Mr. Maxwell moved to adjourn until 10 o'clock a.m. to-morrow; Mr. Henderson until 3 p.m. to-day; and Mr. Bertram until 9.30 a.m. to-morrow. The motion of Mr. Maxwell prevailed, and the House at 12.35 p.m., adjourned accordingly.

EIGHTEENTH DAY.

Hall House of Representatives, Austin, Texas, Wednesday, February 3, 1897.

The House met at 10 o'clock a.m., pursuant to adjournment.

Speaker pro tem. Patterson in the chair.

Roll called, and the following members present:


A quorum was announced present. Prayer by Dr. J. A. Jackson, Chaplain.

Pending reading of the Journal of yesterday.

On motion of Mr. Stamper, further reading was dispensed with.

GRANTED LEAVE OF ABSENCE.

On account of sickness:

Mr. Tucker for to-day, on motion of Mr. Boyd.

Mr. Stokes indefinitely, on motion of Mr. Skillern.

Mr. Mundine for to-day, on motion of Mr. Burney.

PETITIONS AND MEMORIALS.

By Mr. Melton:

A protest from L. B. Vance and 40 other citizens of McCulloch county against the creation of any new county out of any part of McCulloch county. Referred to Committee on Counties and County Boundaries.

By Mr. Wood:

A petition from J. M. De Ware and 120 other citizens of Marion county, asking for an appropriation for the purpose of building and maintaining an orphan home for colored children in the State of Texas. Also, a petition from 30 citizens of Camp county, same as above; and 125
citizens of Henderson county and 40 citizens of Navarro county, same as above.

Referred to Committee on Education.

A petition from 80 citizens of Almo, Texas, asking for the passage of a law raising the age of consent to 18 years.

Referred to Judiciary Committee No. 2.

Also, a petition from 50 citizens of the same place, asking for the passage of a law fixing the scholastic age at from 6 to 21 years, inclusive.

Referred to Committee on Education.

BILLS AND RESOLUTIONS.

Mr. Childs, by unanimous consent, offered the following resolution:

Whereas, the Hon. W. M. Holland, a distinguished member of this House, has recently taken the wisest and most important step of his life in returning to this city with his life's companion, and thereby securing the highest prize which a bachelor may hope to obtain;

Therefore, It is the sense of the House of Representatives that we extend to him and his fair bride our sincere congratulations for a long life of happiness and prosperity, and that we do now take a recess of ten minutes in order to welcome him on his return and shake hands with him over his recent success.

Read second time, and

On motion of Mr. Boyd, further consideration was postponed until 11 o'clock a.m. to-day.

By Mr. Dickinson:

House bill No. 335, a bill to be entitled "An act to expedite and facilitate the trial of persons indicted for the offense of rape, assault to commit rape, murder committed in the perpetration or the attempt at the perpetration of rape, to authorize the Governor to appoint special district judges to try such cases, to fix the compensation of such special judges, and to advance such cases on the docket of the District Courts and the Court of Criminal Appeals."

Read first time and referred to Judiciary Committee No. 2.

By Mr. Turner:

House bill No. 336, a bill to be entitled "An act to regulate proceedings in the district court on appeal from the county court, contesting the probate of last will and testaments."

Read first time and referred to Judiciary Committee No. 1.

By Mr. Meade:

House bill No. 337, a bill to be entitled "An act to amend article 207, chapter 1, title 8, of the Penal Code, changing the penalty in perjury cases, except as provided for in article 208 of the Penal Code, from not more than ten years nor less than five years in the penitentiary, to not more than ten years nor less than two years in the penitentiary."

Read first time and referred to Judiciary Committee No. 2.

By Mr. Turner:

House bill No. 338, a bill to be entitled "An act to prohibit the catching of fish, green turtle, loggerhead terrapins, or shrimp with seine, drag nets, spikes, set nets, gill nets, trammel nets, traps, dams, or weirs in any of the bays or navigable waters of this State within the corporate limits of any incorporated town or city, or within one mile of the corporate limits of such city or town, and to provide a penalty therefor."

Read first time and referred to Judiciary Committee No. 2.

By Mr. Ayers:

House bill No. 339, a bill to be entitled "An act to amend article 2286, chapter 2, title 40, of the Revised Civil Statutes of the State of Texas, relating to the manner of the return of depositions."

(Provides that such depositions may be transmitted through the mail in registered packages without endorsement of the postmaster or deputy.)

Read first time and referred to Judiciary Committee No. 1.

By Mr. Turner:

House bill No. 340, a bill to be entitled "An act to amend article 747 of chapter 18 of title 21 of the Revised Civil Statutes of the State of Texas, restricting land holdings of certain corporations, and to confer certain powers upon such corporations in relation to real property in incorporated cities and towns."

Read first time and referred to Committee on Internal Improvements.

By Mr. O'Connor:

House bill No. 341, a bill to be entitled "An act to amend article 2063, chapter 19, title 39, of the Revised Civil Statutes of the State of Texas, relating to the notice of issuance of letters of administration or letters testamentary and the estates of decedents."

(Provides that a copy of said published notice be sent by registered mail to each and every creditor of such estates whose residence is with-
out the county in which said administration is pending, etc.

Read first time and referred to Judiciary Committee No. 1.

By Mr. Ayers:

House bill No. 342, a bill to be entitled “An act to amend article 1400, chapter 21, title 30, of the Revised Civil Statutes of the State of Texas of 1895, and to create a preference lien on corporate property for claims for labor and material prior to the lien of mortgage indebtedness.”

Read first time and referred to Judiciary Committee No. 1.

By Mr. Cureton (by request):

House bill No. 343, a bill to be entitled “An act to compel banks and other institutions of like character to give bond for money deposited, said bonds to be for at least double the amount of deposits on hand at one time.”

Read first time and referred to Committee on State Affairs.

By Mr. Skillern:

House bill No. 344, a bill to be entitled “An act to amend article 2767, title 55, chapter 3 of the Revised Civil Statutes of the State of Texas, so as to give the wife protection in her separate property.”

Read first time and referred to Judiciary Committee No. 1.

By Mr. Thomas:

House bill No. 345, a bill to be entitled “An act to amend chapter 1, title 28 of the Revised Civil Statutes, and to add article 1068a thereto, requiring district judges to exchange districts in certain cases.”

Read first time and referred to Judiciary Committee No. 1.

By Mr. Henderson:

House bill No. 346, a bill to be entitled “An act to transfer Red River county from the district school system to the community school system and to authorize and empower the said county to organize and conduct all of its public free schools under the community system, as provided for by the laws now in force.”

Read first time and referred to Committee on Education.

By Mr. O’Connor:

House bill No. 347, a bill to be entitled “An act to amend articles 2245 and 2246, chapter 30, title 37, of the Revised Civil Statutes of Texas, relating to the commissions allowed executors and administrators.”

(Changes the commission in article 2245 from 5 to 2½ per cent. Provides for a fee of $50 to be paid by the lien holder on the delivery of a proper deed to the incumbered property.)

Read first time, and referred to Judiciary Committee No. 1.

By Mr. McFarland:

House bill No. 348, a bill to be entitled “An act to prescribe the method of making publication of all notices and advertisements which are required to be published by the Civil Statutes of the State of Texas and of notices of all sales of real and personal property under deeds of trust and contract liens of any sort.

(Provides that such notices shall be published in a newspaper, and fixes the fees for same.)

Read first time and referred to Judiciary Committee No. 1.

Mr. Lillard offered the following resolution, which goes over one day under the rules:

Whereas, in the contested election case of Brignac vs. Bennett, now pending before this House from the Fifty-fourth Representative District, the fact has developed, upon a recount of the ballots of and from said Fifty-fourth District by the committee, that in two precincts of said district, viz., Plantersville and Pointer’s Prairie, there is a very serious discrepancy or difference between the result of said recount of the ballots by the committee and the result as shown by the poll lists, tally sheets and returns, sworn to by the presiding officers, judges and clerks of elections in and for said precincts, and a copy of which was kept in the hands of the presiding officer of each precinct (as required by law), and which has been identified, sworn to and presented in evidence before the committee as reflecting the true result of an election as held in their respective precincts on November 3, 1890, for the office of Representative for the Fifty-fourth District.

And whereas, a duplicate copy of said poll lists, tally sheets and returns were found in each box by the committee, duly executed and sworn to by the election officers, which is found to show the same result as the copy held by the presiding officers and by them turned over to the committee.

And whereas, the ballot box from one of the aforesaid precincts, viz., Plantersville, was open or loose when the same was delivered to the Sergeant-at-Arms of this House by the county clerk of Grimes, as is shown by the testimony of said clerk before the committee.

And whereas, the contestant in this case, I. M. Bennett, does aver that he
can and will at his own expense prove to this House by the voluntary affidavits of the voters of said Planter’s Prairie precincts that the ballots as now contained in said ballot boxes do not reflect the true result of the election held in their respective precincts for the office of Representative on the 3d day of November, 1896, but that the ballot boxes have been tampered with, and ballots taken out and other ballots substituted for same, to the detriment and injury of said contestee; and he further avers that he can and will prove as above indicated, that at Iola box, precinct No. 2, I. M. Bennett received about 40 votes upon what is known as the “cocked hat ticket,” when in fact it is shown by the recount of the ballots in said box that there are now only 11 of the said tickets in the said box.

And whereas, the said I. M. Bennett has received the depositions of the presiding officer and two of the judges of the election held November 3 last, at said Planter’s Prairie box, all of whom swear that the vote cast for Bennett and Briganse, respectively, was exactly as it was certified to on the tally sheets sent up to the county seat of Grimes county, and verified by the several election judges of said county who appeared before the Committee on Privileges and Elections here, said election officers declaring in the affidavit that if the count of the tickets made here did not accord with the figures on the tally sheet, then the ballot box had been tampered with after it had left their hands;

And whereas, it is and should be the province and desire of this House to do even and exact justice to each party in every election contest case; therefore, be it

Resolved, that the House do hereby grant the request of I. M. Bennett, giving him one week’s time in which to produce further evidence in his behalf, in the shape of voluntary depositions of voters, which evidence he proposes to procure without any expense to the State. (Signed: Lillard, Rogan, Fields of Hill, Kimbell, Garrison, Melton, Fisher.)

COMMITTEE REPORTS.

By Mr. Moore of Lamar, chairman:

Committee Room,
Austin, Texas, Feb. 3, 1897.

Hon. L. T. Dashiel, Speaker of the House of Representatives:

Your Committee on Privileges and Elections, to whom was referred the following resolution:

Resolved, that the case of Asberry v. Blackburn, contested election case from the Sixty-third Representative District of Texas, be referred to the Committee on Privileges and Elections, with instructions to investigate the case on the question of the jurisdiction of this House to entertain the same, and if they deem it proper to investigate the merits of the contest,

After having carefully considered the same and heard argument upon the legal and constitutional questions therein involved, beg leave to report back to the House that in their opinion the House of Representatives has no power or jurisdiction to entertain consideration of the controversy of Asberry v. Blackburn, nor to inquire into the facts or merits of the case, for the following reasons, to wit:

1. The Constitution of Texas, article 3, section 8, provides as follows:

“Section 8. Each house shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such manner as shall be provided by law.”

Making the House of Representatives the sole judge of the election of its members, subject to the limitation that contests shall be determined in such manner as shall be provided by law.

2. The law has provided a mode of procedure in cases of contested elections for members of the Legislature. Revised Statutes (1893), arts. 1798, 1799, 1800, 1804 et seq.

3. The controversy of Asberry v. Blackburn has not been brought in the manner provided by law in said articles of the Revised Statutes, for

(1) A copy of the notice, statement and reply was not, as required in article 1804, filed with the district returning officer, to wit, the county judge of Robertson county, within twenty days after the service thereof, nor has it ever been so filed up to this date.

(2) Such copy, together with a certified copy of each of the poll-books of each precinct, has never been received by the Speaker of this House, nor forwarded to him by the said district returning officer, as provided in said article 1804; and consequently.

(3) Such papers were not opened by the Speaker immediately after the organization of the House and referred to this committee, as required in article 1804.
4. Mr. Asberry has shown to the committee no good cause why the provisions of the law were not complied with, supposing that this committee or the House could disregard the letter of the statute; but, on the contrary, appears not to have used ordinary diligence in filing or attempting to file with the county judge the copy of the contest papers required in article 1804J, but to have been guilty of gross negligence in the prosecution of his claim.

5. We believe that the constitutional limitation referred to above restricts this House in contested election cases to the mode of procedure provided by our statutes, and that the House can not constitutionally and legally assume jurisdiction in cases like the present, instituted and brought before us, except for cause shown. We find the text-books and cases of little use in passing upon this point, for the reason that most legislative bodies are the absolute judges of the elections of their members, unfettered by any such restriction as that provided in our Constitution for the jurisdiction of the Supreme Court of the United States prescribing the procedure in such cases, were held to be not absolutely binding upon the House in any case, but adopted merely as wholesome rules of practice, and of course a tribunal could hardly be expected to construe with great strictness a statute which it might in its discretion disregard altogether. McCrarry on Elections, sec. 337. And it was held in another case that it was not within the constitutional power of Congress, by a legislative enactment or otherwise, to control either house in the exercise of its exclusive right to decide upon purely personal and political grounds.

Under this unlimited power of each branch of Congress, gross abuses sprang up, and contested election cases have frequently been, in travesty of justice, decided upon purely personal and political grounds.

It was doubtless to prevent in some measure these partisan decisions that the makers of our Constitution saw fit, in their wisdom, to restrict and limit the arbitrary power of each body of the Legislature, and insure that, as to the mode of procedure at least, there should be some uniform and binding rule that would apply to all cases alike and be equally just to all men.

This mode of procedure, as laid down by the whole Legislature in our statutes, can not, in our opinion, be modified or overridden by one house alone, but if changed must be changed by all the branches of the Legislature acting together in a constitutional way. Until this is done, it is binding in all contested election cases and can not be evaded.

If Mr. Asberry has not complied with the provisions of our statutes, and he clearly and indisputably has not, this is his fault, and not chargeable to the House, bound by the Constitution to act only in the manner prescribed by law.

As to the absolute necessity of complying with the statutes as to time of filing and serving notice of contest, etc., we would refer to the case of Lindsey v. Luckett, 20 Texas, 521, in which Judge Roberts held that the law giving the right to contest an election had limited the right to begin the proceedings to within ten days after the day of return, and that unless the contestant complied with the law prescribing the remedy, he was precluded by his own omission. Thus the statute of 1804, not to have used ordinary diligence in filing or attempting to file in all contested election cases prescribed by law.

We therefore, in view of the provisions of our Constitution and statutes, which we construe as mandatory, report that in our opinion the House of Representatives has no power or jurisdiction to try any contested election case not brought in the manner provided by the said statutes, and specifically Judge Roberts held that Asberry v. Blackburn was not properly instituted, is not legally before us for adjudication, and can not be tried by this House.

Denying the jurisdiction of the House in the premises, we have not deemed it necessary or proper to investigate the case on its merits.

MOORE of Lamar, Chairman.

By Mr. Bailey, chairman:

Committee Room,
Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House:

Your Judiciary Committee No. 2, to whom was referred

House bill No. 316, a bill to be entitled "An act to restore and confer upon the county court of Henderson county the civil and criminal jurisdiction heretofore belonging to said court
under the Constitution and general statutes of Texas; to define the jurisdiction of said court; to conform the jurisdiction of the district court of said county to such change; to fix the time of holding court, and to repeal all laws in conflict with this act."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it be referred to Committee on Judicial Districts.

BAILEY, Chairman.

Committee Room,
Austin, Texas, Feb. 2, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 39, a bill to be entitled "An act to amend article 353, and repeal articles 354, 355, 356, 357, 358, of title X, chapter 3, of the Penal Code of the State of Texas, in regard to adultery and fornication."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it be considered with House bill No. 81 on the same subject.

BAILEY, Chairman.

Committee Room,
Austin, Texas, Feb. 2, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Judiciary Committee No. 2, to whom was referred

House bill No. 261, a bill to be entitled "An act to create and add article 293a, chapter 6, title 8, of the Penal Code of the State of Texas, relating to offenses against public justice."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass with the following amendment: Amend section 1 by striking out all of the second proviso beginning with the words "provided further," and inserting in lieu thereof the following: "Provided, that any person held under either an indictment or information charging him with the commission of a misdemeanor or may apply to the proper court for a writ of habeas corpus, and in such cases the court or judge shall hear the facts, and remand, or admit to bail, or discharge, as the facts may authorize."

BAILEY, Chairman.

Committee Room,
Austin, Texas, Feb. 2, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Judiciary Committee No. 2, to whom was referred

House bill No. 314, a bill to be entitled "An act to amend articles 529c, 529d, 529g, 529h, 529m and 529n of chapter 5, title 13, of the Penal Code of the State of Texas, of 1895, and by adding articles 529s and 529t to said chapter 5, title 13, of said Penal Code of the State of Texas, relating to offenses for the protection of fish and oysters, and to repeal all laws in conflict herewith."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,
Austin, Texas, Feb. 2, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Judiciary Committee No. 2, to whom was referred

House bill No. 310, a bill to be entitled "An act requiring district judges, during term time, to fix bail in certain felony cases without habeas corpus proceedings."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

BAILEY, Chairman.

MAJORITY REPORT.

Committee Room,
Austin, Texas, Feb. 2, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Judiciary Committee No. 2, to whom was referred

House bill No. 279, a bill to be entitled "An act declaring the theft of cot-
ton over the value of $20 a felony, and under the value of $20 a misdemeanor, and fixing a penalty therefor.”

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

BAILEY, Chairman.

MINORITY REPORT.

Committee Room,
Austin, Texas, Feb. 2, 1897.
Hon. L. T. Dashiell, Speaker of the House.

We, a minority of your Judiciary Committee No. 2, to whom was referred House bill No. 279, a bill to be entitled “An act declaring the theft of cotton over the value of twenty dollars a felony, and under the value of twenty dollars a misdemeanor, and affixing penalties thereto.”

Have had the same under consideration, and recommend that the same do not pass for the following reasons: because we do not see any good reason for giving to cotton a greater protection under penal laws than is afforded other personal property, and because the passage of such an act would increase the number of convicts in the State penitentiary, which is contrary to the recommendations of the Governor, and detrimental to the material interests of the State.

All of which is respectfully submitted.

GOOD.

TURNER.

By Mr. Carpenter, chairman:
Committee Room,
Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on State Affairs, to whom was referred House bill No. 279, a bill to be entitled “An act declaring the theft of cotton over the value of twenty dollars a felony, and under the value of twenty dollars a misdemeanor, and affixing penalties thereto.”

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do not pass, for the reason that this House has no control over the private funds of its members.

CARPENTER, Chairman.

Committee Room,
Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on State Affairs, to whom was referred House concurrent resolution No. 3, a resolution referring to Buckner’s orphans.

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do not pass.

CARPENTER, Chairman.

MAJORITY REPORT.

Committee Room,
Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on State Affairs, to whom was referred House bill No. 218, a bill to be entitled “An act to amend article 959, chapter 5, of the Revised Civil Statutes of the State of Texas, relating to the appointment of Supreme Court reporters.”

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do not pass.

CARPENTER, Chairman.

MINORITY REPORT.

Committee Room,
Austin, Texas, Feb. 3, 1897.

Hon. L. T. Dashiell, Speaker of the House.

We, a minority of the Committee on State Affairs, to whom was referred House bill No. 218, a bill to be entitled “An act to amend article 959 of chapter 5 of the Revised Civil Statutes of the State of Texas, relating to the appointment of Supreme Court reporters.”

Do not concur with the majority, and beg leave to report the same back to the House with the recommendation that it do pass.

MAXWELL, REUBELL, DREW, LOGAN, BOYD, HENDERSON.

MAJORITY REPORT.

Committee Room,
Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on State Affairs, to whom was referred
February 3, 1897

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House bill No. 222, a bill to be entitled "An act to prohibit the sale or giving of cigarettes or cigarette paper or tobacco, or preparations of tobacco and other material used in making cigarettes to any minor under fifteen years of age, and to fix a penalty." Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do not pass.

CARPENTER, Chairman.

MINORITY REPORT.

Committee Room, Austin, Texas, Feb. 3, 1897.

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on State Affairs, to whom was referred

House bill No. 222, a bill to be entitled "An act to prohibit the sale or giving of cigarettes or cigarette paper or tobacco, or preparations of tobacco and other material used in making cigarettes, to any minor under fifteen years of age, to fix a penalty."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

CARPENTER, Chairman.

February 3, 1897

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on Finance, to whom was referred

House bill No. 226, a bill to be entitled "An act to appropriate and set apart the unappropriated public domain and other lands of the State reserved from the present laws, and lands recovered from railroads illegally held by them."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

HENDERSON, REUBELL, DREW, HUMPHREY.

Committee Room, Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on State Affairs, to whom was referred

House bill No. 226, a bill to be entitled "An act to appropriate and set apart the unappropriated public domain and other lands of the State reserved from the present laws, and lands recovered from railroads illegally held by them."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

HENDERSON, REUBELL, DREW, HUMPHREY.

Committee Room, Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House.

Your Committee on Finance, to whom was referred

House bill No. 286, a bill to be entitled "An act to amend article 5152a, chapter 3, title 104, of the Revised Civil Statutes of the State of Texas, and to add thereto a new article, to be styled article 5152a, relating to the disposition of taxes collected from non-residents of unorganized counties."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

GARRISON, Chairman.

By Mr. McGaughey, chairman:

Committee Room, Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House:

Your Committee on Finance, to whom was referred

House bill No. 194, a bill to be entitled "An act to provide for the establishment of State depositories, and to prescribe their duties and liabilities."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do not pass.

GARRISON, Chairman.

By Mr. McGaughey, chairman:

Committee Room, Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House:

Your Committee on Education, to whom was referred

House bill No. 124, a bill to be entitled "An act to provide for the survey of lands to be set apart as a permanent endowment fund for the branch university for colored people of this State."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

McGAUGHEY, Chairman.

Committee Room, Austin, Texas, Feb. 2, 1897.

Hon. L. T. Dashiell, Speaker of the House:

Your Committee on Education, to whom was referred

House bill No. 173, a bill to be entitled "An act to amend article 3982, chapter 13, title 86, of the Revised Civil Statutes of Texas, adopted at the regular session of the Twenty-fourth Legislature, relating to the transfers of children in district schools."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

McGAUGHEY, Chairman.
Committee Room, Austin, Texas, Feb. 2, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Committee on Education, to whom was referred House bill No. 389, a bill to be entitled "An act to amend article 3963 of the Revised Statutes of Texas, providing for the election of white and colored trustees of school districts by each race separately."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass.

McGAUGHEY, Chairman.

By Mr. McFarland, chairman:
Committee Room, Austin, Texas, Feb. 1, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Committee on Public Printing, to whom was referred House bill No. 277, a bill to be entitled "An act to amend article 4221 and article 4227 of the Revised Civil Statutes of the State of Texas, relating to public printing and binding."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass, with following amendments:

Provided, that in case the Board of Public Printing is satisfied that there is any combination or trust formed by the printing companies of this State, or any of them, by means of which the cost of the State printing is materially increased beyond the cost of such printing if done out of the State, then the said board shall contract with parties out of the State to do the public printing provided for in this act, except the current printing of the Legislature, which shall be done at the seat of government.

McFARLAND, Chairman.

By Mr. Williams, chairman:
Committee Room, Austin, Texas, Feb. 3, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Committee on Internal Improvements, to whom was referred House bill No. 115, a bill to be entitled "An act to amend an act entitled an act to authorize the incorporation of companies for the purpose of constructing union depots, and to authorize railway companies to own stock and bonds of such depot companies, and to regulate the issuance of bonds by such union depot companies."

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that it do pass, with the following amendments:

Add to section 1: "Provided that the Railroad Commission of Texas shall have the same supervision and control over said railroad and tariff rates and depots that it has over any other lines of railroad and depot buildings in this State."

WILLIAMS, Chairman.

By Mr. Dies, Chairman:
Committee Room, Austin, Texas, Feb. 3, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Committee on Engrossed Bills have carefully examined and compared House bill No. 254, a bill to be entitled "An act to amend sections 4 and 18 and 19, of an act entitled 'An act to incorporate the city of Waco, and to define its boundaries,' approved on the 19th day of February, 1889."

And find the same correctly engrossed.

DIES, Chairman.

Committee Room, Austin, Texas, Feb. 3, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Your Committee on Engrossed Bills have carefully examined and compared House bill No. 107, a bill to be entitled "An act to define cold storage in local option counties, precincts, cities, towns or subdivisions, and affix penalties for keeping same."

And find the same correctly engrossed.

DIES, Chairman.
Committee Room, 
Austin, Texas, Feb. 3, 1897. 
Hon. L. T. Dashiell, Speaker of the 
House. 
Your Committee on Engrossed Bills 
have carefully examined and com­
pared 
House bill No. 77, a bill to be enti­
tled "An act to amend article 2396 of 
the Revised Civil Statutes of Texas of 
1895, by adding thereto the proviso 
that the proceeds of the voluntary 
sale of the homestead of a family 
shall not be subject to garnishment 
within twelve months after such 
sale."
And find the same correctly en­
grossed.

DIES, Chairman. 
Committee Room, 
Austin, Texas, Feb. 3, 1897. 
Hon. L. T. Dashiell, Speaker of the 
House. 
Your Committee on Engrossed Bills 
have carefully examined and com­
pared 
House concurrent resolution No. 7, 
emowering the Governor of Texas 
to call a cotton growers' convention, 
and inviting delegates from all cotton 
growing States.
And find the same correctly en­
grossed.

DIES, Chairman. 

PRIVILEGED REPORT. 
By Mr. Feild, chairman: 
Committee Room, 
Austin, Texas, Feb. 2, 1897. 
Hon. L. T. Dashiell, Speaker of the 
House. 
We, your Committee on Sanitary 
Regulations, beg leave to further re­
port that we have instructed the Ser­
geant-at-Arms to procure additional 
spittoons, to prevent members and vis­i­
 tors from spitting in the ventilators 
and heaters; that we have also in­
structed him to procure and use in the 
closets and urinals disinfectants. We 
have also consulted the Superintendent 
of Public Buildings and Grounds 
in regard to supplying the legislative 
hall with more heat in order that the 
members may be comfortable, and he 
informs us that he can supply the heat 
from the power house, but that the 
heating apparatus in the legislative 
hall is so constructed that no additional 
heat can be used without a change in 
the heating apparatus, without endan­
gering the lives of the members. We 
beg leave to recommend that an appro­
priation be made for the purpose of 
correcting and adding to the heating 
apparatus; and we further recommend 
that the ventilators and heaters be 
taken out of the floor of the building, 
said work to be done after the Legis­
lature adjourns.

We further recommend that the Su­
perintendent of Public Buildings and 
Grounds be instructed to have swing­
ing doors placed in the arches at the 
southwest and northwest corners of 
the legislative hall immediately. Re­
spectfully submitted,
FIELD, Chairman.

Mr. Feild moved to adopt the report, 
and a second reading was called for.

The report was read second time, 
and the motion to adopt was lost.

BILL WITHDRAWN. 
House bill No. 331, on request of Mr. 
Shelburne, and recommitted to Com­
mittee on Judicial Districts.

SPEAKER’S TABLE — SPECIAL 
ORDER.

The Speaker laid before the House, 
on its engrossment as special order for 
to-day.

Substitute House bills Nos. 16 and 
192, a bill to be entitled "An act to 
make it a penal offense for any person 
in this State to unlawfully sow, scatter 
or place on any land the seed or 
roots of Johnson grass or Russian thistle, 
or sell or give away any hay, straw 
or oasts or grain containing or intermixed 
with the seeds or roots of 
Johnson grass or Russian thistle, or 
to transport same or allow same to 
mature on his land, providing ade­
quate penalties therefor, and provid­
ing a right of action for all damages 
sustained thereby, and providing for 
the restraining of said acts by writ of 
injunction, and repaying all laws or 
parts of laws in conflict with this act."

On motion of Mr. Gilbough, the spe­
cial order was postponed to take up 
and place on its second reading.

House bill No. 242, a bill to be enti­
tled "An act to amend the charter of the 
city of Galveston by adding there­
to section 73c in order to empower the 
said city of Galveston to grant rights 
of way to railroads and depot compa­
nies for tracks on Strand street or 
Avenue B, or any portion thereof, 
west of Twenty-fifth street, and to 
confirm certain rights heretofore 
granted by the city council of the city 
of Galveston to the Gulf, Colorado 
and Santa Fe Railway Company to 
erect and maintain tracks on portions 
of said street and to occupy a portion 
of Twenty-sixth street for depot pur­
poses,"
The bill was laid before the House, read second time and was ordered engrossed.

Mr. Gilbough moved to suspend the constitutional rule requiring bills to be read on three several days in each house, and that House bill No. 242 be put on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—95.


Nays—5.


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<td>Bennett.</td>
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<td>Bertram.</td>
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<td>Edwards.</td>
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Excused.

February 3, 1897

Welch. Wolters. 11 o'clock a. m., providing for a recess of ten minutes to welcome Mr. Holland of Harris and his bride.
Williams. Wood.
Wolters. The Speaker laid the same before the House.

11 o'clock a. m., providing for a recess of ten minutes to welcome Mr. Holland of Harris and his bride.

The resolution was adopted unanimously, and the House at 11.23 took a recess for ten minutes.

At the expiration of the time mentioned in the resolution, the House was called to order by the Speaker pro tem., and the Clerk resumed the reading of House bill No. 90.

The bill was read second time with minority adverse report.

(Mr. Ward in the chair.) Mr. Fields moved to adopt the majority report.

Mr. Bertram moved to substitute the minority report for the majority report.

Mr. Bird moved the previous question, and it was not seconded.

Mr. Bailey moved to table the motion of Mr. Bertram, upon which yeas and nays were demanded by Mr. Ber tram, Mr. Bumpass and Mr. Fields.

The motion to table prevailed by the following vote:

Yeas—76.

Bailey. Hill of Travis.
Barrett. Holland of Burnet.
Beaird. Holland of Harris.
Bell. Jones.
Benson. Kimbell.
Blackburn. Lillard.
Blair. Logan.
Boyd. Lotto.
Brewster. Love.
Browne. McFarland.
Callan. McGaughy.
Carpenter. McKamy.
Carswell. Meade.
Childs. Melton.
Collier. Mercer.
Crawford. Moore of Lamar.
Crowley. Oliver.
Curry. Feery.
Dean. Pfeuffer.
Dennis. Randolph.
Dickinson. Reubell.
Dies. Robbins.
Evans of Hunt. Rogan.
Ewing. Rudd.
Field. Savage.
Fields. Schlick.
Fisher. Shelburne.
Flint. Smyth.
Freeman. Stamper.
Garrison. Staples.
Gilbough. Strother.
Good. Thaxton.
Harris. Thomas.
Henderson. Thompson.
Hensley. Tracy.
Hill of Gonzales. Turner.
The House met at 10 o'clock a. m., pursuant to adjournment.

Speaker pro temp. Patterson in the chair.

Roll called and the following members present:


Question next recurring on the majority report, it was adopted.

First amendment was read as follows:

(1) Amend section 1, line 20, so as to read as follows: "extract teeth or make applications for the relief of pain."

Mr. Blair raised the point of order that the adoption of the majority report carried with it the adoption of the amendments submitted by the committee, and that it was not now in order to act on the amendments separately, as they had become really a part of the bill by adopting the report.

The Chair overruled the point of order.

Mr. Evans of Hunt and Mr. Blair appealed from the ruling of the Chair.

The Speaker then laid the question before the House, and the House sustained the ruling.

The first amendment was adopted.

Second committee amendment by the committee was read as follows:

(2) Strike out section 4 and substitute the following in lieu thereof:

"Section 4. When such appointments are to be made the State Dental Association shall suggest to the Governor twice as many names as there are appointments to be made, and from them the Governor shall select the members of said board, and the same shall be submitted to the Senate for confirmation. Upon confirmation by the Senate they shall be empowered by law and authorized to discharge the duties incumbent upon them by this act. Each member of this board shall be appointed for the term of two years, and hold the appointment until his successor is appointed. In case of vacancy occurring by resignation, removal from State, or by death, such vacancy may be filled for the unexpired term by the Governor."

Mr. Lillard offered the following amendment to the amendment:

Add after the first word "confirmation" in line 13, page 5, the following words: "Provided, that the first board appointed under this act shall not be confirmed by the Senate, as hereinbefore provided."

Lost.

Mr. Evans of Grayson moved the previous question, and it was not seconded.

Mr. Doyle moved to adjourn until to-morrow at 10 o'clock a. m.

Mr. Evans of Grayson moved to adjourn until 9 o'clock a. m. to-morrow.

The motion of Mr. Doyle prevailed, and the House adjourned accordingly.

NINETEENTH DAY.

Hall House of Representatives, Austin, Texas.

Thursday, February 4, 1897.

The House met at 10 o'clock a. m., pursuant to adjournment.

Speaker pro tem. Patterson in the chair.

Roll called and the following members present: