FORTY-NINTH DAY.

Hall House of Representatives, Austin, Texas,
Friday, March 19, 1897.

The House met at 9 o'clock a.m., pursuant to adjournment.
Speaker Dashiel in the chair.
Roll called and the following members present:

Alexander.  Martin.
Barbee.  Maxwell.
Barrett.  McFarland.
Beaird.  McGeaughy.
Bell.  McKamy.
Benson.  McKeller.
Bertram.  Mercer.
Bird.  Moore, Fort Bend.
Blackburn.  Moore of Lamar.
Blair.  Morton.
Bonds.  Muninde.
Brewster.  Neighbors.
Brigance.  O'Connor.
Brown.  Patterson.
Bumpass.  Peery.
Burney.  Porter.
Burns.  Reiger.
Carpenter.  Rebell.
Carswell.  Rhea.
Childs.  Robbins.
Crawford.  Rogan.
Crowley.  Rogers.
Cureton.  Rudd.
Curry.  Savage.
Dean.  Seabury.
Dennis.  Shelburne.
Dickson.  Shropshire.
Dies.  Skillern.
Dorroh.  Studer.
Drew.  Smith.
Evans of Grayson.  Smyth.
Ewing.  Stamper.
Field.  Staples.
Fields.  Stokes.
Fisher.  Strother.
Freeman.  Thaxton.
Garrison.  Thomas.
Green.  Thompson.
Harris.  Tracy.
Hensley.  Tucker.
Hill of Gonzales.  Turner.
Hill of Travis.  Vaughan, Guadalupe.
Holland of Harris.  Vaughan of Collin.
Humphrey.  Wall.
Jones.  Wallace.
Kimbell.  Ward.
Kirk.  Welsh.
Lillard.  Wilcox.
Logan.  Williams.
Lotto.  Wolters.
Love.  Wood.
Manson.  Absent.

Evans of Hunt.  Flint.

Gilbough.  Meade.
Good.  Pitts.
Excused.

Ayres.  Doyle.
Bean.  Holland of Burnet.
Boyd.  Melton.
Callan.  Oliver.
Collier.  Randolph.
Conoly.  Schlick.

A quorum was announced present.

Prayer by Hon. J. K. Bumpass, a member of the House.

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

GRANTED LEAVE OF ABSENCE.

On account of important business:
Mr. Good until Monday, on motion of Mr. Maxwell.
Mr. Collier for to-day, on motion of Mr. Dies.
Mr. Meade for to-day, on motion of Mr. Moore of Lamar.
Mr. Carswell after the morning session until Tuesday, on motion of Mr. Garrison.

On account of sickness:
Mr. Flint for to-day, on motion of Mr. Curry.
Mr. Carpenter for to-day, on motion of Mr. Love.
Mr. Feild moved to reconsider the vote by which the following resolution by Mr. Martin was adopted yesterday:

Whereas, this House is now holding two sessions per day, and the work of the committees has greatly decreased, and the necessity for the services of a great number of committee clerks no longer exists; therefore be it

Resolved, that the Speaker be and he is hereby instructed to discharge one-half of the committee clerks now in the employ of this House.

And asked to have the motion to reconsider spread upon the Journal.
Mr. Martin called up the motion to reconsider, and moved to lay it on the table, upon which motion yeas and nays were demanded by Mr. Martin, Mr. Blair and Mr. Beaird.

Lost by the following vote:

Yeas—39.
Alexander.  Cureton.
Barbee.  Curry.
Benson.  Dean.
Bertram.  Drew.
Bird.  Ewing.
Bumpass.  Freeman.
Burney.  Henderson.
Mr. Wolters moved to lay it on the table.

Yeas and nays were demanded by Mr. Martin, Mr. Wolters and Mr. Rhea.

Tabled by the following vote:

Yeas—64.

Barrett. Manson.
Beaird. Maxwell.
Bell. McFarland.
Blackburn. McGaughey.
Blair. McKeller.
Bounds. Mercer.
Brewster. Moore, Fort Bend.
Brigance. Moore of Lamar.
Browne. Morris.
Burns. Neighbors.
Carpenter. Peery.
Carswell. Reiger.
Childs. R befell.
Crawford. Rogers.
Dennis. Rudd.
Dies. Savage.
Dorroh. Shelburne.
Evans of Hunt. Skillern.
Evans of Grayson. Sluder.
Feld. Smyth.
Fields. Stamper.
Fisher. Staples.
Garrison. Stokes.
Green. Strother.
Harris. Thompson.
Henderson. Tracy.
Hill of Travis. Tucker.
Holland of Harris. Turner.
Jones. Vaughan of Collin.
Kimbell. Ward.
Logan. Williams.
Lotto. Wolters.

Nays—38.

Love.
Martin.
McKamy.
Morton.
Mundine.
Patterson.
Pfeuffer.
Porter.
Rhea.
Robbins.
Rogers.
Rogan.
Smith.
Welch.
Wolters.

Absent.

Alexander.
Barbee.
Benson.
Bertram.
Bird.
Bumpass.
Burney.
Crowley.
Curtis.
Curry.
Dean.
Drew.
Ewing.
Fleming.
Graham.
Hensley.
Hill of Gonzales.
Humphrey.
Kimbell.
Logan.

Love.
Martin.
McKamy.
Morton.
Mundine.
Patterson.
Pfeuffer.
Porter.
Rhea.
Robbins.
Rogers.
Rogan.
Smith.
Welch.
Wolters.

Excused.

Ayers.
Bailey.
Bean.
Boyd.
Callan.
Collier.
Conoly.
Doyle.
Edwards.

Flint.
Good.
Holland of Burnet.
Meade.
Mcllon.
Oliver.
Randolph.
Schlick.

Absent.

Dickinson.
Gilbough.
Lillard.
O'Connor.

Pitts.
Seabury.
Vaughan, Guadalupe.
Wood.

The motion to reconsider prevailed.

Question then recurring on the resolution by Mr. Martin, After consideration,
I vote to table the resolution for I do not think it wise to discharge the committee clerks with the amount of business there is on hand at this stage of the session.

Mr. Burney called up the following resolution, offered by him on March 1, and which was read first time and referred to the Committee on Contingent Expenses:

Whereas, the Hon. J. M. Bennett has expended the sum of $294.85 out of his own funds in defending his right to a seat in this House, as shown by attached sworn statement; and

Whereas, he has received no pay for his services as a member of this House, although he was the sitting member for twenty-four days under a certificate of election duly authenticated; therefore be it

Resolved by the House of Representatives of the Twenty-fifth Legislature of the State of Texas, that the amount of $294.85 be and the same is hereby allowed the said J. M. Bennett out of the contingent expense fund of the Twenty-fifth Legislature.

The resolution was read second time, together with the following committee report:

Committee Room,
Austin, Texas, March 17, 1897.

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

We, your Committee on Contingent Expenses, to whom was referred

Resolution to pay the expenses of J. M. Bennett, contestee in the contest case of Brigance v. Bennett, incurred by him in trial of said contest case.

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.

BURNS, Acting Chairman;
BERTRAM,
EVANS of Grayson,
CROWLEY,
DIES,
WELCH,
BURY.

After consideration,

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

After further consideration, Mr. Brigance moved the previous question, and the main question was ordered.

On adoption of the committee report, yeas and nays were demanded by Mr. Drew, Mr. Blair and Mr. Wolters.

Adopted by the following vote:

Yeas—84.

Alexander.
Barbee.
Barrett.
Beard.
Bell.
Benson.
Bertram.
Blackburn.
Bonds.
Brewster.
Brown.
Bumpass.
Burney.
Burns.
Carswell.
Childs.
Crawford.
Crowley.
Cureton.
Curry.
Dean.
Dias.
Dorrol.
Evans of Hunt.
Evans of Grayson.
Ewing.
Field.
Fields.
Fisher.
Freeman.
Garrison.
Gibbough.
Graham.
Green.
Harris.
Henderson.
Hill of Gonzales.
Hill of Travis.
Holland of Harris.
Humphrey.
Jones.
Kimbell.
Kirk.
Logan.

Nays—12.

Bird.
Blair.
Dennis.
Drew.
Lotto.
Manson.

Absent.

Brigance.
Dickinson.

Love.
Martin.
Maxwell.
McFarland.
McGaughey.
McKamy.
McKellar.
Mercer.
Moore, Fort Bend.
Moore of Lamar.
Morton.
Mundine.
Patterson.
Peery.
Porter.
Reiger.
Reubell.
Rhea.
Robbins.
Rogam.
Rogers.
Savage.
Seabury.
Shelburne.
Shropshire.
Smith.
Suyth.
Stamper.
Stokes.
Strother.
Thaxton.
Thomas.
Thompson.
Tracy.
Turner.
Vaughan of Collin.
Wall.
Ward.
Welch.
Wilcox.
Williams.
Wood.

Nays—12.

Bird.
Blair.
Dennis.
Drew.
Lotto.
Manson.

Absent.

Brigance.
Dickinson.

Hensley.
Lilliard.
A protest of 47 citizens of Duval County against placing said county in the Twenty-eighth judicial district.

Petitions and Memorial:

By Mr. Turner:
A protest of 47 citizens of Duval County against placing said county in the Twenty-eighth judicial district.

Read and referred to the Committee on Judicial Districts.

Also, a petition of 70 citizens of Aransas County, asking that the time in which the Aransas Harbor Company are to be given in which to secure deep water at Aransas Pass, and in which the said company is to acquire certain privileges and franchises under Senate bill No. 248, be restricted to May 14, 1898, instead of January, 1899, as fixed by said bill.

Read and referred to the Committee on Internal Improvements.
Also, a petition of 61 citizens of San Patricio county, asking that Senate bill No. 248, granting certain privileges and franchises to the Aransas Harbor Company be passed without amendment.

Read and referred to the Committee on Internal Improvements.

Also, a petition of 47 citizens of Aransas Pass, Texas, asking that Senate bill No. 248 be so amended as not to prejudice the rights of other channel companies or private individuals seeking to open or construct waterways or channels in any of the bays mentioned in said bill.

Read and referred to Committee on Internal Improvements.

By Mr. Welch:
A petition of 12 citizens of Del Rio, protesting against restrictive medical legislation.

Read and referred to the Committee on Public Health and Vital Statistics.

By Mr. Lotto:
A petition of 21 telegraph operators, asking for the passage of the bill known as the telegraph operators' bill.

Read and referred to the Committee on Labor.

BILLS AND RESOLUTIONS.

By Mr. Patterson (by request):
House bill No. 617, a bill to be entitled "An act to amend articles 1295 and 1296 of the Revised Civil Statutes of the State of Texas, so as to provide for the appointment of court stenographers and their pay."

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

By Mr. Henderson:
House bill No. 618, a bill to be entitled "An act to amend article 4670, title 97, chapter 1, of the Revised Civil Statutes of the State of Texas, relating to public roads, and to define the same."

Read first time and referred to Committee on Roads, Bridges and Ferries.

By Mr. Henderson:
House bill No. 619, a bill to be entitled "An act to repeal article 3982 of chapter 13, title 86, of the Revised Civil Statutes of the State of Texas, relating to the transfer of children of school districts."

Read first time and referred to Committee on Education.

By Mr. Smith:
House concurrent resolution No. 17. Whereas, there has been projected and permanently organized and incorporated the worthy institution known as the "Afro-American Fair and Interstate Exposition Co.," the object of which is the encouragement of the education, the advancement in the arts, sciences and general husbandry of the Afro-Americans residing in the United States; and

Whereas, the same being of national importance, looking toward the elevation and improvement of said race; now, therefore, be it

Resolved by the House of Representatives of the State of Texas, the Senate concurring, that the said Afro-American Fair and Interstate Exposition is worthy of the aid and support of the citizens of the State of Texas and of the United States, and that the same should be encouraged to that extent as will guarantee the permanent and successful operation of the same. That the same being in its character of great national importance should be aided by national legislation and appropriation to such a degree as will assure its success and permanency.

Be it further resolved, that while the organic law of our State forbids appropriations to individuals or corporations for the purposes for which the Afro-American Fair and Interstate Exposition is organized, yet we recognize its great usefulness and commend to the people of the State and nation this worthy undertaking.

Read second time, and adopted.

By Mr. Pfeiffer:
Resolved, that the importance and volume of business now pending before this House, and the lateness of the session of the Legislature, require that as little time be taken up in speech making as possible, and that hereafter all speeches in this House shall be limited to five minutes.

Read first time and goes over under the rules.

FURTHER TIME GRANTED.

For consideration of the following bills:
House bill No. 542, on motion of Mr. Robbins, chairman.
House bill No. 77, on motion of Mr. Martin, chairman.

COMMITTEE REPORTS.

By Mr. Bertram, chairman:
Committee Room.
Austin, Texas, March 18, 1897.
Hon. L. T. Dashiel, Speaker of the House:
Your Committee on Claims and Accounts, to whom was referred
House bill No. 285, a bill to be entitled "An act to grant to James P. New-
comb a claim of $10,000 for services performed for the State in securing the payment of the frontier defense claims from the United States government, and a like amount to Henry Schwethelm et al. for service performed as minute men.

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.

BERTRAM, Chairman.

Committee Room,
Austin, Texas, March 18, 1897.

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

Your Committee on Claims and Accounts, to whom was referred
Senate bill No. 189, a bill to be entitled "An act for the relief of B. F. Gholson of Lampasas county, providing for the payment of the said B. F. Gholson for service rendered the State of Texas as a ranger on the frontier."

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.

BERTRAM, Chairman.

Committee Room,
Austin, Texas, March 18, 1897.

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

Your Committee on Claims and Accounts, to whom was referred
The claim of W. M. Vaughan for compensation for services as Ranger for six months, at $25 per month, during 1890, and interest to date, making a total of $586;
The claim of J. B. Wadsworth, a druggist, for a rebate of $300 paid to the State for liquor license under which he could reap no benefits because of the adoption of local option in precinct of his residence;
The claim of A. E. Deane for $44.90, for services as janitor at Hyde Park Asylum;

Have had the same under consideration, and I am instructed to report the same back to the House with the recommendation that they be not allowed.

BERTRAM, Chairman.

By Mr. Dies, chairman:

Committee Room,
Austin, Texas, March 19, 1897.

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

Your Committee on Engrossed bills have carefully examined and compared
House bill No. 176, a bill to be entitled "An act to quiet titles to lands located and surveyed by virtue of land certificates granted under the act of the Legislature of the State of Texas, entitled an act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States, a certificate for 1280 acres of land, approved April 9, 1881, and to validate patents issued on such locations and surveys."

And find the same correctly engrossed.

DIES, Chairman.

By Mr. Rogan, chairman:

Committee Room,
Austin, Texas, March 19, 1897.

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

Your Committee on Roads, Bridges and Ferries, to whom was referred
House bill No. 616, a bill to be entitled "An act to create a more efficient road system for the county of Calhoun, and making county commissioners of said county ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as said road commissioners, and defining the powers and duties of said commissioners, and providing for the appointment of road overseers, defining their duties, and for the working of county convicts upon the roads of said county, and providing for officers and witness' fees, and providing for the working of delinquent poll tax payers upon said roads."

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, and that this bill be not printed.

ROGAN, Chairman.

MESSAGE FROM THE SENATE.

Senate Chamber.
Austin, Texas, March 19, 1897.

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

I am instructed by the Senate to inform the House that the Senate has concurred in House amendments to Senate bill No. 32, relating to the issuance of attachments for witnesses.

Also, that the Senate has concurred in House amendments to Senate bill No. 74, relating to the forfeiture of lands heretofore sold under the various acts of the Legislature.

Also, that the Senate has concurred in House amendments to Senate bill
March 19, 1897

HOUSE JOURNAL.

No. 197, the Dallas charter, by the following vote: ayes 24, nays none.

Also, that the Senate has concurred in House amendments to Senate bill No. 15, amending article 2001 of the Revised Civil Statutes.

Also, that the Senate has concurred in House amendments to Senate bill No. 16, amending article 1942 of the Revised Civil Statutes.

Also, that the Senate has concurred in House amendments to Senate bill No. 55, relating to the creation of corporations.

Also that the Senate has passed the following bills:

Senate bill No. 1, entitled "An act to prescribe and define the liability of persons, receivers or corporations operating railroads or street railways for injuries to their servants and employees, and to prohibit contracts between employer and employee, based upon the contingency of the injury or death of the employee, limiting the liability of the employer for damages."

Senate bill No. 48, a bill to be entitled "An act to provide for the survey of lands to be set apart as a permanent endowment fund for a branch university for colored people of this State."

Senate bill No. 188, a bill to be entitled "An act to regulate the purchase of supplies of every kind whatsoever for the use of State, county and municipal governments, offices, officers and employees, and to fix a penalty for the violation of the provisions of this act," by the following vote: ayes 23, nays 1.

Senate bill No. 128, a bill to be entitled "An act to amend article 128, title IX, chapter 1, of the Revised Civil Statutes of the State of Texas, relating to the apprehension of lunatics."

Senate bill No. 145, 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 wills and testaments."

Senate bill No. 145, 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 wills and testaments."

By a two-thirds vote: ayes 24, nays none.

Senate bill No. 231, a bill to be entitled "An act to amend chapter 2, title XXXII, of the Revised Civil Statutes of the State of Texas, by adding thereto an additional article, to be entitled article 1547d, relative to the keeping of bridges in repair."

By the following vote: ayes 17, nays 6.

Respectfully,
WILL LAMBERT, Secretary.

SENATE BILLS ON FIRST READING.

The following bills received from the Senate, were read first time and referred as follows:

Senate bills Nos. 1 and 45, to Judiciary Committee No. 1.

Senate bill No. 128, to the Committee on State Asylums.

Senate bill No. 48, to the Committee on Education.

Senate bill No. 231, to the Committee on Roads, Bridges and Ferries.

Senate bill No. 188, to the Committee on State Affairs.

BILLS SIGNED BY SPEAKER.

The Speaker signed in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following bills:

House bill No. 488, entitled "An act to prescribe the time of holding the terms of the District Court in the Twenty-fifth Judicial District of Texas."

House bill No. 304, entitled "An act to amend article 867, chapter 1, title 25, of the Revised Civil Statutes of the State of Texas, relating to county finances."

House bill No. 322, entitled "An act to amend article 1407 of the Revised Statutes of this State."

House bill No. 50, entitled "An act to amend article 1757 of the Revised Civil Statutes (1895) of Texas, relating to the time and manner of making returns to the Secretary of State of elections for State and district officers," etc.

House bill No. 82, entitled "An act to amend article 878 of title 17, chapter 9, of the Penal Code of the State of Texas, and to make the receiving or concealing of stolen property a criminal offense, and to provide appropriate penalties for said offense, and to repeal all laws and parts of laws in conflict with the provisions of this act."

House bill No. 7, entitled "An act to prevent the payment of any deficiency that may arise in any department of State government or institution of this State unless an estimate of the same has been made out, sworn to and presented to and approved by the Governor, and filed with the Comptroller at least 30 days before such deficiency occurs."
House bill No. 41, "An act to amend article 2979, of chapter 4, title 55, of the Revised Statutes of the State of Texas, relating to divorce, so as to make husband and wife competent witnesses, and to repeal all laws in conflict herewith."

House bill No. 396, entitled "An act to amend article 616a of the Revised Statutes of the State of Texas, and to repeal all laws in conflict with this act." Amend by striking out all of lines 4 and 5, page 9, and the words "article 1701s," in line 6, page 9, and the words "article 1702s," in line 28, page 9, and the words "article 1703s," line 5, page 10; "article 1704s," line 29, page 10; "article 1705s," line 8, page 11; "article 1706s," line 13, page 11; "article 1707s," line 24, page 11; and "article 1708s," line 5, page 12.

Amend by striking out the words "to amend an act" in the caption.

Add section 25, as follows:

"Section 25. All laws and parts of laws in conflict herewith are hereby repealed."

Change number of section 25 to conform. Add after the words "imperative public necessity," the words "and emergency," in section 26.

Mr. Hensley offered the following amendment:

Amend by striking out the word "ditch," in line 32, page 4, and substitute therefor the word "drain."

The bill was ordered engrossed.

Mr. Harris moved to suspend the constitutional rule requiring bills to be read on three several days in each house, and that House bill No. 351 be put on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—97.

Barbee. Kirk.
Barrett. Lillard.
Benard. Logan.
Bell. Lotto.
Benson. Love.
Bertram. Manson.
Bird. Martin.
Blackburn. Maxwell.
Blair. McConiald.
Bouhs. McKinnel.
Brewster. McKeller.
Brigance. Melton.
Brownie. Moore of Fort Bend.
Burney. Moore of Lamar.
Carpenter. Morris.
Childs. Morton.
Crawford. Neighbors.
Crowley. O'Connor.
Cureton. Patterson.
Curry. Pitts.
Dean. Porter.
Dennis. Reiger.
Doroh. Reubell.
Drew. Rhea.
Evans of Grayson. Rogers.
Ewing. Rogers.
Feld. Rudd.
Fields. Savage.
Fisher. Seabury.
Garrison. Shelburne.
Gilbough. Shropshire.
Graham. Skillern.
Green. Sluder.
Harris. Smith.
Henderson. Smyth.
Hensley. Stamper.
Hill of Gonzales. Staples.
Hill of Travis. Strother.
Holland of Harris. Thaxton.
Humphrey. Thomas.
Jones.
March 19, 1897  HOUSE JOURNAL.  635

Mr. Harris moved to reconsider the vote by which House bill No. 351 was passed, and to table the motion to reconsider. The motion to table prevailed.

On motion of Mr. Fisher, pending business was further suspended to take up and place on its third reading and final passage, House bill No. 176, a bill to be entitled "An act to quiet titles to lands located and surveyed by virtue of land certificates granted under the act of the Legislature of the State of Texas, entitled an act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States, a certificate for 1280 acres of land, approved April 9, 1881, and to validate patents issued on such locations and surveys."

The bill was laid before the House, and read third time.

Yeas and nays were demanded by Mr. Bertram, Mr. Stokes and Mr. Bumpass.

The bill was passed by the following vote:

Yeas—75.

Alexander. Bell.
Barrett. Blair.
Beaird. Bounds.

Mr. Harris moved to reconsider the vote by which House bill No. 351 was passed, and to table the motion to reconsider. The motion to table prevailed.

On motion of Mr. Fisher, pending business was further suspended to take up and place on its third reading and final passage, House bill No. 176, a bill to be entitled "An act to quiet titles to lands located and surveyed by virtue of land certificates granted under the act of the Legislature of the State of Texas, entitled an act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States, a certificate for 1280 acres of land, approved April 9, 1881, and to validate patents issued on such locations and surveys."

The bill was laid before the House, and read third time.

Yeas and nays were demanded by Mr. Bertram, Mr. Stokes and Mr. Bumpass.

The bill was passed by the following vote:

Yeas—75.

Alexander. Bell.
Barrett. Blair.
Beaird. Bounds.

Mr. Harris moved to reconsider the vote by which House bill No. 351 was passed, and to table the motion to reconsider. The motion to table prevailed.

On motion of Mr. Fisher, pending business was further suspended to take up and place on its third reading and final passage, House bill No. 176, a bill to be entitled "An act to quiet titles to lands located and surveyed by virtue of land certificates granted under the act of the Legislature of the State of Texas, entitled an act granting to persons who have been permanently disabled by reason of wounds received while in the service of this State or of the Confederate States, a certificate for 1280 acres of land, approved April 9, 1881, and to validate patents issued on such locations and surveys."

The bill was laid before the House, and read third time.

Yeas and nays were demanded by Mr. Bertram, Mr. Stokes and Mr. Bumpass.

The bill was passed by the following vote:

Yeas—75.
Mr. Stokes (present), who would vote "nay," with Mr. Holland of Burnet (absent), who would vote "yea."

Mr. Fisher moved to reconsider the vote by which House bill No. 176 was passed, and to table the motion to reconsider.

The motion to table prevailed.

On motion of Mr. Humphrey, pending business was then suspended to take up and place on its second reading.

House bill No. 205, a bill to be entitled "An act to provide for the payment of tax assessors for taking agricultural statistics for the year 1895."
The bill was laid before the House, read second time, and

Mr. Humphrey offered the following amendment:

Amend section 1 by adding thereto:

"Provided, no assessor of taxes shall receive the draft herein provided for unless he shall file with the Comptroller of Public Accounts his affidavit made before some officer authorized to administer oaths, showing that he took the statistics required of him by the Commissioner of Agriculture by calling on the heads of families in his county and taking said statistics as required of him by said Commissioner."

Adopted.

The bill was ordered engrossed.

Mr. Humphrey moved to suspend the constitutional rule requiring bills to be read on three several days in each house, and that House bill No. 205 be put upon its third reading and final passage.

The motion prevailed by the following vote:

Yeas—99.

Alexander. Crawford.
Barbee. Crowley.
Barrett. Cureton.
Beaird. Curry.
Bell. Bean.
Benson. Dennis.
Bertram. Dies.
Bird. Dorroh.
Blackburn. Drew.
Blair. Evans of Grayson.
Bounds. Ewing.
Brewster. Field.
Brigance. Fields.
Burnett. Flint.
Burney. Garrison.
Burns. Gilbough.
Childs. Graham.
Mr. Bertram moved to table the motion to suspend. 
Lost.

The motion to suspend prevailed, and House bill No. 413 was laid before the House on its second reading. 
The bill was read second time, and Mr. McGaughey offered the following amendment: 
Amend by adding: 
"Sec. 3. That the approach of the close of this session creates an emergency that the constitutional rule requiring bills to be read on three days be suspended, and it is so suspended."

Adopted.
The bill was ordered engrossed. 
Mr. Staples moved to suspend the constitutional rule requiring bills to be read on three several days in each house, and that House bill No. 413 be put on its third reading and final passage:
The motion prevailed by the following vote:

Yeas—84.

Alexander. Jones. 
Barbee. Kimbell. 
Barrett. Kirk. 
Beard. Logan. 
Benson. Lotto. 
Bertram. Love. 
Bird. Manson. 
Blackburn. Martin. 
Blair. Maxwell. 
Brewster. McGaughey. 
Brigance. McKamy. 
Brown. McKellar. 
Bumpass. Mercer. 
Burney. Moore of Lamar. 
Burns. Morris. 
Childs. Morton. 
Crawford. Neighbors. 
Crowley. O'Connor. 
Cureton. Patterson. 
Curry. Peery. 
Dennis. Pfeuffer. 
Dries. Porter. 
Dorothy. Reiger. 
Drew. Rhea. 
Evans of Grayson. Rogan. 
Ewing. Rogers. 
Fields. Rudd. 
Fields. Savage. 
Garrison. Skillern. 
Green. Sluder. 
Harris. Smith. 
Henderson. Staples. 
Hensley. Stokes. 
Hill of Gonzales. Thaxton. 
Hill of Travis. Thomas. 
Holland of Harris. Thompson. 
Humphrey. Tracy. 

House bill No. 205 was read third time, and passed.

Mr. Humphrey moved to reconsider the vote by which House bill No. 205 was ordered engrossed, and to table the motion to reconsider.
The motion to table prevailed.

Mr. Staples moved to further suspend pending business to take up and place on its second reading.

House bill No. 413, a bill to be entitled "An act to amend article 3384, title 69, Revised Civil Statutes of the State of Texas, relating to local option."
Tucker. Ward.
Turner. Wilcox.
Vaughan, Guadalupe. Williams.
Vaughan of Collin. Wolters
Wall. Wood.

Nays—4.

Dean. Stamper.
Shropshire. Welch.

Absent.

Bell. Mundine.
Dickinson. Pitts.
Fisher. Reubell.
Freeman. Seabury.
Gilbough. Smyth.
Graham. Strother.
Lillard. Wallace.
Moore, Fort Bend.

Excused.

Ayers. Edwards.
Bailey. Flint.
Boyd. Holland of Burnet
Callan. Meade.
Carpenter. Melton.
Carswell. Oliver.
Collier. Randolph.
Conoly. Schlick.
Doyle. Shelburne.

House bill No. 413 was read third
time, and

Mr. Jones offered the following amendment:

Amend by substituting in section 2,
line 8, the word “herewith” for the word “with.”

Adopted.

The bill was passed.

Mr. Morris moved to reconsider the vote by which House bill No. 413 was passed, and to table the motion to reconsider.

The motion to table prevailed.

The House returned to consideration of substitute House bill No. 203, the general appropriation bill, on its second reading.

Read second time, and the committee report was adopted.

On motion of Mr. Garrison, Rule No. 73, requiring the House to go into a committee of the whole to consider all bills carrying appropriations, was suspended.

Mr. Garrison moved that the bill be considered by sections, and the motion prevailed.

"EXECUTIVE DEPARTMENT"

Was read, and Mr. Patterson offered the following amendment:

Amend by striking out $1800 where it occurs in line 23, on page 1, of the bill.

Pending consideration,

On motion of Mr. Seabury, the House at 12:44 p. m. took recess until 3 p. m. to-day.

AFTERNOON SESSION.

The House was called to order by the Speaker at 3 o'clock p. m.

Pending question, House bill No. 9, the Evans assignment bill, on its engrossment, with amendment by Mr. Tracy pending, and substitute therefor by Mr. Wolters.

GRANTED LEAVE OF ABSENCE.

On account of important business:
Mr. Drew until Monday, on motion of Mr. Ward.
Mr. Rogan until Monday, on motion of Mr. Blackburn.
Mr. Carswell until Tuesday, on motion of Mr. Rudd.
Mr. Strother until Monday, on motion of Mr. Hill of Gonzales.
Mr. Moore of Fort Bend, on motion of Mr. Meade.

On account of sickness:
Mr. Freeman for to-day, on motion of Mr. Stamper.
Mr. Carpenter for to-day, on motion of Mr. Meade.

SENATE MESSAGE.

Senate Chamber,
Austin, Texas, March 18, 1897.
Hon. L. T. Dashiell, Speaker of the House.

Sir: I am instructed by the Senate to inform the House that the Senate has concurred in the House amendments to

Senate bill No. 75, a bill to be entitled "An act to validate all office forfeitures of land heretofore made by the Commissioner of the General Land Office for the non-payment of any part of the interest due thereon, which land has been heretofore sold by the State through any of its authorized agencies, and without reference to the date when or the acts of the Legislature under which said sales were made."

Also, that the Senate has concurred in House amendments to

Senate bill No. 236, a bill to be entitled "An act to amend article 22, title 4, of the Revised Civil Statutes of the State of Texas (1895), so as to extend the terms of the district court in Orange and Jefferson counties."

And I am further instructed to notify the House that the Senate requests the return to the Senate of House bill No. 67, in order that the Senate may
vote by yeas and nays upon the final passage of said bill.
Respectfully,
WILL LAMBERT, Secretary.
The above request of the Senate for return of House bill No. 67 was granted.

BILL INTRODUCED.
(By unanimous consent.)
By Mr. Stokes:
House bill No. 620, a bill to be entitled "An act to amend title 86, chapter 8, article 3926a, of the Revised Civil Statutes of the State of Texas, and to protect teachers against selling vouchers at a discount."
Read first time and referred to Committee on Education.

COMMITTEE REPORTS.
By Mr. Dennis, acting chairman:

Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Engrossed Bills have carefully examined and compared
House bill No. 70, a bill to be entitled "An act to establish a branch of the University of Texas for the higher education of the colored youth."
And find the same correctly engrossed.
DENNIS, Acting Chairman.
Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Engrossed Bills have carefully examined and compared
House bill No. 389, a bill to be entitled "An act to amend subdivision 32, of article 22, title 4, of the Revised Civil Statutes of the State of Texas, fixing the time for holding the district court in the Thirty-second Judicial District."
And find the same correctly engrossed.
DENNIS, Acting Chairman.
Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Engrossed Bills have carefully examined and compared
House bill No. 557, a bill to be entitled "An act to amend article 22, title 4, of the Revised Civil Statutes of the State of Texas, so as to extend the terms of the district court in Waller and Fort Bend counties."
And find the same correctly engrossed.
DENNIS, Acting Chairman.
Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Engrossed Bills have carefully examined and compared
House bill No. 563, a bill to be entitled "An act to amend section 6 of chapter 132 of the acts of the Twenty-fourth Legislature of the State of Texas, passed at the regular session thereof, and entitled 'An act to create a more efficient road system for Dallas, Lamar and Medina counties, Texas, and making county commissioners of said counties ex officio road commissioners, and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the duties and powers of such county commissioners.'"
And find the same correctly engrossed.
DENNIS, Acting Chairman.

By Mr. Lillard, chairman:
Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Enrolled Bills have carefully examined and compared
House bill No. 7, a bill to be entitled "An act to prevent the payment of any deficiency that may arise in any department of State government or institution of this State, unless an estimate of the same shall have been made out, sworn to, and presented to and approved by the Governor, and filed with the Comptroller at least thirty days before such deficiency occurs."
And find the same correctly enrolled, and have this day, at 4 p. m., presented the same to the Governor for his approval.
LILLARD, Chairman.
Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Enrolled Bills have carefully examined and compared
House concurrent resolution No. 16, and find the same correctly enrolled,
and have this day, at 4 p. m., presented the same to the Governor for his approval.

LILLARD, Chairman.

Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Enrolled Bills have carefully examined and compared
House bill No. 396, a bill to be entitled "An act to amend article 6160 of the Revised Statutes of the State of Texas of 1895, relating to the formation of independent school districts, and prohibiting towns within such districts from assuming control of the schools therein while the independent district exists,"
And find the same correctly enrolled, and have this day, at 4 p. m., presented the same to the Governor for his approval.

LILLARD, Chairman.

Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Enrolled Bills have carefully examined and compared
House bill No. 41, a bill to be entitled "An act to amend article 2879, of chapter 4, title 55, of the Revised Civil Statutes (1895) of the State of Texas, relating to divorce so as to make husband and wife competent witnesses, and to repeal all laws in conflict herewith."
And find the same correctly enrolled, and have this day, at 4 p. m., presented the same to the Governor for his approval.

LILLARD, Chairman.

Committee Room,
Austin, Texas, March 19, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Committee on Enrolled Bills have carefully examined and compared
House bill No. 50, a bill to be entitled "An act to amend article 1757 of the Revised Civil Statutes (1895) of Texas, relating to the time and manner of making returns to the Secretary of State of elections for State and district officers, etc."
And find the same correctly enrolled, and have this day, at 4 p. m., presented the same to the Governor for his approval.

LILLARD, Chairman.
the Revised Statutes of the State of Texas, and providing that neither the State of Texas nor the Railroad Commission of Texas shall be required to give bond on any appeal or writ of error taken by it, or either of them, in any civil case."

And find the same correctly enrolled, and have this day, at 4 p.m., presented the same to the Governor for his approval.

LILLARD, Chairman.

Returning to consideration of House bill No. 9, on its engrossment, Mr. Wolters asked leave to withdraw the substitute offered by him for the Tracy amendment.

The request was granted.

Mr. Tracy then asked leave to withdraw his amendment, and the request was granted.

Mr. Beaird then offered the following amendment to House bill No. 9:

"Strike out all after the enacting clause, and insert in lieu thereof the following:

Section 1. That hereafter, when any insolvent debtor or debtors, or debtor or debtors in contemplation of insolvency, shall execute a mortgage or deed of trust for the benefit of certain preferred creditors, and shall include in the list of preferred creditors any creditor whose claim or account is fictitious and fraudulent, a receiver of such mortgaged property may be appointed by any judge of any court of competent jurisdiction, as hereinafter provided.

Sec. 2. Any creditor of such insolvent debtor whose claim has not been preferred, and who desires a receiver of such mortgaged property, may present an application therefor to any judge having jurisdiction of the subject matter, in either term time or vacation. Such application shall state the amount and nature of his claim, the names and residence, if known, of all the preferred creditors, and the amounts of their respective claims; the names and residence, if known, of the mortgagor and mortgagee; the value of the mortgaged estate and where situated, if known, and shall specify the particular claim or claims alleged to be fraudulent and fictitious; such application may contain a prayer for an injunction restraining such mortgage or trustee from disposing of the mortgaged property pending a final hearing of the application; provided, after any application for the appointment of a receiver has been made, any other of the non-preferred creditors of such insolvent debtor or debtors may make themselves parties to the original proceedings by filing a statement in writing declaring that they support and adopt the original application as presented, and that they make themselves equally liable with the original applicant or applicants; and upon the filing of such ancillary application, the parties thereto shall be held equally liable with the original applicant or applicants for all damages and costs that may be adjudged against them or either of them upon final hearing.

Sec. 3. Upon presentation of the application herein provided for, the judge having jurisdiction thereof shall direct that a citation be issued and served upon the mortgagor or mortgagee, and the creditor or creditors whose claim or claims are alleged to be fraudulent or fictitious, commanding them and each of them to appear on a day certain to answer such application. The citation provided for in this section shall be executed and returned in the manner provided by law for the services of citations in other civil suits, and the proceeding hereunder shall be governed by the rules governing other civil actions; provided, that five days' service of citation hereunder shall be sufficient.

Sec. 4. Should such application contain a prayer for injunction, the judge to whom the same is presented shall issue a writ of injunction, restraining the mortgagee or trustee from further action under the mortgage or trust deed, and from selling or otherwise disposing of such mortgaged property pending a hearing of such application. The writ of injunction herein provided for shall be issued and served as in other cases; provided, that no writ of injunction shall issue until applicant shall have executed a bond, as hereinafter provided for.

Sec. 5. Before any injunction shall issue, as provided for in the preceding section, the applicant shall execute a bond, with two or more good and sufficient sureties, to be approved by the judge issuing the writ. In such amount as the judge shall fix, payable to the creditors named in the mortgage, and conditioned that the applicant will pay all such costs and damages as may be adjudged against him for wrongfully suing out such injunction.

Sec. 6. If upon final hearing it shall be made to appear to the satisfaction of the judge trying the case that any of the claims preferred are fictitious and fraudulent, a receiver shall be appointed, and thereafter such mort-
gaged estate shall be administered under the order of the court appointing the receiver.

Sec. 7. When a receiver is appointed under the provisions of this act, and before he enters upon his duties, he shall be sworn to faithfully perform them, and shall be required to execute a bond, with two or more good and sufficient sureties, to be approved by the judge appointing him, in double the amount of the mortgaged estate, and conditioned that he will faithfully discharge all duties required of him as such receiver, and that he will obey the orders of the court appointing him.

Sec. 8. Upon giving the bond and taking the oath provided for in the preceding section, such receiver shall immediately take possession of the mortgaged property and shall at once dispose of same, as directed by the court, and if claims, accounts, notes or other evidence of indebtedness are included in the mortgage or trust deed he shall use due diligence to collect the same, and from the proceeds of such sales and collections he shall pay: 1st. All costs incurred in the appointment of a receiver. 2d. The fees or commissions of the receiver as fixed by the court. 3d. The creditors named in the mortgage or deed of trust, in the exact order therein named, and in accordance with the terms thereof; provided, no claim that has been adjudged to be fraudulent or invalid, either in whole or in part, shall be paid. 4th. The debt of the original applicant for the receivership. 5th. The debts of the ancillary applicants, if any, in the order of the filing of such applications; provided, that if two or more creditors join in the original application for receivership, and the funds in the hands of the receiver, after the payment of costs, commissions and the preferred creditors, be not sufficient to pay each in full, then each of such original applicants shall be entitled to a pro rata share of such funds, in proportion to the amount of their respective claims; and provided further, that a like rule in the distribution of funds in the hands of the receiver, after the payment of the claims of the original applicants, shall apply to all creditors who join in any ancillary application.

Sec. 9. Should the mortgagee or trustee fail or refuse to deliver possession of the mortgaged property to the receiver hereunder appointed, the judge or court appointing same shall issue a writ of possession therefor, directed to the sheriff of the proper county, com-

manding him to seize such mortgaged property and deliver the same into the possession of the receiver.

Sec. 10. Whenever any insolvent debtor or debtors, or debtor or debtors in contemplation of insolvency, shall execute a mortgage, deed of trust or other instrument preferring any claim, account or promissory note or other debt, which at the time of the execution of such instrument is barred by the statutes of limitation; or shall appoint as trustee or mortgagee any former clerk, employee or relative of such insolvent debtor; or shall fail to file therewith a sworn statement of all his liabilities, the creditors named in said deed of trust, setting forth the names and residences of his creditors, the amounts owing each creditor, and the nature, character, cause and consideration of each debt; or shall fail to acknowledge such instrument before some officer authorized by law to take acknowledgements; or shall fail to cause such instrument to be filed for record in the county or counties where such property is situated within five days after its execution, and wherein said instrument was executed, or in the place of business thereof, or in either of the above events, such fact shall be deemed sufficient grounds for the removal of such trustee or mortgagee and the appointment of a receiver. In the first instance, upon the application of any non-preferred creditor of such insolvent debtor.

Sec. 11. Whenever any insolvent debtor, such as is mentioned above, shall execute any such instrument as described in the preceding section, and shall include in the list of the preferred creditors the claim, debt or account of any relative within the third degree by consanguinity or affinity, the proof of such relationship shall be prima facie evidence that such claim is fraudulent and fictitious, and thereafter the burden of proving the genuineness of such claim, debt or account shall be cast upon the creditor whose claim is contested.

Sec. 12. If any creditor of any insolvent debtor whose claim has not been preferred, shall at the time of presenting the application provided for in section 2 of this act, file therewith his affidavit in writing, stating that he has reason to believe and does believe that certain preferred creditors' claims, naming them, are fictitious and fraudulent, the judge to whom such petition or application is presented may immediately appoint a temporary receiver of such mortgaged property, and at the same time may issue the injunction
provided for in section 4, upon the applicants giving the bond provided for in section 5; provided, that such temporary receiver, before he enters upon the discharge of his duties, shall qualify as such temporary receiver as provided for in section 7 of this act, and thereafter such temporary receiver shall exercise the authority and powers herein conferred, subject to the orders of the court making the appointment.

Sec. 13. Before any temporary receiver shall be appointed as herein provided, the applicant or applicants thereof shall execute a bond with two or more good and sufficient sureties; to be approved by the judge making such appointment, in such an amount as the judge may fix, payable to the defendants named in the application and conditioned that applicant or applicants will pay all such damages and cost as may be adjudged against them or either of them on final hearing.

Sec. 14. In all cases when the application for the appointment of a receiver, either permanent or temporary, as herein provided for, shall be accompanied by the affidavit of the applicant, as provided for in section 12 of this act, the burden of proving the genuineness and validity of such contested claims shall rest upon the creditors whose claims are alleged to be fraudulent and fictitious.

Sec. 15. At any time within twenty days after the appointment of any temporary receiver, under the provisions of this act, the court for good cause shown shall enter an order discharging said receiver and commanding the surrender of the mortgaged property to the person entitled to receive the same.

Sec. 16. Whenever any such mortgage, deed of trust or other instrument in writing as is mentioned in section 1 of this act, shall have been executed and the trustee or mortgagee therein named shall fail or neglect within five days thereafter to execute a bond in double the value of such mortgaged property, to be approved by the county judge of the county wherein such property is situated, or wherein such instrument was executed, payable to the county judge and his successors in office, conditioned for the faithful discharge of his duties as such mortgagee or trustee, such fact and the proof thereof shall be deemed sufficient grounds for the appointment of a receiver upon the application of any of the creditors of such insolvent debtor.

Sec. 17. Upon the presentation of an application for the appointment of a receiver, under any of the provisions of this act, the applicant or applicants, either original or ancillary, may examine, ex parte, the mortgagor, mortgagee or the preferred creditor or creditors, whose claims are contested, or all of them, upon interrogatories filed with the application, or subsequent thereto, and in such case it shall not be necessary to give notice of the filing of such interrogatories or to serve a copy thereof on the person or persons whose answers are sought, before a commission shall issue; nor shall it be any objection to such interrogatories that they are leading in character.

Sec. 17a. Hereafter if any insolvent debtor or debtors, or debtors in contemplation of insolvency, shall execute any mortgage or trust deed whereby any of his creditors are preferred above others and shall include among such preferred claims any debt that is fraudulent and fictitious, either in whole or in part; or if any mortgagee or trustee of such debtor or debtors, acting under any such preference mortgage or deed of trust, shall pay any claim of any creditor named therein, knowing same to be fraudulent and fictitious, either in whole or in part, or if any creditor named in such preference mortgage or deed of trust shall demand or accept and benefit thereunder, knowing his claim to be fraudulent and fictitious, in whole or in part, then such mortgagee, mortgagee or creditor, as the case may be, shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the State penitentiary for a term of years not less than two nor more than five.

Sec. 17b. Hereafter it shall be unlawful for any mortgagee or trustee acting under any preference mortgage or trust deed to pay any claim of any preferred creditor, which claim is verified by the affidavit of such creditor, stating that such claim is just, true and correct, and that all lawful payments and credits have been allowed thereon, and likewise it shall be unlawful for any such preferred creditor of any insolvent debtor or debtors to demand, accept or receive payment of his claim or any part thereof without having first filed with such mortgagee or trustee his affidavit in writing as above prescribed, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed the amount of said claim, debt or account.
Sec. 18. In all other respects the deposition provided for in section 17 shall be governed by the rules of evidence and the provisions of articles 2292 to 2298, inclusive, of chapter 3 of title 40 of the Revised Civil Statutes of this State.

Sec. 19. In all other respects the receivership provided for under this act shall be governed by the general law of this State providing for the appointment of receivers, and this act is hereby declared to be cumulative of any other remedies given by law to creditors.

Sec. 20. The fact that there is no law now in force in this State for the appointment of a receiver of the estates of insolvent debtors, and the fact that the system of preferring creditors is frequently abused by dishonest debtors, and the fact that there is no law in force in this State governing such system or under which such abuses can be detected and prevented, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

Mr. Evans of Hunt moved to postpone further consideration of House bill No. 9 until next Monday, March 22, at 3 o'clock p.m.

Mr. McEachern moved the previous question on the motion to postpone, and the main question was ordered.

Yeas and nays were demanded by Mr. Evans of Hunt, Mr. Beaird and Mr. Welch.

Lost by the following vote:

Yeas—39.

Barbee. Meade.
Barrett. Morris.
Benson. Morton.
Brewster. Peery.
Bumpass. Reuben.
Burney. Rhea.
Curry. Robbins.
Dean. Savage.
Pell. Skirrell.
Fields. Sluder.
Graham. Smyth.
Heusley. Stamper.
Hill of Travis. Staples.
Jones. Stokes.
Kimbell. Thompson.
Kirk. Wall.
Lillard. Welch.
Love. Williams.
McEachern. 

Nays—57.

Alexander. Lotto.
Beaird. Mansan.
Bell. Martin.
Bertram. Maxwell.
Bird. McFurland.
Blackburn. McKamy.
Blair. McKeller.
Boumds. Mercer.
Brigance. Moore of Lamar.
Browne. Neighbors.
Burns. O'Connor.
Childs. Patterson.
Crawford. Pitts.
Crowley. Reiger.
Dennis. Rogers.
Dies. Rudd.
Doroh. Thaxton.
Evans of Grayson. Thomas.
Ewing. Tucker.
Gilbough. Turner.
Good. Vaughan, Guadalupe.
Green. Vaughan of Collin.
Harris. Wallace.
Henderson. Ward.
Hill of Gonzales. Wilcox.
Holland of Harris. Wolters.
Humphrey. Wood.
Logan. 

Absent.

Dickinson. Porter.
Fisher. Rogers.
Freeman. Seabury.
Garrison. Shelburn.
Moore, Fort Bend. Smith.

Excused.

Ayres. Edwards.
Bailey. Flint.
Bean. Holland of Burnet.
Boyd. Melton.
Ball. Mundine.
Carpeuter. Oliver.
Carswell. Pfeniffer.
Collier. Randolph.
Conolly. Schlick.
Doyle. Strother.
Drew. 

Mr. Childs offered the following substitute for the amendment by Mr. Beaird:

Strike out all after the enacting clause and insert in lieu thereof the following:

"Section 1. That every sale, assignment, mortgage, deed of trust or other transfer of any property or effects of any merchant, mercantile partnership, association or joint stock company, daily exposing any goods, wares or merchandise for sale made by such merchant, mercantile partnership, association or joint stock company when insolvent or in contemplation of insolvency, or after or in
contemplation of the insolvency of any partner or member of such partnership, association or joint stock company, with the intent of giving a preference to any creditor of such merchant, mercantile partnership, association or joint stock company over other creditors of such merchant, mercantile partnership, association or joint stock company over any creditor of such merchant, mercantile partnership, association or joint stock company, and every judgment confessed, lien created or security given or act done by such merchant, mercantile partnership, association or joint stock company under like circumstances and with like intent shall be void as against the creditors of such merchant, mercantile partnership, association or joint stock company in so far as it attempts to give any such preference and shall be considered and is declared to be a general assignment for all creditors of such merchant, mercantile partnership, association or joint stock company. Sec. 2. Whenever any merchant, mercantile partnership, mercantile association or joint stock company shall confess any judgment or shall attempt to give any preference to one creditor over other creditors under the conditions named in the preceding section by any of the means and acts therein specified, and shall name any creditor of such merchant, mercantile partnership, association or joint stock company as trustee or assignee, then the county judge of the county of which such merchant, mercantile partnership, association or joint stock company shall be conducting his said business shall, upon the application of one or more creditors thereof, either in term or in vacation, appoint some suitable person as assignee, and the provisions of title 8 of the Revised Civil Statutes of the State of Texas relating to assignments for creditors shall apply in carrying into effect the provisions of this act.

Sec. 3. Whenever any attachment, garnishment or any mesne process, in favor of a creditor, is levied against the property of any insolvent debtor mentioned in the foregoing sections, such attachment, garnishment or mesne process shall inure equally and alike to all the creditors of such insolvent merchant.

Sec. 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

(Signed: Childs, Evans of Hunt, Hill of Travis, Williams, Rhea, Stokes, Collier, Morton, Dean, Rogan, Kirk, Carswell, Peery, Stamper, Graham, Carpenter, McGaughey, Love, Jones, Dickenson, Conoly, Robbins, Lillard, Edwards, Burney, Reubell, Drew, Martin, Fields, Welch, Sluder, Meade, Thompson, Benson, Bumpass, Skillern, Morton, Hensley, Browne, Shropshire, Savage, McFarland, Crowley, Freeman.)

Mr. Beaird, after consideration by the House, moved to table the substitute by Mr. Childs, upon which motion yeas and nays were demanded by Mr. Beaird, Mr. Harris and Mr. Walters.

Tabled by the following vote:

Yeas—56.
Alexander. Lotto.
Beard. Manson.
Bertram. Maxwell.
Bird. McKamy.
Blackburn. McKellar.
Blair. Mercer.
Bounds. Moore of Lamar.
Brewster. Neighbors.
Brigance. O'Connor.
Burns. Patterson.
Crawford. Pitts.
Crowley. Porter.
Curry. Reiger.
Dennis. Rogers.
Dies. Rudd.
Dorob. Smyth.
Evans of Grayson. Staples.
Ewing. Thaxton.
Flin. Thomas.
Gilbough. Tracy.
Good. Tucker.
Green. Turner.
Harris. Vanzhan, Guadalupe.
Henderson. Vaughn of Collin.
Hill of Gonzales. Ward.
Holland of Harris. Wilcox.
Humphrey. Wolters.
Logan. Wood.

Nays—41.
Barbee. McGaughey.
Barrett. Meade.
Benson. Morris.
Bumpass. Morton.
Burney. Peery.
Childs. Reubell.
Cureton. Rhea.
Dean. Robbins.
Dickinson. Savage.
Evans of Hunt. Shelburne.
Feld. Shropshire.
Fields. Skillern.
Graham. Sinder.
Hensley. Smith.
Hill of Travis. Stamper.
Jones. Stokes.
Kimbell. Thompson.
Kirk. Wall.
Lillard. Wallace.
Love. Welch.
Martin.
Mr. Williams (present), who would vote "nay," with Mr. Bell (absent), who would vote "yea."

Question next recurred on the amendment by Mr. Beaird. While Mr. Evans of Hunt was speaking to the question, Mr. Blair raised the point of order that under the rules his time had expired, which point was sustained.

Mr. Barbee moved that the time of Mr. Evans of Hunt be extended.

Mr. Blair moved to table the motion of Mr. Barbee, upon which motion yeas and nays were demanded by Mr. Barbee, Mr. Love and Mr. Staples.

The motion to table was lost by the following vote:

Yeas-46.

Holland of Harris. Wilcox. Lotte.
Logan. Wolters.
Manson. Wood.

Nays-50.

Callan. Carpenter. Pfeiffer.

PAIRED.

Mr. Williams (present), who would vote "nay," with Mr. Bell (absent), who would vote "yea."

Question recurring on the motion of Mr. Barbee, it prevailed, and the time of Mr. Evans of Hunt was extended.

After lengthy consideration, Mr. Beaird moved the previous question on the amendment, and the main question was ordered.

Yeas and nays were demanded by Mr. Bumpass, Mr. Evans of Hunt and Mr. Burney.

Adopted by the following vote:

Yeas-56.

Bounds. Dickinson.
March 19, 1897  

**HOUSE JOURNAL.**

1. **Dies.** Neighbors.  
2. **Dorothy.** O'Conor.  
3. **Evans of Grayson.** Patterson.  
4. **Ewing.** Porter.  
5. **Flint.** Reiger.  
6. **Gilbough.** Rogers.  
7. **Good.** Rud.  
8. **Green.** Smyth.  
9. **Harris.** Staples.  
10. **Henderson.** Thaxton.  
11. **Hill of Gonzales.** Thomas.  
12. **Holland of Harris.** Tracy.  
13. **Logan.** Tucker.  
14. **Lotto.** Turner.  
15. **Manson.** Vaughan of Collin.  
16. **Maxwell.** Wallace.  
17. **McFarland.** Ward.  
18. **McKamy.** Wilcox.  
19. **McKellar.** Wolters.  
20. **Moore of Lamar.** Wood.  

**Nays—34.**  
Barbee.  
Benson.  
Brewster.  
Browne.  
Bumpass.  
Burney.  
Curry.  
Dean.  
Evans of Hunt.  
Field.  
Fields.  
Graham.  
Hensley.  
Kimbell.  
Lillard.  
Love.  
McGaughey.  
Absents.  
Garrison.  
Hill of Travis.  
Jones.  
Kirk.  
Martin.  
Mercer.  

**Excused.**  
Ayers.  
Bailey.  
Bean.  
Bell.  
Boyd.  
Callan.  
Carpenter.  
Carswell.  
Collar.  
Conoly.  
Doyle.  
Drew.  

**PAIRED.**  
Mr. Humphrey (present), who would vote “yea,” with Mr. Kirk (absent), who would vote “nay.”  
Mr. Williams (present), who would vote “nay,” with Mr. Bell (absent), who would vote “yea.”  

We vote no, because we do not think the substitute will prevent preferences as was intended in the original bill.  

**STOKES, BURNLEY.**  
Finding that it is impossible to secure legislation in this House by which the preference of creditors by an insolvent debtor can be prevented. I vote for this substitute for House bill No. 9 as the only legislation that can be secured on this subject.  

**DICKINSON.**  
I vote no, because I believe the adoption of the substitute will turn the assignment business over to the banks of Texas.  

**WELCH.**  
I vote no, because I don’t think it is in the interest of the majority of the people whom I represent to vote otherwise.  

**GRAHAM.**  
We, the undersigned, vote against the substitute offered by Mr. Childs, and for the substitute offered by the minority, and in so doing make the following statement, which we ask to be spread upon the Journal of the House, in order that our position may be understood.  

We have been supporters of House bill No. 9, known as the Evans assignment bill, because it was our purpose to prevent the right now granted under the law to insolvents to prefer creditors. For nearly four weeks we have used every honorable effort to bring about the passage of that bill, until now it has become apparent that no bill prohibiting preferences can ever pass this House and the Senate, and being desirous of at least so amending the present law as to prevent fraud and corruption we feel it a duty due ourselves, our constituents and to the great commercial interests of Texas to make such concessions as will permit the passage of a bill which will throw such legislative safeguards about the rights of preferences as will materially check fraudulent preferences. Recognizing in the substitute offered this House by the minority a measure which, while not meeting the views for which we have contended, at least effectively checks fraudulent preferences, we vote “aye.”  

**WOLTERS, EWING.**  
I vote aye, not that I approve the bill in toto, but it is the best and all I can get.  

**HENDERSON.**  
Mr. Blair offered the following amendment to the bill as amended:  
Amend by striking out in the cap-
tion all after the words "a bill to be entitled 'An act'" and insert in lieu thereof the following: "To provide for the appointment of a receiver or receivers for the estates of an insolvent debtor or debtors, and providing for an injunction in cases where an insolvent debtor has executed a mortgage or deed of trust preferring fraudulent claims, and providing penalties therefor."

Adopted.

Mr. Rogers moved to reconsider the vote by which the amendment by Mr. Buid to House bill No. 9 was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Question next recurring on the engrossment of the bill, yeas and nays were demanded by Mr. Welch, Mr. Barbee and Mr. Sluder.

The bill was ordered engrossed by the following vote:

**Yeas—57.**

Beard. Mansou.
Bertram. Maxwell.
Bird. McKamy.
Blackburn. McElhine.
Blair. Mercer.
Bonds. Moore of Lamer.
Bright. Neighbors.
Burns. O'Connor.
Crawford. Patterson.
Crosby. Pitts.
Cureton. Porter.
Dennis. Reiger.
Dickinson. Rogers.
Dyes. Rudd.
Dorothy. Smyth.
Evans of Grayson. Staples.
Ewing. Thaxton.
Field. Thomas.
Flint. Tracy.
Gibbough. Tucker.
Good. Turner.
Green. Vaughn of Collin.
Harris. Wallace.
Henderson. Ward.
Hill of Gonzales. Wilcox.
Hill of Travis. Wolters.
Holland of Harris. Wood.
Logan.

**Nays—31.**

Barbee. Graham.
Barrett. Hensley.
Brewster. Kimbell.
Brown. Lillard.
Burney. Love.
Burns. Martin.
Curry. McElhine.
Dean. Meade.
Evans of Hunt. Morris.
Fields. Morton.
Rhea. Stamper.
Savage. Stokes.
Shelburne. Thompson.
Shropshire. Wall.
Sluder. Welch.
Smith.

**Absent.**

Banton. Peery.
Bean. Roussell.
Bisher. Robbins.
Garrison. Seabury.
Jones. Skillern.
Kirk. Vaughn, Guadalupe

**Excused.**

Ayres. Edwards.
Bailey. Freeman.
Bean. Holland of Burnet.
Bell. Melton.
Boyd. Moore, Fort Bend.
Callan. Mundine.
Carpenter. Oliver.
Carswell. Pfeuffer.
Collier. Randolph.
Conolly. Rogers.
Doyle. Schlick.
Drew. Strother.

**PAIRED.**

Mr. Humphrey (present), who would vote "yea," with Mr. Kirk (absent), who would vote "nay."

Mr. Williams (present), who would vote "nay," with Mr. Bell (absent), who would vote "yea."

We vote "no" for the following reasons:

First. Because we have advocated a bill prohibiting preferences altogether.

Second. Because we have advocated it on principle, and not from a standpoint of policy.

Third. Since we have done this, and have not been convinced by the testimony produced that our position is wrong, we can not afford to support a measure altogether contrary to our convictions, on the ground that it purports to be a "compromise measure."

SAVAGE.

McGAUGHEY, BARRETT.

I vote no, because the Evans bill, with the Rogan amendment, excepting mechanics and laborers claim and minors and the State for taxes was the thing that Texas needs to prevent fraud in the practice as it now obtains. I am opposed to "receiverships" for merchants failing, as in my opinion the "receiver" may make things worse than the present law, which is bad enough. For reasons why I favor the Evans bill, see Journal of March 12. SMITH.
I vote no, because the bill still permits the preference of creditors, thereby keeping open the avenue to fraud and tempting and alluring debtors to unnecessarily make and give liens to prefer and benefit themselves and their kinfolks. KIMBELL.

We vote no, for the reason that in our judgment the substitute is no better than the present assignment law. We think the substitute is a mere make-shift and will not stop or lessen the evils complained of in the present law, being far different from the original bill, which so many have tried hard to pass. We fear the substitute, if it becomes a law, will place assignments and the appointment of trustees more completely in the hands of the banks than the present does. Hence, we will not "fly from evils to those that we know not of." MEADE. LILLARD.

Mr. Blair moved to reconsider the vote by which House bill No. 9 was ordered engrossed, and to table the motion to reconsider.

On the motion to table, yeas and nays were demanded by Mr. Love, Mr. Sluder and Mr. Dean. Mr. Welch moved a call of the House, and it was not seconded.

The roll call on the motion to table developed the fact that there was not a quorum present, whereupon Mr. Dies moved a call of the House, and it was not seconded.

The motion to table pending, on motion of Mr. Sluder, the House, at 6:40 p.m., adjourned until 10 o'clock a.m. to-morrow.

FIFTIETH DAY.

Hall House of Representatives, Austin, Texas, Saturday, March 20, 1897. The House met at 10 o'clock a.m., pursuant to adjournment.

Speaker Dashiell in the chair.

Roll called and the following members present:


Prayer by Hon. J. K. Bumpass, a member of this House.

Pending reading of the Journal of yesterday,

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

GRANTED LEAVE OF ABSENCE:

On account of important business: