SIXTIETH DAY.

SENATE CHAMBER,
AUSTIN, March 22, 1881.

Senate met pursuant to adjournment; the President in the chair.

Roll called; quorum present.

Prayer by Rev. Mr. Rogers, Austin.

On motion of Senator Davenport, the reading of the journal of yesterday was dispensed with and the same adopted.

On motion of Senator Davenport, Senator Stubbs was excused for the day.

Senator Buchanan of Wood, chairman of Committee on Educational Affairs, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Educational Affairs have considered Senate bill No. —, entitled "An act to amend articles 3705, 3715, 3738, 3742, 3744, 3746, 3747, 3752, 3759, 3762, 3766, 3768, and to repeal articles 3756 and 3758 of chapter 3, title 78, of the Revised Civil Statutes of the State of Texas," and I am instructed to report the same back to the Senate, with the accompanying amendments, and, as amended, to recommend that the bill do pass.

BUCHANAN of Wood, Chairman.

AMENDMENTS.

1. Strike out in the enacting clause and caption of the bill the figures 3705, 3742, 3746 and 3766.
2. Strike out article 3705.
3. Add to subdivision 4 of article 3715 the words "together with the same number of copies of the general school law to which this act is amendatory."
4. Strike out subdivision 6 of article 3715.
5. Strike out article 3742.
6. Strike out subdivision 12 of article 3744.
7. After the word "purchaser" and before the word "for," in subdivision 14, of article 3744, insert the following: "The proceeds of such sale to be paid into the common school fund of the county."
8. Strike out article 3746.
9. Strike out the words "or district," in line 2 of article 3747.
10. Strike out the proviso in article 3747.
11. Strike out the words "and district school," as they occur in article 3752.
12. In article 3752, page 10, line 24, of original bill, strike out the word "twice," and substitute instead the word "once."
13. Strike out all that occurs after the word "same" in line 26, page 10, article 3752, and insert instead the following: "And they shall report to the county judge at the end of the school session, in writing, how said school has been taught, and report such other matters as may be required by the Board of Education and the county judge, and the grand juries shall be specially charged concerning this section; and any trustee failing to comply with the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of five dollars, to be paid into the treasury of the county for the benefit of the public school fund."
14. In article 3759, strike out the words "twelve and one-half," "ten" and "seven and one-half," and insert instead thereof in the proper order the words "ten," "seven and one-half" and "five."
15. In article 3759 strike out the words "seventy-five," "sixty" and "forty-five," and insert, in proper order, the words "sixty," "forty-five" and "thirty."
16. In article 3762 strike out the words "or district" and insert "district or," wherever they occur.
17. Strike out article 3756.
18. Strike out article 3768 and substitute in lieu thereof the following: "Such certificate, when issued, shall be valid in the county where issued until revoked for the causes and in the manner set out and prescribed in article 3769."

Bill with amendments read first time.

On motion of Senator Buchanan of Wood, 300 copies of bill and report were ordered printed.

Senator Hightower, for Judiciary Committee No. 1, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 283, have considered the same, and said committee instructed me to report said bill back to the Senate with the accompanying substitute therefor, and to recommend that said substitute do pass.

HIGHTOWER, for committee.

Bill read first time, with substitute.

Senator Stewart introduced a bill entitled, "An act to ascertain what, if any, unpaid balance of salary is due Hon. Gustave Cook, Judge of the Criminal District Court of Galveston and Harris counties, and making an appropriation therefor." Referred to Committee on State Affairs.

Senate bill No. 172, "An act to regulate contracts between employers and employees, and to provide liens to secure wages, and to impose penalties for the violation of such contracts," being the bill pending on adjournment on yesterday, was taken up, and on motion of Senator Lightfoot, was ordered to lie on the table, subject to call.

Senate bill No. 176, "An act to authorize the counties of this State to take up their outstanding warrants or evidences of debt executed for debts incurred in erecting public buildings, and to execute others in lieu thereof, and to provide by special tax for the payment and interest of the same," was taken up, read second time, with report and committee amendments. Amendments adopted, on motion of Senator Davenport.

Senator Terrell offered the following amendment:

The near approach of the close of the session creates an emergency and an imperative public necessity that the law requiring this bill to be read on three several days be suspended, in order that the bill may become a law; and it is so enacted.

Adopted, and bill ordered engrossed.

On motion of Senator Davenport, rules were suspended to place the bill on its third reading by the following vote:

YEAS—23.

Buchanan of Grimes,	Houston,	Ross,
Buchanan of Wood,	Lair,	Shannon,
Cooper,	Lightfoot,	Stewart,
Davenport,	Martin of Cooke,	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.
Homan,	Rainey,	

NAYS—*none.*

NOT VOTING—2.

Burges, Burton.

Bill read third time and passed by the following vote:

YEAS—23.

Buchanan of Grimes,	Houston,	Ross,
Buchanan of Wood,	Lair,	Shannon,
Cooper,	Lightfoot,	Stewart,
Davenport,	Martin of Cooke,	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.
Homan,	Rainey,	

NAYS—*none.*

NOT VOTING—2.

Burges, Burton.

Senate bill No. 123, "An act to amend article 1828, chapter 4, and article 1873, chapter 6, title 37 of the Revised Civil Statutes, was taken up, on motion of Senator Powers, and by unanimous consent, the bill being on its third reading.

Senator Powers offered the following amendment: Amend by inserting after the words chapter 4, in caption, as follows: "Article 1856, chapter 3." Lost by the following vote:

YEAS—14.

Buchanan of Grimes	Lair,	Shannon,
Burges,	Lightfoot,	Stewart,
Davenport,	Patton,	Swain,
Harris,	Powers,	Terrell.
Houston,	Rainey,	

NAYS—9.

Buchanan of Wood,	Hightower,	Ross,
Cooper,	Martin of Cooke,	Weathered,
Gooch,	Martin of Navarro,	Wynne.

NOT VOTING—2.

Burton, Homan.

Also, the following: Amend section 1 of the bill by adding after the words "chapter 4," the words "article 1856, chapter 5." Lost by the following vote:

YEAS—14.

Buchanan of Grimes	Lair,	Shannon,
Burges,	Lightfoot,	Stewart,
Davenport,	Patton,	Swain,
Harris,	Powers,	Terrell.
Houston,	Rainey,	

NAYS—9.

Buchanan of Wood,	Hightower,	Ross,
Cooper,	Martin of Cooke,	Weatherred,
Gooch,	Martin of Navarro,	Wynne.

NOT VOTING—2.

Burton, Homan.

Also the following: Amend by inserting after the words "last mentioned article," near the foot of first page, the following, as a separate paragraph:

Article 1856. When application is made for the probate of a will which has been probated according to the laws of any of the United States or territories or any country out of the limits of the United States, a copy of such will and the probate thereof, attested by the clerk of the court in which such will was admitted to probate, and the seal of the court annexed, if there be a seal, together with a certificate from the judge or presiding magistrate of such court that the said attestation is in due form, may be filed and recorded in the court, and shall have the same force and effect as the original will, if probated in said court, without regard to the time at which said will may originally have been admitted to probate in said State, territory or foreign country, provided that the validity of such will may be contested in the same manner as the original might have been; *and, provided further*, that the provisions of this section shall extend to any will executed according to the laws of any such foreign country, when executed in the form known in civil law countries as authentic; and when by the law of such country or countries the deposit of such will is executed in the proper court or depository, is sufficient as a testamentary act without formal probate; which respective facts and circumstances shall be made to appear to the satisfaction of the court taking jurisdiction of the matters herein mentioned.

Senator Terrell offered to amend the amendment of Senator Powers, as follows: Amend in line 28 by inserting after the word "country" the words "if it was admitted to probate in said foreign country within a period after its execution authorized by law." Accepted by Senator Powers.

Also, to amend the same, as follows: Amend page 2, line 5, by adding after the word "probate" the words "provided said will has within the period allowed by the laws of limitation of the foreign country been deposited with the proper court or depository; and *provided further*, that nothing herein contained shall prejudice the rights of innocent purchasers or purchasers without notice." Accepted, and the original amendment, as amended, lost by the following vote:

YEAS—13.

Buchanan of Grimes	Lair,	Rainey,
Burges,	Lightfoot,	Shannon,
Harris,	Patton,	Stewart,
Homan,	Powers,	Terrell.
Houston,		

NOT VOTING—9.

Buchanan of Wood,	Gooch,	Martin of Navarro,
Cooper,	Hightower,	Ross,
Davenport,	Martin of Cooke,	Weatherred.

NAYS—3.

Burton, Swain, Wynne.

Senator Terrell also offered the following amendment: Amend by adding:

Sec. — The near approach of the close of the present session of the Legislature, and the great press of the public business, and the fact of the great doubt whether any law now exists for admitting wills to registry in this State originating in foreign countries as herein provided, creates an imperative public necessity for the suspension of the constitutional rule requiring all bills to be read on three several days, and the same is suspended; and an emergency exists requiring that this act take effect and be in force from and after its passage, and it is so enacted.

Adopted by the following vote:

YEAS—22.

Buchanan of Grimes	Hightower,	Rainey,
Buchanan of Wood,	Homan,	Ross,
Burges,	Houston,	Shannon,
Burton,	Lair,	Stewart,
Cooper,	Lightfoot,	Terrell,
Davenport,	Martin of Navarro,	Weatherred,
Gooch,	Powers,	Wynne.
Harris,		

NAYS.

Martin of Cooke.

NOT VOTING—2.

Patton, Swain.

Bill passed by the following vote:

YEAS—16.

Buchanan of Grimes	Harris,	Powers,
Buchanan of Wood,	Hightower,	Shannon,
Burges,	Homan,	Stewart,
Burton,	Houston,	Swain,
Cooper,	Lightfoot,	Terrell.
Gooch,		

NAYS—8.

Davenport,	Martin of Navarro,	Weatherred,
Lair,	Rainey,	Wynne.
Martin of Cooke,	Ross,	

NOT VOTING.

Patton.

Senator Burges offered the following resolution:

Resolved, That the Sergeant-at-Arms of the Senate be and he is hereby authorized to purchase twenty pounds of ice daily for the use of Senate, to be paid for out of the contingent fund.

Lost by the following vote:

YEAS—12.

Burges,	Houston,	Ross,
Gooch,	Lightfoot,	Stewart,
Harris,	Patton,	Swain,
Homan,	Powers,	Terrell.

NAYS—13.

Buchanan of Grimes	Hightower,	Rainey,
Buchanan of Wood,	Lair,	Shannon,
Burton,	Martin of Cooke,	Weatherred,
Cooper,	Martin of Navarro,	Wynne.
Davenport,		

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bills No. 169, "An act to amend an act entitled 'an act of forcible entry and detainer,' passed August 17, 1876."

No. 170, "An act to amend an act entitled 'landlord and tenant,' adopted February 21, 1879."

No. 171, "An act to amend article 2411 of the Revised Civil Statutes of the State of Texas, so that offices, office furniture, books and stationery shall be provided for assessors and collectors of taxes."

No. 242, "An act to amend article 4333 of the Revised Civil Statutes of the State of Texas, adopted February 21, 1879, and to provide for the registration of instruments relating to real estate in unorganized counties."

Also, No. 287, "An act to amend sections 1 and 4 of an act entitled 'an act to regulate the sale of spirituous, vinous or malt liquors, or medicated bitters, to fix the rate of occupation taxes upon all persons, firms or associations of persons engaged in the sale of spirituous, vinous or malt liquors, or medicated bitters, to define the manner and times of collecting such tax, and to affix penalties for failure to pay the same, and to repeal all laws or parts of laws in conflict

with the provisions of this act,' approved March 11, 1881;" and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senate bill No. 177, "An act to repeal articles 4462, 4464 and 4466 of the Revised Civil Statutes, relating to salaries of certain officers," was taken up as regular business, read second time and ordered engrossed.

Senator Lair, by leave, introduced a bill entitled, "An act to provide for the investment of the sinking fund set aside for payment of the principal of subsidy bonds issued by counties, cities and towns, to aid in the construction of railroads." Referred to Committee on Internal Improvements.

Senate bill 179, "An act to amend article 1098, of chapter 4, title 15, of the Code of Criminal Procedure," was taken up and, on motion of Senator Houston, was postponed for ten minutes to give time for the preparation of amendments.

Senator Shannon introduced a bill entitled, "An act to change the times of holding the District Courts in the Twenty-ninth Judicial District of the State of Texas." Read by caption and referred to the Committee on Judicial Districts.

Senate bill No. 182, "An act to amend article 669, chapter 2, title 17, of the Penal Code of the State of Texas," was taken up read second time and ordered engrossed.

Senate bill No. 183, "An act to provide for the making of post mortem examination of the bodies of dead persons in this State by competent physicians,when required by the officers holding an inquest, and to provide for the payment of a reasonable fee to the physician making the same," was taken up, read second time and ordered engrossed.

The consideration of Senate bill No. 179, "An act to amend article 1098, chapter 4, title 15, of the Code of Criminal Procedure," was resumed, in connection with Senate bill No. 184, and read second time.

Senator Houston offered the following amendments:

"Amend caption by striking out article 1098 and inserting articles 1090 and 1098." Adopted.

Amend the enacting clause to suit the change in the caption. Adopted.

Amend by inserting the following, to be known as article 1090. Adopted.

District and county attorneys shall be allowed the following fees, to be taxed against the defendant:

1. For every conviction under the laws against gaiming, permitting any game prohibited by law to be played in a house under defendant's control, renting to another any room or house for the purpose of gaiming, establishing lotteries or disposing of any estate, real or personal, by lottery, selling, offering for sale or keeping for sale any lottery ticket or part thereof in any court having jurisdiction to try the same, when no appeal is taken, the sum of fifteen dollars, and when upon an appeal from an inferior to a superior court the defendant shall again be convicted of the same offense the sum of twenty-five dollars.

2. For all other convictions in cases of misdemeanor, when no appeal is taken, the sum of ten dollars, and when upon an appeal from an inferior to a superior court the defendant shall again be convicted of the offense, the sum of twenty dollars.

3. For representing the State in each case of habeas corpus, when the applicant for the writ is charged with a misdemeanor and shall not be discharged by the court hearing such writ, the sum of ten dollars.

4. In each cause presented by indictment, information or affidavit charging the defendant with pursuing or following any occupation, calling or profession or doing any act taxed by law without first obtaining a license therefor, when the defendant shall be convicted and not appeal, or when he shall pay said tax and cost and have such prosecution dismissed, the sum of ten dollars, or when upon an appeal from an inferior to a superior court he shall again be convicted of the same offense, the sum of twenty dollars.

Amend by adding: Section 2. The near approach of the close of the session of the Legislature creates a sufficient imperative public necessity to require the suspension of the constitutional rule requiring this act to be read on three several days, and it is so suspended. Adopted, and bill ordered engrossed.

On motion of Senator Houston, rules were suspended to place bill on its third reading, by the following vote:

YEAS—24.

Buchanan of Grimes,	Hightower,	Powers,
Buchanan of Wood,	Homan,	Rainey,
Burges,	Houston,	Ross,
Burton,	Lair,	Stewart,
Cooper,	Lightfoot,	Swain,
Davenport,	Martin of Cooke,	Terrell,
Gooch,	Martin of Navarro,	Weatherred,
Harris,	Patton,	Wynne.

NAYS—*none.*

Bill read third time and passed:

YEAS—22.

Buchanan of Grimes	Homan,	Ross,
Buchanan of Wood,	Lair,	Shannon,
Burges,	Lightfoot,	Stewart,
Burton,	Martin of Navarro,	Swain,
Davenport,	Patton,	Terrell,
Gooch,	Powers,	Weatherred,
Harris,	Rainey,	Wynne.
Hightower,		

NAYS—*none.*

NOT VOTING—3.

Cooper,	Houston,	Martin of Cooke.

Senator Houston moved that Senate bill No. 184, "An act to amend title 15, chapter 4, article 1090, of the Code of Criminal Procedure," lie on the table. Adopted.

The following message was received from the Governor:

EXECUTIVE OFFICE,
AUSTIN, March 22, 1881.

To the Honorable Senate in the Legislature assembled:

I herewith return Senate bill No. 146, being entitled, "An act to create the county of John Upton, and to define the boundaries of the same," without my approval, together with my reasons therefor as follows:

To form said county, portions of the counties of Nueces and Live Oak are stricken off, and taken from said counties to form the new county of John Upton, and no provision is made by law, as required by the Constitution, for the payment proportionally of the debts of said counties, by those who reside, and who own property in the territory thus cut off from them to make said new county.

Therefore, if the act creating said new county could be held to be constitutional, it would result in a positive injustice to those who reside or own property in the portions of the said two counties not cut off.

Executive action has been delayed, after notice of this objection, to enable those in favor of the act to amend it, so as to obviate this objection. That not being done, I consider it but just and proper to return it to the house in which it originated with my objections.

The Constitution prescribes that "when any part of a county is stricken off, and attached to or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it was taken, in such manner as may be prescribed by law." (Constitution, article 9, section 2.)

The law relating to that subject provides that the part stricken off shall be obliged to pay its proportion "in such manner as the law striking off such part of such county shall provide." (Revised Civil Statutes, art. 658, p. 109.) There is, therefore, no law providing for that which the Constitution prescribes shall be provided for by law, in a case of this sort.

Respectfully submitted,
O. M. ROBERTS, Governor

On motion of Senator Powers, the message was referred to Judiciary Committee No. 1.

THE STATE OF TEXAS, EXECUTIVE OFFICE,
AUSTIN, March 22, 1881.

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

As referred to in the report of the late Attorney-General, and in one of my messages during the present session of the Legislature, Messrs. Clark & Dwyer, of Waco, were employed to bring a suit or suits to establish the title of the State to a large amount of university lands, adversely claimed under an old Mexican grant, in the counties of McLennan and Hill.

There are about fourteen thousand acres of it, worth thirty-five thousand dollars, occupied by a large number of settlers. By a previous law they were relieved from paying for said lands on account of the dispute in the title. It is greatly to the interest of the university fund, as well as to the settlers, to have the title settled by an adjudication. The suit having to be brought in the county or counties in which the lands are situated, it was impracticable for the Attorney-General to bring it or attend to it. Hence, upon the recommendation of the Attorney-General, those attorneys were retained and employed to bring the suit, which they have done.

I herewith transmit to you copies of the request of the Attorney-General, of the contract entered into, and of a letter lately written to the present Attorney-General upon the subject, from which the whole transaction may be seen, and from which will be exhibited the necessity of making further provisions by the legislative action for the future prosecution of the suit.

In consideration thereof I respectfully recommend that at least three thousand dollars be appropriated, either out of the interest of the university fund or out of the general revenue, for that purpose, and that the former appropriation of seven hundred and fifty dollars for costs and expenses, made in 1879, and which has not been used, be renewed.

This suit may be continued for several years, and be carried to the higher courts, and will doubtless require much labor and expense in attending to it.

Suits of such magnitude cannot be attended to properly for the State without the employment of able attorneys, and expending money, when necessary, in procuring evidence, especially when they are in courts that the Attorney-General cannot attend, consistently with his business in his office at the capitol.

Respectfully submitted,
O. M. ROBERTS, Governor.

[COPY OF ATTORNEY-GENERAL'S LETTER TO GOVERNOR.]

Hon. O. M. Roberts, Governor:

Dear Sir: Referring to our conversation in regard to taking steps to clear the title of the State to her university lands in McLennan county, some days since, I have the honor suggest, in view of the importance of the matter, and the fact that those connected with this office cannot give it the necessary attention, that you employ counsel to institute such suits as may be necessary.

You will doubtless remember that the title to some fourteen thousand acres of valuable land is involved in this controversy, and upon which settlers have located, depending upon the good faith of the State to protect their claims to these lands, they having, in many cases, made purchases from the State and paid portions of the purchase money.

The joint resolution relative to these lands, passed at the late session of the Legislature, appropriated the sum of five hundred dollars to pay the necessary costs of court, but made no appropriation for attorney's fees. As the suits must be instituted in McLennan county, it is absolutely important that the State have resident counsel there, and the county attorney, though willing to aid this office, is of opinion that he is under no legal or moral obligation to do so for nothing. I have therefore spoken to Hon. Geo. Clark, of the firm of Clark & Dyer, who will undertake the prosecution of the matter. We have embodied in the herewith enclosed form of agreement about our conclusions to the fee to be paid them for their services, etc.

I hope if you think the agreement fair to the State, you will approve the same, so that the suits may be filed and the cause prosecuted at the succeeding term of the court at Waco.

Very respectfully your obedient servant,
GEO. MCCORMICK,
Attorney-General.

[Copy of contract.]

THE STATE OF TEXAS, COUNTY OF TRAVIS.—This contract of retainer by and between the State of Texas, acting through its Governor, O. M. Roberts, of the first part, and Clark & Dwyer, attorneys of Waco, of the second part, *witnesseth:*

1. That the State of Texas has employed and retained, and by these presents does employ and retain the said Clark & Dwyer as her attorneys in the prosecution of a certain suit or suits, is being instituted by the State of Texas against certain persons who have set up some pretended claim to certain portions of the State university lands in McLennan and Hill counties, said suit or suits to be instituted and prosecuted by virtue of a certain joint resolution of the Legislature of the State of Texas, entitled "Joint resolution authorizing and directing the Attorney-General to institute and prosecute such legal proceedings as may be necessary to establish the title of the State to her university lands in McLennan and Hill counties, and to remove all clouds upon said title," approved February 19, A. D. 1879; it being impossible for the Attorney-General to give his personal attention to said suits, by reason of the fact that said suits must be instituted and prosecuted in McLennan county, and will require unremitting attention on the part of counsel until their termination.

2. The State of Texas further agrees to pay to said Clark & Dwyer a cash retainer of five hundred ($500) dollars as her attorneys aforesaid; and further stipulates and agrees at the approaching session of the Seventeenth Legislature, the Governor will recommend and secure, if practicable, a legislative endorsement of this contract and the appropriation of a reasonable sum as an adequate fee for the professional services of said Clark & Dwyer rendered or to be rendered in said suit or suits; and the further continuance of said Clark & Dwyer in said cause or causes will be contingent upon such endorsement and appropriation.

3. The said Clark & Dwyer undertake and agree to institute and prosecute said suit or suits subject to the conditions above set forth, and to give the State the benefit of their best professional services in such undertaking.

Oct. 8, 1881.

O. M. ROBERTS, Governor,
CLARK & DWYER,
Attorneys at Law.

[COPY OF LETTER FROM MESSRS. CLARK & DWYER.]

WACO, TEXAS, March 14, 1881.

Hon. J. H. McLeary, Attorney-General:

Dear Sir—We are to-day informed by General Thad. Harrison, an attorney of this place, that he has been retained by the Rios, who claim to own the Joachin Morena grant, to appear and defend the two suits we instituted last fall for the State for the recovery of certain quarter sections of the university lands conflicting with said grant, and to settle by adjudication the title of the State to the university lands in McLennan county. This action on the part of the owners of the Morena grant, of course, obviates the necessity of passing the bill now pending in the Senate looking to a sale of these lands and placing the State in the attitude of a warrantor, and affords the State the opportunity of fairly testing its title in the suits now pending.

This renders it proper to recur to the terms of our original employment by the Governor, and as the session of the Legislature is drawing to a close, to remind you that under our contract on file with the Governor, we are at liberty to discontinue our connection with this litigation in the event the Legislature fails to make an appropriation for our fee. We are not willing to undertake the labor and responsibility of these suits, which may not be determined for years, without a legal and binding understanding with the law-making power of the government that we shall be remunerated. There is no positive law upon the statute book authorizing our employment, and we are unwilling to do the work and be told years hence, when we present our bill for services, that the Constitution forbids its payment. Nor do we desire after the work is done to be compelled to beg of the Legislature what is justly due us and be turned off by a committee with a mere fraction of what we are justly entitled to. Our observation has taught us (and yours will bear out the statement) that this is the usual course in such matters, and for this reason we inserted a clause in our contract above indicated, by which we could relieve ourselves from so embarrassing a situation. We are willing to serve the State in this litigation, but the Legislature must provide, before adjournment, for our remuneration. Our understanding is that over 14,000 acres of valuable lands are involved in this controversy. At $2.50 per acre, this would amount to $35,000. We think $3000 a reasonable and moderate fee for our services, and we must respectfully insist upon that appropriation prior to adjournment. We do not know what view the Legislature may take of the matter, nor what may be the views of yourself and the Governor, but in duty to ourselves and to you, we lay our views of the matter before you, and trust that an understanding mutually satisfactory to all parties may be arrived at.

Very truly, yours,
Signed, CLARK & DWYER.

P. S. The appropriation of $750 for costs and expenses, made in 1879, should be renewed, as it may become necessary to take voluminous testimony. C. & D.

ATTORNEY GENERAL'S OFFICE,
AUSTIN, March 16, 1881.

Hon. O. M. Roberts, Governor:

Sir—Enclosed I send you copy of letter addressed to me by Messrs. Clark & Dwyer. Very respectfully,
J. H. MCLEARY, Attorney-General.

The President referred the message and accompanying documents to the Committee on Finance.

The President, after reading its caption, signed House bill No. 559, "An act to define the times for holding the District Court of Kaufman county."

Senator Ross, by leave, introduced a bill entitled "An act to provide for the protection of the title of the State to the university lands lying in McLennan and Hill counties." Referred to Judiciary Committee No. 1.

Senate bill No. 185, "An act to amend article 2671, chapter 16, title 47, of the Revised Civil Statutes of the State of Texas, adopted February 21, 1879, by adding thereto an additional article to be known as article 2671*a*," was taken up, and, on motion of Senator Houston, was ordered to lie on the table, subject to call.

On motion of Senator Hightower, Senate bill No. 284, "An act to amend sections 1 and 2, chapter 35, of an act passed at the special session A. D. 1879 of the Sixteenth Legislature of Texas, approved July 9, 1879, relating to the auditing of claims against the State by the Comptroller of Public Accounts," was taken up by unanimous consent and read second time.

Senator Hightower offered the following amendment: Amend by adding the following section:

The public importance of, and necessity for, the passage of this bill at the present session of the Legislature, and the short time intervening between this date and the day fixed for adjournment, creates an imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is suspended.

Adopted, and bill ordered engrossed.

On motion of Senator Hightower, rules were suspended to place bill on its third reading, by the following vote:

YEAS—23.

Buchanan of Grimes	Houston,	Ross,
Buchanan of Wood,	Lair,	Shannon,
Burges,	Lightfoot,	Stewart,
Burton,	Martin of Cooke,	Swain,
Davenport,	Martin of Navarro,	Terrell,
Harris,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.
Homan,	Rainey,	

NAYS—*none.*

NOT VOTING—2.

Cooper, Gooch.

Bill read third time and passed:

YEAS—25.

Buchanan of Grimes	Homan,	Rainey,
Buchanan of Wood,	Houston,	Ross,
Burges,	Lair,	Shannon,
Burton,	Lightfoot,	Steawart,
Cooper,	Martin of Cooke,	Swain,
Davenport,	Martin of Navarro,	Terrell,
Gooch,	Patton,	Weatherred,
Harris,	Powers,	Wynne,
Hightower,		

NAYS—*none.*

A message was received from the House announcing the passage of Senate substitute for House bill No. 566, "An act making appropriations for deficiencies beginning March 1, 1879, and ending February 28, 1881, and for previous years," with amendments.

Senator Weatherred, chairman of Committee on Judicial Districts, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Judicial Districts, to whom was referred Senate bill No. 289, entitled "An act to change the times of holding the District Courts in the Twenty-ninth judicial district of the State of Texas," have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass. WEATHERRED, Chairman.

Bill read first time.

Senator Shannon moved to take up the bill just reported. Adopted by unanimous consent, and bill taken up.

On motion of Senator Shannon, rules were suspended to place the bill on its second reading, by the following vote:

YEAS—24.

Buchanan of Grimes	Homan,	Rainey,
Buchanan of Wood,	Houston,	Ross,
Burges,	Lair,	Shannon,
Cooper,	Lightfoot,	Stewart,
Davenport,	Martin of Cooke,	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.

NAYS—*none.*

NOT VOTING.

Burton.

Bill read second time and ordered engrossed.

On motion of Senator Shannon, rules were suspended to to place the bill on its third reading by the following vote:

YEAS—24.

Buchanan of Grimes,	Homan,	Rainey,
Buchanan of Wood,	Houston,	Ross,
Burges,	Lair,	Shannon,
Cooper,	Lightfoot,	Stewart,
Davenport,	Martin of Cooke	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.

NAYS—*none.*

NOT VOTING.

Burton.

Bill read third time and passed by the following vote:

YEAS—24.

Buchanan of Grimes,	Homan,	Rainey,
Buchanan of Wood,	Houston,	Ross,
Burges,	Lair,	Shannon,
Cooper,	Lightfoot,	Stewart,
Davenport,	Martin of Cooke,	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.

NAYS—*none.*

NOT VOTING.

Burton.

On motion of Senator Rainey, Senate bill No. 248, "An act to repeal sections 2, 4 and 7 of an act of the Legislature of the State of Texas, entitled 'an act to amend the charter of the city of Dallas,' approved July 9, 1879, and to amend sections 77, 163, 90, 62 and 82 of an act of the Legislature of the State of Texas, entitled 'an act to incorporate the city of Dallas, and to grant a new charter to said city,' approved August 9, 1876," was taken up by unanimous consent and read second time.

Senator Rainey offered the following amendments:

Amend section 4 so as to read section 9, and to annually levy and collect a poll tax, not exceeding one and 50-100 dollars for every year, upon all male persons over the age of twenty-one years and under sixty years at the time of assessment. Adopted.

Amend section 5 by striking out the word "exclusive," in line 2 of said section. Adopted.

Amend section 6 by striking out the word "five," in line 28, and insert therefor the word "two;" and in line 30 strike out the words "six months," and insert therefor "fifteen days." Adopted, and bill ordered engrossed.

On motion of Senator Rainey, the rules were suspended to place the bill on its third reading by the following vote:

YEAS—11.

Buchanan of Grimes,	Homan,	Rainey,
Buchanan of Wood,	Houston,	Ross,
Burges,	Lair,	Shannon,
Cooper,	Lightfoot,	Stewart,
Davenport,	Martin of Cooke,	Swain,
Gooch,	Martin of Navarro,	Terrell,
Harris,	Patton,	Weatherred,
Hightower,	Powers,	Wynne.

NAYS—*none.*

NOT VOTING.

Burton.

Bill read third time and passed by the following vote:

YEAS—24.

Buchanan of Grimes	Hightower,	Rainey,
Buchanan of Wood,	Homan,	Ross,
Burges,	Lair,	Shannon,
Burton,	Lightfoot,	Stewart,
Cooper,	Martin of Cooke,	Swain,
Davenport,	Martin of Navarro,	Terrell,
Gooch,	Patton,	Weatherred,
Harris,	Powers,	Wynne.

NAYS—*none.*

NOT VOTING.

Houston.

Senator Buchanan of Wood moved to take up Senate bill No. 282, entitled "An act to amend article 168 of the Revised Civil Statutes of the State of Texas." Unanimously adopted, and bill taken up and read second time.

Senator Buchanan of Wood offered the following amendment: Amend by adding the emergency clause, as follows:

WHEREAS, Under the law as it now exists there is no authority for a plaintiff in attachment suit to replevy the goods and property attached; and,

Whereas, The end of the present session of the Legislature is near at hand, therefore an imperative public necessity exists, which requires the Constitutional rule requiring bills to be read on three several days, to be suspended; and an emergency exists that this bill go into effect from and after its passage, and it is so enacted.

Adopted, and bill ordered engrossed.

Senator Homan moved to suspend the rules and put the bill on its third reading. Adopted, by the following vote:

YEAS—19.

Buchanan of Grimes,	Hightower,	Shannon,
Buchanan of Wood,	Homan,	Stewart,
Burges,	Lair,	Swain,
Cooper,	Martin of Navarro,	Terrell,
Davenport,	Patton,	Weatherred,
Gooch,	Powers,	Wynne.
Harris,		

NAYS—4.

Houston,	Rainey,	Ross.
Lightfoot,		

ABSENT, NOT VOTING—2.

Burton	Martin of Cooke.

Bill read third time.

Senator Houston moved a call of the Senate on the passage of the bill. Not seconded.

Bill passed by the following vote:

YEAS—14.

Buchanan of Wood,	Harris,	Powers,
Burges,	Hightower,	Stewart,
Cooper,	Homan,	Swain,
Davenport,	Lair,	Wynne.
Gooch,	Patton,	

NAYS—9.

Buchanan of Grimes,	Lightfoot,	Ross,
Burton,	Martin of Navarro,	Shannon,
Houston,	Rainey,	Weatherred.

NOT VOTING—2.

Martin of Cooke,	Terrell.

Senator Gooch moved to take up Senate substitute for House bill No. 566, entitled, "An act making appropriations for deficiencies, beginning March 1, 1879, and ending February 28, 1881, and for previous years," with the House amendments, and that the Senate disagree to said amendments. Adopted.

On motion of Senator Burges, the Senate adjourned until 3:30 P. M.

AFTERNOON SESSION.

Senate met pursuant to adjournment.

The President in the chair.

Roll called; quorum present.

Senator Shannon, his name being next on the roll, called up Senate bill No. 122, "An act to amend article 577, chapter 3, title 20, Revised Civil Statutes of the State of Texas." Bill taken up, read third time and passed.

Senator Stewart, being next on the roll, moved to call up Senator Powers' motion to reconsider Senate bill No. 281, "An act to authorize the issuance of a certificate to the heirs of Anson Jones, deceased, of a certificate for thirteen labors of land," which the Senate refused to engross. Adopted, vote reconsidered and bill ordered engrossed.

On motion of Senator Stewart, rules were suspended to place the bill on its third reading, by the following vote:

YEAS—20.

Buchanan of Grimes,	Homan,	Shannon,
Buchanan of Wood,	Lair,	Stewart,
Burges,	Lightfoot,	Swain,
Burton,	Martin of Navarro,	Terrell,
Cooper,	Powers,	Weatherred,
Davenport,	Rainey,	Wynne.
Hightower,	Ross,	

NAYS.

Harris.

NOT VOTING—4.

Gooch,	Martin of Cooke,	Patton.
Houston,		

Bill read third time and passed.

Senator Swain, being next on the roll, called up Senate bill No. 205, "An act to ascertain the amount due for school house lands, and for the building and rent of school houses therein, prior to July 23, 1873, and also the amounts due school superintendents for services in the public free schools of the State, from September 1, 1873, to August 31, 1876, and to provide for the payment of the same." Bill read second time and ordered engrossed.

On motion of Senator Swain, rules were suspended to place bill on its third reading, by the following vote:

YEAS—23.

Buchanan of Grimes,	Hightower,	Ross,
Buchanan of Wood,	Homan,	Shannon,
Burges,	Lair,	Stewart,
Burton,	Lightfoot,	Swain,
Cooper,	Martin of Navarro,	Terrell,
Davenport,	Patton,	Weatherred,
Gooch,	Powers,	Wynne.
Harris,	Rainey,	

NAYS.—*none.*

NOT VOTING—2.

Houston,	Martin of Cooke.

Bill read third time and passed by the following vote

YEAS—21.

Buchanan of Grimes,	Harris,	Powers,
Buchanan of Wood,	Hightower.	Shannon,
Burges,	Homan,	Stewart,
Burton,	Houston,	Swain,
Cooper,	Lair,	Terrell,
Davenport,	Lightfoot,	Weatherred,
Gooch,	Patton,	Wynne.

NAYS—2.

Martin of Navarro,	Rainey.

NOT VOTING—2.

Martin of Cooke,	Ross.

On motion of Senator Rainey, the calendar clerk, Capt. Swindells, was excused on account of sickness in his family.

A message was received from the House announcing the concurrence of that body in Senate amendments to House bill No. 39, "An act to amend article 506, of title 7, chapter 11, of the Revised Civil Statutes of the State of Texas, relating to towns and villages."

The passage of House bill No. 319, "An act for the relief of persons whose lands have been rendered for taxation, and also placed upon the unrendered rolls."

That the House adheres to its amendments to Senate sub-

stitute for House bill No. 566, (the deficiency bill) and asks for a free conference committee to consider the disagreements arising between the two houses on said bill, and appoints on such committee for the House, Messrs. Baker, Wurzbach, Upton, Peacock and Merritt.

That the House refuses to concur in Senate amendments to House bill No. 91, "An act to authorize the refunding of moneys paid into the General Land Office, under the provisions of 'an act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad reserve,' passed August 26, 1856, and the provisions of a supplemental act entitled 'an act supplemental to an act to authorize the location, sale and settlement of the Mississippi and Pacific Railroad reserve,' approved November 28, 1857, in all cases wherein the State failed to patent the lands for which such moneys were paid, and to make an appropriation therefor."

And that it has passed:

Senate joint resolution No. 27, proposing to amend section 24, article 3, of the Constitution of the State of Texas.

Also, House joint resolution No. 15, "instructing our Senators and requesting our Representatives in Congress to procure the passage of a joint resolution by the Congress of the United States authorizing the Secretary of War to loan to the Adjutant-General of the State of Texas, on his requisition, such camp and garrison equipage as may be needed by the State troops of Texas at their annual encampment."

Senator Terrell, by leave, introduced a bill entitled "An act to give immediate effect to an act entitled 'an act granting a land certificate of 1280 acres to each of the surviving soldiers of the Texas revolution and the signers of the declaration of Texas independence, and to the surviving widows of such soldiers and signers, and to the widows of those who fell at the Dawson massacre, and to repeal an act approved April 26, 1879, and approved March 15, 1881.'" Referred to Judiciary Committee No. 1.

Senator Wynne, being next on the roll, called up Senate bill No. 285, "An act to amend article 3466, title 69, chapter 1, of the Revised Civil Statutes of the State of Texas, passed by the Sixteenth Legislature of the State of Texas." Bill taken up, read second time and ordered engrossed.

On motion of Senator Wynne, the rules were suspended to place the bill on its third reading by the following vote:

YEAS—23.

Buchanan of Grimes	Hightower,	Ross,
Buchanan of Wood,	Homan,	Shannon,
Burges,	Lair,	Stewart,
Burton,	Lightfoot,	Swain,
Cooper,	Martin of Navarro,	Terrell,
Davenport,	Patton,	Weatherred,
Gooch,	Powers,	Wynne.
Harris,	Rainey,	

NAYS—*none.*

NOT VOTING—2.

Houston,	Martin of Cooke,

Bill read third time and passed.

Senator Terrell, chairman of Judiciary Committee No. 1, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 22, 1881.

Hon. L. J Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 290, have had the same under consideration, and I am instructed to report the same back with the recommendation that it do pass. The object of the bill is to provide for the protection of the university lands in suits pending in Hill and McLennan counties involving their title.

TERRELL, Chairman.

Bill read first time.

Senator Burges moved to call up Senate substitute for House bill No. 566 (the deficiency bill). Adopted, and bill taken up.

Senator Houston moved that a committee of five be appointed to represent the Senate in the free conference committee on the disagreements of the two houses on said deficiency bill. Adopted.

The President appointed on said committee Senators Terrell, Buchanan of Wood, Buchanan of Grimes, Houston and Shannon.

When Senator Burton's name was reached he called up Senate bill No. 219, entitled "An act to amend articles 319, and 321 of the Penal Code of Texas, so as to restrict the cases in which certain deadly weapons are permitted to be carried, to the ordinary army or navy size revolver, carried outside of all clothing, and fully exposed to view," which was taken up and read second time.

Senator Homan moved a call of the Senate on the pending bill. Call sustained.

Roll called; absent, Senators Martin of Cooke and Terrell.

On motion of Senator Homan, the call was suspended.

Senator Homan moved to lay the bill on the table, subject to call. Adopted.

A message was received from the Governor. (It will be read and will appear to-morrow.)

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 22, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined Senate bill No. 289, "An act to change the times of holding the district courts in the Twenty-ninth Judicial District of the State of Texas," and find same correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senator Gooch moved to call up House bill No. 91, just reported from the House, the House refusing to concur in Senate amendments to the same. Adopted, and bill taken up.

On motion of Senator Gooch, the Senate refused to recede from its amendments to said bill, and a free conference committee was ordered.

The President appointed on said committee Senators Gooch, Cooper, Homan, Patton and Lightfoot.

On motion of Senator Cooper, the Senate adjourned until 9:30 A. M. to-morrow.

SIXTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, March 23, 1881.

Senate met pursuant to adjournment.

Roll called; quorum present.

Prayer by the Chaplain.

The President in the chair.

On motion of Senator Martin of Navarro, the reading of the journal of yesterday was dispensed with, and the same adopted.

On motion of Senator Martin of Navarro, Senator Stew- was excused for the day on important business.

On motion of Senator Rainey, Captain Swindells, the Calendar Clerk, was excused on account of sickness in his family.

Senator Lightfoot introduced a Senate joint resolution, granting to Hon. W. S. Moore permission to absent himself from Lamar county during July and August, 1881. Referred to Committee on State Affairs.

Senator Shannon, Chairman of Committee on Internal Improvements, submitted the following report:

COMMITTEE ROOM,
AUSTIN, March 23, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Internal Improvements, to whom was