent inquiry and examination that is practically possible, the most patient attorney * * * will be unable to say, in one instance out of ten, that it is unquestionably perfect, or advise a client that he may purchase without danger, that he may not at any moment find himself involved in a suit for one-half the land with people of whom he has never heard. * * * It is practically impossible, by any reasonable inquiry, for the most prudent purchaser to learn the domestic relations of every party through whom land has passed. * * * It would be quite difficult to do this if all such parties resided in the immediate vicinity of the land. But when it is remembered that many of them may have lived in widely different localities, it evidently would be a vain undertaking." On page 81 it is further said that "this rule thus established make our laws for the registration of deeds serve merely to ensnare those relying upon them."

In one of the cases on this subject Mr. Justice Gould remarks that if the rule works hardships, the Legislature and not the courts, should by applied to for a remedy. We have quoted thus freely from the above opinion of the judges, not alone because it emanates from a source whose views are entitled to great weight, but also because it expresses. vere clearly, as we think, grave reasons for a change in the old law; and reasons why the new act sought to be repealed, should not be disturbed now. We think we discover in the old law upon the subjects above referred to, glaring defects; the bill sought to be repealed will require the records of deeds to show when the marriage relations exists and when it ceases; what is community land and what is not; and it casts the burden of proof from the purchaser who has an apparent legal title on him who claims against it. There is no doubt that this change in the law will cause inconvenience for awhile, and cause some complaint; but we feel sure that when the reason and necessity for the change is made known, it will meet the approval of those who would be glad to see the land titles more secure in Texas. We have only passed this bill a few months ago, after very thorough consideration. It has not yet taken effect. Whatever necessity existed then for its passage still exists. We see no good reason why we should undo what we have so lately done, when the causes for our action are not different. Therefore we recommend that the bill repealing the law do not pass.

GOOCH,
HOBBY,
GUY,
BROWN,
HOMAN.

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

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your committee on enrolled bills have carefully examined, and find correctly enrolled and properly signed, substitute for Senate bill No. 59, "An act to exempt from taxation horse racing when run over four hundred and forty yards," and have presented the same to the governor for his signature, this day at 8:50 o'clock A. M. GRACE, *Chairman.*

Senator Motley, chairman of the committee on free conference on the differences between the two houses on House bill No. 6, submitted the following report:

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

Your committee of free conference on the matters of difference between the House and Senate on House bill No. 6, "An act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying prisoners from the place where sentenced to the penitentiary, approved April 22, 1879," have considered the same, and submit the following, and ask that it be adopted in lieu of the Senate amendment:

Strike out the words "within twenty-one days," where they occur in section 2 of the bill, and insert "where the place of confinement of the prisoner or prisoners is within fifteen miles of a point having railroad connection with the penitentiary, within seven days; or where the place

of confinement of the prisoner or prisoners is not less than fifteen nor more than sixty miles from a point having railroad connection with the penitentiary, within ten days; or where the place of confinement of the prisoner or prisoners is not less than sixty nor more than one hundred and fifty miles from a point having railroad connection with the penitentiary, within fifteen days; or where the place of confinement of the prisoner or prisoners is not less than one hundred and fifty miles from a point having railroad connection with the penitentiary, twenty days.

Respectfully submitted,

McCOMB,
STEWART of Delta,
FISHER,
On part of House.
MOTLEY,
BUCHANAN,
BROWN,
On part of Senate.

The report of the committee was adopted.

Senator Grace arose to a question of privilege and spoke as follows:

"In the editorial of the *State Gazette* of the sixth instant, a greater latitude is taken in commenting on my remarks than was justified. I had not used the governor's name or made any reference to him, for I did not think him responsible for the action of the Legislature or of the commission, in connection with the frauds mentioned—his duty being simply to see that the laws were duly executed—till the senator from Travis propounded the question to me; when I replied, 'I am informed that it has been softly and secretly whispered in the executive's ear.' I did not by my reply convey any idea that Governor Roberts was lending his aid to the suppression of the investigation. I did not and do not believe anything of the kind."

Senator Terrell in personal explanation said: That the "remarks of the senator from Fannin just made, made it proper (as I shall unavoidably be absent after to-day) that I should have stated the course I would pursue on the proposition to repeal the resolution creating a board of senators and representatives to detect land frauds. The senator from Fannin has said that the prime object of the board is to expose land frauds perpetrated by parties here in Austin. Now, whatever may be my views of the superior efficiency of an intelligent prosecutor, with detectives to aid him, yet when it is stated that here in Austin among my constituents, there are guilty parties not yet exposed, and that this board is necessary, I will not be placed in the position of opposing any plan which the Senate may deem efficient. If there are guilty parties among my constituents, no senator shall go further than myself to secure their exposure and punishment, and I shall so pair as to have my vote cast in favor of continuing the board since senators regard this as necessary."

The president presented to the Senate, Senate bill No. 79, entitled "An act to prescribe the remedy and regulate the proceedings of *quo warranto*, and confer the jurisdiction in certain cases upon the district court of Travis county."

The bill, not having been returned from the public printer, was temporarily postponed.

On motion of Senator Street, Senator Terrell was excused for the session after to-day.

Senate bill No. 23, entitled "An act to provide for the sale of alternate sections of land set apart and appropriated for the support of the public schools," was taken up in connection with substitute for House bills Nos. 18 and 19, entitled "An act to provide for the sale of the alternate sections of land in organized counties, as surveyed by railroad companies and other works of internal improvements, and set apart for the benefit of the common school fund, to provide for the investment of the proceeds and to repeal all laws in conflict therewith."

Senator Ledbetter moved to substitute the House bill for the pending Senate bill.

Adopted.

Senator Davenport called for the reading of the bill by sections.

Senator Davenport offered the following amendment:

Section 2, line twenty-two, strike out "one dollar" and insert "fifty cents."

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

For "fifty cents" substitute "one dollar and fifty cents."

Lost.

Senator Gooch offered the following as a substitute for the pending amendment:

Amend section 2, line twenty-two, by adding after the words "per acre" these words: "for arable lands and fifty cents per acre for pasture land."

Accepted by Senator Davenport.

Senator McCulloch moved the previous question.

Motion seconded and main question ordered.

Lost by the following vote:

YEAS.

Blassingame,	Gooch,	Lair,	Street—7.
Davenport,	Houston,	Storey,	

NAYS.

Brown,	Grace,	Martin.	Patton,
Burnett,	Homan,	McCulloch,	Ripetoe,
Duncan,	Lane,	Moore,	Shannon,
Edwards,	Ledbetter,	Motley,	Swain—18.
Ford,			

Not voting—Buchanan, Burton, Hobby, Stewart, Terrell.

The undersigned senators presented the following as an explanation of their vote on this amendment:

"We vote 'no' on this amendment, not because we think it without merit, but because we are satisfied its adoption will defeat the passage of the present bill.

GUY,
SHANNON."

The following message was received from the House, stating that body has adopted the report of the free conference committee on differences of the two houses arising from Senate amendments to House bill No. 6, "An act to amend an act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the place where sentenced to the penitentiary, approved April 22, 1879."

Senator Lane offered the following as a substitute for section 2 of the pending bill:

"The county surveyor of the county in which said lands are located

shall view and appraise the same under oath and make return of the same to the county commissioners' court, which court shall examine and approve or disapprove of the same, and may take other evidence to ascertain the true value of the land; and in cases of disapproval said court shall fix a value thereto, and the valuation of said lands in no case shall be less than one dollar per acre.

"County surveyors, acting as appraisers of lands in their respective counties, shall each receive the sum of one dollar per section—in no event to exceed fifty dollars for the appraisment of all the lands in any one county—to be paid out of the proceeds of the first sales of the lands under the provisions of this act.

"Any person having made improvements upon any of such lands prior to the taking effect of the act, shall have the preference in the purchase thereof for the period of six months next after the taking effect thereof, at the valuation exclusive of the value of such improvement."

Adopted.

(Senator Houston in the chair.)

Also the following: Amend section 3 by striking out the words "board of appraisers," in first and second lines of third section, and insert therefor "county commissioners' court."

Adopted.

Also the following: In section 3 strike out in line five after the word "water," down to the word "one," in line seven of said section.

Adopted.

Senator Gooch offered the following amendments:

Amend in the caption and insert after the words "an act to provide for the sale of the" the words "of the asylum and university lands, and for the sale of the."

In section 1, in line five, before the words "shall be brought into market," insert "and the asylum and university lands."

Section 17, line twenty-eight, strike out the words "common school" before the word "fund," and insert after the said word "fund" "to which it belongs;" and in line twenty-nine, strike out all after "state bonds" in said section 28.

The above three amendments bearing upon the same subject, were put together and lost by the following vote:

YEAS.

Brown,	Edwards.	Houston,	Patton,
Buchanan,	Gooch,	Lair,	Stewart,
Davenport,	Hobby,	McCulloch.	Storey—12.

NAYS.

Blassingame,	Grace,	Ledbetter,	Ripetoe,
Burnett,	Guy,	Martin,	Shannon,
Duncan,	Homan,	Moore,	Street,
Ford,	Lane,	Motley,	Swain—16.

Not voting—Burton, Terrell.

The bill was then passed to third reading by the following vote:

YEAS.

Blassingame,	Ford,	Lane,	Motley,
Brown,	Gooch,	Lair,	Shannon,
Buchanan,	Guy,	Ledbetter,	Stewart,
Davenport,	Hobby,	Martin,	Storey,
Duncan,	Homan,	McCulloch,	Street,
Edwards,	Houston,	Moore,	Terrell—24.

NAYS.

Burnett,	Grace,	Ripetoe,	Swain—6.
Burton,	Patton,		

On motion of Senator Ledbetter, the rule was suspended to place the bill on its third reading by the following vote:

YEAS.

Blassingame,	Gooch,	Lair,	Shannon,
Brown,	Guy,	Ledbetter,	Stewart,
Buchanan,	Hobby,	Martin,	Storey,
Davenport,	Homan,	McCulloch,	Street,
Edwards,	Houston,	Moore,	Swain,
Ford,	Lane,	Patton,	Terrell—24.

NAYS.

Burnett,	Burton,	Grace,	Ripetoe—4.

Not voting—Duncan, Motley.

The bill was then passed by the following vote:

YEAS.

Blassingame,	Gooch,	Lair,	Shannon,
Brown,	Guy,	Ledbetter,	Stewart,
Buchanan,	Hobby,	Martin,	Storey,
Davenport,	Homan,	McCulloch,	Street,
Edwards,	Houston,	Moore,	Terrell—23.
Ford,	Lane,	Motley,	

NAYS

Burnett,	Duncan,	Patton,	Swain—7.
Burton,	Grace,	Ripetoe,	

On motion of Senator Ford, the Senate went into executive session.

IN SENATE.—On motion of Senator Motley, it was ordered that the journals show that the nominations sent in by the governor on the fifth instant, of district attorney for the twenty-fifth judicial district and notaries public, were confirmed in executive session.

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

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your committee on engrossed bills have examined and herewith report as correctly engrossed the following bills, viz:

Senate substitute for House bill No. 20, entitled "An act to amend 'an act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the twenty-first day of February, 1879, approved April 22, 1879, and to add articles 4759*a*, 4759*b*, 4759*c* and 4759*d*;"

Senate bill No. 82, entitled "An act to provide for the sale of the public domain and to apply the proceeds of such sale to the public school fund, and to the payment of the public debt;"

Senate bill No. 92, entitled "An act making an appropriation to pay the salaries of the judges of the commission of appeals."

BROWN, *Chairman.*

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your committee on engrossed bills have examined Senate bill No. 88, entitled "An act to define who are agents of insurance companies, and to fix their liability for acting without authority of law;"

Also, Senate bill No. 90, entitled "An act to authorize the governor,

comptroller and attorney general of the state to purchase additional lands for the use of penitentiaries," and find the same correctly engrossed.

BROWN, *Chairman.*

Senator Patton moved that the pending business be postponed for five minutes to take up Senate bill No. 93, "An act to amend article 4664, title 95, chapter 1 of the Revised Civil Statutes."

Carried.

Senator Lane moved a call of the Senate.

Call seconded.

Roll called and Senate announced full.

The Senate refused to suspend the rules to take up the bill indicated above by the following vote:

YEAS.

Brown,	Duncan,	Houston,	Ripetoe,
Burnett,	Grace,	Ledbetter,	Shannon,
Burton,	Guy,	Motley,	Stewart,
Davenport,	Homan,	Patton,	Swain—16.

NAYS.

Blassingame,	Gooch,	Martin,	Storey,
Buchanan,	Hobby,	McCulloch,	Street,
Edwards,	Lair,	Moore,	Terrell - 14.
Ford,	Lane,		

The president laid before the Senate the special order, being Senate bill No. 79, "An act to prescribe the remedy and regulate the proceedings by *quo warranto* and confer the jurisdiction in certain cases upon the district court of Travis county."

Senator Burnett offered the following amendment:

In section 1, after the word "execute" in line two, add the following: "or is now intruded into, or now unlawfully holds or executed."

Adopted.

(The president in the chair.)

Senator Guy offered the following amendment:

Amend by adding to section 6, "or in the district court of any county where such persons reside, or where their principal business office is situated."

Adopted by the following vote:

YEAS.

Brown,	Duncan,	Houston,	Ripetoe,
Buchanan,	Ford,	Lair,	Shannon,
Burnett,	Gooch,	Ledbetter,	Stewart,
Burton,	Guy,	Moore,	Storey - 17.
Davenport,			

NAYS.

Hobby,	McCulloch,	Street,	Terrell—6.
Homan,	Patton,		

Not voting—Blassingame, Edwards, Grace, Lane, Martin, Motley, Swain.

Senator Street offered the following amendment:

"Strike out section 6."

Adopted.

Senator Grace offered the following amendment:

Amend by adding after word "franchises" in line thirty, section 5, the following: "In any sum not exceeding twenty-five thousand dollars."

Lost by the following vote:

YEAS.

Duncan,	Grace,	Homan,	Lair—4.

NAYS.

Blassingame,	Ford,	Ledbetter,	Stewart,
Brown,	Gooch,	McCulloch,	Storey,
Burnett,	Guy,	Motley,	Street,
Burton,	Hobby,	Ripetoe,	Swain,
Davenport,	Houston,	Shannon,	Terrell—22.
Edwards,	Lane.		

Not voting—Buchanan, Martin, Moore, Patton.

Senator Terrell offered the following amendment:

Add section: "Section 7. Suits against persons illegally claiming or holding any state office or appointment as contradistinguished to a county or district office, shall be brought in the district court of Travis county."

Adopted.

Senator Storey offered the following amendment:

Add to section 7: "And whereas, this session of the Legislature must adjourn in less than three days from this date, and there exists an imperative public necessity for the passage of this act to supply a defect now existing in the laws of this state, it is therefore enacted that the constitutional rule requiring bills to be read on three several days is hereby suspended."

Adopted.

The bill was then ordered engrossed.

On motion of Senator Storey, the rule was suspended to place the bill on its third reading by the following vote:

YEAS.

Blassingame,	Edwards,	Homan,	Patton,
Brown,	Ford,	Lair,	Ripetoe,
Buchanan,	Gooch,	Ledbetter,	Stewart,
Burnett,	Grace,	McCulloch,	Storey,
Burton,	Guy,	Moore,	Street,
Duncan,.	Hobby,	Motley,	Swain—24.

NAYS—none.

Not voting—Davenport, Houston, Lane, Martin, Shannon, Terrell.

The bill was then read third time and passed.

Senate bill No. 49, entitled "An act to amend articles 1007 and 1008 of the Revised Civil Statutes," was taken up.

Senator Homan offered the following amendment:

Add the following section: "Section ..... The near approach of the close of the session and the importance of the legislation to be accomplished by this act, creates an imperative public necessity that the rules requiring this act to be read on three several days be suspended and that this act take effect and be in force from its passage."

Adopted.

Senator Ledbetter offered the following amendment:

Amend by striking out "Lee county."

Adopted and bill ordered engrossed.

The rules were suspended and bill put on its third reading by the following vote:

YEAS.

Blassingame,	Burnett,	Edwards,	Guy,
Brown,	Burton,	Gooch,	Hobby,
Buchanan,	Davenport,	Grace,	Homan,

Houston,	Martin,	Patton,	Storey,
Lane,	McCulloch,	Ripetoe,	Street,
Lair,	Moore,	Shannon,	Swain,
Ledbetter,	Motley,	Stewart,	Terrell—28.

NAYS—none.

Not voting—Duncan, Ford.

Senator Homan offered the following amendment:

Insert the word "Lee" after the word "La Salle" in second section.

Adopted by the following vote:

YEAS.

Blassingame,	Gooch,	Lair,	Ripetoe,
Brown,	Grace,	Ledbetter,	Stewart,
Burnett,	Guy,	McCulloch,	Storey,
Burton,	Hobby,	Moore,	Street,
Davenport,	Homan,	Motley,	Swain,
Duncan,	Houston,	Patton,	Terrell—26.
Edwards,	Lane,		

NAYS—none.

Not voting—Buchanan, Ford, Martin, Shannon.

The bill then passed by the following vote:

YEAS.

Blassingame,	Gooch,	Lair,	Ripetoe,
Brown,	Grace,	Ledbetter,	Shannon,
Buchanan,	Guy,	Martin,	Stewart,
Burnett,	Hobby,	McCulloch,	Storey,
Burton,	Homan,	Moore,	Street,
Davenport,	Houston,	Motley,	Swain,
Edwards,	Lane,	Patton,	Terrell—28.

NAYS—none.

Not voting—Duncan, Ford.

Senator Lane (by leave) called up House bill No. 73, entitled "An act defining the manner in which land sold at tax sales to individuals may be redeemed by the owner."

Senator Lane offered the following amendment: Amend by adding the following proviso to section 1:

"*Provided*, that the owner of said land or his agent shall first have made affidavit before some officer authorized by law to administer oaths, that he has made diligent search in the county where said land is situated for the purchaser thereof at the tax sale and has failed to find him, or that the purchaser at such tax sale is not a resident of the county in which the land is situated, or that he and the purchaser cannot agree on the amount of the redemption money. In such cases only shall the owner or his legal agent be authorized to redeem the same by the payment to the collector of taxes."

Adopted.

Senator Homan moved the previous question on the pending bill.

Motion seconded and main question ordered.

The bill was passed to a third reading.

The rules were suspended and the bill placed on its third reading by the following vote:

YEAS.

Blassingame,	Burton,	Guy,	Lane,
Brown,	Davenport,	Hobby,	Lair,
Buchanan,	Edwards,	Homan,	Ledbetter,
Burnett,	Grace,	Houston,	Martin,

McCulloch,	Motley,	Stewart,	Street,
Moore.	Ripetoe,	Storey,	Swain—24.

NAYS—none.

Not voting—Duncan, Ford, Gooch, Patton, Shannon, Terrell.

Bill read third time and passed by the following vote:

YEAS.

Blassingame.	Edwards,	Houston,	Motley,
Brown,	Gooch,	Lane,	Storey,
Burnett,	Grace,	Lair,	Street,
Burton,	Guy,	McCulloch,	Swain,
Davenport,	Hobby,	Moore.	Terrell—22.
Duncan,	Homan,		

NAYS—none.

Not voting—Buchanan, Ford, Ledbetter, Martin, Patton, Ripetoe, Shannon, Stewart.

The president laid before the Senate House bill No. 69, "An act amending article 451, chapter 7 of title 17 of the Revised Civil Statutes, adopted at the regular session of the Sixteenth Legislature, and passed February 19, 1879."

The bill was read second time, and the adverse report of the committee adopted and bill lost.

The president, after publicly reading their captions, signed House bill No. 66, "An act to amend the first section of 'an act prescribing the times of holding the district courts of the second judicial district,'" and House substitute for Senate bill No. 37, "An act to reorganize the tenth judicial district of this state, to fix the times of holding the terms of the district courts therein, and attaching certain counties to the county of Wheeler for judicial purposes and for purposes of organization."

On motion of Senator Street, the Senate adjourned until 4:30 o'clock this afternoon.

AFTERNOON SESSION.

Senate met pursuant to adjournment; president in the chair. Roll called; no quorum present.

A quorum soon appearing, the Senate proceeded to business.

Senate bill No. 28, "An act to consolidate the court of appeals at the capitol," was taken up as business on the president's table.

Senator Story moved a call of the Senate.

Call sustained.

Roll called. Absent—Buchanan, Edwards, Gooch, Terrell.

Pending business went to the table.

Senator Stewart, chairman of judiciary committee No. 2 (by leave), submitted the following report:

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your judiciary committee No. 2 have considered House bill No. 43, entitled "An act to amend article 3785, chapter 3, title 78 of the Revised Civil Statutes, passed at the regular session of the Sixteenth Legislature," and I am instructed by a majority of the committee to report said bill back to the Senate and to recommend its passage.

STEWART, *Chairman.*

Bill read first time.

On motion of Snator Guy, the rules were suspended and Senate bill No. 70, entitled "An act to levy an occupation tax on merchants, to provide for the collection of the same, and to repeal all laws and parts of laws in conflict with the same," was taken up and read second time.

Senator Guy moved the adoption of the minority report which was favorable, the majority report being adverse to the passage of the bill.

Adopted by the following vote:

YEAS.

Brown,	Duncan,	Houston,	Shannon,
Burton,	Grace,	Lane,	Stewart,
Burnett,	Guy,	Moore,	Storey,
Davenport,	Homan,	Ripetoe,	Swain -16.

NAYS.

Blassingame,	Hobby,	Martin,	Patton,
Buchanan,	Lair,	McCulloch,	Street---11.
Ford,	Ledbetter,	Motley,	

Not voting—Edwards, Gooch, Terrell.

Senator Storey moved to reconsider the vote just taken.

Senator Swain moved a call of the Senate.

Call sustained.

Roll called. Absent—Edwards, Gooch, Terrell.

Pending business went to the table.

A message was received from the House announcing the pasage by that body of Senate bill No. 42, entitled "An act to amend article 3962, chapter 10, title 79 of the Revised Statutes," with amendments;

And that the House concurs in Senate amendments to House bill No. 73, "An act defining the manner in which lands sold at tax sales to individuals may be redeemed by the owner;"

Also, House concurs in Senate amendments to substitute House bills Nos. 18 and 19, "An act to provide for the sale of the alternate sections of land in organized counties, as surveyed by railroad companies and other works of internal improvement, and set apart for the benefit of the common school fund, to provide for the investment of the proceeds and to repeal all laws in conflict therewith."

Senator Houston, chairman of special committee on repairs of the executive mansion, etc., submitted the following report:

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your special committee, to whom was referred the message of the governor of July 4, 1879, with reference to repairs and improvements of the executive mansion and grounds, ask leave to report that they have performed the duty assigned to them, and find that the appropriation made for the purpose ef repairing and improving the executive mansion and grounds has been wisely and judiciously expended under the direction of his excellency. The repairs and improvements made upon the house, grounds and furniture were entirely necessary and are of the most substantial character. In nothing does the least extravagance appear, and your committee must express regret that the appropriation had not been larger in order that other repairs and improvements still necessary, though not indispensable as those already made were, might nave been made under the same wise and economical direction. Wherefore your

committee deem it unnecessary that they should sit longer and respectfully ask to be discharged.

HOUSTON,
LANE,
BLASSINGAME.

Senator Grace offered the following resolution:

Resolved, That the president of the Senate and speaker of the House of Representatives, the House concurring, adjourn their respective bodies *sine die* at 12 o'clock P. M. on Wednesday, the nineteenth of July, A. D. 1879.

Senator Street moved to refer the resolution to the committee on rules.

Carried.

The president placed before the Senate, Senate bill No. 42, just reported from the House, with amendments.

Senator Lane moved that the Senate concur in House amendments.

Carried.

Senator Gooch moved to suspend the rules and place House bill No. 43, entitled "An act to amend article 3785, chapter 3, title 78 of the Revised Civil Statutes, etc."

Carried by the following vote:

YEAS.

Brown,	Grace,	Lair,	Shannon,
Burnett,	Guy,	Ledbetter,	Stewart,
Burton,	Hobby,	Martin,	Storey,
Davenport,	Homan,	McCulloch,	Street,
Ford,	Houston,	Motley,	Terrell—22.
Gooch,	Lane,		

NAYS—none.

Not voting—Blassingame, Buchanan, Duncan, Edwards, Moore, Patton, Ripetoe, Swain.

The bill was read second time and postponed one hour.

The president, after publicly reading their captions, signed the following bills, to wit:

House bill No. 27, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of Upshur, Erath, Comanche, Eastland, Palo Pinto, Stephens, Shackelford, Throckmorton, Taylor, Callahan and Panola counties, and conform the jurisdiction of the district courts of said counties to such change;" and

House bill No. 6, entitled "An act to amend an act to authorize the governor, attorney general and superintendent of the penitentiary, to contract for carrying convicts from the place where sentenced to the penitentiary."

Senator Storey moved to suspend the rules and take up Senate bill No. 61, entitled "An act to authorize the state treasurer to keep a special deposit account with the general land office, and to provide how money shall be placed to the credit of said account, and how withdrawn or transferred."

Carried.

Bill read second time and ordered engrossed.

Senator Storey moved to suspend the rules and place the bill on its third reading.

Carried by the following vote:

YEAS.

Blassingame,	Buchanan,	Davenport,	Ford.
Brown,	Burnett,	Duncan,	Gooch,

Grace,	Lair,	Motley,	Storey,
Guy,	Ledbetter.	Patton,	Street,
Hobby,	Martin,	Ripetoe,	Swain,
Homan,	McCulloch,	Shannon,	Terrell—27.
Houston,	Moore,	Stewart,	

NAYS—none.

Not voting—Burton, Edwards, Lane.

Bill read third time and passed by the following vote:

YEAS.

Blassingame,	Gooch.	Ledbetter,	Shannon,
Brown,	Grace,	Martin,	Stewart.
Buchanan.	Guy,	McCulloch.	Storey,
Burnett,	Hobby,	Moore,	Street,
Burton,	Houston.	Motley.	Swain.
Davenport.	Lane.	Patton.	Terrell—26.
Ford,	Lair,		

NAYS—none.

Not voting—Duncan, Edwards, Homan, Ripetoe.

Senate bill No. 91, entitled "An act to make an appropriation to pay interest on the interest-bearing warrants of the state," was taken up and read second time.

Senator Homan offered the following amendment:

Strike out the words "two years ending August 31, 1881," and insert in lieu thereof the words "the five years ending June 30, 1884."

Lost and bill ordered engrossed.

Senator Storey moved to suspend the rules and put the bill on its third reading.

Carried by the following vote:

YEAS.

Blassingame,	Ford,	Lane,	Motley,
Brown,	Grace,	Lair,	Shannon.
Buchanan,	Guy,	Ledbetter,	Storey,
Burnett,	Hobby,	Martin,	Street,
Davenport,	Homan.	McCulloch,	Swain,
Duncan,	Houston,	Moore,	Terrell—24.

NAYS—none

Not voting—Burton, Edwards, Gooch, Patton, Ripetoe, Stewart.

Bill read third time.

Senator Homan offered the following amendment:

Add after "1880," where it first occurs in section 2 the words, "but that it can be paid by the thirty-first day of August, 1881, without leaving a deficiency."

Lost by the following vote:

YEAS.

Burnett,	Grace,	Motley,	Shannon,
Burton,	Guy,	Ripetoe,	Stewart—10.
Davenport,	Homan,		

NAYS.

Blassingame,	Ford,	Lair,	Moore.
Brown,	Gooch,	Ledbetter,	Storey,
Buchanan,	Hobby,	Martin,	Street.
Duncan,	Lane,	McCulloch,	Terrell—17.
Edwards,			

Not voting—Houston, Patton, Swain.

The Senate was announced full and the consideration of Senate bill No. 28 was resumed.

Senator Shannon moved to postpone the regular business until 2:30 P. M., or until the bill just under consideration is disposed of.

Carried.

Senator Gooch offered the following amendment to the pending bill:

Amend by inserting "August" before the figures "31, 1880."

Adopted by the following vote:

YEAS.

Blassingame,	Edwards,	Homan,	Moore,
Brown,	Ford,	Lane,	Motley,
Buchanan,	Gooch,	Lair,	Stewart,
Burnett,	Grace,	Ledbetter,	Storey,
Davenport,	Guy,	Martin,	Street,
Duncan,	Hobby,	McCulloch,	Terrell—24.

NAYS—none.

Not voting—Burton, Houston, Patton, Ripetoe, Shannon, Swain.

Bill passed by the following vote:

YEAS.

Blassingame,	Duncan,	Lane,	Motley,
Brown,	Edwards,	Lair,	Stewart,
Buchanan,	Ford,	Ledbetter,	Storey,
Burnett,	Gooch,	Martin,	Street,
Burton,	Grace,	McCulloch,	Swain,
Davenport,	Hobby,	Moore,	Terrell—24.

NAYS—none.

Not voting—Guy, Homan, Houston, Patton, Ripetoe, Shannon.

The consideration of Senate bill No. 70, which went to the table under a call, was resumed—Senator Storey's motion, to reconsider the vote adopting the minority report of the committee, pending.

Senator Duncan moved to lay the motion to reconsider on the table.

The motion to lay the motion to reconsider on the table was lost by the following vote:

YEAS.

Brown,	Davenport,	Guy,	Shannon,
Burnett,	Duncan,	Houston,	Stewart,
Burton,	Grace,	Moore,	Swain—12.

NAYS.

Blassingame,	Hobby,	Ledbetter,	Patton,
Buchanan,	Homan,	Martin,	Storey,
Edwards,	Lane,	McCulloch,	Street,
Ford,	Lair,	Motley,	Terrell—17.
Gooch,			

Not voting—Ripetoe.

Senator Storey's motion to reconsider the vote by which the minority report was adopted, carried by the following vote:

YEAS.

Blassingame,	Hobby,	Ledbetter,	Patton,
Buchanan,	Homan,	Martin,	Storey,
Edwards,	Lair,	McCulloch,	Street,
Ford,	Lane,	Motley,	Terrell—17.
Gooch,			

NAYS.

Brown,	Duncan,	Houston,	Shannon,
Burnett,	Grace,	Moore,	Stewart,
Burton,	Guy,	Ripetoe,	Swain—13.
Davenport,			

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

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your committee on engrossed bills have carefully examined and compaired Senate bill No. 79, entitled "An act to prescribe the remedy and regulate the proceedings by *quo warranto*, and confer the jurisdiction in certain cases upon the district court of Travis county," and find the same correctly engrossed. BROWN, *Chairman.*

The hour for the consideration of House bill No. 43 having arrived, Senator Storey moved to postpone the same until the pending bill was disposed of.

Carried.

The minority report on Senate bill No. 70 was then lost by the following vote:

YEAS.

Brown,	Duncan,	Moore,	Shannon,
Burnett,	Grace,	Motley,	Stewart,
Burton,	Guy,	Ripetoe,	Swain—14.
Davenport,	Houston,		

NAYS.

Blassingame,	Gooch,	Lair,	Patton,
Buchanan,	Hobby,	Ledbetter,	Storey,
Edwards,	Homan,	Martin,	Street,
Ford,	Lane,	McCulloch,	Terrell—16.

Senator Duncan submitted the following as his reasons for voting for the minority report:

"In voting for the minority report made upon this bill, I do not wish it understood that I indorse as correct the figures and forecasts indulged in in that report, but I do so because I know that the increase of occupation tax on merchants made at last session was doubling a burden already onerous, was uncalled for, impolitic, and to the last degree unjust."

Senator Storey moved that the majority report be adopted.

Adopted by the following vote:

YEAS.

Blassingame,	Gooch,	Lane,	Motley
Buchanan,	Hobby,	Ledbetter,	Patton,
Edwards,	Homan,	Martin,	Storey,
Ford,	Lair,	McCulloch,	Street—16.

NAYS.

Brown,	Davenport,	Moore,	Stewart,
Burnett,	Guy,	Ripetoe,	Swain—11.
Burton,	Houston,	Shannon,	

Not voting—Grace.

Senator Duncan was paired with Senator Terrell; he would have voted "no" and Senator Terrell "yea."

Senator Edwards, chairman of select committee to investigate the conduct of district judges, etc., submitted the following reports:

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your special committee, appointed under a resolution of the Senate to investigate the conduct of district judges in allowing accounts against the state in favor of sheriffs, clerks, etc., beg leave to report that they

proceeded to make the investigation therein required, and spent many days carefully investigating said accounts.

The short space of time allowed us to make this report has confined us to the evidence to be found in the office of comptroller of public accounts, and we have been unable to give the district judges an opportunity to appear before us and be fully heard as to the correctness of their action in approving these accounts. Hence your committee have in these investigations directed their attention more particularly to the evils and defects that appear in the law, with a view to have them corrected by proper legislation.

These accounts are audited by the comptroller, and under the power given him he examines them and rejects such items as appear on the face of the accounts as incorrect.

Your committee take pleasure in stating that this duty seems to have been carefully and rigidly performed by the comptroller, and by this means large sums of money have been saved to the state. In one instance an account approved by a judge for $2039 25, was reduced by the comptroller to $1411 85, correcting errors amounting to $627 40 in the face of the account.

In another instance an error of $423, in an account for $753 30, was detected and not paid by said officer.

As it is impossible for the comptroller to detect errors unless apparent on the face of the account, and as nearly every account is incorrect by reason of over charges apparent on its face, it is but reasonable to suppose that the same carelessness on the part of the judges that does not detect such errors would also leave little protection to the state in those matters of fact that are within the knowledge of the judges and upon which his action is final. For instance, an account was allowed by a district judge for $3599 95, in which were overcharges apparent on its face to the amount of $240. In this account are the following items:

"2200 miles actually and necessarily traveled, going to, returning, following in pursuit of defendant, prior to his arrest at five cents per mile, $110."

"4315 miles actually and necessarily traveled in summoning thirty-three witnesses, at five cents per mile, $215 75."

"3833 miles traveled in summoning seventy witnesses, five cents per mile, $191 65."

These items, it will be seen, are very vague and the judge only can know by inspecting the papers in the cases and hearing testimony whether they are correct, and if he is careless in this matter serious injustice may be done the state.

In one case the judge approved the account in a different county from that in which the case was tried, without any other data than his recollection and statement of the officer. The account stated a murder case incorrectly, and was approved by his son at his request, the judge being at the time ill. The comptroller refused to pay the account because the signature was not that of the judge.

In one case a judge allowed an account in favor of a district attorney for six cases at $30 each, making $180, when these were six defendants all tried together, and the attorney was entitled to and received $30.

Your committee regret to say that the investigations satisfy them that the district judges have not as carefully examined these accounts as it is their duty to do, and that but for the supervision and correction by

the comptroller the state would have lost large sums of money on account of their negligence. Although the errors made by a majority of the judges are small, and in some instances grow out of difference of construction of the law between the judges and the comptroller, your committee regret to say that in a few instances there appears to be a recklessness and carelessness that is culpable.

Being of the Senate, your committee deem it proper that the testimony submitted herewith be transmitted to the House of Representatives in order that it may take such action in the premises as may be deemed proper.

Your committee further report that Senate bill No. 20, being a bill intended to remedy the evils herein mentioned, having already passed the Senate, your committee prepared the following amendments to said bill which were unanimously reported by the finance committee of the House and we trust will be engrafted upon said bill:

Amend section 1 by striking out after the word "defendant," in line twenty-two, all down to and including the word "action," in line thirty-one and insert the following words:

"3. The terms of the court at which the case was disposed of.

"4. The disposition of the case, and that the case was finally disposed of and no appeal taken.

"5. The name and number of defendants, and if more than one whether they were tried jointly or separately.

"6. Where each defendant was arrested or witness served, stating the county in which the service was made, giving distance and direction from county seat of county in which the process is served, and mileage shall be charged for distance by the most direct and practicable route from the court whence such process issued to the place of service.

"7. In allowing mileage the judge shall ascertain whether the process was served on one or more of the parties named therein on the same tour, and shall allow mileage only for the number of miles actually traveled, and then only for the journey made at the time the service was perfected."

"8. The court shall enquire whether there have been several prosecutions for an offense or transaction that is but one offense in law, and if there is more than one prosecution for the same transaction, or a portion thereof, that could have been combined in one indictment against the same defendant, the judge shall allow fees to sheriffs, clerks and district and county attorneys in but one prosecution."

"9. Where the defendants in a case have severed on the trial the judge shall not allow the charges for service of process and mileage to be duplicated in each case as tried, but only such additional fees shall be allowed as are caused by the severance. And in article 1059 amend by inserting after the word 'claim,' line three, the following words: 'and said certified copy from the minutes of said court.'"

Your committee take pleasure in bearing testimony to the courtesy and assistance they received from the comptroller and his subordinates in making their investigations, and also to the careful manner in which the comptroller has scrutinized and corrected the accounts herein named.

Believing that nothing further can be attained by the continuance of this committee, your committee respectfully request that they be discharged.

EDWARDS, *Chairman.*

Report adopted.

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your special committee, appointed by the Senate to investigate the conduct of the several district judges in this state in examining and allowing accounts against the state in favor of sheriffs, clerks, district attorneys, etc., beg leave to report the testimony taken by said committee as far as appears from records of the office of comptroller of public accounts, with the recommendation that it be transmitted to the House of Representatives for their consideration and action in the premises.

EDWARDS, *Chairman.*

The report was adopted, and in accordance therewith the testimony taken by the committee, together with a copy of the above report, was transmitted to the House of Representatives.

Senator Edwards, for committee on state affairs, submitted the following report:

COMMITTEE ROOM, AUSTIN, July 7, 1879.

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

Your committee on state affairs have had under consideration the petitions of the citizens of Palo Pinto county praying for an act incorporating a ferry at Pollard crossing on the Brazos river, and your committee find that this subject has not been referred to the Legislature by the governor, and also that the memorials have been introduced at too late a day in the session to allow action thereon at this session, and therefore your committee recommend that said petitions do lie upon the table, subject to be withdrawn if the parties desire it.

EDWARDS, *for Committee.*

The hour for the consideration of House bill No. 43 having arrived, Senator Lane moved to postpone same and to suspend the rule to take up Senate bill No. 69, "An act making appropriations for certain deficiencies beginning January 1, 1875, and ending February 28, 1879, and for previous years."

Carried.

Senator Duncan moved a call of the Senate.

Call sustained.

Roll called. Absent—Brown, Martin, Terrell.

On motion of Senator McCulloch, the Senate adjourned to 9 o'clock tomorrow morning.

TWENTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, July 8, 1879.

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

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

A message was received from the House announcing the passage by that body of substitute for Senate bill No. 9, entitled "An act supplemental to and amendatory of an act entitled 'an act to make an appropriation for the support of the state government for the years beginning