March 24, 1897  

Speaker Dashiell in the chair.  

Roll called and the following members present:

- Alexander  
- Ayres  
- Bailey  
- Barbee  
- Barrett  
- Beaird  
- Benson  
- Bertram  
- Bird  
- Blackburn  
- Blair  
- Bounds  
- Boyd  
- Brewster  
- Browne  
- Bumpass  
- Burney  
- Carpenter  
- Carswell  
- Childs  
- Collier  
- Conoly  
- Crawford  
- Cureton  
- Curry  
- Dean  
- Dennis  
- Dickinson  
- Dies  
- Drew  
- Evans of Grayson  
- Ewing  
- Field  
- Fields  
- Fisher  
- Freeman  
- Garrison  
- Good  
- Graham  
- Green  
- Harris  
- Hensley  
- Hill of Gonzales  
- Hill of Travis  
- Holland of Burnet  
- Holland of Harris  
- Holland of Travis  

Excused:

- Bailey  
- Bean  
- Bounds  
- Burney  
- Burns  
- Callan  
- Crowley  

House bill No. 613 read third time and passed.

On motion of Mr. Wolters, the House, at 5:45 p. m., adjourned until 9 o'clock a.m. to-morrow.

FIFTY-THIRD DAY.

Hall House of Representatives  
Austin, Texas  

Wednesday, March 24, 1897.

The House met at 9 o'clock a.m., pursuant to adjournment.
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.

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<th>Name</th>
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<tr>
<td>Dorroh</td>
<td>Granted Leave of Absence</td>
<td>On account of important business:</td>
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<td>Doyle</td>
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<td>Mr. Thaxton for to-day, on motion of Mr. McKamy.</td>
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<td>Mr. Burns for to-day, on motion of Mr. Barbee.</td>
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<td>Gilbough</td>
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<td>Mr. Peery for this morning, on motion of Mr. Dennis.</td>
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<td>Mr. Manson indefinitely, on motion of Mr. Collier.</td>
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<td>On account of sickness:</td>
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<td>Mr. Reubell for to-day, on motion of Mr. Evans of Grayson.</td>
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<td>Mr. Dickinson for to-day, on motion of Mr. Conoly.</td>
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<td>Mr. Evans of Hunt for Monday evening, on motion of Mr. Bailey.</td>
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<td>Mr. Robbins moved to reconsider the vote by which House bill No. 613 was passed yesterday.</td>
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<td>The motion to reconsider prevailed.</td>
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<td>Question again recurring on passage of the bill, it was passed by the following vote:</td>
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<td>Mr. Robbins moved to reconsider the vote by which House bill No. 613 was passed, and to table the motion to reconsider.</td>
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<td>The motion to table prevailed.</td>
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COMMITTEE REPORTS.

By Mr. Ward, chairman:

Committee Room,
Austin, Texas March 23, 1897.

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

Your Judiciary Committee No. 1, to whom was referred House bill No. 627, a bill to be entitled “An act to amend article 594, of chapter 11, title 18, of the Revised Civil Statutes of Texas, so as to confer on the board of aldermen of towns and villages having a population of 500 inhabitants and over, the right to establish, erect, construct, regulate and keep in repair bridges, culverts, sewers, sidewalks, crossings, and to regulate the construction and use of the same,
March 24, 1897

HOUSE JOURNAL. 699

and to make the owner of the lot or lots fronting on the sidewalk responsible for the cost of construction, and creating a lien against said lot or lots for the amount of said costs." 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.

WARD, Chairman.

Committee Room, Austin, Texas March 23, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Judiciary Committee No. 1, to whom was referred House bill No. 138, a bill to be entitled "An act to give employees of railroad corporations the same rights and remedies for injuries sustained by them from the negligence of said corporation or its employees, as are allowed by law to persons not employees, whether the Injury results from the negligence of a fellow servant engaged in the same or another department of labor from the injured employee, 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 not pass, because a Senate bill covering the same ground has been reported favorably.

WARD, Chairman.

Committee Room, Austin, Texas March 23, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Judiciary Committee No. 1, to whom was referred House bill No. 37, a bill to be entitled "An act to define who are fellow-servants and who are not fellow-servants, and to repeal all laws and parts of laws in conflict with the same."

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, because a Senate bill covering the same ground has been reported favorably.

WARD, Chairman.

MAJORITY REPORT.

Committee Room, Austin, Texas March 23, 1897.
To Hon. L. T. Dashiell, Speaker of the House of Representatives.
Your Judiciary Committee No. 1, to whom was referred House bill No. 630, a bill to be entitled "An act to amend title 3, chapter 4, of the Revised Civil Statutes of the State of Texas, by repealing subdivision 5 of article 1194, and adding thereto subdivision 18a; providing that in suits where the amount in controversy is $250 or less, the same shall be brought in the county where the defendant has his domicile."

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.

WARD, Chairman.

MINORITY REPORT.

Committee Room, Austin, Texas March 23, 1897.
Hon. L. T. Dashiell, Speaker of the House:
We, a minority of your Judiciary Committee No. 1, to whom was referred House bill No. 630, a bill to be entitled "An act to amend title 30, chapter 4, of the Revised Civil Statutes of the State of Texas, by repealing subdivision 5 of article 1194, and adding thereto subdivision 18a; providing that in suits where the amount in controversy is $250 or less, the same shall be brought in the county where the defendant has his domicile."

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

RANDOLPH, FISHER, BELL, WOLTERS, BARRETT, NEIGHBORS, TRACY.

MAJORITY REPORT.

Committee Room, Austin, Texas March 23, 1897.
Hon. L. T. Dashiell, Speaker of the House.
Your Judiciary Committee No. 1, to whom was referred 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."

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.

WARD, Chairman.
MINORITY REPORT.

Committee Room,
Austin, Texas March 23, 1897.

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

We, a minority of your Judiciary Committee No. 1, to whom was referred Senate bill No. 1, a bill to be 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,"

Do not concur with the majority, and have prepared the following substitute for the bill, and recommend that the substitute do pass in lieu of Senate bill No. 1:

A bill to be entitled "An act to define who are and who are not fellow-servants in the employment of railway companies and other corporations, or in the employment of the receivers or managers of railways and other corporations, and to prohibit contracts exempting employers from liability:

"Section 1. Be it enacted by the Legislature of the State of Texas: That all employees of the railroad companies and other corporations, or of the receivers or managers of railroad companies and other corporations, who are working together at the same time and place, to a common and immediate purpose, shall be held to be fellow-servants, save in the instance of any such employees having control, direction or supervision of his co-employees, in which case he shall be held to be vice-principal, and those under his control, direction or supervision shall not, in case of injury to such subordinates through the negligence of such vice-principal, be held to be a fellow-servant of such vice-principal, but in case of injury to such vice-principal through the negligence of such subordinate they shall be held to be fellow-servants.

"Sec. 2. No other employees of railroad companies and other corporation, or of the receivers and managers of the same, than those mentioned above, working under the conditions above defined, shall be deemed to be fellow-servants.

"Sec. 3. No contract made between a railroad company or other corporation, or the receivers and managers of the same, and an employee, based upon the contingency of death or injury to the employee, and limiting the liability of the employer, as defined in this act, or fixing the amount of damages to be recovered, shall be valid and binding."

NEIGHBORS, BELL.

By Mr. Williams, chairman:

Committee Room,
Austin, Texas March 23, 1897.

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

Your Committee on Internal Improvements, to whom was referred House bill No. 543, a bill to be entitled "An act to authorize the Galveston, La Porte & Houston Railway Company to acquire by purchase, lease or otherwise, all rights, privileges, franchises and property of the Galveston & Western Railway Company, and to operate, maintain and use the same."

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.

WILLIAMS, Chairman.

Committee Room,
Austin, Texas March 23, 1897.

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

Your Committee on Internal Improvements, to whom was referred Senate bill No. 17, a bill to be entitled "An act for the relief of railway corporations and belt and suburban railway companies having quarters granted or amended since the first day of January, 1887, and which have failed, or are about to fail, to construct their roads and branches or any part thereof, within the time required by law."

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.

WILLIAMS, Chairman.

Committee Room,
Austin, Texas March 23, 1897.

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

Your Committee on Internal Improvements, to whom was referred House bill No. 508, a bill to be entitled "An act to compel railroad companies to run separate passenger and freight trains, except accommodation trains, and to prohibit the running of
mixed passenger and freight trains; providing for exceptions, and fixing adequate penalties for violation of the provisions of 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 do pass.

WILLIAMS, Chairman.

SENATE MESSAGE.

Senate Chamber, Austin, Texas, March 24, 1897.

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

I am directed by the Senate to inform the House that the Senate has passed

House bill No. 15, a bill to be entitled "An act to amend article 822, chapter 4, title 17, of the Penal Code, relating to theft of horses, asses and mules, so as to fix the punishment therefor at confinement in the penitentiary for not less than two nor more than ten years."

Senate bill No. 182, a bill to be entitled "An act to provide an additional method of preparing transcripts of the record in civil cases, on appeal or writ of error, and to have the same printed, and prescribing the method of preparing and printing the same, and prescribing the costs and fees to be charged and collected therefor."

With engrossed rider.

Senate bill No. 278, a bill to be entitled "An act to amend that portion of chapter 1, title 9, of the Revised Civil Statutes of the State of Texas, that relates to judicial proceedings in cases of lunacy."

With engrossed rider, by a two-thirds vote: ayes 23, nays none.

Respectfully,

R. E. DODSON,
Assistant Secretary.

SENATE BILLS ON FIRST READING.

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

Senate bill No. 182, to Judiciary Committee No. 1.

Senate bill No. 278, to the Committee on State Asylums.

BILL WITHDRAWN.

House bill No. 560, on request of Mr. Turner.

SPEAKER'S TABLE.

The Speaker laid before the House, on its third reading and final passage, Senate bill No. 31, a bill to be entitled "An act to amend article 838, chapter 6, title 17, of the Penal Code of the State of Texas, defining the crime of burglary."

The bill was read third time, and passed.

Mr. Crawford moved to reconsider the vote by which Senate bill No. 31 was passed, and to table the motion to reconsider. The motion to table prevailed.

Mr. Logan called up Senate bill No. 28, a bill to be entitled "An act to further define the duties of the Railroad Commission of Texas to make and enforce rules."

On its second reading, with majority favorable and minority adverse reports thereon, while was, on the 10th instant, laid on the table subject to call.

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

Mr. Wolters move to adopt the minority report.

(Pending consideration, Mr. O'Connor and Mr. Seabury occupied the chair.) Pending consideration of Senate bill No. 28 (Speaker in the chair).

On motion of Mr. Blair, the House, at 12:35 p. m., took recess until 3 o'clock p. m. to-day.

AFTERNOON SESSION.

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

Pending question, the motion of Mr. Wolters to adopt the minority report on Senate bill No. 28.

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

On motion of Mr. Neighbors, Mr. Fisher was excused for this afternoon, on account of important business.

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:

Senate bill No. 55, "An act to amend articles 641 and 642, chapter 2, title
XXI, of the Revised Civil Statutes of Texas, relating to the creation of corporations.

Senate bill No. 227, an act to create a more efficient road system for McLennan county, Texas, and making county commissioners of said county ex officio road commissioners and prescribing their duties as such, and providing for their compensation as road commissioners, and defining the powers and duties of such road commissioners, providing for the appointment of road overseers and defining their duties, and for the working of county convicts on the public roads of said county, and providing for officers' fees, and rewards and penalties for said convicts, and rewards for the capture of escaped convicts, and to provide for the manner of training and maintaining hedges along all public roads, and to provide for the summoning of teams for road work, and for an allowance for time of road service for the same, and fixing a penalty for a violation of this act, and to repeal all laws in conflict herewith."

PETITIONS AND MEMORIALS.

(By unanimous consent.)

By Mr. McKellar:

Petitions from 301 citizens of Polk county, protesting against the county of Polk being severed from the Ninth Judicial District.

Read and referred to the Committee on Judicial Districts.

COMMITTEE REPORTS.

(By unanimous consent.)

By Mr. Dennis, acting chairman:

Committee Room,
Austin, Texas, March 24, 1897.

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

Your Committee on Engrossed Bills have carefully examined and compared House bill No. 95, a bill to be entitled "An act to regulate the practice of pharmacy in the State of Texas, and providing a penalty for the enforcement of the same."

And find the same correctly engrossed.

DENNIS, Acting Chairman.

By Mr. Curry, chairman:

Committee Room,
Austin, Texas, March 24, 1897.

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

Your Committee on Revenue and Taxation, to whom was referred

House bill No. 608, a bill to be entitled "An act to amend article 5223j, of title 104, chapter 5a, of the Revised Civil Statutes of the State of Texas, relating to delinquent taxes, and defining the duties of assessors in relation 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 pass.

CURRY, Chairman.

By Mr. Bertram, chairman:

Committee Room,
Austin, Texas, March 23, 1897.

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

Your Committee on Claims and Accounts, to whom was referred

House bill No. 626, a bill to be entitled "An act to refund to J. S. Slaughter $300 illegally collected from him as occupation taxes for pursuing the occupation of a commercial traveler, drummer, salesman and solicitor of trade by sample."

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.

SENATE MESSAGE.

Senate Chamber.
Austin, Texas, March 24, 1897.

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

I am instructed by the Senate to inform the House that the Senate has passed

Senate bill No. 210, a bill to be entitled "An act to amend article 2472 of chapter 3, of title XLV of the Revised Civil Statutes of Texas adopted in 1895, relating to the fees to be charged by notaries public for their official acts."

Senate bill No. 299, a bill to be entitled "An act to amend article 3051, chapter 2, title LVIII, of the Revised Statutes of the State of Texas, giving the Commissioner of Insurance power to examine into the condition of any insurance company in this State, or any other State, and to revoke the license of such company or companies upon refusal to submit to such examination."

By the following vote: yeas 21, nays 5.

Respectfully,

R. E. DODSON,
Assistant Secretary.
SENATE BILLS ON FIRST READING.

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

- Senate bill No. 210, to Judiciary Committee No. 1.
- Senate bill No. 299, to the Committee on Insurance, Statistics and History.

SPEAKER'S TABLE.

(Mr. Burney in the chair.)

After consideration,

Mr. Seabury moved the previous question on the motion to adopt the minority report on Senate bill No. 28, and the main question was ordered.

Yeas and nays were demanded by Mr. Wolters, Mr. Tracy and Mr. Burns.

The minority report was adopted by the following vote (which killed the bill):

**Yeas—59.**

- Alexander
- Ayers
- Barbee
- Benson
- Bertram
- Bird
- Blair
- Bounds
- Boyd
- Brigance
- Browne
- Burney
- Collier
- Conoly
- Cureton
- Dean
- Dennis
- Evans of Grayson
- Good
- Graham
- Henderson
- Hensley
- Holland of Burnet
- Holland of Harris
- Humphrey
- Jones
- Kimbell
- Kirk
- Lotto

**Nays—45.**

- Bailey
- Barrett
- Beard
- Blackburn
- Bumpass
- Burns
- Carpenter
- Carswell
- Childs
- Crawford
- Hill of Travis
- Lillard
- Logan
- Love
- Martin
- Maxwell
- McFarland
- Meade
- Moore of Lamar
- Peery
- Pfleiffer
- Pitts
- Rhea
- Hill of Gonzales

Hill of Travis.  Robbins.
Lillard.  Riddle.
Logan.  Seabury.
Love.  Sheiburne.
Martin.  Stamper.
Maxwell.  Thomas.
McFarland.  Tracy.
Meade.  Turner.
Moore of Lamar.  Vaughan of Collin.
Peery.  Wall.
Pitts.  Williams.
Rhea.  

**Absent.**

- Bell
- Brewster
- Callan
- Edwards
- Melton

- Moore, Fort Bend.
- Neighbors.
- Patterson.
- Vaughan, Guadalupe.

**Excused.**

- Bean
- Crowley
- Dickinson
- Dorroh
- Doyle
- Evans of Hunt
- Fisher
- Thaxton.

- Flint.
- Gilbough.
- Manson.
- Reubell.
- Rogers.
- Shropshire.

TRACY.

I vote no on the substitution of the minority for the majority report on Senate bill No. 28, because, first, to adopt the minority report would be to kill the bill in the beginning, and not give a full, fair and honest discussion on the merits. HILL of Gonzales.

I vote no, because I am opposed to creating monopolies, and want this bill to pass, so that local enterprises among the people may live.

(Speaker in the chair.)

Mr. Wolters moved to reconsider the vote by which the minority report was adopted, and to table the motion to reconsider.

On the motion to table, Mr. Bailey moved a call of the House, which was seconded, and the Clerk was directed to call the roll to ascertain who were absent without leave.

The following members were announced absent without leave: Messrs. Bell, Brewster, Edwards, Neighbors, Patterson, Smith, Vaughan of Guadalupe.

The Sergeant-at-Arms was directed to bring in the absentees.

The Speaker laid before the House, on its third reading and final passage, Senate bill No. 79, a bill to be entitled "An act to amend article 2640 of the Revised Civil Statutes of the State of Texas, relating to loaning money of wards by their guardians."

The bill was read third time, and
Mr. Bumpass offered the following amendment:

Add at close of section 1: “Provided, nothing herein contained shall relieve the county judge from responsibility on his bond, as now provided by law.”

Mr. Brigance moved to table the amendment, and the motion was lost.

The amendment was adopted.

Mr. Bertram offered the following amendment:

Amend by inserting the word “on” between the word “sale” and the word “unincumbeed” in line 22 page 1.

Adopted.

The bill was passed.

Mr. Blair moved to excuse the absentees, upon which motion yeas and nays were demanded by Mr. Burns, Mr. Tracy and Mr. Henderson.

Excused by the following vote:

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<th>Yeas-77</th>
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<td>O'Conner</td>
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Absent:

Bell. Raised.
Brewster. Rhea.
Edwards. Smith.
Moore, Fort Bend. Vaughan, Guad'lup.
Neighbors.

Excused:

| Bean | Flint. |
| Burney | Gilibough. |
| Crowley | Manson. |
| Dickinson | Reubell. |
| Dorroh | Rogers. |
| Doyle | Shropshire. |
| Evans of Hunt | Thaxton. |
| Fisher. |

Question recurring on the motion to table the motion to reconsider, Mr. Bailey moved to adjourn until 9 o'clock a.m. to-morrow.

The motion to adjourn was lost.

On the motion to table, yeas and nays were demanded by Mr. O'Connor, Mr. Dies and Mr. Tracy.

Tabbed by the following vote:

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| McGaughey | }
Nays—45.

Bailey. Logan.
Beaird. Love.
Blackburn. Martin.
Bumpass. Maxwell.
Burns. McFarland.
Carpenter. Meade.
Casswell. Moore of Lamar.
Childs. Peery.
Crawford. Pfeuffer.
Curry. Pitts.
Dies. Rhea.
Drew. Robbins.
Ewing. Rudd.
Field. Shelburne.
Fields. Stamper.
Freeman. Tracy.
Green. Turner.
Harris. Vaughan of Collin.
Hill of Gonzales. Vaughan of Collin.
Hill of Travis. Wall.
Jones. Wilcox.
Kimbell. Williams.
Lillard. Absent.

Bell. Neighbors.
Brewster. Patterson.
Edwards. Smith.

Excused.
Bean. Flint.
Callan. Gilbough.
Crowley. Manson.
Dickinson. Reubell.
Dorroh. Rogers.
Doyle. Shropshire.
Evans of Hunt. Thaxton.
Fisher.

HOUSE BILLS WITH SENATE AMENDMENTS.

The Speaker laid before the House, with Senate amendments, the following bills:

House bill No. 67, a bill to be entitled "An act to amend article 635, title 20 of the Revised Civil Statutes of the State of Texas, relating to the acknowledgment of married women as to the conveyance of their separate property."

On motion of Mr. Lillard, the House concurred.

House bill No. 15, a bill to be entitled "An act to amend article 822, chapter 4, title 17 of the Penal Code, relating to counties exempted from the provisions of articles 813-821, Penal Code."

On motion of Mr. Henderson, the House concurred.

House bill No. 68, a bill to be entitled "An act to amend article 636, title 20 of the Revised Civil Statutes of the State of Texas, relating to the acknowledgment of married women to the conveyance of the homestead."

On motion of Mr. Holland of Harris, the House concurred.

On motion of Mr. Blair, the House, at 5:20 p.m., adjourned until 9:30 o'clock a.m. to-morrow.

FIFTY-FOURTH DAY.

Hall House of Representatives, Austin, Texas, Thursday, March 25, 1897.

The House met at 9:30 o'clock a.m., pursuant to adjournment.

Speaker Dashiel in the chair.

Roll called and the following members present:

Ayers. Hill of Travis.
Bailey. Holland of Burnet.
Barbee. Holland of Harris.
Barrett. Humphrey.
Beaird. Jones.
Bell. Kimbell.
Benson. Kirk.
Bertram. Lillard.
Bird. Logan.
Blackburn. Lotto.
Blair. Love.
Bounds. Martin.
Boyd. Maxwell.
Brigance. McFarland.
Browne. McGaughey.
Buamass. McKamy.
Burney. McKellar.
Burns. Meade.
Carpenter. Melton.
Casswell. Mercer.
Childs. Moore of Lamar.
Collier. Morris.
Conley. Morton.
Crawford. Mundine.
Cureton. Neighbors.
Dean. O'Connell.
Dennis. Oliver.
Patterson. Peery.
Pfeuffer. Pitts.
Porter. Reiger.
Randolph. Reubell.
Rhea. Rhea.
Robbins. Robbins.
Rogan. Savage.
Schlick. Shelburne.
Shropshire. Shropshire.
Skillern.