

JOURNAL
THE SENATE

OF THE

STATE OF TEXAS,

BEING THE

First Session of the Sixteenth Legislature,

BEGUN AND HELD AT THE

CITY OF AUSTIN, JAN. 14, 1879.



GALVESTON:
A. H. BELO & CO. STATE PRINTERS.
1879.

JOURNAL OF THE SENATE.

SIXTEENTH LEGISLATURE.

SENATE CHAMBER, }
AUSTIN, TEXAS, JANUARY 14, 1879. }

In pursuance of law the Senate of the Sixteenth Legislature met in the Senate chamber, at the city of Austin, at 12 o'clock M., and was called to order by the Hon. Wells Thompson, president *pro tempore*.

Prayer by the Rev. John Lovejoy.

The roll being called, the following senators answered to their names:

DISTRICT.	NAME.	DISTRICT.	NAME.
No. 1—	Edwin Hobby.	No. 17—	W. M. Burton.
2—	P. F. Edwards.	18—	Charles Stewart.
3—	J. W. Motley.	19—	A. P. McCormick.
4—	Walter Ripetoe.	20—	W. K. Homan.
5—	W. H. Tilson.	21—	W. M. Brown.
6—	W. J. Swain.	22—	J. W. Moore.
7—	John M. Duncan.	23—	W. R. Shannon.
8—	John Young Gooch.	24—	J. H. Davenport.
9—	C. D. Grace.	25—	A. W. Terrell.
10—	John C. Buchanan.	26—	W. H. Ledbetter.
11—	William Blassingame.	27—	S. C. Patton.
12—	W. D. Lair.	28—	Ellsbury R. Lane.
13—	29—	J. S. Ford.
14—	F. M. Martin.	30—	A. W. Houston.
15—	T. J. McCulloch.	31—	L. J. Storey.
16—	J. R. Burnett.		

Senators Buchanan, Burnett, Davenport, Duncan, Gooch, Homan, Houston, Lair, Lane, Martin, Patton, Shannon, Stewart, Swain, Terrell and Tilson, being newly elected senators, approached the president's desk and took the oath of office prescribed by the constitution.

The president of the senate addressed the Senate as follows:

Gentlemen of the Senate:

While it is not expected on an occasion like the present, that any extended address should be made by the presiding officer of this body, I shall congratulate you on the auspicious circumstances surrounding your meeting. Since many of you last met in this chamber the military

rule set over the States of Louisiana and South Carolina has been withdrawn, and the governments of those states are now in the hands of their own people. This should be a cause of rejoicing to us, because we ourselves have felt the pernicious effects of a like tyrannical rule and know its corrupting influences on our system of government. We have also seen in the late presidential election such a conflict between the great political parties of the country as to shake our governmental fabric to its very foundation, resulting almost in a civil war more terrible than the one from which we have so lately emerged. Happily, however, we are now at peace, and as it is a divine provision that from all civil commotions endangering the existence of government, the statesman comes forth more wise, and the patriot more devoted, so let us hope that from these serious lessons we may draw such wisdom that the future shall bring forth nothing calculated to destroy this, the best hope of human liberty. Here, in Texas, we are specially blessed with most that should make a people prosperous; we were spared during the past year from a scourge that fell upon our kindred in the East as direful as any of the plagues that afflicted the European or Asiatic countries within the period of authentic medical history. Only a few years ago Texas was among the most insignificant States of the Union, as to wealth and population, but, having a good government and such climate and soil as is unsurpassed by any other country in the world, her crops have been large and remunerative, her population has increased so rapidly till to-day she stands ahead of all the Southern States, and when the next census shall have been taken we shall have the proud satisfaction of seeing her abreast of many of the leading States of the North. With you, however, depends much of her future greatness and prosperity, for you will, in part, as one of the co-ordinate branches of the Legislature, be called on to inaugurate the new State government and shape its policy during its administration. You will have to provide for the repression of lawlessness and crime and the enforcement of the laws; devise ways and means to defray the expenses of government and the establishment of common schools; to pass on the codification of the entire statutes of the State, civil and criminal, which shall for years to come control the rights of persons and property. Yet these are only a part of the grave duties that will devolve upon you. If, then, in the discharge of these responsibilities, your deliberations are calm and dispassionate, marked with that wisdom which those who sent you have reason to expect, you will find that you have contributed no little to your country's good, but have also "erected for yourselves a monument more enduring than brass, more lasting than the pyramids of Egypt." Knowing, then, the trusts reposed in you will not be betrayed and the high hopes cherished will not be disappointed, I declare the Senate organized.

The Senate then proceeded to organize by the election of officers.

Nominations being in order for secretary of the senate, Senator Motley nominated Leigh Chalmers, and Senator Edwards nominated J. F. Beall.

There being no other nominations Senators Motley, Edwards and McCormick were appointed tellers.

The first ballot resulted as follows:

Chalmers, 22; Beall, 7.

Mr. Chalmers having received a majority of all the votes was declared duly elected secretary of the senate.

He then took the oath of office.

Nominations being in order for first assistant secretary of the Senate Senator Shannon nominated Wm. A. Fields, Senator Hobby nominated Nat. Q. Henderson and Senator Storey nominated John W. Lane.

The first ballot resulted as follows:

Fields, 13; Henderson, 9; Lane, 8.

There being no election the Senate proceeded to ballot the second time, with the following result:

Fields, 15; Henderson, 9; Lane, 6.

There being no election the Senate proceeded to a third ballot, with the following result:

Fields, 17; Henderson, 9; Lane, 4.

Mr. Fields having received a majority of all votes cast, was declared duly elected first assistant secretary of the senate.

He came forward and was qualified.

Nominations being in order for second assistant secretary, Senator Stewart nominated A. F. Brigrance, Senator Lair nominated B. C. Williams and Senator Motley nominated Wm. Neal Ramey.

The first ballot resulted as follows:

Williams, 5; Brigrance, 8; Ramey, 18.

Mr. Ramey having received a majority of all the votes cast, was declared duly elected second assistant secretary of the senate.

He was then duly qualified.

Senator Terrell moved to postpone the election of the enrolling and engrossing clerks until Tuesday next.

Motion withdrawn.

Nominations then being declared in order for engrossing clerk, Senator Storey nominated A. M. Belvin.

The first ballot resulted as follows:

Belvin received 29 votes.

Mr. Belvin having received a majority of the votes cast, was declared duly elected engrossing clerk of the senate.

He immediately came forward and took the oath of office.

Nominations being in order for enrolling clerk, Senator Ledbetter nominated J. M. Swisher, Senator Tilson nominated T. P. Martin and Senator Brown nominated H. C. Surghnor.

The first ballot resulted as follows:

Swisher, 4; Martin, 17; Surghnor, 8.

Mr. Martin having received a majority of all the votes cast, was declared duly elected enrolling clerk of the senate.

He immediately came forward and took the oath of office.

Nominations being in order for calendar clerk, Senator Edwards put in nomination J. W. Swindells and Senator Houston nominated W. D. Ward.

Upon the first ballot Swindells received 24 votes and Ward 5.

Mr. Swindells having received a majority of all the votes cast, was declared duly elected calendar clerk and came forward and was qualified.

Nominations being in order for sergeant-at-arms, Senator Ford nominated J. M. Barton; Senator Moore, N. R. Stegall; Senator Stewart, Lee Hall; Senator Davenport, C. Hardean; Senator Ledbetter, L. L. Shropshire; Senator Houston, A. J. Houston.

On the first ballot Barton received 14; Stegall, 2; Lee Hall, 7; Hardean, 2; Shropshire, 2; Houston, 3.

No one having received a majority of the votes cast, a second ballot was had with the following result:

Mr. Barton received 11 votes; Mr. Stegall, 1; Mr. Hall, 14; Mr. Hardeman, 1; Mr. Shropshire, 1; Mr. Houston, 2.

No one having received a majority of the votes cast, a third ballot was cast.

Senator Ledbetter withdrew the name of Mr. Shropshire.

Senator Houston withdrew the name of Mr. Houston.

On the third ballot Mr. Barton received 14 votes, Mr. Stegall 1, Mr. Hall 14 and Mr. Hardeman 1.

No one having received a majority of the votes, another ballot was had.

Senator Davenport withdrew the name of Mr. Hardeman.

The fourth ballot resulted as follows:

Mr. Barton 16 votes, Mr. Stegall 1 and Mr. Hall 13.

Mr. Barton having received a majority of all the votes cast, was declared duly elected sergeant-at-arms of the senate, and immediately qualified as such.

Nominations being in order for assistant sergeant-at-arms, Senator Swain nominated Walter P. Fisher, Senator Storey nominated R. W. Winchell, and Senator Ford nominated Isaac C. McCall.

The first ballot resulted as follows:

Fisher, 16; Winchell, 8; McCall, 5.

Mr. Fisher having received a majority of all the votes cast, was declared duly elected assistant sergeant-at-arms of the senate, and came forward and received the oath of office.

Nominations being in order for doorkeeper, Senator Brown nominated John P. Ferrell, Senator Houston nominated Cooley Mann, Senator Lair nominated William Fitzhugh, Senator Swain nominated Henry Stout, Senator Gooch nominated M. B. Irwin, and Senator Storey nominated Lon Wells.

The first ballot resulted as follows:

Farrell, 3; Mann, 2; Fitzhugh, 12; Wells, 4; Irwin, 3; Stout, 4; Phillips, 1.

No one having received a majority of the votes cast, the second ballot was had with the following result:

Ferrell, 6; Mann, 1; Fitzhugh, 12; Wells, 6; Irwin, 3; Stout, 2.

No one having received a majority of the votes cast, a third ballot was had with the following result:

Mr. Ferrell received 6 votes, Mr. Fitzhugh 15, Mr. Wells 4, Mr. Irwin 2, and Mr. Stout 2.

No one having received a majority of all the votes cast, another ballot was had.

Senator Gooch withdrew the name of Mr. Irwin; Senator Houston withdrew the name of Mr. Mann; Senator Swain withdrew the name of Mr. Stout; Senator Storey withdrew the name of Mr. Wells.

The fourth ballot resulted as follows:

Mr. Ferrell received 8 votes and Mr. Fitzhugh 21.

Mr. Fitzhugh having received a majority of the votes cast, was duly elected doorkeeper of the senate, and was qualified as such.

Senator Brown offered the following resolution:

Resolved, That the election of chaplain of the senate be indefinitely postponed.

Senator Swain moved to lay the resolution on the table.

Carried.

Nominations now being declared in order for chaplain, Senator Terrell nominated Rev. O. Fisher; Senator Motley, Rev. C. C. Chaplin; Senator Lair, Rev. John Lovejoy; Senator Ford, Rev. W. J. Jones, and Senator Shannon, Rev. H. D. Bantan.

The first ballot resulted as follows:

Mr. Fisher received 8 votes; Mr. Chaplin, 12; Mr. Lovejoy, 5; Mr. Jones, 2; Mr. Bantan, 2; Mr. "No one," 1.

No one having received a majority of the votes cast, a second ballot was had with the following result:

Mr. Fisher, 7; Mr. Chaplin, 13; Mr. Lovejoy, 5; Mr. Jones, 2, and Mr. Bantan, 2.

No one having received a majority of the votes cast, another ballot was had.

Senator Shannon withdrew the name of Mr. Bantan, and Senator Ford withdrew the name of Mr. Jones.

The third ballot resulted as follows:

Mr. Fisher, 8; Mr. Chaplin, 17; Mr. Lovejoy, 4, and Mr. "No one," 1.

Rev. Mr. Chaplin, having received a majority of all the votes cast, was declared duly elected chaplain of the senate, and was qualified.

Senator Motley moved to adjourn until 3:30 p. m.

Lost.

On motion of Senator Storey, the Senate adjourned until to-morrow at 9 o'clock a. m.

SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 15, 1879. }

Senate met pursuant to adjournment; president *pro tempore* presiding.
Roll called; quorum present.

Prayer by Rev. C. C. Chaplin, chaplain elect of the senate.

Journal of yesterday read and adopted.

Senator Terrell offered the following resolution:

Resolved, That the rules adopted by the Senate of the Fifteenth Legislature shall govern the proceedings of the Senate until changed.

Adopted.

The president announced the following appointments, to wit:

Eddie Andrews, Charles Swindells, Quitman Finlay and Alexander Noble as pages. Lee Blocker, Ed. Morton, Sam. Norwood and Henry Mitchell as porters, and C. M. Holmes as postmaster.

Senator Storey offered the following resolution:

Resolved, That a standing committee be appointed by the president of the senate, to whom shall be referred the report of the commission to revise and digest the laws of the State appointed under an act of the Fifteenth Legislature, approved July 28, 1876.

Adopted.

Senator Grace offered the following:

Resolved, That the engrossing, enrolling and calendar clerks be required to act as committee clerks until this body shall have created

work for the engrossing and enrolling committees and for the calendar clerk's desk.

Lost.

Senator Shamon offered the following resolution:

Resolved, That the secretary of state be authorized to deliver to the secretary of the senate any of the unfinished business of this body, taking his receipt for the same.

Adopted.

Senator Hobby offered the following:

Resolved, That the secretary notify the House that the Senate is organized and ready to proceed to business.

Adopted.

Senator Stewart offered the following:

Resolved, That a committee of three senators be appointed to notify his excellency the governor that the Senate is organized and ready to receive any communication he may see proper to make.

Adopted.

The president appointed on said committee Senators Stewart, Lair and Motley, who immediately performed the duty required and reported the same through their chairman, Senator Stewart.

Senator Ledbetter offered the following:

Resolved, That the members of the Senate holding over retain the seats as drawn at the last session of the Legislature.

Adopted.

Senator Duncan offered the following:

Resolved, That the members of the Senate qualified at the present sitting of the Legislature occupy in the Senate chamber the seats of their respective predecessors.

Adopted.

Senator Moore offered the following:

Resolved, That the sergeant-at-arms furnish the members of the Senate a copy each of Paschal's Digest of the statutes, and also a copy to each senator of the constitution, and a copy of the general laws and of the rules of the Fifteenth Legislature.

Adopted.

Senator Moore also offered the following:

Resolved, That the sergeant-at-arms of the senate be and is hereby required to contract for and purchase all necessary postage stamps for the use of the Senate.

Adopted.

Senator Blassingame offered the following resolution:

Resolved, That the sergeant-at-arms be instructed to procure the stoves formerly in the Senate chamber, and in the event they be worn out or destroyed, that he be instructed to purchase two stoves and set the same up immediately.

Adopted.

Senator Terrell offered the following:

Resolved, That the sergeant-at-arms be required to purchase all stationery which may be required for the use of the Senate, under the direction of a committee of three, to be appointed by the president of the senate, who shall approve contracts for purchase before the same are consummated.

Adopted.

A message was received from the House announcing the adoption of the following resolution:

Resolved, by the House of Representatives of the State of Texas, the Senate concurring, That a committee consisting of three members of the House be appointed by the speaker, to act with such members as may be appointed by the Senate, to meet the congressional committee having charge of the remains of the late Hon. Gustave Schleicher, and now on their way to Texas to deposit them in the land that the deceased loved so well, and also to co-operate with the congressional committee in all other fitting honors and care of the remains of the distinguished dead.

Resolved, That it is the desire of the House of Representatives that the mortal remains of the late Gustave Schleicher, his family assenting, be interred in the cemetery of the State at Austin, which has been expressly established and set apart as a burial ground for the illustrious dead, whom the people of the State of Texas desire to hold in perpetual honor for services rendered to the people.

The resolution of the House was read and on motion of Senator Lane was adopted.

The president in pursuance of the said resolution announced the following committee: Senators Lane (chairman), Storey, Houston and Ford.

The president announced the following standing committees of the Senate for the present session:

STANDING COMMITTEES OF THE SENATE.

Judiciary Committee No. 1—Senator Terrell, chairman; Senators Edwards, McCormick, Shannon, Ford, Lane, Swain, Buchanan, Davenport, Duncan.

Judiciary Committee No. 2—Senator Stewart, chairman; Senators Hobby, Guy, Ledbetter, Grace, Gooch, Patton, Houston, Brown, Homan.

Committee on Constitutional Amendments—Senators Edwards, Houston, Terrell, Stewart, Davenport, Guy, McCulloch, McCormick, Shannon, Grace, Duncan, Buchanan, Patton, Tilson.

Committee on Educational Affairs—Senator Ledbetter, chairman; Senators Brown, Blassingame, Motley, Patton, Terrell, Tilson, Ford, Lair, Martin, Burnett, Burton.

Committee on Internal Improvements—Senators Shannon, Storey, Lane, Buchanan, Gooch, Duncan, Edwards, Davenport, Martin, Moore, Swain, Stewart, Brown, Homan.

Committee on Finance—Senator Storey, chairman; Senators Edwards, McCormick, Guy, Lane, Ford, Hobby, Motley, Ledbetter, Martin.

Committee on Private Land Claims—Senator Guy, chairman; Senators Grace, Motley, Moore, McCulloch, Lair, Tilson, Burnett.

Committee on Penitentiary—Senators Swain, Motley, Blassingame, Houston, Storey, Gooch, Brown, Moore, Lair, Patton, Duncan, Ripetoe.

Committee on Statistics of Industry, Public Health and History of Texas—Senators McCulloch, Motley, Ford, Blassingame, Martin, Lair, Gooch, Hobby, Tilson.

Committee on Military Affairs—Senators Grace, Ford, Shannon, Guy, Ledbetter, Lane, Duncan.

Committee on Public Lands—Senators Lane, Terrell, Swain, Stewart, Martin, Houston, Davenport, Brown, Blassingame, Homan.

Committee on State Affairs—Senator Houston, chairman; Senators

Storey, Terrell, Patton, Tilson, Buchanan, Gooch, Moore, McCulloch, Motley.

Committee on Commerce and Manufactures—Senator Moore, chairman; Senators Hobby, Martin, Houston, Stewart, McCormick, Burnett, Homan.

Committee on Public Roads, Bridges and Ferries—Senator Blassingame, chairman; Senators Brown, Martin, McCulloch, Homan, Burton.

Committee on Public Claims and Accounts—Senators Patton, Ford, Guy, Grace, Motley, Hobby, Gooch, Edwards, Duncan, Ripetoe.

Committee on Contingent Expenses—Senators Brown, Buchanan, Davenport, Lair, Ledbetter, Shannon, Lane.

Committee on General Land Office—Senators Guy, McCormick, Ledbetter, Swain, Houston, Shannon, Lane, Gooch, Buchanan, Edwards.

Committee on Federal Relations—Senators Buchanan, Shannon, Davenport, Ford, Houston, Swain, Blassingame, Grace.

Committee on Counties and County Boundaries—Senators Tilson, Martin, Lair, Houston, Davenport.

Committee on Public Debt—Senators Gooch, Duncan, Lane, Storey, Terrell, Stewart, McCormick, Patton, Houston.

Committee on Public Printing—Senators Davenport, Ford, Homan, Grace, Motley, Martin, Hobby.

Committee on Frontier Protection—Senator Ford, chairman; Senators Davenport, Shannon, Houston, Lane, Guy, Blassingame, Lair.

Committee on State Asylums—Senator Motley, chairman; Senators Grace, McCulloch, Blassingame, Lair, Terrell, Patton.

Committee on Stock and Stock Raising—Senator Patton, chairman; Senators Lane, Ford, Shannon, Davenport, Martin, Blassingame, Stewart, Tilson, McCormick.

Committee on Agricultural Affairs—Senator Martin, chairman; Senators Brown, Motley, Ledbetter, Storey, Terrell, Lair.

Committee on Retrenchment and Reform—Senator Buchanan, chairman; Brown, Edwards, Moore, Blassingame, Shannon, Grace, Homan.

Committee on Treasurer's and Comptroller's Departments—Senator Storey, chairman; Brown, Gooch, Ledbetter, Edwards, Swain.

Committee on Privileges and Elections—Senator Duncan, chairman; Senators Hobby, Grace, Ford, Stewart, Patton.

Committee on Public Buildings and Grounds—Senator Terrell, chairman; Senators Ledbetter, Storey, Stewart, Duncan, Homan.

Committee on Revision of Rules—Senator McCormick, chairman; Senators Edwards, Storey, Hobby, Grace.

Committee on Engrossed Bills—Senator Brown, chairman; Senators Patton, Gooch, Duncan, Burnett.

Committee on Enrolled Bills—Senator Grace, chairman; Senators Lane, Ford, Davenport, Lair.

Committee on Revision of Code—Senator Hobby, chairman; Senators Stewart, Terrell, Storey, Edwards, McCormick, Patton, Duncan, Houston, Lane, Gooch, Buchanan, Swain, Ledbetter, Guy, Homan.

Senator Patton introduced a bill entitled "An act regulating the removal of the disability of minors."

Read by caption and referred to judiciary committee No. 1.

Senator Shannon introduced a bill entitled "An act concerning judgments."

Read by caption and referred to judiciary committee No. 1.

Senator Storey offered the following joint resolution:

“Joint resolution amending sections 1, 2, 3, 4, 5, 6, 8 and 16 of article v of the constitution, and to make valid laws passed in harmony therewith by the Sixteenth Legislature.”

Read by caption and referred to the committee on constitutional amendments.

Senator Edwards offered the following joint resolution:

“Providing for the publication of the daily journals of each house of the Legislature.”

Read and referred to the committee on public printing.

Senator Ford moved that the president appoint three additional members to be added to the committee heretofore appointed to meet the congressional committee escorting the remains of the Hon. Gustave Schleichler to Texas.

Adopted.

The president appointed Senators Edwards, Martin and Grace on said committee.

Senator Gooch introduced a bill entitled “An act to amend section 3 of an act to provide for the holding of district courts when the judge thereof is absent, or is from any cause disabled or disqualified from presiding,” approved August 15, 1876.

Read by caption and referred to judiciary committee No 1.

On motion of Senator Storey the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION—3 P. M.

Senate met pursuant to adjournment. Roll called; quorum present.

On motion of Senate Terrell the rules were suspended and judiciary committee No. 1 were permitted to make a report.

COMMITTEE ROOM,
AUSTIN, January 15, 1879. }

Hon. Wells Thompson, President of the Senate:

Your committee on judiciary No. 1, to whom was referred a bill to be entitled “An act to amend section 2 of ‘an act to provide for holding of district courts when a judge thereof is absent, or is from any cause disabled or disqualified from presiding’, approved August 15, 1876,” have had the same under consideration and instruct me to report—

That in their judgment the proposed act remedies an obvious defect in the existing law. More than one instance has occurred where parties charged with capital felonies have improperly delayed the administration of justice on account of defects in the present law.

The third section of the present act provides that when the district judge or a special judge is disqualified from trying a cause, the parties or their attorneys have the right to select or agree upon an attorney, etc., ‘to try the case,’ but contains no provision for the trial of the cause if the parties fail to agree in the selection of the judge. The proposed bill remedies this defect.

The committee have instructed me to report the bill back and recommend its passage.

TERRELL, *Chairman.*

On motion of Senator Terrell the rules were suspended and said bill was placed on its second reading by the following vote.

Brown,	YEAS.	Patton,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Swain,
Duncan,	McCormick,	Terrell,
Ford,	McCulloch,	Tilson,—23.
Gooch,	Moore,	
	Motley,	

NAYS—none.

Senator Hobby offered the following amendment:

SEC. 3. That an imperative public necessity requires the suspension of the constitutional rule requiring the reading of this bill on three several days, and that the rule be so suspended.

Adopted.

On motion of Senator Gooch the bill was read second time and ordered engrossed by the following vote:

Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—23.
Gooch,	Motley,	

NAYS—none.

On motion of Senator Gooch, the rules were further suspended and bill passed to its third reading, by the following vote:

Brown,	YEAS.	Patton,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Swain,
Duncan,	McCormick,	Terrell,
Ford,	McCulloch,	Tilson—23.
Gooch,	Moore,	
	Motley,	

NAYS—none.

Bill was read third time and passed by the following vote:

Brown,	YEAS.	Patton,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Homan,	Stewart,
Burton,	Lair,	Shannon,
Davenport,	Ledbetter,	Swain,
Duncan,	McCormick,	Terrell,
Ford,	McCulloch,	Tilson—23.
Gooch,	Moore,	
	Motley,	

NAYS—none.

The president appointed on the stationery committee provided for by the resolution offered by Senator Terrell, Senators Terrell, Ford and Davenport.

On motion of Senator Shannon the Senate took a recess of half an hour, to await the organization of the House.

Recess expired. Roll called; quorum present.

Senator Homan introduced a bill "To repeal an act to levy a tax on

the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same."

Read and referred to the committee on judiciary No. 2.

Senator Buchanan offered the following resolution:

Resolved, That the president of the senate appoint a committee of senators to act jointly with a like committee on the part of the House, for perfecting the arrangements for counting the vote for governor and lieutenant governor, and to provide for the inauguration of said officers."

Adopted.

Senator Duncan introduced a bill to be entitled "An act regulating the election of county and district clerks in counties having less than eight thousand inhabitants, and to validate the acts of persons heretofore holding both offices.

Read by caption and referred to judiciary committee No. 2.

Senator Burnett introduced a bill to be entitled "An act to prevent the hiring or operating of convicts outside of the prison walls."

Read by caption and referred to the committee on penitentiary.

On motion of Senator Moore, the Senate adjourned until to-morrow morning at 9 o'clock.

THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, JANUARY 16, 1879. }

The Senate met pursuant to adjournment; president *pro tempore* in the chair. Roll called; quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

The president announced the following committee to act jointly with a committee of the House to perfect arrangements for counting the vote for governor and lieutenant governor, etc., as per resolution adopted yesterday: Senators Buchanan, McCormick and Shannon.

The committee on stationery, appointed yesterday, reported that as the law provided that their duties should be performed by the committee on contingent expenses, they asked to be discharged from the said committee.

Request granted and committee discharged.

A message was received from the House announcing that that body had perfected its organization by the election of Hon. John H. Cochran, speaker; Will Lambert, chief clerk; J. W. Booth, first assistant clerk; A. Duggan, journal clerk; Jas. L. Autry, enrolling clerk; B. W. Newton, engrossing clerk; M. M. Boggess, sergeant-at-arms; C. Hardeman, assistant sergeant-at-arms; F. W. Pattie, chaplain; and W. I. C. Autrey, door-keeper.

(Senator Ledbetter in the chair.)

Senator McCulloch offered the following:

Resolved, That each member of the Senate, who may desire to do so, shall be entitled to take through the sergeant-at-arms five copies of the *State Gazette*, and five copies of the *Daily Statesman*, two daily newspapers published in the city of Austin; *provided*, however, that said newspapers shall publish the journals of the Senate.

Resolved, That members of the Senate not wishing to take said daily papers aforesaid, shall have the right as aforesaid to take ten copies of

any other papers, whether daily or weekly, which may publish a fair synopsis of the proceedings of the Senate.

Resolved, That the sergeant-at-arms shall, within.....days, make out a list of all papers ordered as aforesaid, and that said papers shall be paid for out of the contingent fund of the Senate; *provided*, that the cost of said papers shall not exceed the regular published rates of subscription of such papers.

Read and referred to the committee on printing.

Senator Swain offered the following resolution as a substitute for the resolution of Senator McCulloch.

Resolved, That the printing board are instructed to contract for one thousand copies of one of the daily papers published in the city of Austin, printing the proceedings of the Legislature, and that said number of copies shall be distributed by the sergeant-at-arms equally among the members of the Senate.

Read and referred to the committee on printing.

Senator Shannon introduced a bill entitled "An act to regulate the management of railroad companies."

Read by caption and referred to the committee on internal improvements.

Senator Stewart introduced a bill entitled "An act to protect mechanics, laborers and operatives on railroads against the failure of owners, contractors and sub-contractors to pay their wages when due."

Read by caption and referred to judiciary committee No. 2.

Senator McCormick introduced a bill entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged."

Read by caption and referred to judiciary committee No. 1.

Senator Lair introduced a bill entitled "An act for the relief of persons whose lands have been sold for taxes and purchased by the State."

Read by caption and referred to the committee on finance.

Senator Duncan introduced a bill entitled "An act to amend an act, entitled 'an act fixing the times of holding the district courts of the seventeenth judicial district of the State of Texas,' approved August 16, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Burnett introduced a bill entitled "An act to provide for the election of a district attorney in the fourth judicial district of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

(Senator McCormick in the chair.)

Senator Ledbetter introduced a bill entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas."

Read by caption and referred to judiciary committee No. 2.

Senator Ledbetter also introduced a bill entitled "An act to provide for the time and place of holding the supreme court of the State of Texas."

Read by caption and referred to judiciary committee No. 2.

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

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills, to whom was referred a bill to be

entitled "An act to amend section 3 of 'an act to provide for holding of district courts, when a judge thereof is absent, or is, from any cause, disabled or disqualified from presiding,' approved August 15, 1876," have carefully compared the bill, as engrossed, with the original, and find the same correctly engrossed.

BROWN, *Chairman.*

A message was received from his excellency the governor by the honorable secretary of state, which was the message of his excellency to the Legislature of Texas, accompanied with the reports of the heads of the different departments of the State government. The message was taken up and read and, upon motion of senator Stewart, of Houston, ten thousand copies were ordered printed.

MESSAGE OF THE GOVERNOR.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 14, 1879. }

*To the Honorable Senate and House of Representatives of Texas, in
Legislature Assembled:*

GENTLEMEN—I welcome you to the capitol to legislate for the State and to devise ways and means for sustaining her credit, lessening the burthens of government, encouraging the development of our material resources, as well as by wise enactments to more securely protect the life and liberties of the citizen. I congratulate you, likewise, on our bountiful harvests, our exemption from pestilence and famine, our general prosperity, as well as on the possession and enjoyment of the blessings of free government vouchsafed to the people of Texas during these recent years, and continued up to this auspicious day.

While, in large degree, we attribute this grateful fruition to the industry, frugality and traditional energies of our people; and our political security to the genius of our laws, it nevertheless becomes us to acknowledge our dependence upon the supreme power, who controls the destinies of states in all periods of their life and history.

I need not remind you that there has been placed in your hands a great and sacred trust to be administered not in the interest of self or section, but for the welfare of a confiding constituency, without regard to locality, religious creeds or political faiths.

That your high duties may be thus discharged, fearlessly and with wisdom, is the earnest invocation of the executive who reposes confidence in the purity of your patriotism and in the statesmanship of your councils.

To better enable you to enter upon the important work, imposed by your election, with an intelligent understanding of the subject-matters of legislation, it has been wisely demanded by the Constitution that "the governor shall, at the commencement of each session of the Legislature, and at the close of his term of office, give to the Legislature information by message of the condition of the State, and he shall recommend to the Legislature such measures as he may deem expedient."

In obedience, therefore, to this constitutional obligation, as well as in accordance with the honored custom of my predecessors in the executive office, I submit this communication to your honorable bodies, together with the reports of the heads of departments, showing the past and present condition of the State, since the first day of December, 1876, on which date the executive department was committed to my hands.

In the same connection, and as the result of the experience of more than two years' service in this office, I have the honor to respectfully recommend such measures as, in my judgment, are demanded in the interests of a just and economical administration of the State government.

STATE FINANCES.—REPORTS OF THE COMPTROLLER AND TREASURER.

The reports of the comptroller and treasurer, exhibiting the operations of their respective departments since August 31, 1876, to the close of the last fiscal year—August 31, 1878—I have the honor to transmit for your information in considering the financial condition of the State.

Their reports are able and exhaustive, leaving no receipt or disbursement by the State unaccounted for, and complying intelligently and fully with all the requirements imposed by the Constitution and the laws upon these officers. The statements hereto subjoined exhibit the present financial status of the State; the amounts received, constituting the general revenue from taxation, and the disbursements made in pursuance of general or specific appropriations; the amount of the public debt, and the changes which have occurred therein during the two years of the present administration of the State government.

	<i>Receipts.</i>	<i>Currency.</i>	<i>Specie.</i>
Balance August 31, 1876.....		\$6,366 26	\$397 95
Receipts from all sources since that date....		3,299,693 56	80,899 15
		<hr/>	<hr/>
Total currency and specie.....		\$3,306,059 82	\$81,297 10

Disbursements.

For ordinary expenses of government, for public free schools, frontier defence, interest on public debt, and disbursements on special accounts from Aug. 31, 1876, to Aug. 31, 1878.....	\$3,227,362 55	\$49,880 77
Balance in treasury Aug. 31, 1878.....	78,697 27	31,416 33
	<hr/>	<hr/>
Total currency and specie.....	\$3,306,059 82	\$81,297 10

The receipts in the treasury, included in the foregoing statement, represent funds of every denomination, trust and special funds, proceeds of sales of bonds and revenues collected for the support of the State government, the exact amounts and character of each being given specifically in the reports of the treasurer and comptroller, to which the attention of the Legislature is earnestly directed.

PUBLIC DEBT OF THE STATE.

Bonded Debt.

Bonds for funding State debt, act November 9, 1866.....	\$125,100 00
Less amount redeemed during 1877 and 1878,	119,600 00
	<hr/>
Leaving outstanding.....	\$5,500 00
Bonds for funding State debt, act May 2, 1871, outstanding.....	75,000 00
Frontier defence bonds, act August 5, 1870.....	692,000 00
Bonds for funding State warrants, act May 2, 1874, outstanding.....	1,600 00

Revenue deficiency bonds, act December 2, 1871.....	500,000 00
Bonds for payment of floating debt, act March 4, 1874, out- standing.....	1,000,000 00
Pension bonds, acts August 13, 1870, and April 21, 1874, outstanding.....	1,115,009 00
Bonds for redemption of State debt, act July 6, 1876.....	1,645,000 00
Total bonded debt.....	\$5,084,109 00

Floating Debt.

Warrants on general revenue unpaid August 31, 1878.....	\$34,064 05
Approved pension claims not bonded.....	18,610 00
	52,674 05
Total debt.....	\$5,086,783 05

Thus it will be observed the bonded and floating debt of the State of Texas at the close of the fiscal year, August 31, 1878, aggregated the sum of \$5,086,783 05.

The public debt of Texas (exclusive of the debt of doubtful validity,) on the 1st day of September, 1876, amounted to.....	\$5,210,073 95
The public debt (exclusive of debt of doubtful validity,) on 1st day of September, 1878, amounted to.....	5,086,783 05

Thus showing a decrease of..... \$123,290 90

It is a source of congratulation that in the midst of great financial stringency and shrinkage of values of all our real estate and personal property, and of unremunerative prices, especially of the great leading products of southern labor, since the adjournment of the Fifteenth Legislature, our revenues, though far less than was anticipated by your predecessors, have enabled the State to honor her outstanding bonds as they fell due, and were presented to the treasury for redemption.

It is to be hoped that this reduction of the public debt of the State will mark a period in our financial history, from which, henceforth, there shall be no further increase of indebtedness.

In this connection, I most respectfully call your attention to the report of the comptroller showing the amount and character of the public debt, from which you will observe we have outstanding pension bonds, and approved pension claims not bonded, to the amount of \$1,133,619 00. These pension bonds (\$1,115,009 00) and claims (\$18,610 00) aggregating the amount stated, bear interest at the ruinous rate of ten per cent. per annum. Fortunately they are redeemable at the option of the State from and after the first day of July, 1879.

I concur in and earnestly recommend to your honorable bodies the suggestion of the comptroller that a sale be authorized and ordered at not less than par of bonds bearing interest at a rate not higher than six per cent., said bonds payable in lawful money or gold coin, as you may deem best for the interests of the State, with which to call in and retire said ten per cent. pension bonds and claims.

This policy would not, it is true, diminish the principal yet due to the State's creditors, but there would be, out of the current revenue, the large sum of *forty-five thousand three hundred and forty-four dollars and sev-*

enty-six cents annually saved in interest alone to the tax-payers of this State.

From the recent and most gratifying experience of the State in the sale of the half million of six per cent. interest bearing bonds, authorized to be sold by the governor at his discretion, it is my opinion that a Texas bond, bearing *five* per cent. interest, could now and hereafter be placed in the leading financial markets of the United States for a *premium* at least equal to, if not greater, than that obtained during the year 1877, to-wit: 102½ for our six per cent. bonds. The experiment is at least worthy of being made, with a view to economy and a more rapid reduction of the interest upon our public debt.

The same recommendation is also respectfully made in connection with such bonds as may be issued to supply deficiencies in the revenue under section 49, article 3, of the Constitution.

BALANCES IN THE STATE TREASURY ON FIRST SEPTEMBER, 1878.

By reference to the following summary, carefully compiled from the reports of the comptroller and treasurer, the exact amount to the credit of each fund and the character thereof will be ascertained, and to it I direct your careful attention:

	Cur. and Specie.
State revenue	\$110,113 62
Available school fund (\$1000 bonds)	321,428 37
Permanent school fund (of which \$82,168 82 is invested in 5 per cent. state bonds; \$1,275,867 13 is invested in 6 per cent. state bonds; \$24,000 in 7 per cent. state bonds; \$77,280 in ten per cent. state bonds, and \$1,753,317 in 6 per cent. railroad bonds, making total amount bonds \$3,212,632 95) which, with the amount of \$7,491 40, specie and currency, makes a total amount of.....	3,220,124 85
Agricultural and Mechanical College fund—\$35,000 6 per cent. state bonds; \$174,000 7 per cent. state bonds, and \$3,116 06, specie and currency, making a total of.....	212,116 66
University land sales in 6, 7 and 10 per cent. state bonds, and one certificate of public debt \$235,296 41	
Specie and currency.....	1,870 21
	237,166 62
Blind asylum land sales account, currency.....	5,194 21
Deaf and dumb asylum land sales account, currency.....	8,313 37
Lunatic asylum land sales account, currency.....	4,939 47
University fund account, (5 per cent. state bonds).....	134,472 26
Special revenue account, currency.....	5 31
Escheated estates account, notes, specie and currency.....	7,697 49
Settlement of estates account, currency.....	4,276 54
County tax account, currency.....	28,415 72
Tax titles account, currency.....	626 60
Special school fund, currency.....	13,858 62
Assessors' fees account, currency.....	27 50
Audited state debt account, currency.....	56 41
Special loan tax account, (certificates of indebtedness)....	79,409 50
Municipal tax account, currency.....	382 37
Ten per cent. treasury warrants account, currency.....	7,928 19
Public debt certificates account, currency.....	929 65
Article 8, section 12, Constitution, currency.....	2,060 24

Redemption of 6 per cent. bonds of 1866, currency.....	5,500 00
" " " 10 " " " " " " 1873-4, "	1,548 73
Interest and sinking fund, Sherman city bonds, currency..	\$ 4,626 99
" " " " Dallas " " " ..	3,059 99
" " " " Tyler " " " ..	41
" " " " McKinney " " " ..	1,137 86
" " " " Harrison county " " ..	75 49
" " " " Walker " " " ..	1,536 23
" " " " Brazos " " " ..	311 73
" " " " Smith " " " ..	461 47
" " " " Anderson " " " ..	4,692 66
" " " " Galveston " " " ..	23,554 58
" " " " Waxahachie city " " ..	286 01
" " " " Bexar county " " ..	5,607 83

Total balance in treasury.....\$4,451,943 08

Consisting of—

Promissory notes (in escheated estates account).....	\$375 00
Certificates of public debt.....	89,709 91
Six per cent. railroad bonds.....	1,758,317 00
Currency.....	\$541,574 69
Specie.....	38,182 27
	\$579,756 96

Five per cent. state bonds.....	\$216,641 08
Six " " "	1,486,367 13
Seven " " "	203,000 00
Ten " " "	121,776 00
	\$2,027,784 21
Ten per cent. Brazos county bonds.....	1,000 00

Total as stated above.....\$4,451,943 08

From the foregoing statements, there will be seen—

1. The receipts and disbursements of the State;
2. The present bonded debt;
3. The present floating debt;
4. The decrease in the public debt; and,
5. The amount in money and securities remaining in the state treasury at and up to the close of the past fiscal year.

From which official data the executive and legislative departments of the state may be guided in future legislation upon the subject of finance, revenues and taxation, and in making certain provisions to meet all maturing obligations, whether of principal or interest of the public debt at home or abroad.

I recommend that the floating debt and the unpaid balance of the debt of the late Republic audited under the act of 1848 and acts subsequent thereto—which items of indebtedness are fortunately small—be at once funded, or otherwise lawfully canceled, and that all just deficiencies which have resulted from a failure of the general appropriations of the Legislature to meet the estimated and necessary lawful expenditures of the government, be also funded in the mode authorized by the Constitution. These just claims against the State mainly grow out of the grave mistakes heretofore made by the Legislature in their too low estimates of current expenditures and their too sanguine expectations that the taxes

imposed upon the estimated value of property to be rendered and unrendered, and the amount to be collected would yield a revenue equal to, if not in excess of, the absolute expenditures of the government.

Unfortunately, there is now recalled to mind no fiscal year of Texas, from 1845 down to the present date, but what has witnessed the same mistake repeated by Legislatures. Such, at least, is our financial history. In early times these annual deficiencies were met by borrowing from the several millions in gold received from the United States government for our sale to it of the Santa Fe territory; and at others by the issuing and sale of bonds of the State. The comptroller in his very able report, announces the fact that to-day the credit of Texas bonds is higher than that of any other state in the entire Union. While the fact is and should be a just source of pride to every citizen of Texas, I respectfully and earnestly urge upon your consideration *that other fact*—not so much a source of pride as of extreme regret—that the debts we owe to our own fellow citizens *at home*, to the teachers of our public schools, clerks of courts, state's attorneys, judges of district and supreme courts, soldiers in the military service, veteran pensioners, to sheriffs for transportation of prisoners and divers other claimants, have become too often the subject of speculation and at the mercy of capital, and all because there is no adequate provisions to meet these claims in cash when presented at the state treasury.

Neither in law nor in morals ought an invidious distinction be made by the State between the domestic creditors and the foreign bondholders. *Both are just claims* and should be honored alike by the Legislature. To this end I respectfully recommend that all our floating debt and every other dollar justly due as a *deficiency* be at once ascertained and provided for; so that in the future our Legislature, taking warning from the errors of the past, shall see to it that there be *no more annual deficiencies* and no more special and invidious favors conferred upon one class of our creditors over another, especially when that distinction is made *against our own people* at home who have performed equal service for and are therefore entitled to equal protection from the State; and last, but not least in vital importance to the prosperity of the State, that there shall be no further increase of the public debt of Texas, but a steady decrease thereof.

SALE OF BONDS.

Under the act of July 6, 1876, entitled, "an act to provide for the payment of the bonds of the State of Texas that will become due and that are retirable in the years 1876 and 1877, and to make adequate provisions for the floating indebtedness of the State, and to supply deficiencies in the revenue by the sale of these bonds of the State, and to make an appropriation to carry into effect the provisions of the same," the governor was authorized to have engraved bonds of the State of Texas of the denomination of one thousand dollars each, to the amount of eight hundred thousand dollars (\$800,000) and also to have prepared bonds of such denomination as the interests of the State and the parties purchasing might require, to the extent of eight hundred and seventy-five thousand dollars (\$875,000) to be known as registered bonds. These bonds to be payable in thirty years from first day of July, A. D., 1876, in gold coin, and to bear interest at the rate of six per cent. per annum, payable semi-annually in gold coin of the United States, etc.

The principal and interest of the eight hundred one thousand dollar

coupon bonds were to be payable in the city of New York, through an agent or agents, as the governor of the state might select; and it was also provided that no agent should receive more than one-fourth of one per cent. for paying said bonds or interest under said act, the principal and interest of the registered bonds to be payable in the city of Austin, at the office of the state treasurer.

It was further provided by the fifth section of said act that "the comptroller of public accounts shall sell the bonds provided for in this act at such times, and in such places, and in such amounts as the governor may direct, provided the same shall not be sold for less than one hundred cents on the dollar." The act also makes it my duty to report to the Legislature the amount of bonds sold, to whom sold, the amount realized therefrom, the name of the agent or agents through whom sold, and the commission, if any, allowed the agents or agents through whom sold.

In compliance with this demand I have the honor to report that all of said bonds necessary and required to meet the debts of the State which became due in 1876, or which were retirable at the option of the State, had been issued by my predecessor (Governor Coke), and the proceeds applied as the law directed. There still remained, after I succeeded to the executive office, retirable at the option of the state government at any time after July 1, 1877, the sum of five hundred and three thousand, four hundred dollars (\$503,400) of ten per cent. interest bearing bonds, issued under the act of May 2, 1874.

Realizing the necessity of reducing the rate of interest from ten to six per cent. on over a half million of dollars, I ordered the issuing of bonds to the amount of five hundred thousand (\$500,000), bearing six per cent. interest, and in all respects complying with the act of July 6, 1876, aforesaid. Notice of the issuance of said bonds, their character and amount, was made public to all our leading capitalists and the public generally in Texas, and bids were invited for said bonds. It was the desire of the executive to have placed these bonds in the hands of our own citizens on such terms as, in my opinion and that of the comptroller, would render our action satisfactory to the Legislature and the people. I received no bids higher than par, and certainly no premium was offered for these bonds by any citizen of Texas.

While the law would have protected the executive and the comptroller in accepting one hundred cents on the dollar, we were advised and believed that such securities were worth more than par, and, failing at home, I informed the comptroller that he would be expected to take these bonds to the city of New York (justly regarded the great financial market of the continent) and to effect a sale of the same. He did so in the month of August, 1877, and effected the sale of \$500,000 of said bonds at the most gratifying figure of *one hundred and two and a half cents on the dollar*—a premium of two and a half cents.

As compared with former sales it showed a rapid and steady rise of the credit of Texas—a confidence in our honor, as well as in our almost unprecedented strides toward material wealth and power. The actual amount of bonds sold as aforesaid, under the act of July 6, 1876, was \$500,000, at the rate of 102½, for which the State realized...\$512,500 00 Had they been sold at the minimum fixed by law, the State

would have received	500,000 00
---------------------------	------------

The sale as made realized a profit of	\$12,500 00
---	-------------

Had these bonds been sold at par, as the law permitted, and a commission of one-fourth of one per cent., as provided by law, allowed, the State would have received for the \$500,000 bonds the sum of \$498,750.

The above bonds bear interest at six per cent., and, as heretofore indicated, were sold to call in a like amount bearing interest at ten per cent., thus saving to the State in the item of interest alone the sum of \$20,000 annually.

The "American Exchange National Bank of New York" became the purchaser of said securities, having offered the highest and best bid therefor to the agent, Hon. S. H. Darden, then and now the comptroller of the state. No commissions were paid as the law allowed, he being a salaried officer of the State; but for the expenses incurred by him in going to and returning from New York at his own expense, as well as for his expenses while there, he is justly entitled to a fair and liberal compensation. There being no fund out of which these personal expenses could be paid, I respectfully recommend that an appropriation be made therefor. The law required him to sell "at such time and place," etc., as the governor might direct; hence his expenses were incurred in performing his duty as required by law.

In this connection, I take pleasure in acknowledging the obligations of the executive and the comptroller to Hon. M. Kopperl, of Galveston, for the voluntary services rendered by that worthy and patriotic citizen in behalf of the State in the matter of the sale of these bonds in the city of New York.

As authorized by the third section of the act of July 6, 1876, I have designated the "American Exchange National Bank of New York" as agent for Texas to pay the semi-annual interest as it accrues on said securities.

TAXABLE VALUES OF THE STATE, RENDERED AND UNRENDERED.

In order to obtain a proper knowledge of our basis for taxation and the levies to be made to meet *promptly* and *surely* the necessary expenses of the government, I have the honor to call your attention to the subjoined official summary of the values of the taxable property of this State, real and personal, and the classifications of the same, both as to amount and character.

The assessment rolls for 1878 furnish the following figures:

CLASSES OF PROPERTY ASSESSED.	RENDERED BY OWNERS.		UNRENDERED.	
	Numbers.	Values.	Numbers.	Values.
Land assessed in acres	61,665,964	\$123,193,654	13,467,724	\$15,205,655
Town lots		45,688,337		3,634,708
Railroads assessed in miles ...	1,734 25	14,193,836	195	1,055,246
Telegraph lines " "	2,059 25	136,264	41 2	2,675
Land certificates, acres	484,701	105,563	14,862	3,900
Steamboats, sail'g vessels, etc.	387	215,048	152	106,800
Carriages, wagons, etc.	129,212	4,826,902	1,605	78,392
Manufacturers' tools and im- plements		3,946,253		101,706
Materials and manufactured articles		352,927		13,720
Horses and mules	929,563	19,409,376	30,996	395,433
Cattle	3,395,447	18,842,165	116,965	696,389
Jacks and jennets	4,781	166,095	130	2,253
Sheep	2,494,658	3,302,784	194,044	231,772
Goats	265,770	197,819	6,352	4,615
Hogs	1,650,326	2,449,279	7,600	13,047
Goods, wares and merchandise		15,356,336		215,189
Money on hand		6,221,761		386,223
Miscellaneous property		21,811,356		658,926
Total value		\$280,415,775		\$22,786,649
State ad valorem tax		1,402,182 52		113,940 24
245,918 polls at \$2 00 each		491,836 00		8,375 00
Total ad valorem & poll tax		1,894,018 52		\$122,315 24

Total state tax

Average value of rendered land per acre

" " " unrendered " "

From the foregoing official statement it will be observed that the total value of all property rendered by property owners for taxation is.....

Amount of property not rendered

Total taxable property, 1878

The assessment rolls for 1877 showed property rendered for taxation

Unrendered

Total taxable property, 1877

Thus it will be observed there has been a shrinkage in the taxable values of the State from 1877 to 1878, in the sum of fifteen millions, seven hundred and thirty-three thousand, three hundred and forty-one (\$15,733,341) dollars. The amount of revenue, therefore, which will be collected in the present fiscal year *must necessarily* be over seventy-eight thousand (\$78,666 70) dollars less than that collected in the fiscal year which ended August 31, 1878.

That there has been a rapid depreciation in the value of property of all kinds, that our industries have been unremunerative, that there has been

and now exists a financial pressure but seldom witnessed, are unwelcome facts which must be recognized. In view of our wonderful growth and development, the annual immigration into this State of over two hundred thousand people, bringing wealth and thrifty toilers to our shops and fields; that there should, under these circumstances, be in one year a falling off in the value of our taxable property of over fifteen millions of dollars can scarcely be credited.

In this connection, I respectfully direct your attention to the necessity of devising a more just, certain and uniform system of assessing the property and collecting the revenues of the State.

It will be observed that there are 245,918 persons who pay a poll tax, each, to the State, which yields a revenue of \$491,836, and that there are 4188 persons who have not rendered their names for poll taxes, from which the revenue due is \$8,376. The total state tax which may be realized on the hypothesis that every dollar assessed is collected, will be \$2,016,333 76. Out of this amount, under authority of the Constitution, one-half the poll tax (both rendered and unrendered) must be deducted, say \$250,106 50, and to said one-half the poll tax should be added \$379,030 69, being the one-fourth of the general revenue (exclusive of poll tax) set apart, together with the aforesaid one-half of the poll tax for public free schools. These two amounts make a total of \$629,136 19, to be deducted from the total state tax of \$2,016,333 76, leaving a balance of \$1,387,197.57 to be applied strictly to the expenses of the state government (out of which the cost of assessing and collecting should be deducted) as "general revenue," *exclusive* of public schools.

A considerable per centum of this estimate will never be collected. If ten per cent. be deducted for a *safe estimate*, then there would be realized (\$1,248,477 82) one million, two hundred and forty-eight thousand, four hundred and seventy-seven dollars and eighty-two cents, to be further diminished by assessors' and collectors' fees, upon which the Legislature may safely *rely* as the certain revenues to be collected and received into the treasury. Will that amount be sufficient for the support of the state government? This, it is earnestly insisted, is the gravest problem which concerns the representatives of the people. On its solution depends whether the customary and ordinary expenditures *must* be *reduced* or additional taxes levied to meet the demands of the State.

In this connection I respectfully and especially call the attention of your honorable bodies to the estimates of appropriations reported to the executive by the heads of departments. The estimates furnished have been calculated for only *eight months*, from January 1, 1879, to August 31, 1879, and they aggregate \$806,485 60.

As a basis of calculation, the following would be the estimates required for *an entire fiscal year*, to-wit:

Executive office.....	\$25,029 93
State department.....	8,622 49
Treasury department.....	9,279 87
Comptroller's office.....	31,949 95
General land office.....	59,449 86
Lunatic asylum.....	60,000 00
Institution for the blind.....	19,179 96
Institution for the deaf and dumb.....	17,866 95
Adjutant general's office, including appropriations for frontier defence.....	210,690 00

For conveying prisoners to penitentiary.....	30,000 00
Quarantine expenses.....	12,000 00
Pensions, old and new.....	106,800 00
Attorney general's office.....	9,699 96
Judiciary.....	209,159 82
Public buildings and grounds.....	2,049 96
Department insurance, statistics and history.....	8,949 93
Interest on public debt (annual).....	390,000 00

Total estimate for one year..... \$1,210,728 68

The entire state tax on the assessed taxable property for 1878, including *ad valorem* and poll taxes, we have seen amounts to the sum of \$2,016,333 76. Of this amount only \$1,387,197 57 can be applied to *current expenses*, the remainder being for the support of public free schools. If the collectors of taxes fail to collect of this rendered and especially of this unrendered list ten per cent. of the aggregate, we have also seen that but \$1,248,477 82 can be relied on with reasonable certainty.

From these figures we deduce the following brief statement:

Estimated net revenue on present assessments.....	\$1,248,477 82
Estimated expenses of state government one year.....	1,210,728 68

Excess of assessments..... \$37,749 14

Against which must be placed the estimated amount of assessors and collectors' fees to be deducted out of the aforesaid \$1,248,477 82, which fees, I am informed by the honorable comptroller, will be nearly \$200,000, of which general revenue will have to pay about..... 140,000 00

Estimated deficiency..... \$102,250 86

Thus if the estimates of the departments be adopted, and they are less than those for the years 1877-8, on the most liberal calculation that can be made, there will be at the close of the twelve months ending December 31, 1879, a deficiency of over one hundred thousand dollars, and this, too, without any estimate for extraordinary appropriations, expenses of the Legislature, etc. On the other hand, there should be placed against said deficiency, increased as it will be by the extraordinary expense above referred to, such taxes as may be collected on tax lists prior to those of the current year.

The amount of back taxes that will so be collected it is impossible to state.

I respectfully call your attention to the fact that the estimates are in some instances too low. I do not refer to the estimates for salaries of officers or employes, but to those for transportation of prisoners and costs to be paid sheriffs, clerks, district and county attorneys, etc., as now demanded by positive laws. The estimate, for instance, for transportation of prisoners is \$30,000, yet the actual reports show that the expenses for the transportation of convicts, in pursuance of the statutes, have cost the State *annually* more than that amount from fifty to sixty thousand dollars per annum.

There have heretofore been large deficiencies in the appropriations for clerks, district and county attorneys and sheriffs, all for services rendered in pursuance of the statutes.

The estimates for the present fiscal year make no allowance for much needed improvements in our institutions of public charity; for the early organization of the recently completed penitentiary at Rusk; for state colleges, or any extraordinary appropriation, as before intimated, which the Legislature in its wisdom may adopt. The conclusion is therefore inevitable, that unless the expenses of the government be lessened, the estimated revenues will fall far short of meeting the actual expenditures of the State.

It is well to look this danger squarely in the face, for we have reached that point, it is respectfully submitted, in our financial history, when the cry of "retrenchment and reform" becomes no longer, as it too often has been, the cheap watchwords of the demagogue, but rather a palpable and imperious necessity to the legislation of Texas, from this day henceforth. Can the machinery of the state government be kept in motion, on the *present basis of taxation*, without abandoning old and cherished public policies, the protection of the frontier, and the maintenance of public free schools? Can it be done without reducing the compensation of the judiciary or otherwise impairing the vigor and efficiency of the various other departments of the state government?

Believing that our expenditures may be thus lessened, I beg to submit, with great deference, but earnestly and with strong convictions, the following

RECOMMENDATIONS IN THE INTEREST OF ECONOMY AND REFORM.

1. The funding of the pension bonds has already been respectfully advised, which if funded in five per cent. bonds after July, 1879, will save annually thereafter to the State in interest fifty thousand dollars, (just as in the recent funding of \$503,400 ten per cent. bonds into six per cent. bonds, saving in the latter case annually over twenty thousand dollars).

2. I respectfully advise that the law be amended providing for the transportation of prisoners to the state prisons, so as to enable the governor to contract for the transportation of said convicts, as follows:

That he be authorized to let their transportation to the *lowest responsible bidder*, whose duties shall be strictly defined by law, and they be bound by a contract and *bond* to transport and deliver within certain reasonable times all parties convicted of felonies and sentenced to the penitentiary, to such prison or prisons as the law may direct.

For the years 1873 and 1874-5 the cost to the State for transporting convicts averaged sixty-five thousand dollars annually. The last two scal years the cost has averaged fifty thousand dollars.

Under the present law the district judges, at discretion, appoint the number of guards; and the experience of the past shows that about two guards to each prisoner is the *general rule*. When we take into consideration the great distance of our border counties from the penitentiary to Huntsville and the magnitude of our territory, it is to be expected that such transportation would necessarily impose heavy expense upon the State. If the transportation be let to one man, or company of men, nebg the best and lowest responsible bidder, a more perfect system and discipline could be organized by those who might thus contract with the State. They would thus transport safely and promptly at regular periods all prisoners from given judicial districts, and so the contract shal require. We are not without precedent in this proposition. Texas has now over seventeen hndred convicts (1738), and our sister state of Georgia about 1300. That state *leases all her convict labor* and the

lessees pay the state \$25,000 per annum, and are bound by contract to transport all convicts from the counties where convicted and sentenced to the penitentiary free of all expense to the State. The experiment there has resulted in an annual saving in the item of expense incident to the transportation of convicts of many thousands of dollars over the old system, which she has discarded, but which is yet in force in this State. The average cost *per capita* of the transportation in that state is less than ten dollars. Here each convict costs the State not less than one hundred dollars in their transportation. It is believed that at least one-half of the present expenses incurred could be saved by this system; and should the State continue any military forces in her service, and should make this—transportation of prisoners—a part of their duty, the saving might be made *still greater*. The experiment can do no harm, since, if the bids received do not on their face show a saving to the State, the law should, of course, authorize the executive not to accept the same. It is estimated that the State could thus reduce the present expenses in this line annually twenty to twenty-five thousand dollars.

3. With a view of adding to the revenues, and in the interest of justice and equality as well, I also respectfully recommend that the present system of compensation of all officers (not salaried) who *are commissioned* by the State, be changed, for the following considerations: The standard of all fees or salaries of office should be measured by the importance and responsibility of the office to be filled and the duties to be discharged. We pay our judges of the supreme and appellate courts thirty-five hundred and fifty dollars each per annum, because they are the tribunals of last resort, and demand the highest ability, learning, integrity and experience. We pay our district judges twenty-five hundred dollars each annually, because they are next in judicial rank and importance. The executive and other departments of state are compensated upon the same hypothesis; and yet, while this is true, there are many subordinate officers, many of them purely ministerial or clerical, who receive much larger compensation than the governor of the state, the judges of the courts or the heads of the departments of the state government. In the largest and most populous counties of this State, the fees and commissions received by sheriffs, assessors, collectors, etc., amount to a compensation far in excess of the highest salaried officers of the State. I, therefore, earnestly recommend that a *maximum limit of compensation* be fixed by law for all officers, county as well as state. If the Legislature should determine that the said maximum of compensation should be (after allowing for all absolutely necessary curtailments) as much as district or supreme court judges, (\$2500 or \$3550) then let it be provided that when, if at all, the fees of these said officers reach such maximum limits, then the overplus collected be turned into the general revenue as other taxes to the State's credit. It is on this basis that the present law compensates the attorney general. He is allowed only two thousand dollars salary, "but may receive four thousand dollars, *provided* the fees of his office reach that amount," etc. All over that limit he turns into the treasury. Why limit the chief law adviser and place no limit on the other class designated?

In counties where the compensation never reaches the maximum no change is effected. I recommend that such limit be applied to *all officers* other than those receiving fixed salaries under the present constitution and laws of the State. It is estimated that a rigid execution of such a proposed law would add to our revenues annually about \$60,000.

4. The Constitution provides the Legislature *may* appropriate one-fourth of the general revenue for public schools annually.

With such resources in lands, and in funds already invested in bonds as a permanent school fund, there is no reason why at an early day this drain on the general revenue should not cease. The policy inaugurated under the act of April 24, 1874, has not met the expectation of the State. From that date till now, the sales of the school lands have only yielded *an annual* available school fund of \$7154.

The rapid increase of our scholastic population over the increase of the available school fund, derived from the sale of the school lands, as illustrated from 1874 to the present date "renders it evident (as the honorable comptroller reports,) that a change of policy is necessary." With that officer, I respectfully and earnestly recommend for consideration, the propriety of amending the law referred to, so as to permit parties desiring to purchase the State school lands, to buy without limit as to quantity, and that the restriction of selling to only actual settlers be removed. It would result in a rapid increase of the *available school fund*, and the lands thus sold, becoming *taxable* would largely increase the revenue of the State. There are twenty millions (20,000,000) of acres of school lands. The minimum price fixed by law is one dollar and a half per acre. The minimum price would eventually yield *thirty millions of money*. A sale of about one-half of these lands, at the minimum rates, would create a fund the interest of which would relieve all claims of the public schools on the general revenue, and this within a period of a very few years, thus saving nearly a half million of dollars (*ad valorem* and poll taxes now imposed,) to the pockets of the people. Our financial condition demands that the school lands should be sold at the earliest day, so as to relieve the overburdened general revenue. This policy, it is believed, would in less than a decade of years from this date yield a fund of thirty millions of dollars, such an endowment as would educate every child of Texas, irrespective of scholastic ages, and without expense to them or to the State.

5. While recognizing, in its full force, that the government in the support of her institutions of charity, her colleges, universities and free schools, should bestow an intelligent liberality worthy of our age and civilization, we cannot forget that this fostering care should never involve expenditures beyond our means to pay promptly and with honor.

The large increase of our scholastic population, beyond the corresponding increase of our available school fund, and the failure to realize any considerable proceeds from the sales of the school lands, render it necessary, I suggest that there be a reduction of the standard of our school population from 8 to 14, to 10 to 14 years of age. This reduction would enable the State to maintain the public free schools, with efficiency and for the same length of time, at a saving of *one-fourth* of that part of the general revenue now transferred each year to the available school fund, which saving, the honorable comptroller informs this department, would be very nearly \$100,000.

Therefore, as a matter of economy, growing out of our financial condition, and to avoid any *increase* of taxation, it is earnestly recommended to the Legislature to reduce the present scholastic limitation to the ages of ten and fourteen years. At these figures we have at this time between the ages of ten and fourteen years, as shown by the scholastic census, one hundred and twenty-one thousand, four hundred and sixty-five (121,465) children to educate in our public free schools.

As our resources are developed and we realize from the sale of the most magnificent educational endowment possessed by any people on earth of the same population (twenty millions of acres of land besides our university and school lands), then the doors of our common schools may indeed be thrown open, irrespective of age, to receive every child in Texas for the entire year, and without a dollar of taxes imposed directly upon the tax-payers of Texas.

6. I recommend that the law be so amended as to authorize the secretary of state to charge fees in certain cases, for all commissions and certificates under seal, etc. I especially call your attention to the able report of the honorable secretary of state in that connection, wherein he recommends such a policy. The office can thus be made at least *self-sustaining*, and the State desires no more. Our inquiries have developed the fact that in nearly all the states besides Texas their state departments are *self-sustaining*, and in the mode indicated. The annual appropriation (\$8,622 49) may thus be hereafter saved.

7. I respectfully call your attention to the recommendation of the superintendent of public buildings and grounds, who advises that the office of superintendent may now be dispensed with without injury to the State.

I concur in his recommendation, which will save to the State annually \$1200.

8. The departments of insurance and the general land office are already *self-sustaining*. The last might, besides, be made to yield a revenue. Hereinafter I propose briefly to refer to the large amounts *now due* (nearly one hundred thousand dollars) to the general land office for work and labor done, but to *compel the immediate payment* of which there is now no legal remedy. From this source *alone* many thousands of dollars may be at once realized to the State by the action of the present Legislature. I have called attention at this time and place to these departments out of their regular order *only for the purpose of submitting under the general proposition*. I am, with great deference, urging: the ways and means of relieving directly the burden of taxes and of increasing the revenue of the State. I invoke their candid consideration by the Legislature. While an enlightened and liberal statesmanship cannot indorse a "penny wise and pound foolish" policy, which drives, by miserly compensations, the wisest judges or ablest counselors from the bench, or the other high trusts of power, or the faithful clerk, employe or soldier of the frontiers, from humbler positions; nevertheless, all history teaches us that the strongest safeguard to the purity and stability of free institutions is a government which places its heel on *wasteful prodigality*, and extends its hands alike to welcome an intelligent economy in finance and *moderation* in the counsels of State.

FRONTIER DEFENCE—REPORT OF THE ADJUTANT GENERAL.

For a very full and exhaustive review of the movements and services of the frontier battalion, under command of Major John B. Jones, and of the independent company commanded by Captain Lee Hall, I respectfully refer your honorable bodies to the accompanying report of the adjutant general of the state.

On my entrance upon the duties of the executive office, on the first day of December, 1876, and on succeeding to the command of the military forces, I found that an appropriation of \$150,000 per annum for the maintenance of a battalion of six companies of rangers had been made

by the Fifteenth Legislature, extending up to Dec. 31, 1878. Major Jones had been appointed to the command by my predecessor, and continued by me, after his retirement from the executive office.

I recognize from the date of the organization of this force in 1874 the imperative necessity which *then* existed for its creation, which opinion became a *conviction* after my official connection with and observation of the great services rendered by them to an exposed and defenceless frontier. At no period of my administration has the necessity for these rangers ceased to exist. Under the law authorizing this force the governor has had the right, at any time, and now has, to disband said battalion and muster it out of service. They were continued in the field because it was believed that the extension of our settlements as rapidly as possible to the westward, the consequent reclamation of large districts of country from the savage to civilization, the consequent additions to our taxable property, and the last, but not least, consideration, the protection of the lives of the women, children and men of our border—*these were considerations* involving life and liberty which could not be measured by the "red tape" of the national war department, or by the dollars and cents of our own state government.

The treaty of annexation required that the federal government should protect all our frontiers. And yet, since 1845 to 1879, a period of more than thirty years, Texas has been compelled to spend over *two millions of money* in her own defence. Her claims for this service have been time and again recognized by our Legislatures, and presented by successive governors—including the present executive—to congress for payment through our senators and representatives.

This battalion has been reduced so as to always come within the limits of the appropriation. Under the vigilant and sagacious military eye of their commander this force has been so disposed as to guard our frontiers, at the passes of the mountains and at other salient points, and have given invaluable protection to a line of border reaching from Laredo to Red River.

All honor is due to these gallant and faithful officers and men, for the soldierly service they have performed for the State.

HALL'S COMPANY.

The company commanded by Captain Hall, under an act for the "suppression of lawlessness and crime," I also found in the field when I became governor. The reasons calling for the creation of this company continued in force, in my opinion, and have so continued to this day.

An appropriation of forty thousand dollars was made by the Fifteenth Legislature to maintain this special force. Under the act of July 22, 1876, and in the second section thereof, it is provided, "That said company shall be mustered into the service of the State of Texas for the period of six calendar months, *or longer, should the Governor deem it necessary.*"

The original organization of this company was of fifty men, rank and file.

In the month of ———, 1877, I was advised by the adjutant general that the appropriation of \$40,000 would soon be exhausted.

The company was, therefore, reduced to half of its original size, and continued some months longer under said appropriation.

Orders were then issued for the disbandment of said company. Before this order was executed many patriotic citizens of the west, whose lives and property was exposed to, and in the language of the act of the Leg-

islature of July 22, 1876, "now being depredated on by bands of criminal and lawless men, too strong to be suppressed by the civil authorities unaided, and by bandits and robbers from Mexico," these men volunteered to maintain this force by supplies and money, if the executive would continue it in the field. My reply, expressed in writing and on file, was that recognizing their condition, I would continue this company "for a longer period than six months," on the condition that the State, by my said act, should in no wise become responsible either to the men or those who advanced them supplies; and that they must look alone to the Legislature for a just recognition of these claims.

The company also, as well as others, understood these conditions. I then, and now, expressed the individual opinion that, under the terms of the law, the governor had the power to continue these troops in the military service, and that *because* of such authority these claims of the unselfish and patriotic men who advanced their private means should be reimbursed by your honorable body, to whom *all sections* of a great State look for justice and protection.

I am glad to know that the general proposition of the duty of the State, in our thinly settled communities of the west, as well as on our Indian and Mexican borders, to furnish such protection as aid to the civil authorities by military forces, *is not* a distinctive feature of any one political party. Here all political creeds and faiths find common ground of agreement, as illustrated by the record they have left of their public counsels.

To the wisdom and generous recognition of your body I commend the just claims of our fellow-citizens.

The district judges, state's attorneys, grand juries, sheriffs and county officers of *every* judicial district west of the San Antonio river, and northward to the Red river, have urged upon the executive the retention of these commands, and in their official capacities have said, that had they been withdrawn, in a large majority of cases, their courts could not have been held, and the settlements would have been driven eastward toward the Colorado, nearly one hundred miles. The following summary of arrests made by the rangers, *in aid of the civil authorities*, since the last report of the adjutant general, shows that they have not been idle, but have performed important and perilous service for the State.

For murder.....	207
Assault to kill.....	93
Theft of horses, cattle, etc.....	395
Bank robbery.....	5
Robbery.....	14
Railway train robbery 9, stage robbery 5.....	14
Burglary.....	6
Rape.....	7
Releasing prisoners from custody.....	1
Jail breaking.....	23
Resisting civil authorities.....	2
Disturbing peace (mobs).....	16
Arson.....	1
Forging land titles and other forgeries.....	22
Escaped convicts.....	12
Embezzlement.....	3
Perjury.....	1
Organizing in violation of neutrality laws.....	48

Other arrests for felonies not stated.....	140
Miscellaneous and minor offences.....	94
Bigamy.....	4
Swindling.....	11
Bribery.....	3
Total number of arrests.....	1,122

Besides the above service, they have stood guard at their posts, and have followed twenty-one (21) Indian trails, pursued seven hundred and nine (709) felons, engaged in nine hundred and sixteen (916) scouts, acted as escorts to prisoners, or courts, etc., in two hundred and twenty-seven (227) instances, assisted civil authorities two hundred and seventeen (217) times, guarded fifty-seven (57) jails, recovered and restored to their owners two thousand eight hundred and twenty-eight (2828) head of horses and cattle. Of criminals killed and wounded, in resisting arrest, there have been twenty-eight (28), and of the rangers, two have been wounded, and five killed on duty.

A reference to the rapid growth in the wealth and population of the counties on our frontier *since* the organization of these state forces, gives indisputable evidence that the State has been richly repaid in revenues alone, imposed upon said increase of the taxable property. For instance, the assessment rolls returned to the comptroller in 1874, of the *then* border counties of Bandera, Brown, Burnet, Clay, Comanche, Eastland, Frio, Gillespie, Hamilton, Jack, Kerr, Kinney, Lampasas, Llano, Mason, Maverick, Menard, Montague, Palo Pinto, Parker, San Saba, Wise and Young, showed only a taxable property valued at ten millions, four hundred and twenty-six thousand, four hundred and twenty-three (\$10,426,423) dollars. The rolls for the same counties for 1878, on same basis of valuation, show a taxable property of twenty-one million, nine hundred and ten thousand, two hundred and forty-five (\$21,910,245) dollars; an increase of over eleven millions of dollars. The same proportion of increase is observed in the counties more recently organized.

It is a well established fact that the presence of the frontier forces enabled the counties of Young, Clay, Shackelford, Eastland, Coleman, Kimble, Tom Green, McCullough, Presidio, Pecos, Taylor, Stephens, McMullin and Callahan to organize and settle, while other counties from the same causes are now ready to organize.

It is a fact that for more than twelve years prior to the creation of the frontier battalion and its service in the west, *no new county had been organized.* "On the contrary," the adjutant general reports, "three counties (Young, Coleman and Stephens) had been depopulated and had lost their county organizations, and hundreds of citizens had been *compelled* by the Indians to abandon their homes in the *other* frontier counties."

If the same progress marks the history of that section under like causes in the future, many years will not elapse before the savage will be a stranger within our lines, and the State, along her border, will be securely protected by a "living wall" of her own hardy and patriotic people.

The presence, hitherto, of the rangers has given *peace* to that country, so that there is to-day less lawlessness and crime in the field occupied by them than in the interior of the State among older communities and

under the very shadows of the temples of justice and amid crowded populations.

The noted and outlawed criminals—many of them only through their aid—have either been killed in their capture, sentenced to the penitentiary, or have met their just doom upon the gallows.

I earnestly recommend that the present frontier policy be continued in such manner as the wisdom of the Legislature shall determine.

PUBLIC LANDS—GENERAL LAND OFFICE.

The very exhaustive and interesting report of Hon. Wm. C. Walsh, commissioner, herewith transmitted, presents a most satisfactory statement of the condition of the public lands, and of the general land office, during the last fiscal year.

From this report we have the number of acres patented during said period, 5382 patents, embracing 2,921,992 acres.

The fees and dues received at the general land office for the same period are as follows:

Office fees.....	\$15,691	27
Patent fees.....	32,723	50
Government dues.....	511	33
Pre-emption dues.....	20	00
Total amount received.....	\$48,946	10

The denomination of certificates, with quantity of land issued, were—

To railroad companies.....	1,312,000	acres, and to state, 1,312,000	acres
“ irrigation “.....	42,240	“ “ “	3,840 “
“ counties, under act March 13, 1873.....	123,984	“
Special act certificates.....	5,885	“
Totals issued.....	1,484,109	“	1,315,840 “

The liabilities of the State, on the public domain, are as follows :

Increase of liabilities.....	2,799,949	acres
Liabilities heretofore reported.....	127,724,033	“

Total present liabilities.....130,523,982 “

The estimated area of the State is.....	172,604,160	“
Liabilities as above.....	130,523,982	“

Area against which there is no outstanding claim..... 42,080,178 “

From this last amount should be deducted the area in our bays, etc..... 1,722,880 “

Also the Texas and Pacific railroad reservation (not now subject to location)..... 9,322,000 “

Aggregating..... 11,054,880 “

to be deducted, which leaves to the State to-day only thirty-one million twenty-five thousand two hundred and ninety-eight (31,025,298) acres, against which there is no outstanding claim whatever.

UNIVERSITY LANDS.

The commissioner reports the university lands located as follows :

Cooke.....	22,218
Fannin.....	39,520
Grayson.....	72,700
Hunt.....	7,544 $\frac{3}{4}$
Collin.....	2,582 $\frac{3}{4}$
Lamar.....	12,146
McLennan.....	41,193
Shackelford.....	17,420
Callahan.....	4,582

Aggregating a total of..... 219,906 $\frac{1}{2}$ acres

whose average value is estimated at three dollars and a half per acre, making \$769,672.

ASYLUM LANDS.

The asylum lands are located in the counties of Callahan, Comanche, Eastland, Jones, Shackelford, Stephens, Taylor and Tom Green, as follows:

Orphan asylum.....	103,229 acres
Deaf and dumb asylum.....	101,644 "
Institute for the blind.....	102,642 "
Lunatic asylum.....	100,100 "

Total number..... 407,615 acres

The amount of receipts of the general land office for the four fiscal years ending respectively August 31, 1875, 1876, 1877 and 1878, has been.....	\$245,097 61
Amounts appropriated.....	229,900 00

Amount of receipts in excess of appropriations.....	\$15,197 61
To which should be added <i>unexpended</i> balance for same year.....	5,987 11

Total excess of receipts..... \$21,184 72

Included in the above appropriations is the amount of salaries of two clerks and one draftsman for compiling abstract of titles for the use of the comptroller and the assessors' offices—no part of the legitimate expenses of the department—which is \$4500 per annum for three years, making \$13,500 additional, which should be a *credit* to the land office. This would make the receipts of this department for the two years above named \$34,684 12, *in excess of expenditures*. This important office, therefore, is *self-sustaining*, and instead of draining, rather adds to the state revenues.

I respectfully call your attention to the present pressing necessity for legislation in connection with this department.

The commissioner reports that there are now in his office three thousand patents, which have been issued on the application of owners or agents, and which are retained for non-payment of patent fees, amounting to *twenty thousand dollars*. He also reports that there are over five thousand claims which have been placed on the maps "examined and made "ready for patenting; in fact," as the commissioner states, "all the

“work of this office completed, except the writing out of patents, for which no patent fees are deposited, nor do the owners care to pay the fees, being *satisfied* that their claim to the land is now beyond question.”

I am informed by the commissioner that the aggregate amount of fees thus due to the land office approximates *eighty thousand dollars*. Cannot some measure be enacted by the Legislature to *compel* the speedy payment to the State of this large amount, for which the labor of this department has already been rendered? Might not the amount of fees thus due be added to the taxes on said lands and required to be collected as ordinary *ad valorem* taxes? *It is due*, and the *lands* in some manner should be made liable therefor without any unnecessary delay of suits in court.

For the *future*, at least, to prevent a recurrence of this evil, by requiring the deposit of the patent fee when the certificate and field notes are filed, the revenues of the office would be largely increased; and when the work is done the patents could be forwarded to the owner at once or kept subject to his order.

There are other recommendations contained in this able report of the commissioner, which cannot now be enumerated. I concur in them all, and respectfully call your attention thereto and recommend their adoption.

Upon the decease of Hon. J. J. Groos, late commissioner of this office, on the 15th day of June, 1878, Hon. Rhoades Fisher, then and now chief clerk, became the acting commissioner until the first of August last. To the intelligent zeal and fidelity with which he discharged the duties of this important office during that period, I testify with great pleasure, in this formal and public manner. On the first of August, 1878, I tendered the appointment for the unexpired term of the late commissioner (Hon. J. J. Groos) to the present and recently elected commissioner, Hon. W. C. Walsh, whose knowledge of that department, and whose executive ability, thus far manifested by him, give promise of a most useful and honorable administration in the future control of the general land office.

PENITENTIARY.

When I entered upon the duties of my office I found upon the statute book of the State, a law but recently passed, mandatory in its terms, requiring the governor to resume the possession of the penitentiary at Huntsville (General Laws Fifteenth Legislature, chapter 113, pp. 193-6).

Of the *causes* which made, from every standpoint in which the subject can be viewed, the passage of this law an imperative necessity, it is needless now to speak. The able and elaborate report of the commissioner appointed by my predecessor in 1875, as well as the able and fearless report made by the special committee appointed by the house of the Fifteenth Legislature, of which Hon. W. S. Coleman, now a representative of your honorable body, was chairman, are accessible to you. [The latter will be found on page 395 of the house journal, Fifteenth Legislature.]

I was well aware of the immense responsibility and care—greater by far than all else connected with my administration—to ensue from an attempt to carry out this law, but the Legislative will was too positively expressed, to admit of doubt, as to my duty in the premises, and I determined at whatever cost of personal labor, anxiety and even vexation to resume. Before, however, taking formal action in this direction I required the lessees to pay the \$15,000 of lease money, which they had been owing since July 5, 1876. This was paid into the treasury in —, 1877.

Amongst the many difficulties that presented themselves was the disposition to be made of the penitentiary and its convicts between resumption and the making of a new lease. An inventory would have to be made of all the property returned by the old lessees to the State in order to know what the State had to lease, and an advertisement published of the terms and conditions thereof, and timely and fair notice given to all persons proposing to bid. This would necessarily take several months and in the meantime the penitentiary must either be supported and operated by the State, consuming in a little while the \$30,000 which had been appropriated for the purpose or temporarily hired to some one who would pay all the expenses and perhaps something additional in the way of lease money. As it was left to the governor to resume "in such manner as he might deem necessary or expedient," I concluded if it could be effected to make a temporary hiring until the new lessees should be ready to take charge. Judge James E. Shepard, of Travis, who was afterward appointed by me one of the three commissioners authorized by the resumption act, went at my instance to Galveston to examine into and report upon a proposition for such temporary hiring that had been made by Messrs. Burnett & Kilpatrick of that city. He returned with a bond or guaranty signed by said Burnett & Kilpatrick, and many of the most responsible men of Galveston, by which the State was to be paid at the rate of \$20,000 per annum lease money, and saved harmless from all such expenses as the State would have had to pay if the penitentiary had been operated by her. His action in this behalf met my approval, I then and still believing that it was the best thing that could be done under the circumstances.

Having thus bridged over the difficulty by securing the State against what I was satisfied would be a heavy expenditure and considerable loss if she undertook to operate the penitentiary in the *interim*, I was at once met by another which promised at the outset to be very embarrassing. The old lessees, being informed of my purpose to resume, retained several prominent lawyers who took the position that the act authorizing resumption was unconstitutional, because impairing the obligation of the contract of lease, under which the old lessees were in possession of the penitentiary and entitled to the labor of its convicts; and gave me notice that they would resist, by all legal measures in their power, any effort on my part to deprive them, without their consent, of their control over the same. Without conceding this position, notwithstanding some decisions were found, notably one by the supreme court of California, where a similar controversy had arisen, which seemed to support it. I deemed it best, after consultation with the attorney general, Hon. H. H. Boone, and Hon. A. J. Peeler, who was afterward retained by me as counsel for the State, to extend the date of resumption to April 1, 1877, the lessees agreeing, as they did in that event, to quietly and peacefully surrender possession without any obstruction or hindrance from them whatever. I was not only influenced to this course by a desire to avoid litigation, but inasmuch as the law left the time and manner of resumption to my discretion, I thought it but just to give the lessees an opportunity to protect themselves by timely arrangement from the disaster, which they represented would fall upon themselves and others by sudden resumption.

Accordingly, on 1st April, 1877, Messrs. Burnett & Kilpatrick took charge of the penitentiary and its convicts, under their temporary contract of hiring. In the accomplishment of resumption I found it neces-

sary to avail myself of the aids and agencies which had been wisely provided by law, and without which, it would have been well-nigh impracticable. I retained as counsel for the State, Hon. A. J. Peeler, former assistant attorney general of the state, and one of the commission appointed in 1875, and author of its report—whose intimate acquaintance with the subject, and energy as a lawyer, made his services invaluable—and Messrs. Randolph & McKinney, of Huntsville, whose presence upon the ground, and high standing in their profession rendered their assistance not less desirable than it has proved to be important.

The extent of the labor performed by each of these gentlemen, and the promptness and ability with which they have at all times met and disposed of the various difficult and, in many respects, novel questions presented to them, can scarcely be appreciated by those not familiar therewith.

I appointed as commissioners, Judge James E. Shepard, of Travis, Major H. K. White, of Ellis, and Captain I. T. Gaines, of Lamar, and as superintendent, Hon. Thomas J. Goree, of Huntsville, all of whom are still holding their positions, and in all respects have faithfully discharged their responsible duties. It may be regarded as an epoch in the history of penitentiary management in this State, that as against these gentlemen who have been in office now nearly two years, and who are the real guardians of the interests of the State in the management of an institution of such proportions as must be a penitentiary with its 1,700 convicts, a considerable number of whom are at camps outside the walls, standing between the State and the lessees, and having to do with so many persons, holding or occupying toward the penitentiary, its property and convicts, some sort of business or other relation, not a complaint has reached the ear of the executive.

I appointed as appraiser in behalf of the State, General W. P. Hardeman, of Galveston, and the firmness, excellent judgment and conscientious care with which he discharged his duty, has convinced me and all others acquainted therewith, that his selection was indeed most fortunate, that the thorough manner in which the appraisement was made has been worth many thousands of dollars to the State. I appointed Mr. A. E. Davis, a skillful accountant, of Huntsville, to aid in making the inventory, and through his labors the work was greatly expedited.

The appraisement and inventory were completed and filed in the office of the secretary of state, July 16, 1877, a copy of which I caused to be furnished to the lessees and notified them that I was ready to do anything in my power looking to a fair and speedy settlement of all matters between the State and themselves growing out of the lease, without litigation, as provided by the law authorizing resumption. Receiving no response, and after waiting for more than a year for them to bring suit against the State, as they were expressly privileged to do by said law, I thought it my duty—the attorney general, Hon. H. H. Boone, with whom I advised, concurring with me—to institute suit against them and their sureties, claiming a balance due the State of \$72,817 10. I accordingly retained Hon. A. J. Peeler, who, as before stated, was familiar with the whole matter, together with his partner, T. S. Maxey, Esq., to represent the State in the prosecution of the suit, and the same was promptly brought and is now pending in the district court of Travis county, thus leaving to judicial determination, and to the courts, where it would seem properly to belong, the settlement of a matter that, if left

open, must have occasioned much trouble and occupied much of the time of the Legislature.

When the appraisement and inventory was completed it was midsummer, and as some ninety days would be required to give sufficient notice to enable parties outside as well as in the State proposing to bid to inspect the penitentiary and fully acquaint themselves with the terms and conditions upon which the lease was proposed, and to secure bondsmen and make arrangements to take charge of so large and expensive an enterprise in the event the bid was awarded them, and as it would have been disastrous to a considerable number of planters who had contracted for the year and were entirely dependent upon convict labor to save and put their crops in marketable condition--to have suddenly deprived them of its labor before its close--I thought it best to fix on the time when the new lease would begin--January 1, 1878. I accordingly, by proclamation published in a large number of the leading newspapers in and outside of the State, gave notice of the letting of said penitentiary for the term of five years from January 1, 1878. Suffice it to say, without going into details, I endeavored, whilst inviting the freest competition of bidders, to take every precaution to place them all upon an equally fair footing. The bids were required to be addressed to the secretary of state in sealed envelopes, and were opened in his office by him in my presence and that of the attorney general, and in the presence of all such bidders or their representatives as desired to attend. Col. Ed. H. Cunningham, of Guadalupe county, being the highest and best bidder, among a large number of bidders, the lease was awarded to him and the possession of the penitentiary and its property and convicts delivered to him January 1, 1878. In this connection it may be well to state that afterwards, being satisfied that the State could in no manner be prejudiced, but rather benefited thereby, I consented that Col. Cunningham might associate with him Mr. L. A. Ellis, of Jefferson, who remains all the while at Huntsville. As under the law this lease is subject to the approval or revocation of your honorable body, and to this end it is necessary for you to know its terms and conditions, as well as those of the bond given to secure the performance thereof, I have appended to my message for your information a copy of said bond, in which said lease is recited in full. I would like--and but for the great length of this message--would be glad to direct your especial attention to the object of some of the provisions of the lease and to the advantages to the State sought to be attained thereby. I am persuaded you will find it, so far as its protection of the interests of the State are concerned, in all respects sufficiently exacting, and that many questions left open in the lease to the former lessees, giving rise to embarrassing controversies as to their relations and duties to the State and to the convicts, are covered and settled in this by definite stipulation. Under this lease not only are the lessees bound to feed, clothe, lodge and provide for the convicts, but the State receives three and one-one hundredth dollars per month for each convict, without regard to physical capacity, and with the understanding that no deduction is to be made for convicts that may escape or be sick or otherwise incapacitated from labor, provided that in the case of escaped convicts the lessees are not to pay for any longer period than the 31st day of December next after the date of escape. In addition to the monthly hires, the lessees also pay each month \$729 16 $\frac{2}{3}$, to cover the salaries of the commissioners, superintendent, physician and

chaplain, and a reward of \$25 and the actual expenses not exceeding \$10, incurred for the apprehension and return of each escaped convict that may be returned during the lease. They further furnish each discharged convict with a suit of clothes and \$20, and supply each convict with postage and stationery for one letter per month.

By the report of the superintendent, Hon. Thomas J. Goree, which is worthy of commendation for the unusual fullness and value of the information it contains, the State will receive for the hire of convicts, for the year 1878, not less than \$62,340 95, to which add the amount paid for salaries, \$8,750, and for recaptures, \$2,853 84, and we have, to say nothing of the \$20 to each discharged convict, and other items that might be mentioned, the sum of \$73,944 79. More actual cash goes into the treasury under this lease in one year than has been paid into it from the establishment of the penitentiary to the making of this lease, and for the first time in the history of this institution does it yield a clear profit.

With respect to the statistics of the penitentiary, its industries and the management and treatment of the convicts, you are respectfully referred to the reports of the commissioners, superintendent, physician and chaplain, all of which will be laid before you. Notwithstanding the most stringent rules and checks that the officers of the penitentiary have within the limits of legal authority been able to devise, the expense of transportation of convicts seems to increase. The vouchers issued to sheriffs, as shown by the superintendent, for the months of September, October and November, 1878, amounting to \$18,627 50. If continued at this rate they will reach in one year the enormous sum of \$74,510 00. Your attention is respectfully invited to what the superintendent has to say upon this subject, and I submit, as worthy your serious consideration, whether, among other reforms in the interest of economy to be inaugurated by you, some less expensive and equally safe mode of getting convicts to the penitentiary, should not be devised. Your attention is also directed to the useful suggestions to be found in the report of the commissioners. Some of the repairs and improvements recommended by them should no doubt be made, and would have been authorized by me before this, but I thought it best, as you were soon to meet, to leave the matter open until, through committees of your honorable bodies, who would visit the penitentiary and see for themselves, you could obtain all needful information as to their necessity and propriety. The excellent manner in which the penitentiary has in all respects been managed, and the humanity with which the convicts have been treated by Messrs. Cunningham & Ellis, induces me unhesitatingly to recommend a ratification of their contract, if in your judgment the lease system should be continued. They have proved themselves to be the right men in the right place, and I cannot but regard the State as fortunate in securing for lessees gentlemen of such high integrity, business capacity and energy, and so well fitted to deal with interests of such magnitude and in which the whole people are so vitally interested. I also recommend, in concluding what I have to say on this branch of my message, equally as unhesitatingly, that the East Texas Penitentiary, at Rusk, just completed at a cost to the State of \$160,000, and with the capacity for 1000 convicts, be filled. I do this not alone because this valuable property should be utilized and not be allowed as an empty structure to go to decay, but because the general and well founded public sentiment expressed so often and in such various forms in this State in favor of keeping convicts within prison walls indicates a policy that should be enforced.

EAST TEXAS PENITENTIARY.

On assuming the executive office I found devolved upon me the duty of carrying out the provisions of the law authorizing and requiring a penitentiary building to be erected at or near the town of Rusk, in Cherokee county.

The contract for the building of said penitentiary, with certain plans and specifications thereto attached, had been let to Messrs. Kanmacher & Denig, of Ohio, they being the lowest bidders for said contract. A sufficient bond was required to be executed by them before a final ratification of said contract. Not until some months after my term commenced did the contractors present a bond for my approval. Though a solvent bond in *Ohio*, in which state the principals, as well as the sureties, resided, I decided that none but a Texas bond, with our own citizens as sureties, could be accepted. In due time such bond was presented and approved.

Upon examination of the plans and specifications of the proposed building, it was the opinion of the executive (in which opinion he was sustained by the board of commissioners designated by law) that many of said specifications were indefinite, and such as, if not specifically defined and in writing, might thereafter draw the State into legal controversies, and thereby entail great loss.

These plans and specifications were therefore, by the aid of competent architects, so accurately defined and explained as to leave no uncertainty as to the result.

On this basis the contract was ratified and the work begun.

As the statute contemplated and required, I appointed a board of inspectors (Messrs. S. N. Pickens, of Anderson county, and J. W. Grant, of Dallas county,) to superintend said work as it progressed, and to make monthly reports of same to the executive, together with monthly estimates for the work done, for the contractors, (reserving five per cent. on all estimates) before any warrants could be drawn against the appropriation made by the Legislature to erect this building.

I herewith call your especial attention to the accompanying report of the inspectors with maps and drawings illustrating their report, showing the progress, character and completion of the work.

The buildings are completed and are believed to be better in material and construction than any similar building in the southern states. It has *capacity* for one thousand convicts, and has all the modern improvements, as to ventilation, drainage and safety.

In the progress of a work of such magnitude the inspectors found it necessary to have certain *extra* work done by the contractors, which they report as being an *absolute necessity*. I recommend that the accounts for such work, as in your judgment could not have been dispensed with, be provided for by your honorable bodies.

I also earnestly recommend that a joint committee of the Senate and House, of such members as you may confide in on such a practical mission, be appointed to visit this penitentiary building and make report thereof to the Legislature.

I have carried out the contract, already made before my official term commenced, and have great pleasure in expressing the opinion to the Legislature that said contract, made during the administration of my predecessor in office, has now been faithfully fulfilled in letter and spirit, and greatly to the interest and advantage of the State.

With the mineral (iron) and other lands purchased by the State it has cost the State \$160,000, for which the State has received full value in return.

Before being utilized, however, strong walls must be built around the prison and other expenditures necessarily made, for which it is the province of your honorable bodies to provide at the earliest day compatible with the public interests.

To prevent the destruction of this valuable public property, which might have resulted if left untenanted and unguarded, after its completion, I authorized the employment of two citizens to guard and protect said public buildings, both by day and night, so as to keep a constant watch at all times. Their compensation should be provided for, there being no present fund out of which the executive could pay for such services. Such a trust, requiring men of fidelity, and demanding vigilance at all hours, I contracted with them at the rate of two dollars and a half each per day, subject to the ratification of your honorable body.

ATTORNEY GENERAL'S DEPARTMENT.

The able and interesting report of Attorney General Boone is herewith transmitted and commended to your earnest consideration.

I concur in all the recommendations proposed by him, and indulge the hope that they will be adopted by your honorable bodies.

—To a few, only, of the leading subjects of his report, can I make special mention in the limits of this paper, as being of grave importance in your deliberations. One of these relates to the certificates issued to contractors for work done, under the act authorizing the cleaning out and rendering navigable the *Bernard river and Caney and Oyster creeks*.

The attorney general reports in relation thereto that "on the sixteenth day of July, 1877, the commissioner of the general land office issued four hundred and forty-six land certificates of six hundred and forty acres each to the contractor for work claimed to have been done in cleaning out the Bernard river; and on the same day one hundred and twelve land certificates for six hundred and forty acres each, for work claimed to have been done in cleaning out Caney creek. These certificates were issued against the official advice of the attorney general, and over the protests of both Governor Coke and yourself. It is believed their issuance was wrong, and that the contractor was entitled to but a small portion, if to any, of the certificates issued upon either stream. I respectfully suggest that the matter should be investigated, and if it be found that these certificates were improperly and wrongfully issued, without consideration or benefit to the State, because of the fraud of the contractor in failing to comply with his contracts and the provisions of the law under which these contracts were awarded, that by proper legislation, these certificates or so many of them as it shall be determined were wrongfully issued, should be annulled. If they have been located the locations should be vacated. County and district surveyors should be prohibited from receiving them for future locations, and the commissioner of the general land office should be prohibited from issuing patents upon surveys made by virtue of them."

I adopt the foregoing report and earnestly recommend that legislative action be had in accordance therewith.

In addition to what is stated by the attorney general, I have to inform your honorable body that Hon. George McCormick, assistant attorney

general (and now attorney general elect), made a personal inspection of the work done by the contractors on said streams, and his full and exhaustive report on the facts involved fully sustained the opinion of Attorney General Boone and my own, that the claim to certificates, under the contract, was illegal and unfounded. I therefore declined to sign any patents on said certificates, and issued due notice thereof, both to the commissioner of the general land office, and—by proclamation—to the public at large.

I also respectfully call your special attention to his report concerning the recent

FORGERIES OF LAND TITLES.

Under the acts authorizing the employment of a detective, and defining the crime of forgery in certain cases, I have the gratification to report that the State has prosecuted most successfully many criminals who were detected in these frauds, and the prosecutions still continue in the courts.

In this connection I respectfully call your attention to the fact, that under the contract made by my predecessor with Amos P. Foster, Esq., the latter was to receive a compensation for all convictions for forgery of Texas land titles, as contemplated under the act, obtained through his agency in the following terms, to-wit:

“Judge A. P. Foster, Washington, Missouri:

“SIR—By the authority of ‘An act to authorize the governor to employ a detective to ferret out frauds in regard to land claims against the State, and to make an appropriation to defray the expenses of the same,’ approved February 15, 1875, I have this day appointed you the detective contemplated by the above recited act.

“Your compensation shall be as follows:

“1. Upon receipt of your acceptance of this appointment, upon the conditions herein named, the State will pay you one thousand dollars (\$1000.)

“2. For each conviction obtained by you, or by evidence furnished by you, the State will pay you seven hundred and fifty dollars (\$750.)

“3. The State will pay the expenses of bringing arrested parties to such points as may be designated, for trial.

“4. Whatever expenses you may incur in hunting up the proof of the guilt of the persons believed to be engaged in committing the forgeries, and in employing agents to assist you, must be borne by yourself.

“5. Should it become necessary for you to visit Texas in obedience to the suggestion or request of the governor, the State will pay the necessary actual traveling expenses of coming to and returning from this State to your home.

“This letter is to be considered your commission and authority in the premises.

“Very respectfully,
“[Signed] “RICHARD COKE,
“Governor of Texas.

“EXECUTIVE OFFICE, AUSTIN, Nov. 9, 1876.

“Attest:

“GEO. T. DASHIELL,
“Private Secretary.”

Shortly after my accession to this office a request of the president of

United States and of the postmaster general being made therefor, I succeeded in having Judge Foster ordered to report to me for duty, and to be subject to my order in connection with the detection of these frauds.

The whole time of this agent being now devoted to this difficult work with the invaluable assistance of the chief clerk of the general land office, his labors were soon crowned with success.

The State, by consent of the agent, modified the above contract, who agreed to receive five hundred dollars hereafter for each conviction obtained through his instrumentality.

The small appropriation made by the Fourteenth Legislature has been exhausted by the preceding and present administrations, under the advice of the law department of the State, and in strict pursuance of the contract aforesaid, and the act authorizing the ferreting out, arresting and punishing of the criminals engaged in these forgeries.

The expenditure has been amply repaid by the successful destruction of the grandest land fraud of modern times, and the conviction of many of the chief criminals and the arrest of others awaiting trials.

For a full history of these frauds I refer to the report of the attorney general. The State is under obligations to this officer for his vigorous and able prosecution of these cases, as well as to Hon. Rhoads Fisher, chief clerk of the land office, and especially to Col. Foster, whose services in detecting and arresting the chief actors in these forgeries, are invaluable.

Under his contract with my predecessor, as subsequently modified by me, the State is now justly due to Col. Foster the amounts stipulated to be paid for each conviction obtained by his agency. The amounts already received by him for services rendered are, of course, placed to the credit of the State against this just and valid claim. I heartily join with the attorney general in his just estimate of the able services rendered by Hon. T. E. Sneed, in assisting in these prosecutions in the district court, and recommending that his services may be duly recognized and liberally provided for in the future.

I cannot, in conclusion, suffer this occasion to pass without rendering a just and deserved tribute to the fidelity, zeal and great ability with which the attorney general (Hon. H. H. Boone) has signalized his administration of the law department. Voluntarily retiring, as he does, from his high station, he carries with him into honorable private life the confidence of his associates here in the public service, and the consciousness of duty ably and fearlessly performed for the State.

CONSTITUTIONAL AMENDMENTS.

A final report from the retiring executive at this time would be incomplete in the absence of any allusion to our organic law and a statement of its practical operations during the short period which has elapsed since it went into effect.

Adopted, as it was, by a very decided majority of our voting people, there were serious misgivings on the part of many who gave their sanction at the polls that perhaps some of its novel and untried provisions would prove impracticable, and that the many restrictions thrown around the practical machinery of the State would, in the end, seriously embarrass the government and produce confusion in its administration.

But, looking back now at our recent past history, and reviewing the difficulties which have presented themselves and those which we have

surmounted, it is ascertained beyond question that the fears of a respectable minority of our people were not well founded, and that our organic law, although still imperfect in some of its details, has demonstrated its excellence by practical experience and operation, and should not be idly displaced or tampered with. Under its salutary effect the accumulation of public indebtedness has been wholly curtailed, the outstanding debts of many counties have been extinguished, the annoyance and expense of special legislation have been almost altogether abolished, the public revenues of the State have been better collected, crime has been more thoroughly detected and punished, and the dockets of many of our inferior courts have been cleared of their accumulations and speedy justice administered between litigants in accordance with the behests of our Bill of Rights.

Some of these blessings might have been possible of accomplishment under former systems, but for a majority of them we are indebted to our present Constitution. It could not be expected that it would prove wholly good, coming, as it did, from human hands, but in approaching the delicate task of its amendment we should be mindful of the good developed in it and take care to hold fast to that, while reaching out for the attainment of additional excellence, and the correction of manifest defects. On principle an organic law should be seldom interfered with by legislation, but should remain fixed and stable, to be studied and understood by the people, with the aid of constantly recurring expositions from our highest courts and wisest judges. Frequent changes tend to beget a spirit of unrest and to induce a want of respect for that which has become the key-stone of American republicanism. A fixed written Constitution for each state and the nation, constitutes the distinguishing characteristic of our system of republican government, and the corner-stone of our future hopes as a people. Let us not so act as to educate our people to look for constant change at each recurring session of the Legislature, but at the same time let us not flinch from the responsibility of proposing such corrections as the necessities of this State imperatively demand at our hands.

From careful observation, it occurs to me that the chief defect in our present Constitution arises from the inadequate machinery provided by it for the dispatch of litigation when appealed to our higher courts. The overcrowded state of our appellate dockets was appreciated by the convention which framed the Constitution, and steps were taken by that body to provide adequate relief therefor, by the creation of a court of appeals, and vesting it with jurisdiction over appeals in all criminal cases, and of appeals from the county courts in civil cases. This action, it was thought, would afford sufficient relief to the dockets of our supreme court to enable that tribunal to dispatch all civil business then standing upon its dockets, and also all new business that might come before it. A limited experience of scarce three years has disappointed our just expectations and demonstrated the urgent necessity for further relief. Notwithstanding the division of labor so inaugurated, our supreme court is further behind in its business than at the date of the adoption of the Constitution; and the court of appeals which, during the first year of its existence, kept even pace with the accumulations upon its dockets, since the expiration of that time, has found itself unable to dispatch appeals as fast as they accumulate, and as a consequence, its dockets at Austin and Galveston, and especially at the former place, show a large accumu-

lation of cases undisposed of and awaiting action. No candid citizen who has had an opportunity for observing the amount of labor performed by the judges composing the two courts, will hesitate to attribute this lamentable condition of affairs to the inadequacy of the system, and not to the dereliction of the individuals composing the two courts. Of all the public servants of the State, none are compelled to perform such ceaseless labor as they; and it is due to them, in a lesser measure, as well as to the public interest in a greater, that machinery fully adequate to the speedy dispatch of business be provided without delay, by preliminary suggestion from your honorable bodies, and final ratification and adoption by the people. In the multiplicity of theories for relief, and the almost universal conflict of opinion thereon, I cannot hope that any suggestions I may make upon the subject will escape hostile criticism, or commend itself to the judgment of even a majority of your honorable bodies; but my purpose will be fully effected by drawing your early attention to this most serious grievance, leaving you in your combined wisdom to adopt some measure that will afford immediate and effective relief to the people of the State, for they are the sufferers from this condition of things. Nor can I be expected to do more than convey a general outline of my impressions in a communication like this, without attempting any discussion or going into detail.

The court of appeals has demonstrated its capacity to dispatch all appeals of a criminal nature, and I can see no reason why their jurisdiction should not be limited exclusively to that character of business. It is most important to the State and to every citizen, financially as well as morally, that our judicial machinery for the suppression and punishment of crime should be fully adequate to our necessities, and in case of conviction as little delay as possible should occur in the decision of appeals taken therein. The certainty and celerity of punishment is the most important factor in the suppression of crime, and as by experience we have ascertained that the disposal of appeals in criminal cases, will occupy the full time of this court, sound policy would seem to dictate that it should be relieved of its civil jurisdiction in the former class of cases, rather than we should embark upon further experiments, by its abolition or consolidation with other tribunals. With the consolidation of all civil business in the supreme court, the danger of conflict in decisions is greatly decreased, if not altogether dissipated, and the main argument against separate appellate tribunals, is met and answered.

A more serious question presents itself with reference to the appropriate remedy for the clogged condition of our supreme court dockets. Evidently any reform, to be efficient, must be of a radical character, either as to the constituent number of the court, or the mode of perfecting, hearing and deciding appeals. As was recently well said by the present learned chief justice, "it is utterly beyond the ability of this court, under the present system and rules of practice, to keep pace with the accruing business, much less bring up the arrearages of former terms. The delay in the decision of cases pending in the court, for the past three or four years, is even now almost tantamount to a denial of justice; and, unless some remedy can be found and the business dispatched more rapidly, it will soon be a debatable question whether it would not be better for the court to be entirely abolished." (48 Tex. R., p. 616.)

Whatever reform may secure the approval of your honorable bodies, I must be pardoned for reminding you that the vast extent and varied in-

terests of our State, and the immense population, present and prospective, within its borders, demand a judicial system of no ordinary character, and that a system suitable to small states, or to ours in its infancy, will not suffice for us now. Two millions of people cannot have their rights speedily adjudicated by a judicial machinery provided for and adapted only to the wants of three hundred thousand; and on applying a remedy to these defects, let us not sacrifice *efficiency* for the sake of false *economy*, but let us rather pursue the methods of a true and real economy by providing courts in which "every person for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law."

The delays in our appellate courts sacrifice vast interests of our people each year, and dwindle into insignificance the paltry sum requisite for the compensation of a few additional judges. I cannot say that a temporary tribunal in the nature of a supreme judicial commission, vested with authority to decide the present causes upon the supreme court docket commends itself to my judgment. Apart from its being a mere temporary expedient, which would only relieve *present ills* and necessary to be repeated every few years, the difficulty of obtaining competent persons, learned in the law, to occupy a temporary position of that character to the exclusion and abandonment of their regular professional engagements, might present a serious obstacle to the success of the plan. In addition to this, the decisions of a tribunal so constituted would not, in the nature of things, command that respect readily accorded to a regular court, and citizens forced by an arbitrary regulation to submit their causes to such a tribunal, might well complain at the discrimination in favor of their more fortunate neighbors, whose litigation happened to occur at a later period of time.

I recommend to your honorable bodies the adoption of no temporary expedient, but in its stead, a plain, adequate and permanent remedy. If three supreme judges are unable to dispatch the business of the court, as is certainly the case, we cannot hope that the coming years will witness a decrease of business. Let us then add a number sufficient for the purpose, constituting the court of five, or seven, or even nine judges, with power to so organize at each term as to be able to dispatch business pending at that term. The details of this, or any other method of relief, is within the discretion of your honorable bodies, as is indeed, the method itself; but my desire is to impress upon you, I again repeat, the necessity of early relief. The interests of the people ought not to be permitted longer to suffer sacrifice in this matter, and the State will be indeed derelict in its duty, and will not fulfill the purpose of government, if it permits this state of affairs longer to continue. I invoke your earnest and patriotic attention to it.

So far as my information extends, the district courts, with some exceptions, have demonstrated their ability to dispatch all the business coming before them, and in many of the counties, especially in the east, the dockets are cleared at each term.

Complaints of the system of county courts inaugurated by the present Constitution are more frequent, such complaints in most instances being confined to the incapacity of the judges rather than to the system itself. While some counties have displayed wisdom in the selection of these officers, it cannot be denied that in many other instances, persons wholly incompetent have been selected to the detriment of the public interests and the rights of litigants, and constitute officially a reproach to our

system of jurisprudence. In view of the scant compensation and the arts incident to popular elections, it will hardly be anticipated that the positions would be, at all times, worthily filled, or that perfect satisfaction would result from the experiment. If in any system your wisdom should propose it should be decided to retain the present feature of county courts, I would respectfully suggest a diminution of the terms of that court, both civil and criminal, in order that the citizens generally may be freed from the harassments and annoyances incident to too frequent courts. Four terms a year for civil and criminal business combined, it occurs to me, would be sufficiently often to meet all necessities, and would tend to reduce, in an essential degree, the *expense* of the system. Its merits have hardly been sufficiently tested to enable us to form a mature judgment as to the propriety of its retention or abolition; but the members of your honorable bodies, fresh from the people, and eye-witnesses to the operations of the system, can better determine what action is wise with reference to that question.

It was the pleasure of your predecessors, the Fifteenth Legislature, under authority of the Constitution, to create the office of district attorney, in certain of the judicial districts of the State, and it is not unlikely that further legislation of that character will come before you for action. The office of public prosecutor, I hesitate not to say, is perhaps the most important to the peace, safety and welfare of society. Upon the integrity and efficiency of that officer the state must depend for the proper execution of its laws. It has become too common to speak of a judge executing the laws and punishing crime, when a moment's reflection must teach any intelligent person that the functions of that officer are of a different character. The judge administers the law justly and impartially, but punishes no one. The State does not invest him with authority for purposes of condemnation solely, but to sit in judgment upon her citizens, and to protect them even against the State itself. He is neither prosecutor nor executioner, but sits between the State and the citizen dispensing justice, under the law, to each without fear or favor. It is the prosecuting attorney who is charged by the State with the assertion of its rights and the protection of its interests. With him rests the duty of ferreting out crime and bringing the offenders to punishment; and he is chiefly responsible for disorders and lawlessness in his jurisdiction. Efficiency, on his part, brings peace and quiet to the community, and inefficiency the reverse.

If it shall please your honorable bodies to take action in this matter, it will be found in many counties that the State is without a proper prosecuting representative. I am glad to say that honorable exceptions to the contrary are not infrequent; but, looking to the true interest of the State, I feel no hesitation in recommending a return to the old system of district attorneys. I would not advise the abolition of county attorneys, if the present system of county and justices' courts is adhered to, as, in that event, the necessity for the State to have its representative in the several inferior courts of every county is apparent.

No constitutional change is necessary to enable your honorable bodies to provide, in addition, an attorney for each district, and if the office is vested with proper emoluments, the best legal talent of the State can be secured in her behalf and without increased expense to the treasury.

Another feature of the Constitution to which your attention is respectfully invited, is the discrimination made in favor of cities having a popu-

lation of *more* than ten thousand inhabitants. This class of municipal corporations is privileged to have their charters granted or amended by special law, and they are authorized to levy, assess and collect annual taxes to the amount of two and one-half per cent., while such corporations with ten thousand inhabitants or less in number, are denied the benefits of special legislation, and are restricted in their rate of taxation for the purpose of defraying their current expenses to one-fourth of one per cent. each year. I have never been able to perceive any valid reason for so marked a distinction, and am of opinion that the limit of taxation for the class of larger cities is as much excessive as the other is inadequate. Indeed, the two provisions, standing together in our Constitution, are tantamount to an authoritative declaration that the increase of population in a city brings with it *pari passu*, an increase in the rate of taxation, regardless of the wealth and material prosperity which always follow population, in our country at least. If this be so it can only be a question of time when our rapidly growing cities shall reach the point of absolute *insolvency*.

It occurs to me that the current expenses of any municipal organization ought to be met and discharged with an annual levy of one per cent. of its taxable values, and that it is the part of wisdom to define and fix that limit for cities having over ten thousand inhabitants. And I am equally certain that our smaller cities of two or three thousand inhabitants and over cannot sustain themselves with any degree of efficiency upon a smaller levy than one-half of one per cent. Impressed with these views I respectfully call your attention to the subject, and suggest the changes indicated.

In this connection I may add that in the opinion of our most thoughtful people, the day cannot be far distant when the people of the several states will be called on to decide whether a continuance of a system of municipal governments will be justified by the benefits they confer, and whether or not true statesmanship demands their total substitution with some other less expensive to the citizen, and fruitful of other results than a public indebtedness, increasing in magnitude each year, and nothing visible left to represent the heavy sums exacted of the tax-payer.

If in your wisdom some better system of local government can be devised, the change would commend itself to the grateful recollection of a long-suffering people.

REVISION OF THE LAWS.

In accordance with the requirements of the Constitution, your honorable predecessors, the Fifteenth Legislature, on the 28th day of July, 1876, passed an act authorizing the governor to appoint a commission of five persons, learned in the law, to revise and digest the laws of the State, both civil and criminal, and providing for their preliminary publication.

Under the terms of this act, it was the pleasure of my predecessor in office to appoint Hons. C. S. West, George Clark, J. W. Ferris, B. H. Bassett and Samuel A. Willson, as members of said commission.

The result of their arduous labors I now have the honor to lay before your honorable bodies, together with their accompanying printed report, showing in detail the changes they suggest, and the reasons therefor. I have also to announce that the five hundred copies of each bill, prescribed by the act aforesaid, are deposited with the department of state, subject to such disposition as your honorable bodies may see fit to make of them. It is a source of some regret that the important work confided to this commission could not have been generally distributed throughout the State in advance of the assembling of your honorable bodies, in order that full examination and discussion in each locality might enable individual members to obtain some general expression of opinion upon the propriety of its acceptance; but, under the terms of the law, the executive was left without discretion as to making even a partial distribution, and on receipt of the work every copy was deposited to await your pleasure.

The pressure of other official duties has left me but little time for a

thorough examination of these revisions, but, it being a matter of vital public importance, I have felt it my duty to examine them with as much care as I could; and after such examination, I unhesitatingly commend them to your favorable consideration.

The evident purpose of the commission was to preserve, as far as practicable, the laws as they now stand upon our statute books; and that they have succeeded in this will be apparent to the most casual reader. Amid a new, but most harmonious and convenient arrangement, the substance, and, in most instances, the familiar language of the old statutes is detected; and the changes interpolated and suggested supply wants long felt by those charged with the expounding and the administration of the laws.

The alphabetical arrangement, by titles of the Revised Statutes, is in itself a manifest convenience to those who must consult the laws, and the head notes to each chapter, and the marginal notes to each article, which indicate not only the substance of the article, but also the original enactment from which it is derived, will furnish ready information to those who may desire to explore the sources of the law.

Among the changes suggested in our civil statutes, may be noted a thorough revision of the laws relating to attachment and garnishment; complete regulation of all matters pertaining to county finances; an admirable military code for the organization and discipline of the militia; a detailed system, regulating the removal of officers; an apprentice law; regulating the mode of effecting partitions; important additions to our laws relating to injunction, sequestration, and the trial of the rights of property; a complete revision and re-arrangement of the laws relating to the general land office, and those relating to the estates of decedents, the sales of the university, asylum and school lands, and the system of taxation inaugurated in 1876.

The Penal Code and Code of Criminal Procedure are preserved substantially as at present, with the scattered legislation of past years skillfully interwoven therein. Some few new offences are suggested, and remedies supplied, such as amendments to the law relating to riots and unlawful assemblies, malicious prosecutions, slander, changes in the law relating to dueling, and others of equal importance, which the limited space at my disposal prevents me from enumerating.

When we reflect upon the present chaos which reigns supreme in our statute law; the present uncertainty in many cases as to what the law is; the expense already incurred by the State in making this revision, and the intrinsic excellence of the work, I submit to your honorable bodies that it will be the part of wisdom to adopt both bills as entireties, without incurring the risk of numerous amendments, and the delay consequent thereon, which may prove fatal to the work. The learned gentlemen composing the commission present their works as harmonious entireties, and if hasty and immature amendments be made, it may be developed, when too late for correction, that the harmony and perspicuity of the work have been seriously impaired. Embodying, as it does, the matured labors of five of the most learned lawyers of Texas, whose well-earned legal distinction is recognized alike by the bench and the bar of the entire State, I am of opinion that it can be safely adopted *as a whole*, and *thereafter* amended, in necessary particulars, much more conveniently and expeditiously than by attempting its amendment at the outset.

I commend this subject to your immediate consideration as being one of the most important which shall engage your councils.

PUBLIC CHARITIES—LUNATIC ASYLUM.

The reports of the board of managers and of the superintendent of the lunatic asylum show that there were present at the close of the last fiscal year, Aug. 31, 1878, two hundred and seventy-five inmates, as against two hundred and thirty at the commencement of said year. There was

a total *resident population* during said fiscal year of three hundred and seventy, as shown by the subjoined statistics:

Patients discharged restored.....	58
" " improved.....	21
" " unimproved.....	4
Patients died.....	12
Remaining September, 1878.....	275
Total.....	370

From these data, as is illustrated in the very learned and able report of the superintendent, it will be observed that *forty per cent.* of those admitted have been restored to reason, which is a larger per cent. of restoration than in any of the asylums for the insane in the United States. It will be also observed that the per cent. of those restored to whole population is 23.5, which is also a larger per cent. than in any similar institution in this country, while the per centage of deaths is less than in any American institution for the insane.

These are, accordingly, gratifying facts which their reports attest, and show that the success of this institution in the one great desideratum of its organization, to-wit: *The restoration of reason to that unfortunate class of our people*, has justified all the bounties of the State and the humanity and wisdom of the early legislators of Texas.

I call your attention to the recommendations of the board of managers and of the superintendent. From their reports you will observe that the capacity of this institution is not sufficient to accommodate more than one-third of the number who should be receiving this great public charity. If duty and humanity require at our hands that these dependant wards of the State should be cared for, then the only just excuse for not giving asylum to *all who ask and deserve* it, is the poverty of the public treasury.

We are told by the board of managers and by the superintendent, who has made the study of mental diseases his special mission, that "when insanity results from immediate causes, that is from such as are not ante-natal or inherited, it is found that eighty-five to ninety cases in a hundred are curable if scientific treatment is had in one or two months, and about seventy-five per cent. of all cases are curable if such aid is furnished in that time."

We are told that even if six months are allowed to pass the chances of recovery have diminished many fold, and if more than two years have elapsed the probability of a cure is almost extinct. Hence, the necessity of the State having ample accommodations always to receive every unfortunate applicant, at the *earliest stages* of their malady, and that none may be turned away from its hospitable doors, to be hopelessly wrecked in reason forever. The cry comes up from every county in this State—justly so—for quarters for their indigent insane. In some instances they have been and now are confined in common jails, among felons and murderers, because their families are perhaps too poor to superintend them, or too powerless to protect society from the fury of madmen, by other means than iron grates and dungeons. This should not be, in a day distinguished for its philanthropy and civilization. I therefore most earnestly direct your attention to the appeal made by those to whom the State has entrusted these unfortunate people, for more adequate appropriations to extend and enlarge the asylum buildings, in accordance with the urgent demands daily made on the institution for places for the insane.

It affords me great pleasure to attest, from personal observation, the care, faithful devotion to duty and economy which have marked the labors of those to whom this institution has been committed.

The cost per capita, in the Texas Asylum for the Insane is.....	\$208 47
In the Western States is.....	253 57
In the Middle States is.....	232 85

These gratifying figures commend this institution to the generous liberality of the Legislature. They give convincing proof that not only the scientific medical treatment of the insane has been attended by most gratifying results, but that its economical and financial management has been all that the State could desire.

DEAF AND DUMB ASYLUM.

The report of the superintendent of the asylum for the deaf and dumb (Gen. H. E. McCulloch) presents a most satisfactory exhibit of the present condition of that institution during the recent fiscal year.

There are fifty-seven pupils (under the tutelage of able and faithful teachers) who have made rapid progress in education, in reading and writing, and the more *useful* and *practical* branches of learning. Their discipline is good, their morals irreproachable, and the care and attention of their officers have insured the inmates good food, pleasant quarters and contentment during the whole period of my official connection with that institution.

The finances of the asylum have been managed with great intelligence and economy. *There are no deficiencies.* Valuable improvements during the last two fiscal years have been made in new buildings and otherwise, the total cost of which has been \$11,617 09.

It has cost the State to support fifty-seven pupils, per annum, \$14,395 73, which is *three thousand dollars* less than the appropriations. The report shows that the cost of supporting a pupil in this institution is not more than the *average cost* in similar institutions in this country. It is less than in many of the states of the Union.

The experiment of the printing department as a *school of practical printing* for deaf mutes, has been a most gratifying one, and has saved also considerable sums in the item of state printing, as the report of the printing board attests. That board recommends the experiment to be made on a still larger scale, in the interest, as they allege, of both *convenience and economy* to the State.

The superintendent earnestly appeals for a more certain supply of water, both for drinking and for use in case of fire, to which the buildings for this reason are much exposed.

The report is exhaustive, and shows that the officers and teachers in charge have performed their important duties with a single purpose to promote the happiness and progress of the inmates of the institution, as well as to insure an intelligent and economical administration of its financial affairs.

INSTITUTION OF LEARNING FOR THE BLIND.

The institution of learning for the blind is in a most prosperous condition. It has lived within its appropriations, and has no deficiencies.

There are sixty-eight blind persons now in attendance—twenty-eight males and forty females.

The superintendent, Dr. Frank Rainey, reports, from accurate sources of information gathered by him, that there are fifty other blind persons *proper subjects* for this institution residing in Texas, who are not receiving the benefits of this institution. He estimates the whole number now in this State who are of suitable ages for admission into this school will approximate *two hundred persons*.

The superintendent says of those blind children on the *outside*: "*We must turn them away unless we promptly enlarge the buildings.*" The same complaint and appeal comes up to the Legislature from this institution as from the lunatic asylum—more room is required. I respectfully call your attention to the recommendations of the superintendent as to this pressing necessity and his reasons therefor.

The advancement of the pupils in education, and especially in *music*, (an accomplishment full of so much happiness to the blind) is honorable alike to their instructors and themselves.

By a statutory provision of 1874, an oculist is now attached to the school. This has proved to be a most wise and humane provision. Since 1874 *thirteen* blind pupils have been discharged with *sight restored*, and the superintendent in his official report says: "Nearly one-half of the remainder can see well enough to run about the buildings and grounds." This able and skillful oculist, Dr. T. D. Manning, has passed to his final reward. He obtained leave of absence to tender his professional services to our suffering brethren in the lately stricken yellow fever districts. He labored amid pestilence and death with wonderful success, and at last offered up his own life—a noble and willing sacrifice on the altar of humanity. He lives in the grateful hearts of the blind, who, with the State—both of whom he served so faithfully—will cherish his memory and mourn his loss, while yet in the morning of a useful and honorable life. The vacancy occasioned by his death has been filled by the appointment of Dr. W. A. Dohman, a gentleman who occupies a high position among his profession for skill and ability.

PUBLIC FREE SCHOOLS.

For a full understanding of the operations of this system as adopted by the State under existing laws, you are most respectfully referred to the accompanying able report of the secretary of the board of education.

The actual practical results of this system can be more fully appreciated by a careful consideration of the subjoined summary of statistics:

Summary of Statistics:

For the years ending Aug. 31.	1877.	1878.
Number of counties reported.	135	137
Scholastic population (estimated)		164,294
Scholastic popu'n enrolled in school communities. .	133,568	146,946
" " that did not attend school.	20,962	23,963
Number of schools organized.	3,901	4,633
Number of months schools were maintained.	3	4
Number of teachers employed.	3,580	4,330
Average salaries paid teachers.	\$35 00	\$38 00
Average cost of tuition as per actual attendance. .	1 66	1 76
Av. cost of tuition as per community registration. .	1 26	1 13
Number of school houses built.	159	243
Value of school houses built.	\$34,913 00	\$54,219 00
Expenditures for payment of teachers.	382,729 86	656,972 90
Expenditures for building school houses.	12,332 58	29,648 01
Expenditures for rent of school houses.	3,598 31	5,735 98
Total expenditures.	403,975 18	702,288 16
Received from State appropriations.	427,554 58	654,762 42
" " deficiency taxes under former laws	88,113 84	20,117 33
" " rent of county school lands.	500 00	653 95
" " sale of county school lands.	8,066 08	43,558 53
" " local option fines.		659 00
" " dog tax.		10,628 54
" " sources not enumerated.	7,446 68	14,439 89
Total received.	\$631,830 49	\$859,484 49
Total expenditures.	501,691 64	747,534 16
Balance on hand.	\$130,599 78	\$113,008 67

The report shows, also, that the average number of months taught throughout the State in 1877 was three, and in 1878 four months.

The estimates made by the board of education of the amount of funds which will be appropriated to common schools for the present fiscal year

was nine hundred thousand dollars, including, of course, all the sources of revenue for common schools. Under the head of suggestions in the interest of economy I have heretofore respectfully recommended that the scholastic ages be reduced to ten and fourteen years.

Upon the whole, the operation of the common school system has been successful for the past fiscal year. /

The removal of the present restrictions on the sale of school lands is again recommended, for the considerations already submitted. For such amendments to the present school laws as, in the judgment of the board of education, are needed, you are respectfully referred to the accompanying report of the secretary of the board of education.

The following exhibit presents the rich resources of our common schools:

STATE SCHOOL LANDS.

Patented sections.....	15,838
Unpatented sections (estimated).....	18,364
Total patented, acres.....	10,136,320
Total unpatented, acres.....	11,752,960
Grand total, patented and unpatented, acres.....	21,889,280
Number of acres sold, to Sept. 1, 1878.....	240,000
Principal received on sales.....	\$112,815
Interest received on sales.....	\$28,618

A part of the same great fund is the

COUNTY SCHOOL LANDS.

Each county is entitled to, leagues.....	4
Number of counties that have located four leagues each.....	149
“ “ “ “ “ obtained patents on four leagues.....	74
“ “ “ “ “ “ “ on only a part.....	51
“ “ “ “ “ not obtained patents.....	29
“ “ “ “ “ “ received certificates.....	4
“ “ “ “ “ “ returned field notes.....	11
“ “ “ “ “ whose field notes need to be corrected.....	14
“ “ “ “ “ that have sold their four leagues.....	4
“ “ “ “ “ “ only a part of their land.....	30

Your honorable bodies are familiar with the early and the later policies of the Legislatures of the State upon the subject of free public schools. It was incorporated into the Constitution and laws of the Republic, and has remained a part of our organic and statutory laws to this day. The design of the fathers, who, early in our history, dedicated such a magnificent portion of our public lands to common schools and universities, as well as of those who came after them in the halls of legislation, was evidently thereby to create an *endowment*, which in the future, when realized in money, would yield a *principal*, the *interest* on which would inaugurate and maintain a permanent system of public education. The time-honored policy, so far as its support from the general revenue derived from direct tax is concerned, may be modified, but the system itself can and should never be forsaken. The silent but expressive figures of the census takers indicate that a large portion of the children of Texas to day stand woefully in need of this civilizing influence. Of the white population of Texas, from eight to fourteen years of age, there is twenty per cent. who cannot read. Of the colored population, between the ages of eight and fourteen, there is sixty-eight per cent. who cannot read.

In other words, out of the one hundred and ninety-four thousand three hundred and fifty-three *white and colored* children within the scholastic ages of eight and fourteen, there are sixty-one thousand one hundred and twenty-three who cannot read.

These official statistics require no comment, but for a *remedy* solemnly appeal to the liberality, patriotism and wisdom of the Legislature to see to it that the blessings of elementary education at least be offered freely to the thousands of the children of this State who are now growing up in ignorance in our midst.

The charity is bestowed as much on the *State* as upon the *child*. Ignorance, when wide spread, is a viper which strikes the poison of its fangs into the vitals of free government, giving food to the mob, destroying, under the leadership of ambitious charlatans, the purity of the ballot, and, at last, the life of the State.

AGRICULTURAL AND MECHANICAL COLLEGE.

I herewith transmit the report of the president of the Agricultural and Mechanical College, and of the college for colored youths, and also the printed proceedings of the board of directors since its organization.

From these official sources your honorable bodies will obtain in detail all necessary information relating to the organization, progress, and history of the institution up to this date. I can only say, in general terms, that from a small beginning the college now ranks, in numbers and influence and usefulness, among the best of its character in our country. There are now over two hundred young men receiving instruction in this school, with a corps of professors whose success has justified the expectations of the country, and with a discipline in its government and an economy in its expenditures worthy of all commendation by the people and their representatives.

Your attention is respectfully directed to the fact that only the interest annually accruing on the endowment fund, consisting of \$212,116 66 invested in seven per cent. Texas state bonds, can be used, and that use specially confined to the payment of *instructors* in the college. The forty thousand dollars authorized by the constitutional convention, and appropriated by the Fifteenth Legislature, could only be used in erecting and completing the buildings necessary to the institution.

For these objects alone have the board of directors appropriated the interest on the endowment and the principal of the sum appropriated by your predecessors.

The rates of tuition have been placed at the low rate of twenty dollars per annum, and the rate of board at the price of twelve dollars per month, including comfortable quarters furnished by the State. In *economy* the board of directors have succeeded in reducing the cost of the student to a lower standard than three-fourths of similar institutions in the United States, as shown by their official catalogues.

The law of Congress authorizing the donations of the proceeds of her public lands, *pro rata* to the states for this purpose, *requires* that military tactics shall be taught, and that instruction in scientific agriculture and mechanics, etc., shall constitute an important department of the college.

A reference to the report of the learned president of the college shows that only for want of funds the agricultural feature of the institution has not received that attention which the board of directors have desired and the law requires. A beginning has been made in this direction, however, while the science of agriculture and engineering and mechanics have been taught since the organization of the college.

The interests especially of the agricultural and industrial classes of our fellow citizens call for a practical compliance with both the letter and spirit of the law relating to instruction in agriculture and the industrial arts, and I most earnestly concur in the recommendations of the president of the college in this regard, looking to the early establishment of this system.

The *colored college* has been organized, the necessary buildings paid for, and the school is now in successful operation. The law requiring its establishment has been faithfully complied with, and for a more com-

plete understanding of its status and progress you are respectfully referred to the report of the college and to the documents relative thereto on file in the executive department.

DEPARTMENT OF STATE.

For a very full and satisfactory account of the operations of this department, you are respectfully referred to the accompanying report of the honorable secretary of state

His recommendations looking towards making that department *self-sustaining* are especially recommended.

It appears from said report that many counties of the State (especially those recently organized,) are without the earlier reports of our supreme court. These counties cannot be furnished with them, because the supply is exhausted. The remedy will suggest itself to your honorable bodies.

A heavy drain is now made upon the State, so the secretary reports, which demands the attention of the Legislature, in this, that in a very large number of counties the retiring county officers fail to turn over to their successors such statute laws and other books with which they had been supplied by the State. The right to such property is not *personal* but *official*, and some such legislation should be held as will fix the liability in such cases on the proper parties.

The secretary calls attention to the necessity of providing by law some mode of determining the question of population in counties claiming the right to elect certain clerks of counties as provided in section 20, article 5, of the Constitution.

I have not space to refer to other suggestions in said report, but all of them are commended as judicious and worthy of adoption.

Being directly connected with the state department, and intimately associated with it in the service of the State, I take great pleasure in bearing willing testimony to the efficiency and ability which have characterized the labors of the honorable secretary, and those associated with him in this department.

PUBLIC PRINTING.

The report of the honorable printing board is a complete exhibit of the operations of the printing department of the state under the present law during this administration.

The discussion of this subject by the board is able and exhaustive; and, being the first report of the kind issued in Texas, contains much useful information not to be obtained elsewhere.

The board earnestly recommends certain changes in the printing law, and that the facilities for doing the public printing in the state institution for the deaf and dumb should be largely increased. These recommendations are based upon their experience of the practical working of the law as it now stands, and I respectfully request a careful consideration of these recommendations by your honorable bodies.

The board in their report use the following language, to wit: "We venture to say that the public printing of the State, comparatively, cost less for the two years past, ending August 31, 1878, than for any other two consecutive years since the existence of the government."

This result is gratifying to the executive, and of deep interest to the State, and shows on the part of the board the exercise of diligence and sound judgment in the discharge of their important duties.

The board consists of Hon. H. H. Boone, attorney general; Hon. A. J. Dorn, treasurer, and Hon. I. G. Searcy, secretary of state, whose report is herewith respectfully transmitted.

INTERNAL IMPROVEMENTS.

It is a gratifying fact to observe that in Texas, almost alone of all the states in the Union, the construction of railroads and the projection of yet other lines, are in active progress.

Under wise restrictions, these highways of commerce have added untold wealth to the State, and their connections with foreign lines have induced hundreds of thousands of industrious, intelligent people to seek homes within our borders.

The attorney general advises the Legislature, in his report, of the present legal status of the charters of all railroad companies, and of the steps which have been taken by him to test the validity of their grants and chartered privileges.

For their taxable values, as assessed, and the amount of revenues collected from them, you are respectfully referred to the interesting report of the comptroller.

QUARANTINE LAWS.

I respectfully urge upon the Legislature the necessity for a thorough revision of all laws relating to quarantine.

Under existing statutes the governor may declare quarantine on the gulf coast only. Each incorporated town or city or county of the interior may disregard the action of every other town, city or county of the entire State, or of the executive, upon the subject of quarantine and the time and manner of its enforcement.

The State needs a *system* by which uniformity may be secured under laws providing against the introduction of infectious or contagious diseases within our borders. The executive may declare quarantine on the coast, but over railroads and stage lines or other highways of travel, the infection may be introduced at all points of our extended boundaries, where these thoroughfares enter, other than the boundary of the coast, and the State authorities are powerless. Thus, while the seaside is guarded by expensive outfits and salaried health officers paid by the State, land side is exposed for hundreds of miles; while the disease is held at bay in the front it may spread pestilence and death in the rear.

I respectfully suggest, therefore, a state board of health, with such restrictions and powers as will secure a systematic administration of the laws on that subject, and will *enforce* their obedience by proper penalties. The present laws are inharmonious and need revision.

I respectfully invoke your consideration of these suggestions, fraught as they are with deep interest to a State exposed by reason of her latitude to infectious and epidemic diseases.

MISCELLANEOUS LEGISLATION.

I have heretofore submitted, with great respect, my general views relating to amendments to the Constitution. In addition thereto I recommend to your honorable bodies such an amendment to the Constitution, unambiguous and free from all doubt or cavil, as will authorize the Legislature to exempt from taxation, farm products, while in the hands of producers, and provisions on hand for home consumption.

I furthermore recommend to the Legislature the passage of an act regulating the rates of freights and tariffs on all railroads in this State, in obedience to the provisions of the State Constitution.

I also recommend that immediate provisions be made for the payment of all sums due to school teachers who have rendered the service, and to pay for which there has been made no adequate provision.

The complaint comes up from many counties, that the bonds required by the present law of tax collectors are too large. I think the complaint well founded, and that some change should be made. I respectfully suggest that if the bonds required were fixed at an amount equal to the taxes to be collected, the State and county would both be secure. Under the present system requiring quarterly settlements with the comptroller, this standard of amount to be fixed for the bond, would appear to be a safe guarantee to all parties. The State should require ample security always, but oppressive obligations are not dictated by sound policy or wise legislation.

I further recommend that early provision be made for the prompt and certain payment of all pensions due to those who occupy that dependent relation to the State. Their numbers will rapidly diminish, as they are now in the winter of age. Poor, and too often friendless, the State cannot, in this day of her power, forget to pay the debt she owes to their patriotism and valor---a debt not only sanctioned by the laws, but held sacred in the hearts of a grateful people.

STATE CAPITOL BUILDINGS.

I respectfully call your attention to the 57th section of the 16th article of the Constitution, which reads as follows:

“Three million acres of the public domain are hereby appropriated and set apart for the purpose of erecting a new state capitol and other necessary public buildings at the seat of government, said lands to be sold under the direction of the Legislature; and the Legislature shall pass suitable laws to carry this section into effect.”

The last clause of said section leaves no discretion to the Legislature. The commissioner of the general land office reports that there are left to the public domain only a fraction over thirty-one million acres. In 1876 the State had 43,940,320 acres, thus showing an absorption, by railroads, rivers, canals and other donations of nearly thirteen millions of acres in two years. At this per centum of decrease the end of the next decade will find the State with nothing left of her once splendid domain; not even her “Staked Plains.” If, therefore, this provision of the Constitution is to be carried into effect at any time, I respectfully suggest that steps should be taken to utilize the grant in such manner as will secure in good faith the plainly expressed will of the framers of the Constitution.

STATE UNIVERSITY LANDS.

There have been appropriated, set apart and surveyed already, two hundred and nineteen thousand, nine hundred and six (219,906) acres of land for the establishment and maintenance of “The University of Texas.”

The Constitution (art. vii., sec. 11) provides that the proceeds of the sales of said lands shall be invested in the bonds of the State of Texas, if to be obtained, and if not, then in United States bonds, and shall constitute a permanent university fund, the interest of which only can be used by the Legislature “to accomplish the purpose declared in the foregoing section;” one-tenth, however, of the alternate sections of the lands granted to railroads, reserved by the State by the act of February 11, 1858, entitled “an act to establish the University of Texas,” is not included in, and does not constitute a part of the permanent university fund.

These lands are valuable, estimated to be worth on an average three dollars and a half per acre. Under the present restrictions, however, imposed by law, as to *quantity*, and requiring actual settlement thereon, many years will elapse before the sales thereof will materially increase. If removed, in a short while, I respectfully suggest, the available funds thus realized would be amply sufficient to meet the great objects contemplated by the Congress of the Republic and the early Legislatures of Texas. To your wisdom I commend these suggestions.

I refer you especially to the report of the attorney general in relation to certain sales of these university lands in the county of McLennan, in which the title of the State has been called in question by a recent decision of the United States court at Austin. In any and all instances where the State has sold lands to her citizens and received consideration therefor, in whole or in part, and the title, when adjudicated by a tribunal of competent jurisdiction, has been adjudged null and void, then the first duty of the State is to reimburse both the principal and interest thereon to the citizen who may be thus injured by his innocent purchase from the State. But the State cannot be concluded by a judg-

ment in any court to which she was not a party, and cannot be made such under the Constitution, *without her consent.*

DEPARTMENT OF INSURANCE, STATISTICS AND HISTORY.

I take great pleasure in directing your attention to the interesting report of the commissioner of this department.

You will observe that the office is self-sustaining, with an excess of many thousands of dollars turned over to the state treasury.

I concur in the suggestions made by the honorable commissioner, and commend them to your careful consideration.

PUBLIC GROUNDS AND BUILDINGS.

I respectfully refer you to the report of the superintendent of public grounds and buildings.

This officer has discharged the duties of his position with industry and ability.

Under an act of the Fifteenth Legislature appropriating thirty-six hundred dollars to introduce water into the public buildings and grounds, the board created by said act, composed of the governor, the comptroller and the treasurer, has complied with the provisions of said law. Water, at all suitable places in the public grounds and buildings, has been introduced in such quantities as to insure complete supplies of water in case of fire or for the purpose of cultivating the trees, flowers, grasses and shrubbery which now relieve the once barren hill-sides surrounding the capitol.

The contract with the city water company of Austin is on file in the state department, to which you are respectfully referred.

The superintendent suggests that the salary and office of superintendent of public buildings and grounds may now be dispensed with. So unusual is it that such recommendations are made by the officer who will lose the emolument, that it is worthy of being acted on and accepted at once, and is entitled to especial commendation.

MEXICAN BORDER TROUBLES.

The treaty of extradition at present existing between the United States and the Republic of Mexico, confers the special power on the governor of this State, through the chief civil authorities of the districts bordering on the Rio Grande (who are the district judges), to make demands directly upon the chief civil authorities of the states or districts of Mexico, also bordering on said river, for citizens of Texas charged with felonies and who have taken refuge in their territory. The reciprocal right is exercised by the Mexican authorities.

A number of demands have been made for fugitives from justice by both Texas and the republic of Mexico under the treaty.

I have not time nor space, nor would it be profitable, to recount the complaints of loss of property, and sometimes of life, which have been made by our own citizens against lawless bands of Mexicans and Indians from the western side of the Rio Grande. It would be a mere repetition of the old story of depredation on person and property which has become familiar to the public ear for many years.

In all these controversies it cannot be held, of course, that citizens of Texas have *never* been at fault or that Mexican citizens have committed all the thefts, outrages and murders of that border; but for the purpose of this brief reference to our relations with a sister republic, I have to state as my predecessors for twenty years in this office have announced before me, that nine-tenths of *all* these past troubles and depredations have been committed by persons from the border states of Mexico on our citizens and their property. Retaliation in individual cases, and sometimes in organized forms (as when McNally of the Texas rangers, or McKenzie of the United States forces, followed these robbers into Mexican territory,) has been invoked, but the instances are rare.

I do not, and would not charge the central government of that republic, and especially their present rulers, with instigating these raids on our soil. It has been the misfortune *heretofore* of that government, however, not to be able to control the Mexican people of these states, bordering on the Rio Grande--states, whose inhabitants cherish a traditional hatred towards the United States in general, and Texas in particular. I cannot deny that in some sense this feeling on the border is *mutual*. That we have heretofore had, in the recent past, just cause to complain on the part of Texas against Mexico cannot be questioned by your honorable bodies, as it has been conceded by the present national administration, and also by the American congress. In the recent message of the president of the United States, and the accompanying correspondence of the American secretary of state, these facts are corroborated and to them I refer you.

In the notable instance where the county jail of Starr county at Rio Grande City was broken open by a party of bandits from Camargo and three prisoners (one murderer and two thieves) released, attended by the wounding of the county attorney, a deputy sheriff and his wife, a formal demand was made by me through Hon. John C. Russell, extradition commissioner, on the governor of Tamaulipas, for these *released prisoners*, as well as for the outlaws who set them at Liberty. At the same time a *similar demand* was made for certain murderers from the counties of Duval and Hidalgo, who were fugitives in Tamaulipas. Two of the Rio Grande prisoners were returned, but the murderers were not only *not delivered*, but were *refused* in face of the treaty.

The whole correspondence between this State and the Mexican authorities has been published (by order of the United States Congress), showing that, when pressed to the wall, one after another, from the civil and military governors down to the judge of the first instance, *resigned* their offices rather than deliver said fugitives, and at last this correspondence shows that when demand was finally made on the next in civil rank, after the chief civil officer had resigned, our commissioners were met with a *peremptory refusal* on the part of the Mexican officer.

In the troubles at San Elizario, in El Paso county, an organization of large numbers of Mexican citizens surrounded citizens of Texas at that place were being protected by a detachment of state troops, three of our citizens were mercilessly shot to death by this mob. Since then indictments for murder have been found against over one hundred of these desperadoes (many of whom were also residents of Texas), and demands made by Hon. A. Blacker, judge 20th judicial district and agent under the treaty, for their extradition, on the proper authorities of Mexico. This judge reports that these fugitives are *known* to be now near El Paso.

The result has been, and still is, that no attention has been paid to the legal demand. A nation *with whom we are at peace* and hold treaty relations has answered our demands under the treaty by silence. I refer your honorable bodies to the official communications on file in the executive department from the extradition commissioner and to the able report of Major John B. Jones, who constituted a part of the joint commission to inquire into these troubles, for full details of all this eventful history. Texas has no desire for other than the most friendly relations with Mexico. Her *interests* all point in that direction. Our state forces, though few in number, have *always* acted under strictest orders not to violate the laws of neutrality or to provoke bloodshed with our neighbors across the Rio Grande. In this view the United States department commander and the governor of Texas have acted together in harmony. Recent events we are glad to welcome as a foreshadowing of a better era of good neighborhood between the State of Texas and the sister republic. The visit of Gen. Trevino, commanding on the Rio Grande, and his knightly greeting by our people all through Texas, it is to be hoped, will convince his government that while Texas resents injury and insult, she

cannot be excelled in generous hospitality or in ready willingness to join hands in token of a real and honorable peace.

LAWLESSNESS AND CRIME.

While the execution of our criminal laws by the tribunals charged with that duty has resulted in more convictions and more executions for murder and imprisonments for high felonies in this State, as shown by the accompanying report of the attorney general, than in any preceding two years of our history, it nevertheless cannot be denied that lawlessness, in many sections of the State, seems to be increasing. As the usual attendant, the spirit of the mob often usurps the functions of the courts, and retaliation provokes yet other crimes and bloodshed in its reckless path, in the name of *order*. The loss of confidence thus produced in the speedy trial and punishment of offenders, is as great a calamity in the end to society as the existence of *crime* itself. It begets chaos in government, destroys reverence for the majesty of the constitution and laws, compels each individual citizen, smarting under real or fancied wrongs and thirsting for revenge, to become himself a guilty violator of the very laws intended for his protection.

To your honorable bodies the law-abiding constituent looks with eager hope for some quick remedy to check, if not wholly destroy, the growing tendency to crime in society, whether that remedy may be found in providing for more speedy trials of offenders than are now obtained under our present system of continuances in the courts, or by vesting more power in the executive or judges over sheriffs and state attorneys for failures to discharge their duties, is a grave problem whose solution rests with the legislative department of the government. The "law's delays," because of the facility with which criminals may postpone the trials of their cases from term to term, till years have witnessed the death or absence of witnesses, and the consequent acquittal of the felon, should not be allowed if the same can be prevented consistently with even-handed justice to the accused as well as to the State. The Constitution guarantees a speedy trial to all persons charged with crime. The people, who are the prosecutors, should be entitled to a similar Bill of Rights.

The great volume of immigration constantly pouring into our borders, bearing on its bosom many desperate and lawless characters from other states, may plead for Texas somewhat, it is true, in extenuation of her present condition. But the protection of life, liberty and property, the great object of government, demands that a remedy, bold and decisive, be at once applied, in such manner as will insure the punishment of crime to follow close upon the heels of its commission.

To your honorable bodies the country looks with confidence and hope for a solution of these questions, involving the peace and prosperity of the State.

EXECUTIVE PARDONS.

Under the present Constitution, the governor is required to file in the state department his reasons, in writing, for granting all pardons and remissions. This constitutional provision has been strictly complied with, and you are respectfully invited to a rigid examination of those reasons.

You will find that, with but few exceptions, no pardon has been granted, save when the district judge and state's attorney officially recommended the same, supported by an official statement of the facts and by the approval of county officers and responsible citizens.

The per centum of pardons has not been greater than in former years. It is a high prerogative, however, vested in the governor, which he should exercise without fear or favor in all cases, be they few or many, wherein justice and mercy unite to plead for clemency. That the exercise of such a power in human hands should always be faultless, is not

to be expected. That it should be cautiously and conscientiously used, is demanded by the people and by the spirit of the Constitution.

CONCLUSION.

In retiring from the executive office, I shall not follow in the line of many honored precedents, and devote my message to a discussion of any act or acts of an administration which may have provoked either the criticism or approval of my fellow citizens. The fruits of my humble labors in the public service, whatever they may be, must speak for themselves in vindication of any claim which I may have earned to the respect and confidence of the people of Texas. My only regret in leaving her arduous service is, that I have not been able to place a nobler and more enduring offering upon her altars.

R. B. HUBBARD.

BOND OF LESSEE OF TEXAS STATE PENITENTIARY, UNDER LEASE MADE
JANUARY 1, 1878.

Know all men by these presents, that we, Ed. H. Cunningham, John Ireland, W. E. Goodrich, Jno. R. Jefferson, Jr., H. C. Brahan, I. P. Simpson, J. B. Lacoste, G. Horner, Thos. J. Devine, M. F. Upton, are held and firmly bound unto R. B. Hubbard, governor of the State of Texas, and his successors in office, in the sum of one hundred thousand dollars lawful money of the United States to be paid to the said R. B. Hubbard, governor as aforesaid, or his successors in office, at the treasury of said State in the city of Austin, to which payment well and truly to be made and done we do bind ourselves, and each of us for and in the whole sum, our heirs, executors and administrators, jointly, severally and firmly by these presents, signed and sealed, using scrolls for seals, this the seventeenth day of December, A. D. 1877.

Whereas the said R. B. Hubbard, governor as aforesaid, has this day executed and delivered to the said Ed. H. Cunningham an instrument and lease in words and figures as follows, to wit;

Know all men by these presents that I, R. B. Hubbard, governor of the State of Texas, by virtue of the authority and subject to the provisions of an act of the Legislature of said State, entitled "An act to provide for the resumption by the State of the possession and control of the state penitentiary at Huntsville, and of all the property and convicts belonging thereto, and to provide for settlement of all matters between the lessees and State growing out of the termination of the lease of said penitentiary, and to provide for the management and control of said penitentiary and convicts, after the termination of said lease, and to make the necessary appropriations therefor," approved August 19, 1876, have demised, leased and hired, and hereby demise, lease and hire unto Ed. H. Cunningham the state penitentiary at Huntsville, together with all the property of said State, real, personal and mixed, pertaining or incident thereto, whether within or without the prison walls, and the labor of all the convicts now belonging or hereafter to be sent thereto, whether within or without the prison walls, for the period of five years, unless sooner determined as hereinafter provided, beginning on the first day of January, A. D. 1878, and ending on the first day of January, A. D. 1883. This lease is made and accepted upon the following terms, conditions, restrictions, limitations, considerations and understandings, to wit:

1. Said lessee shall not sub-let or assign this lease or any interests therein without the consent in writing of the governor of said state.

2. The bond this day made and delivered by the said Ed. H. Cunningham and John Ireland, W. E. Goodrich, Jno. R. Jefferson, Jr., H. C. Brahan, I. P. Simpson, J. B. Lacoste, G. Horner, C. Upton, Thos. J. Devine, W. F. Upton, and any other bond which may be hereafter made by said lessee, is to be taken and considered as entering into and forming a part of said lease, and for any refusal, neglect or omission on

the part of said lessee, his agents, servants or employes, well, truly and in good faith to perform, fulfill, keep and abide by any of the terms, conditions and restrictions required of or imposed upon him by this lease, or by any of the obligations and conditions of said bond, or by any other bond or bonds which he may be required to give, or by the provisions of the law authorizing this lease, or by any other law, rule or regulation, now or hereafter to be enacted and made, pertaining to said penitentiary its property or convicts, whether within or without the prison walls, the governor of said state shall have the power and right in the exercise of his own discretion, and without resort to any legal proceedings whatever to determine and put an end to this lease, and thereupon the authority and powers of said lessee shall instantly cease and determine and said lessee shall, on demand, immediately and peaceably turn over, surrender and deliver to such person or persons as may be designated by the governor of said state to receive them, said penitentiary and all the property and convicts pertaining and belonging thereto, wherever the same may be, leaving all matters of controversy and account, if any there be, to be thereafter settled.

3. Said lessee shall take possession of said penitentiary, its property and convicts on the first day of January, 1878, and on and after that date shall be held responsible therefor, as soon as one inventory and appraisement of such property, and a list of the convicts can be made, said lessee shall deliver to the governor of said state a receipt therefor. The list of convicts shall be made by the superintendent of the penitentiary. Said inventory and appraisement shall be made as follows: The governor of said state shall appoint one appraiser; said lessee shall appoint one appraiser. The two appraisers so appointed shall select a third, who shall assist them in the discharge of their duties, and in case of a difference of opinion between the appraiser appointed by the governor of said state and the appraiser appointed by said lessee, as to the value of any of said property, shall fix the value. Before proceeding with said appraisement each of said appraisers shall take an oath, well, truly and impartially to discharge his duty as such appraiser, and shall further swear that he is not of kin or related to said lessee, and that he is not in any way directly or indirectly interested in this lease. The expense of said appraisement shall be borne equally by said state and said lessee. Said inventory and appraisement when completed shall be delivered to the governor of said state, to be by him filed in the office of the secretary of state.

4. Upon the termination of this lease, by the expiration of its term or otherwise, said lessee shall surrender, deliver and turn over to such person or persons as may be designated by the governor of said state said penitentiary and all the property thereto pertaining, and all the convicts thereto belonging. A like list of convicts and a like inventory and appraisement shall then be made by appraisers, to be chosen, sworn and paid as provided for in the preceding clause. For all property returned in good order and repair, said lessee shall be credited with the value thereof as fixed by appraisement when he received it. For all property returned not in good order and repair, said lessee shall be charged with such amount, to be estimated by the appraisers, as will be necessary to put the same in good order and repair. For all property not returned, said lessee shall pay the value thereof as fixed by appraisement when he received it, except that said lessee shall not pay for property destroyed by fire occasioned without any fault, negligence or omission of duty on the part of said lessee, his agents, servants or employes.

5. The State shall not be bound to receive or pay for or be chargeable with any new buildings or other improvements, except as hereinafter provided in the case for the cell building, or with any new or additional machinery, or any other thing, outlay or expenditure whatever, furnished or made by said lessee, unless the assent in writing of the gov-

error of said state be previously obtained, and it be understood at the time that the State will, on the termination of said lease, receive the same at whatever may then be its cash value.

6. Said lessee shall, as soon as practicable, supply material and complete and finish ready for occupancy the unfinished cell building now in the penitentiary enclosure, to the end that a larger number of convicts may be kept within the walls; said work shall be done under the supervision of the superintendent of the penitentiary and according to plans and specifications, and for a price to be agreed upon between the governor of said state and said lessee. Said lessee shall be paid after its acceptance by the governor of said state for completing and furnishing said building by withholding and deducting the contract price from the monthly payments to be made for the hire of convicts.

7. Said lessee shall keep all the buildings and other property belonging or pertaining to said penitentiary in good repair, and shall be responsible for any damage or injury thereto, except in case of loss by fire not occasioned by any fault, neglect or omission of duty on the part of said lessee, his agents, servants or employes, and said lessee shall use and care for all the property pertaining to said penitentiary, and lodge, feed, supply, clothe, work and treat the convicts belonging to said penitentiary, whether within or without the prison walls, in accordance with and in strict obedience to the laws, rules and regulations now or hereafter to be enacted or made in relation thereto, and shall employ and promptly pay a sufficient number of good and reliable guards to enforce proper discipline and prevent escapes, and upon demand in writing by the superintendent or either of the commissioners of said penitentiary, shall promptly dismiss from his service any guard, agent, servant or employe.

8. Said lessee shall pay hire for said convicts as follows, that is to say: Upon the basis of so much per month without regard to physical capacity, and with the understanding that no deduction will be made for convicts that may escape or be sick or otherwise incapacitated for labor, provided that in the case of escaped convicts said lessee shall not pay for any longer period than the thirty-first day of December next ensuing after the date of escape. The amount to be paid for each convict shall be three and 1-100 dollars per month, payable on the last day of the current month, according to a monthly statement of the hire of convicts to be made out and certified to be correct by the superintendent of the penitentiary, said monthly hire shall be paid in to the treasury of said state at the city of Austin. Said lessee shall in addition to said hire also pay into the treasury of said state at the city of Austin, on the last day of each month, the sum of seven hundred and twenty-nine and 16 $\frac{1}{100}$ dollars to cover the salaries and compensation of commissioners, superintendent, physician and chaplain. Said lessee shall also pay a reward of twenty-five dollars and the actual expense incurred for the apprehension and return of each escaped convict who may be returned during the continuance of his lease, provided that if the actual expense shall exceed the sum of ten dollars, all over and above the amount shall be paid by said State, by deducting such excess from the monthly payments to be paid by said lessee to said State. Said lessee shall give to each convict discharged a plain and substantial suit of citizen's clothes, shoes and hat and twenty dollars in cash. Said lessee shall supply such convict with stationery and postage for one letter per week. Said lessee shall furnish suitable and substantial blank books in which to keep all necessary records, minutes or accounts pertaining to the penitentiary and its management, and shall also furnish the paper, pens, ink, postage, fuel and lights required for the use of the superintendent and commissioner's offices, for all such books and stationery and postage, other than that furnished for the convicts, said lessee shall be repaid by deducting the cost thereof from the monthly payments to be made to said State. Said

lessee shall also furnish such room or rooms in the prison buildings as may be selected by the superintendent and commissioners for offices, and said superintendent and commissioners shall be allowed for the use of their offices such furniture in the penitentiary belonging to the State as they may select. Said superintendent shall have the right to select for clerical help not exceeding three convicts, who shall be fed and clothed by said lessee, but for whom said lessee shall pay no hire.

9. Said lessee shall at any time when demanded by the governor of said State when in his opinion the interests of the State so require, give a new bond or additional sureties.

In witness whereof, I, the said R. B. Hubbard, governor as aforesaid, have hereunto set my hand and caused the seal of said State to be affixed this the seventeenth day of December, eighteen hundred and seventy-seven.



(Signed)

R. B. HUBBARD,
Governor.

By the governor:

(Signed) I. G. SEARCY,
Secretary of State.

Now, the condition of this obligation is such that if the said Ed. H. Cunningham shall well, truly and in good faith, pay, do, perform, observe and obey everything which is or may be required of him by the said lease, or by the law authorizing said lease, or by any other law, rule or regulation now or hereafter to be enacted and made pertaining to said penitentiary, its property or convicts, whether within or without the prison wall, then this obligation to be void. But on the other hand, if the said Ed. H. Cunningham shall refuse, neglect, fail or omit to pay, perform, do and obey as is or may be required of him by the terms, conditions, limitations, restrictions and stipulations in said lease contained, or as is or may be required of him by the law authorizing said lease, or by any other law, rule or regulation now or hereafter to be enacted and made pertaining to said penitentiary, its property or convicts, then and in that event this obligation shall be and remain in full force and effect.

(Signed)	ED. H. CUNNINGHAM,	[Seal.]
"	JNO. IRELAND,	[Seal.]
"	W. E. GOODRICH,	[Seal.]
"	JNO. R. JEFFERSON, JR.,	[Seal.]
"	H. C. BRAHAN,	[Seal.]
"	I. P. SIMPSON.	[Seal.]
"	J. B. LACOSTE,	[Seal.]
"	G. HORNER,	[Seal.]
"	C. UPSON,	[Seal.]
"	THOS. J. DEVINE,	[Seal.]
"	W. T. UPTON,	[Seal.]
"	F. A. RICE,	[Seal.]

EXECUTIVE OFFICE, AUSTIN, TEXAS, Dec. 31, 1877.

The foregoing bond is hereby approved and will be filed by the secretary of state in his office.

(Signed)

R. B. HUBBARD,
Governor of State of Texas.

A message was received from the House announcing the adoption of a resolution to appoint a committee of three, to act with a like committee on the part of the Senate, to perfect arrangements for counting the votes for governor and lieutenant governor, and to provide for counting the same, and the appointment on said committee of Representatives Douglass, Baker and Estes.

Senator Tilson offered the following resolution:

Resolved, That, under the direction of the president of the senate, suitable seats be prepared within the bar, to be assigned to the reporters of the press who may desire to avail themselves of the privilege.

Adopted.

Senator Motley introduced the following resolution:

Resolved, That the sergeant-at-arms be required to purchase brooms, buckets and other necessary articles for the use of the Senate chamber.

Adopted.

Senator Stewart introduced a joint resolution, amending section 11 of article 1 of the constitution of the State of Texas.

Read by caption and referred to committee on constitutional amendments.

Senator Ford offered the following resolution:

Resolved, That the committee on public printing be instructed to contract for the translating of the governor's message in the German and Spanish languages, and that said committee provide for the publishing of two thousand copies of said message in German and two thousand copies in Spanish.

On motion of Senator Swain the resolution was referred to the committee on public printing.

Senator Homan introduced a bill entitled "An act to amend an act, approved June 20, 1876, entitled 'an act to amend article 382, title 2, chapter 3, of the Penal Code.'"

Read by caption and referred to judiciary committee No. 2.

Senator Duncan introduced a bill entitled "An act to authorize the levy and collection of a special tax in Gregg and Wood counties, and such other counties where it may become necessary, to construct and to complete payment for court houses and jails.

Read by caption and referred to judiciary committee No. 2.

Senator Moore offered the following resolution:

Resolved, That a committee of three senators be appointed to see what rooms are under the control of the Senate, who has charge of them, and to appropriate the same to the different committees of the Senate.

Adopted, and the chair appointed Senators Moore, Tilson and Burnett on said committee.

On motion of Senator Duncan the Senate adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

The Senate met pursuant to adjournment. Roll called; quorum present.

Senator Hobby introduced a bill entitled "An act to adopt and establish a Penal Code and Code of Criminal Procedure for the State of Texas.

Read by caption and referred to committee on revision of the code.

Senator Terrell introduced a bill entitled "An act to provide for designating and surveying three million and fifty thousand acres of the unap-

propriated public domain for the erection of a new capitol and other necessary public buildings at the seat of government."

Read by caption and referred to the committee on state affairs.

A message was received from the House announcing the passage by that body of Senate bill No. 1.

Senator Stewart introduced a joint resolution inviting the committee appointed by the Congress of the United States to the capital.

Adopted.

Senator Shannon introduced a bill entitled "An act to amend section 3 of 'an act to regulate taxation and fix the rate of the same.'"

Read by caption and referred to committee on finance.

Senator Motley presented the following report from the sergeant-at-arms:

AUSTIN, TEXAS, January 16, 1879.

To the President of the Senate, Hon. Wells Thompson:

Agreeable to resolution passed, I have examined the stoves of the Fifteenth Legislature, now in the Senate chamber, and find the same in very bad condition. One stove is good, with the exception of piping and damper, and the other has no legs and is very rusty. Awaiting instructions, I am very respectfully yours,

JAMES M. BARTON, *Sergeant-at-arms.*

Senator Stewart offered the following resolution:

Resolved, That there shall be added to the list of standing committees of the Senate a committee on the department of insurance, statistics and history, to which all matters relating to that department, or the subjects included therein, shall be referred.

Adopted.

The following senators were appointed on said committee: Edwards, Terrell, Stewart, Grace and Motley.

The following message was received from the governor, which was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 16, 1879. }

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

GENTLEMEN—It becomes my painful duty to announce officially to your honorable bodies—at the first opportunity since your organization—the death, at the city of Washington, on the tenth day of the present month, of the Honorable Gustave Schleicher, a representative from the sixth district of this State in the Congress of the United States.

This sad intelligence was conveyed to me officially by his honored associates of the Texas delegation who survive him, in fitting terms of sorrow for the distinguished dead, and by the honorable speaker of the House of Representatives, who announced, through me, to the people of Texas, that he died "universally lamented." It is well that the Legislature of Texas should pause for awhile in the midst of their labors, to unite with the executive in paying tribute to the memory and the virtues of so devoted a patriot and so eminent a statesman. His great loss is felt not alone in the district whose interests he had so long and so faithfully represented, but the whole people as well join in the common grief at the departure of one from the ranks of the living whose devo-

tion to the State of his adoption knew no sectional boundaries and suffered no variableness to the hour of his death. While we pay this tribute to his honored name we will be permitted to cherish his virtues and example as a priceless contribution to the civic history of Texas.

I earnestly join in the expressed wish of your honorable bodies, that the State may be permitted to inter his remains, with becoming honors, at the capital of the State.

R. B. HUBBARD, *Governor.*

Senator Hobby introduced a bill entitled "An act to change the civil and criminal jurisdiction of the county courts of Chambers, Liberty, Jefferson, Orange, Newton, Jasper, Hardin, Tyler, Polk and San Jacinto, save and except the probate business, from said counties to the district courts of said counties."

Read by caption and referred to judiciary committee No. 2.

Senator Terrell presented a memorial of sundry citizens of the counties of Taylor, Jones and Nolan, asking for the continued protection of the rangers or state troops against the incursions of the Indians and desperadoes and lawless whites which abound in their section of the State, and setting forth their condition in a pathetic manner.

Read and referred to the committee on frontier protection.

A message was received from the House announcing the concurrence of that body in the Senate resolution inviting the congressional committee now in Texas to visit the capital.

On motion of Senator Gooch the Senate adjourned until to-morrow morning 9 o'clock.

FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 17, 1879. }

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

Journal of yesterday read and adopted.

Senator Buchanan, chairman special committee, made the following report, which was read and adopted :

To the President of the Senate, Hon. Wells Thompson :

Your committee appointed to act with a like committee on the part of House, for perfecting the arrangements for counting the vote for governor and lieutenant governor, and to provide for the inauguration of said officers, beg leave to report that they have selected 10 o'clock A. M., Friday, January 17, 1879, to count said vote; and 11 o'clock A. M., Tuesday, January 21, 1879, to inaugurate said officers, said count and inauguration to take place in the hall of the House of Representatives.

JOHN C. BUCHANAN, *Chairman Senate Committee.*

A. M. DOUGLASS, *Chairman House Committee.*

Senator Moore, chairman special committee on Senate committee rooms, etc., made the following report :

Hon. Wells Thompson, President of the Senate :

The committee appointed to ascertain the number of committee rooms belonging to the Senate, and to apportion the same to the several com-

mittees of the Senate, beg leave to report that they have found three rooms on the same floor with the Senate chamber; also four rooms in the basement of the capitol, making in all but seven available rooms for the use of thirty-two standing committees, which will necessitate the meetings of several committees in the Senate chamber.

The committee have therefore assigned the committees to the different rooms as follows:

To room No. 1, up stairs, committees on engrossed and enrolled bills.

To room No. 2, up stairs, committees on finance, private land claims and internal improvements.

To room No. 8, down stairs, committees on judiciary No. 1, state affairs and privileges and elections.

To room No. 12, down stairs, better known as adjutant general's office, committees on judiciary No. 2, military affairs, federal relations, Indian affairs and frontier protection.

To room No. 9, down stairs, committees on contingent expenses, constitutional amendments, land office and public debt.

To room No. 7, down stairs, committees on penitentiary, public lands, commerce and manufactures and claims and accounts.

To Senate chamber, committees on statistics of industry, public health and history of Texas, public roads, bridges and ferries, county and county boundaries, public printing, state asylum, stock and stock raising, agricultural affairs, retrenchment and reform, treasurer and comptroller's reports, public buildings and grounds and revision of Senate rules of order.

In the event that the other rooms can be obtained the committee recommend that these committees, whose meeting are assigned to the Senate chamber, be allowed other and more convenient meeting places.

Respectfully submitted,

J. W. MOORE,
W. H. TILSON,
J. R. BURNETT,
Committee.

Report read and adopted.

The following resolution, which was introduced yesterday by Senator Stewart and adopted by the Senate, was omitted from the journals, and therefore appears to-day:

Joint resolution, inviting the committee appointed by the Congress of the United States to the capital.

WHEREAS, The Congress of the United States has been pleased to appoint a committee to escort the remains of the late Gustave Schleicher to his place of interment in this State, and they are now in Texas in the discharge of that duty;

Resolved by the Legislature of the State of Texas, That, as representatives of the people of Texas, we highly appreciate and are grateful to Congress for this manifestation of regard for the distinguished dead, and respectfully invite the members of said congressional committee to visit the capital of Texas.

Senator Tilson offered the following resolution:

WHEREAS, It appears from the message of his excellency, the governor of Texas, that the Revised Civil Code is ready for distribution, therefore

Resolved, That the members of the Senate be furnished with a copy each of the Revised Civil Code, as proposed by the committee to whom was referred the revision of the civil and criminal laws of the State of Texas, as early as possible.

Adopted.

Senator McCormick introduced a bill entitled "An act to secure creditors a just division of the estates of debtors who convey to assignees or trustees, for the benefit of creditors."

Read by caption and referred to judiciary committee No. 1.

Senator McCulloch introduced a bill entitled "An act to establish a state board of health, to prescribe its powers and duties, to provide for the appointment of a superintendent of vital statistics, and to assign certain duties to local boards of health."

Read by caption and referred to committee on statistics and health.

Senator Ledbetter introduced a bill to provide for the removal of county judges, county attorneys, clerks of district and county courts, justices of the peace, constables, county treasurers, collectors of taxes, assessors of taxes and sheriffs.

Read by caption and referred to judiciary committee No. 2.

Senator Duncan introduced a bill entitled "An act to make bail bonds and recognizances in criminal cases a lien on the real estate of the obligors on same, to provide for registration of same and to prevent discharge of defendant until such lien is recorded."

Read by caption and referred to judiciary committee No. 1.

Senator Gooch introduced a bill entitled "An act prescribing the times of holding the district courts in the third judicial district."

Read by caption and referred to judiciary committee No. 2.

Senator Duncan offered the following resolution:

Resolved, That the committee on printing be instructed to contract for the printing and furnishing, immediately, to this Senate one hundred copies of "Rules of the Senate and joint rules of the House and Senate."

Adopted.

Senator Terrell introduced a joint resolution "Proposing an amendment to the constitution of Texas."

Read and referred to committee on constitutional amendments.

Senator Tilson offered the following resolution:

WHEREAS, It is contrary to the principles and genius of a free republican government to impose unequal taxes upon the subjects thereof; and

WHEREAS, It is provided by our constitution that taxation shall be equal and uniform upon all persons and corporations; and

WHEREAS, The collection of an occupation tax as now provided by law, imposes extra and unequal burdens upon certain citizens of the State; therefore

Resolved, That the committee on finance be requested to take into consideration the justice and expediency of abolishing said occupation taxes, either wholly or partially, and adopting in lieu thereof a license tax, if the same is found necessary to raise sufficient revenue to meet the lawful demands of the treasury of the State.

Adopted.

Senator Ford, by request, presented the resolutions adopted by the late convention of the Protestant Episcopal Church in Houston, Texas,

requesting the Legislature to repeal that portion of the tax law imposing a tax upon the exhibition of "bull fights."

Read and referred to the committee on stockraising.

Senator Ford, from the committee on enrolled bills, made the following report:

Hon. Wells Thompson, president pro tempore of the Senate:

The committee on enrolled bills report that they have examined Senate bill No. 1, to amend section 3 of "An act to provide for the holding of district courts when the judge thereof is absent or is from any cause disabled or disqualified from presiding," approved August 16, 1876, and find it correctly enrolled and properly signed, and have this day, at 10:30 o'clock, presented the same to the governor for his signature.

FORD, for Committee.

The president of the senate, after reading in open Senate the caption of Senate bill No. 1, signed it.

The time having arrived to meet the Senate for counting the vote for governor and lieutenant governor, on motion of Senator Motley the Senate repaired to the House of Representatives.

The chief clerk called the roll of members and the speaker announced a quorum of the House present.

The secretary of the Senate called the roll, and the president announced a quorum of senators present.

The speaker then explained the object of the joint session to be for the purpose of counting the returns of the late general election for governor and lieutenant governor.

The president then appointed Senators Buchanan, Shannon and McCormick as tellers on the part of the Senate.

The speaker appointed as tellers on part of the House, Representatives Venters, Goodson and Leonard.

The tellers then proceeded to count the vote.

In counting up the vote for governor and lieutenant governor, there appeared two sets of returns from Harrison county.

Representative Coleman moved that the vote signed by Hon. George Lane, county judge, and having the seal attached, be counted as the returns from said county.

Adopted.

Pending the count, on motion of Senator Moore, the joint session took a recess until 3 o'clock P. M.

Recess expired and both houses re-convened in joint session.

Roll called; quorum present.

Upon casting up the vote it appeared that for governor O. M. Roberts received 158,933 votes; A. B. Norton, 23,402; W. H. Hamman, 55,002; scattering, 99; and for lieutenant governor J. D. Sayers received 158,850 votes; Richard Allen, 23,001; James Raines, 50,388; scattering, 408.

Counties.	Roberts.	Sayers.	Counties.	Roberts.	Sayers.
Anderson	1,406	1,336	Dawson		
Andrews			Deaf Smith		
Angelina	638	637	Delta	635	651
Aransas	182	189	Denton	2,386	2,377
Archer			De Witt	1,238	1,249
Armstrong			Dickens		
Atascosa	571	649	Dimmit		
Austin	1,301	1,432	Donley		
Bandera	323	294	Duval	360	370
Bastrop	1,239	1,371	Eastland	452	458
Bailey			Edwards		
Baylor			Ellis	3,031	3,011
Bee	369	376	El Paso	1,350	524
Bell	2,699	2,736	Encinal		
Bexar	3,349	3,356	Erath	1,555	1,552
Blanco	440	438	Falls	1,112	1,136
Borden			Fannin	2,196	2,218
Bosque	1,481	1,484	Fayette	2,470	2,476
Bowie	959	952	Fisher		
Brazoria	669	673	Floyd		
Brazos	943	959	Fort Bend	242	250
Briscoe			Franklin	538	519
Brown	956	959	Freestone	1,369	1,378
Burleson	549	548	Frio	279	280
Burnet	581	557	Galveston	3,500	3,575
Caldwell	1,353	1,350	Gaines		
Calhoun	233	236	Garza		
Callahan	263	261	Gillespie	617	625
Cameron	2,375	2,374	Goliad	744	757
Camp	223	317	Gonzales	2,008	2,073
Carson			Gray		
Cass	861	876	Grayson	4,181	4,204
Castro			Gregg	587	561
Chambers	243	241	Grimes	1,020	1,028
Cherokee	1,585	1,906	Guadalupe	1,215	1,226
Childress			Hale		
Clay	528	529	Hall		
Cochran			Hamilton	926	929
Coleman	352	353	Hansford		
Collin	3,195	3,208	Hardeman		
Collingsworth			Hardin	118	97
Colorado	1,169	1,201	Harris	2,661	2,702
Comal	481	493	Harrison	1,328	1,110
Comanche	887	881	Hartley		
Concho			Haskell		
Cooke	2,739	2,744	Hays	890	901
Coryell	1,769	1,778	Hemphill		
Cottle			Henderson	960	949
Crockett			Hidalgo	242	242
Crosby			Hill	2,044	2,053
Dallas	3,601	3,647	Hockley		
Dallam			Hood	1,076	1,074

Counties.	Roberts.	Sayers.	Counties.	Roberts.	Sayers.
Hopkins	2,166	2,156	Nacogdoches	1,395	1,390
Howard			Navarro	2,303	2,602
Houston	1,132	1,145	Newton	543	540
Hunt	2,214	2,201	Nolan		
Hutchinson			Nueces	915	912
Jack	560	553	Ochiltree		
Jackson	214	220	Oldham		
Jasper	732	274	Orange	268	270
Jefferson	313	297	Palo Pinto	768	776
Johnson	2,630	2,609	Panola	1,578	1,572
Jones			Parmer		
Karnes	514	559	Parker	1,813	1,835
Kaufman	1,847	1,860	Pecos	303	303
Kendall	186	224	Polk	589	484
Kent			Potter		
Kerr	217	243	Presidio	351	351
Kimble	116	126	Rains	351	348
King			Randall		
Kinney	455	458	Red River	1,541	1,554
Knox			Refugio	273	278
Lamar	1,935		Roberts		
Lamb			Robertson	1,604	1,698
Lampasas	477	464	Rockwall	433	428
La Salle			Runnels		
Lavaca	1,048	1,074	Rusk	1,596	1,603
Lee	625	647	Sabine	540	537
Leon	1,090	1,102	San Augustine	486	462
Liberty	486	491	San Jacinto	454	356
Limestone	1,546	1,590	San Patricio	192	195
Lipscomb			San Saba	596	600
Live Oak	347	353	Scurry		
Llano	325	308	Shackelford	397	401
Lubbock			Shelby	836	861
Lynn			Sherman		
Madison	553	561	Smith	1,220	1,223
Marion	380	397	Somerville	349	331
Martin			Starr	361	360
Mason	319	376	Stephens	645	645
Matagorda	259	261	Stoneman		
Maverick	436	436	Swisher		
McCulloch	230	232	Tarrant	3,471	3,450
McLennan	2,514	2,567	Taylor	131	128
McMullen	105	105	Terry		
Medina	610	642	Throckmorton		
Menard	146	146	Titus	623	616
Milam	1,817	1,913	Tom Green	368	366
Mitchell			Travis	2,176	2,392
Montague	1,324	1,319	Trinity	517	515
Montgomery			Tyler	653	668
Moore			Upshur	983	973
Morris	437	436	Uvalde	353	356
Motley			Van Zandt	1,608	1,628

Counties.	Roberts.	Sayers.	Counties.	Roberts.	Sayers.
Victoria	807	826	Williamson	1,492	1,525
Walker	805	815	Wilson	1,121	1,133
Waller	527	550	Wise	1,115	1,099
Washington	1,733	1,743	Wood	1,296	1,332
Webb	1,314	1,315	Yoakum		
Wharton	108	110	Young	666	670
Wheeler			Zapata	246	246
Wichita			Zavala		
Wilbarger					

County.	Hamman.	Bains.	County.	Hamman.	Bains.
Anderson	118	31	Collin	887	871
Andrews			Collingsworth		
Angelina	2		Colorado	1,394	1,353
Aransas	2	2	Comal	11	6
Archer			Comanche	360	363
Armstrong			Concho		
Atascosa	3		Cooke	67	55
Austin	177	161	Coryell	208	195
Bandera	59	69	Cottle		
Bastrop	1,465	1,386	Crockett		
Bailey			Crosby		
Baylor			Dallas	1,365	1,376
Bee	9	4	Dallam		
Bell	510	554	Dawson		
Bexar	291	251	Deaf Smith		
Blanco	109	112	Delta	103	80
Borden			Denton	189	197
Bosque	63	52	De Witt	165	119
Bowie	171	163	Dickens		
Brazoria	5	3	Dimmitt		
Brazos	1,460	1,460	Donley		
Briscoe			Duval		
Brown	238	229	Eastland	40	
Burleson	903	902	Edwards		
Burnet	364	395	Ellis	368	364
Caldwell	544	534	El Paso		
Calhoun	187	185	Encinal		
Callahan	1	1	Erath	112	101
Cameron			Falls	1,013	988
Camp	530	529	Fannin	1,119	1,065
Carson			Fayette	396	371
Cass	1,033	1,011	Fisher		
Castro			Floyd		
Chambers	29	27	Fort Bend	41	34
Cherokee	676	191	Franklin	289	302
Childress			Freestone	984	982
Clay			Frio		
Cochran			Galveston	1,294	1,216
Coleman	74	72	Gaines		

County.	Hamman.	Rains.	County.	Hamman.	Rains.
Garza			Leon	648	613
Gillespie	2		Liberty	249	208
Goliad	130	109	Limestone	460	402
Gonzales	410	349	Lipscomb		
Gray			Live Oak	14	9
Grayson	1,555	1,519	Llano	104	105
Gregg	471	462	Lubbock		
Grimes	1,323	529	Lynn		
Guadalupe	602	589	Madison	399	392
Hale			Marion	500	466
Hall			Martin		
Hamilton	84	89	Mason	15	
Hansford			Matagorda	166	160
Hardeman			Maverick	1	1
Hardin	25		McCulloch	16	15
Harris	2,306	2,221	McLennan	1,746	1,674
Harrison	94	95	McMullen		
Hartley			Medina	23	22
Haskell			Menard	1	1
Hays	19	10	Milam	882	715
Hemphill			Mitchell		
Henderson	404	405	Montague	117	117
Hidalgo			Montgomery		
Hill	583	564	Moore		
Hockley			Morris	341	340
Hood	21	18	Motley		
Hopkins	273	271	Nacogdoches	36	14
Howard			Navarro	899	619
Houston	669	630	Newton	18	18
Hunt	299	263	Nolan		
Hutchinson			Nueces	2	2
Jack	158	158	Ochiltree		
Jackson	3	1	Oldham		
Jasper			Orange	89	88
Jefferson	99	92	Palo Pinto	22	18
Johnson	512	510	Panola	12	10
Jones			Parmer		
Karnes	42		Parker	410	398
Kaufman	695	673	Pecos		
Kendall	14	31	Polk	48	34
Kent			Potter		
Kerr	33	17	Presidio		
Kimble	56	42	Rains	91	93
King			Randall		
Kenney	36	35	Red River	176	163
Knox			Refugio	1	
Lamar	987		Roberts		
Lamb			Robertson	2,024	1,926
Lampasas	357	300	Rockwall	47	47
La Salle			Runnels		
Lavaca	283	258	Rusk	527	521
Lee	789	763	Sabine	145	145

County.	Hamman.	Rains.	County.	Hamman.	Rains.
San Augustine	431	429	Tyler	53	2
San Jacinto	140	131	Upshur	318	316
San Patricio	2		Uvalde	13	10
San Saba	293	231	Van Zandt	56	48
Scurry			Victoria	421	
Shackelford	4	5	Walker	1,089	1,084
Shelby	508	495	Waller	84	66
Sherman			Washington	1,625	1,780
Smith	1,006	997	Webb		
Somervell	39	39	Wharton	236	233
Starr			Wheeler		
Stephens	2	1	Wichita		
Stoneman			Wilbarger		
Swisher			Williamson	806	74
Tarrant	756	755	Wilson	28	11
Taylor			Wise	863	872
Terry			Wood	235	187
Throckmorton			Yoakum		
Titus	336	239	Young	10	9
Tom Green			Zapata		
Travis	2,480	2,265	Zavala		
Trinity	179	96			

County.	Norton.	Allen.	County.	Norton.	Allen.
Anderson	946	1,009	Burnet	6	2
Andrews			Caldwell	2	5
Angelina	96	96	Calhoun	122	116
Aransas	8	3	Callahan		
Archer			Cameron	87	87
Armstrong			Camp	69	67
Atascosa			Carson		
Austin	644	624	Cass	72	72
Bandera	6	11	Castro		
Bastrop	4		Chambers		
Bailey			Cherokee	368	463
Baylor			Childress		
Bee			Clay		
Bell	41	40	Cochran		
Bexar	941	958	Coleman		
Blanco	28	14	Collin	106	103
Borden			Collingsworth		
Bosque	5	3	Colorado	28	35
Bowie	515	514	Comal	326	284
Brazoria	1,071	1,069	Comanche	1	
Brazos			Concho		
Briscoe			Cooke	14	2
Brown	4		Coryelle	3	3
Burleson			Cottle		

County.	Norton.	Allen.	County.	Norton.	Allen.
Crockett.			Hidalgo.	16	16
Crosby.			Hill.	1	1
Dallas.	655	562	Hockley.		
Dallam.			Hood.	1	1
Dawson.			Hopkins.	44	43
Deaf Smith.			Howard.		
Delta.	7	7	Houston.	162	166
Denton.	90	88	Hunt.	51	51
De Witt.	207	239	Hutchinson.		
Dickens.			Jack.	50	42
Dimmit.			Jackson.	223	231
Donley.			Jasper.		
Duval.	15	3	Jefferson.	56	67
Eastland.	1	1	Johnson.	35	35
Edwards.			Jones.		
Ellis.	42	60	Karnes.		
El Paso.	176		Kaufman.	79	65
Encinal.			Kendall.	280	144
Erath.	6		Kent.		
Falls.	3		Kerr.	86	86
Fannin.	37	37	Kimble.		
Fayette.	1,177	1,304	King.		
Fisher.			Kinney.	53	52
Floyd.			Knox.		
Fort Bend.	1,185	1,185	Lamar.	95	
Franklin.			Lamb.		
Freestone.			Lampasas.	1	
Frio.			LaSalle.		
Galveston.		25	Lavaca.	26	25
Gaines.			Lee.	101	102
Garza.			Leon.	494	491
Gillespie.	145	136	Liberty.		
Goliad.	22	21	Limestone.	233	234
Gonzales.	15	15	Lipscomb.		
Gray.			Live Oak.	3	2
Grayson.	147	129	Llano.	3	2
Gregg.	322	324	Lubbock.		
Grimes.	1,191	1,982	Lynn.		
Guadalupe.	183	164	Madison.		1
Hale.			Marion.	853	869
Hall.			Martin.		
Hamilton.			Mason.	46	35
Hansford.			Matagorda.	250	255
Hardeman.			Maverick.	16	16
Hardin.	6	2	McCulloch.		1
Harris.	40	107	McLennan.	12	19
Harrison.	1,400	1,416	McMullen.		
Hartley.			Medina.	93	60
Haskell.			Menard.	2	2
Hays.	235	231	Milam.	135	148
Hemphill.			Mitchell.		
Henderson.	6	6	Montague.	1	

County.	Norton.	Allen.	County.	Norton.	Allen.
Montgomery			Sherman		
Moore			Smith	25	25
Morris			Somervell		
Motley			Starr	45	32
Nacogdoches	438	455	Stephens	1	1
Navarro	26	26	Stoneman		
Newton			Swisher		
Nolan			Tarrant	138	135
Nueces	48	46	Taylor		
Ochiletree			Terry		
Oldham			Throckmorton		
Orange	2	2	Titus	37	
Palo Pinto			Tom Green	19	18
Panola	92	92	Travis	107	71
Parmer			Trinity	4	4
Parker	16	9	Tyler	1	
Pecos			Upshur	346	344
Polk	99	62	Uvalde		
Potter			Van Zandt	159	50
Presidio			Victoria	1	
Rains			Walker		
Randall			Waller	880	978
Red River	983	974	Washington	1,148	957
Refugio	5		Webb	35	35
Roberts			Wharton	373	373
Robertson	466	465	Wheeler		
Rockwall	15	15	Wichita		
Runnels			Wilbarger		
Rusk	663	661	Williamson	32	22
Sabine			Wilson	74	78
San Augustine			Wise	74	72
San Jacinto	231	91	Wood	28	22
San Patricio			Yoakum		
San Saba			Young	2	
Scurry			Zapata		
Shackelford			Zavala		
Shelby	1				
				22,981	22,965

The speaker declared O. M. Roberts and J. D. Sayers duly and constitutionally elected governor and lieutenant governor, respectively, for two years.

On motion of Senator Gooch the Senate returned to the Senate chamber.

(In Senate.)

Roll called; quorum present.

On motion of Senator Homan the Senate adjourned to 9 o'clock A. M. to-morrow.

FIFTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, January 18, 1879. }

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

Journal of yesterday read and adopted.

The following letter was received from his excellency the governor, which was ordered read:

AUSTIN, January 17, 1879.

Hon. Wells Thompson, President of the Senate:

SIR—The following extract from a personal letter to me from Hon. R. S. Guy, this day, you will please read to the Senate, as requested by the absent senator.

Respectfully, R. B. HUBBARD.

“LANCASTER, TEXAS, January 15.

* * * * *

“Please say to the honorable Senate I hope to be in my seat by the last of next week—say about the 23d or 24th instant.

“R. S. GUY.”

The following telegram was received from the committee appointed by the Legislature to meet the congressional committee having in charge the remains of the late Hon. Gustave Schleicher, etc., through Senator Houston, which was ordered read:

DALLAS, TEXAS, January 17, 1879.

Hon. Wells Thompson, Lieutenant Governor, and Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee received congressional committee with remains of Hon. Gustave Schleicher at 3 P. M. to-day. The family of deceased request that he be interred in San Antonio, and we accordingly proceed to that point.

A. W. HOUSTON, for Committee.

Senator Brown presented the memorial of George A. King, a citizen of Falls county, asking for relief as one of the sureties on the bond of B. F. Scogin, sheriff of Falls county in the year 1871. Said sheriff was a defaulter, and judgment was rendered against him and each of his sureties at the city of Austin, for the full amount of his bond, \$7400. The said King avers he has paid \$1000, the full amount of property he owns above his homestead, and that the other securities have paid nothing, and that the principal is insolvent, etc. Accompanying this is a petition of several of the citizens and county officers of Falls county asking that the request of Mr. King be granted.

Memorial and petition read and referred to judiciary committee No. 2.

Senator Davenport, chairman of committee on public printing, made the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on public printing, to whom was referred resolution and substitute in regard to newspapers or daily journals publishing the proceedings of the Legislature, have had the same under consideration, and instruct me to report back the following substitute for both resolutions and recommend its adoption:

Resolved, That the sergeant-at-arms of the senate be and he is hereby instructed to subscribe for five hundred (500) copies of the daily *Statesman*, and in addition thereto fifteen (15) copies for each senator of such daily papers publishing said proceedings as the senators may select, at a cost not to exceed four (4) cents per copy; *provided*, that if said other journals cannot be had at the price designated, he may subscribe for the *Statesman* for the full amount of one thousand (1000) copies, said papers to be equally distributed among the members of the Senate.

J. H. DAVENPORT, *Chairman*.

Resolution adopted.

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

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 11, "An act to amend 'an act fixing the time of holding the district courts in the seventh judicial district of the State of Texas,' approved August 16, 1876," have instructed me to report the same back and recommend its passage with the following amendments, viz:

WHEREAS, The district court of Gregg county will be holden on the third Monday after the second Monday in January, 1879, thereby creating an imperative public necessity for the immediate enactment of a law changing the time of holding the district courts of the seventh judicial district of the State of Texas; therefore

STEWART, *Chairman*.

Senator Hobby introduced a bill entitled "An act requiring persons taking causes to the supreme court and court of appeals to make a deposit to cover the costs in said courts."

Read by caption and referred to judiciary committee No. 2.

Senator Gooch introduced a bill entitled "An act to create and provide for execution liens on land."

Read by caption and referred to judiciary committee No. 2.

Senator McCulloch offered the following resolution:

WHEREAS, The election law has been found to be very defective in many important particulars, excluding citizens from voting the State ticket who chance to be absent from home, thereby doing great injustice to the citizen; and no compensation made for judges of the election while exacting their continuous service night and day; and no provision made for reporting to the clerk of the county court duplicate tally lists as it should, so that official results may be known immediately after the election; therefore be it

Resolved, That restrictions be imposed against repeating at the polls; and that a law or an amendment to the constitution be made requiring the pre-payment of a \$2 poll tax, to be paid ten days previous to the day of election, to enable the suffragan to vote.

Read and referred to committee on constitutional amendments.

Senator McCormick introduced a bill entitled "An act supplemental to and amendatory of an act entitled 'an act concerning factors and commission merchants,' approved February 11, 1860, and which took effect April 10, 1860."

Read by caption and referred to the committee on commerce and manufactures.

Senator Ledbetter introduced a bill entitled "An act to provide for

making it the duty of incorporated towns and cities to keep in repair their streets and bridges and to relieve the inhabitants thereof from road duty."

Read by caption and referred to judiciary committee No. 2.

Senator Duncan introduced a bill entitled "An act to amend section 6 of an act entitled 'an act to regulate taxation and to fix the rate of the same, passed at the session of the Fifteenth Legislature in 1876.'"

Read by caption and referred to the committee on finance.

On motion of Senator Stewart the rules were suspended and Senate bill No. 11, entitled "An act to amend an act entitled 'an act fixing the times of holding the district courts of the seventh judicial district of the State of Texas,' approved August 16, 1876," together with the report and accompanying amendments of the committee, were taken up.

On motion of Senator Stewart the report of the committee was adopted. Bill read second time and ordered engrossed by the following vote:

YEAS.

Blassingame,	Gooch,	Motley,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—24.

NAYS—none.

On motion of Senator Stewart the rules were further suspended and the bill placed on its third reading by the following vote:

YEAS.

Blassingame,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Brown,	Lair,	Stewart,
Burnett,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—23.
Gooch,	Motley,	

NAYS—none.

Bill was then read third time and passed by the following vote:

YEAS.

Blassingame,	Gooch,	Motley,
Brown,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Burnett,	Lair,	Stewart,
Burton,	Ledbetter,	Shannon,
Davenport,	McCormick,	Swain,
Duncan,	McCulloch,	Terrell,
Ford,	Moore,	Tilson—23.

NAYS—none.

On motion of Senator Terrell the rules were suspended to offer joint resolution granting leave of absence to Walter Acker, district attorney of the seventeenth judicial district.

Read and referred to judiciary committee No. 2.

(Senator Brown in the chair.)

Senator Gooch introduced a bill entitled "An act providing for the transportation of convicts under contract from counties in which they are convicted to the penitentiary."

Read by caption and referred to judiciary committee No. 2.

On motion of Senator Duncan the Senate adjourned to 9 o'clock A. M., Monday morning.

SIXTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, JANUARY 20, 1879. }

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

Journal of Saturday read and adopted.

Senator Davenport presented a memorial from citizens of the unorganized county of Jones, stating that said county is attached to Shackelford county for judicial purposes and to Palo Pinto county for surveying purposes, and praying to be detached from said counties and attached to Taylor county for both purposes. Referred to judiciary committee No. 1.

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

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 4, entitled "An act prescribing the times of holding the district courts in the third judicial district," have duly considered the same, and I am instructed by said committee to report said bill back to the Senate with their recommendation of its immediate passage.

STEWART, *Chairman.*

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 8, entitled "An act to repeal an act to levy a tax on the privilege of keeping and harboring dogs, and to provide for the assessment and collection of the same," approved August 19, 1876, beg leave to report that they have duly considered the same, and I am instructed by a majority of the committee to report the bill back to the Senate with their recommendation that it do not pass.

STEWART, *Chairman.*

Senators Homan, Gooch and Ledbetter, from said committee, submitted the following minority report:

Hon. Wells Thompson, President of the Senate:

The undersigned members of judiciary committee No. 2, cannot agree with the decision of the majority of said committee in reporting adversely upon Senate bill No. 8, to repeal "An act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same." The act in question operates oppressively upon a worthy class of citizens, in that it subjects them to vexatious and expensive criminal prosecutions. As a police measure it is believed to be a failure, and the revenue derived from the tax therein levied is only about \$10,000 for the past year, which amount is collected almost entirely from the poorer classes. This tax is also believed to be wrong in principle,

because not an assessment at a uniform rate upon the value of property. We therefore recommend the passage of the bill under consideration.

W. K. HOMAN.

We concur in this report on the ground that the act subjects those who do not pay the tax, by the first of January, "to criminal prosecution."

JOHN YOUNG GOOCH,

W. H. LEDBETTER.

Senator Davenport, chairman committee on public printing, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on public printing, to whom was referred resolution providing for printing the governor's message in the German and Spanish languages; have had the same under consideration and instruct me to report it back and recommend its adoption.

DAVENPORT, *Chairman.*

Senator Ledbetter, for judiciary committee No. 2, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 13, "An act to provide for the time and place of holding the supreme court of the State of Texas," have had the same under consideration and a majority of said committee instruct me to report the same back to the Senate and recommend that the same do pass.

W. H. LEDBETTER, *for the majority.*

Senators Hobby, Patton and Stewart submitted the following minority report from said judiciary committee:

Hon. Wells Thompson, President of the Senate:

The undersigned minority of your judiciary committee No. 2, to whom was referred Senate bill No. 13, entitled "An act to be entitled 'an act to provide for the time and place of holding the supreme court of the State of Texas,'" dissent from the report of the majority of said committee recommending the passage of said bill, and we respectfully recommend that the same do not pass.

HOBBY,

S. C. PATTON,

CHAS. STEWART.

Senator Terrell, chairman judiciary committee No. 1, submitted the following reports:

Hon. Wells Thompson, President of the Senate:

Your committee on judiciary No. 1, to whom was referred a bill to be entitled "An act to make persons charged with crimes and offenses competent witnesses in the several courts of this State, in cases in which they are so charged," have had the same under consideration and instruct me to report that the act is substantially a copy of the act of the Federal Congress of 1877-8, which permits the accused to testify in the Federal courts. I am instructed by the committee to recommend the passage of the bill.

TERRELL, *Chairman.*

Hon. Wells Thompson, President of the Senate:

Your committee on judiciary No. 1, to whom was referred Senate bill

No. 3, to be entitled "An act concerning judgments," have had the same under consideration and instruct me to report—

1. That our supreme court in 1868 decided that under a statute of Texas, which declared that judgments of a court of record should operate as a lien upon real estate situate in the county in which the judgment might be rendered, a judgment of circuit court of the United States would operate as a lien on all land situate in any counties of the Federal district.

2. That under such a construction no purchaser of land in the State could determine the sufficiency of his title until after procuring an examination of the records of the Federal court at Austin, Tyler, Galveston or Brownsville, with its attendant expenses and delay.

3. That the supreme court of the United States has more than once decided that the laws of the State furnished the rule of decision in respect to the lien of judgments and decrees rendered in the Federal court upon the land of the debtor.

4. That the legislative department of this State has the right to declare that no judgment hereafter rendered by any court of record in this State shall constitute a lien upon real estate situate in any county in this State until after the same has been filed for record in the county clerk's office of the county in which it is desired the lien shall operate. This the bill now reported does, and, for the reasons above given, I am instructed by the committee to recommend its passage.

TERRELL, *Chairman.*

Senator Ledbetter, for judiciary committee No. 2, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your judiciary committee No. 2, to whom was referred Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas," have had the same under consideration, and a majority of said committee instruct me to report it back to the Senate and recommend that the bill do pass.

W. H. LEDBETTER, *for the Majority Committee.*

Senators Hobby, Patton and Stewart submitted the following minority report from said committee:

Hon. Wells Thompson, President of the Senate:

The undersigned, a minority of your judiciary committee No. 2, to whom was referred Senate bill No. 14, entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas," respectfully dissent from the report of the majority of said committee, recommending the passage of said bill, and recommend that the same do not pass.

HOBBY,
PATTON,
STEWART.

Senator Burton introduced a bill entitled "An act to fix the times of holding the district courts of the eighteenth judicial district of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

Senator Gooch introduced a bill entitled "An act to provide for the care and protection of the East Texas Penitentiary."

Read by caption and referred to the committee on penitentiary.

Senator McCormick introduced a bill entitled "An act to change the jurisdiction of county courts, and to conform the jurisdiction of district courts to such change."

Read by caption and referred to judiciary committee No. 1.

Senator Shannon introduced a bill entitled "An act to amend section 3 of an act entitled 'an act regulating interest,' approved August 21, 1870."

Read by caption and referred to judiciary committee No. 1.

Also a bill entitled "An act to define and punish usury."

Read by caption and referred to judiciary committee No. 1.

Senator McCulloch introduced a joint resolution commendatory of Governor Hubbard, in his retirement from the gubernatorial chair, etc.

Read and on motion of Senator Ledbetter referred to the committee on state affairs.

Senator Burton introduced a bill entitled "An act to fix and regulate the fees of all officers of the State of Texas and the several counties thereof."

Read by caption and referred to judiciary committee No. 1.

Senator Tilson introduced a bill entitled "An act to amend sections 9 and 26 of 'an act to define the duties, powers, qualifications and liabilities of assessors of taxes and to regulate their compensation,' approved August 21, 1876."

Read by caption and referred to judiciary committee No. 2.

Senator Stewart introduced a joint resolution amending section 50 of article 16, of the constitution of the State of Texas.

Read and referred to the committee on constitutional amendments.

Senator Burton introduced the following resolution:

Resolved, That the pages and porters of the Senate be allowed \$2.50, each, per day.

Adopted.

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

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills, to whom was referred Senate bill No. 11, entitled "An act to amend an act entitled 'an act fixing the times of holding the district courts of the seventh judicial district of the State of Texas,' approved August 16, 1876," have compared said bill with the original and find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Homan, the resolution reported back from the committee on public printing, requiring the printing of 2000 copies of the governor's message in German and Spanish, each, was called up and the report of the committee adopted.

Senator Ledbetter moved to amend by adding 1000 copies in Bohemian.

Adopted.

The resolution as amended was then adopted.

On motion of Senator Stewart, the rules were suspended and Senate bill No. 4, entitled "An act prescribing the times of holding the district courts in the third judicial district," was taken up.

(Senator McCormick in the chair.)

Bill read second time and ordered engrossed.

On motion of Senator Stewart the rules were further suspended and the bill placed on its third reading by the following vote:

YEAS.		
Blassingame,	Hobby,	Patton,
Brown,	Homan,	Ripetoe,
Buchanan,	Lair,	Stewart,
Burnett,	Ledbetter,	Shannon,
Burton,	McCormick,	Swain,
Davenport,	McCulloch,	Terrell,
Duncan,	Moore,	Tilson—23.
Gooch,	Motley,	

NAYS—none.

Bill was then read third time and passed by the following vote:

YEAS.		
Blassingame,	Hobby,	Patton,
Buchanan,	Homan,	Ripetoe,
Brown,	Lair,	Stewart,
Burnett,	Ledbetter,	Shannon,
Burton,	McCormick,	Swain,
Davenport,	McCulloch,	Terrell,
Duncan,	Moore,	Tilson—23.
Gooch,	Motley,	

NAYS—none.

On motion of Senator Terrell the rules were suspended and Senate bill No. 3, entitled "An act concerning judgments," was taken up.

(Senator Brown in the chair.)

On motion of Senator Ledbetter, fifty copies of the bill were ordered printed.

Senator Shannon moved that the report of the committee be also printed.

Adopted.

On motion of Senator McCormick the rules were suspended and Senate bill No. 16, entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged," was taken up.

The bill was then read a second time and ordered engrossed by the following vote:

YEAS.		
Brown,	Gooch,	Motley,
Buchanan,	Hobby,	Ripetoe,
Burnett,	Lair,	Shannon,
Burton,	Ledbetter,	Swain,
Davenport,	McCormick,	Terrell,
Duncan,	McCulloch,	Tilson—21.
Ford,	Moore,	

NAYS.

Homan,	Patton,	Stewart—3.
--------	---------	------------

On motion of Senator Ledbetter the senate adjourned until 2:30 P. M.

AFTERNOON SESSION—3 O'CLOCK.

The Senate met pursuant to adjournment. Roll called; quorum present.

Senator Swain introduced joint resolution "Instructing our Senators

and requesting our representatives in Congress to ask for protection to the Texas frontier, and compensation for past expenses by the State in that behalf."

Read and referred to committee on federal relations.

Senator Moore offered the following resolution:

Resolved, That the committee on constitutional amendments be, and are hereby requested to inquire into the expediency of reporting a constitutional amendment exempting farm products in the hands of the producer from taxation, and to report their action upon the same to this Senate at as early a day as possible.

Adopted.

Senator Tilson introduced a bill entitled "An act to provide for the election of a district attorney in certain judicial districts of the State of Texas."

Read by caption and referred to judiciary committee No. 1.

On motion of Senator McCormick, Senator Tilson was added to judiciary committee No. 1.

On motion of Senator Hobby, Senator Burnett was added to the committee on revision of the Code.

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

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills, to whom was referred Senate bill No. 4, entitled "An act prescribing the times of holding the district courts in the third judicial district," having examined the same, find it correctly engrossed.

BROWN, *Chairman.*

On motion of Senator Shannon the Senate adjourned until 9 o'clock A. M. to-morrow.

SEVENTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, JANUARY 21, 1879. }

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

Journal of yesterday read and adopted.

A message was received from the House announcing the passage by that body of House bill No. 17, entitled "An act making an appropriation for mileage and per diem pay of the members and the per diem pay of the officers and employes of the Sixteenth Legislature."

The following message was received from the comptroller, which was read and referred to the committee on finance.

Hon. Wells Thompson, President of the Senate:

In response to Senate resolution, passed August 21, 1876, "requiring the comptroller and treasurer to report if there is on file in their respective offices any claims which were omitted and neglected to be examined and reported upon by the auditor and comptroller, under the provisions of certain acts approved February 7, 1853," be it

"*Resolved*, That the comptroller of public accounts and state treasurer are hereby required to report, for the information of the Legislature, at its next session, what claims, if any, which were properly and lawfully

filed in the proper department of the government, which were neglected or omitted to be acted on and reported upon by the auditor and comptroller, under the provisions of 'an act to provide for ascertaining the debt of the late Republic of Texas,' approved March 20, 1848, and 'an act to extend the provisions of said act,' approved February 7, 1853; if there be any such claims, stating their character and the amount legally and justly due thereon as shown by the accounts and vouchers on file and the records of their respective offices."

We have the honor to report that we know of no unaudited claims as having been filed under the provisions of the acts above referred to, nor has our attention been called to any except the claims of the heirs of Thomas Toby for military and naval supplies furnished by Thomas Toby, agent, during the revolutionary war between Texas and Mexico, upon which we reported under resolution to the Fourteenth Legislature, January 14, 1875. For amount of claim reference is made to the above mentioned report, a copy of which is herewith appended and made a part of this report, to wit:

" COMPTROLLER'S OFFICE, }
" AUSTIN, TEXAS, JANUARY 19, 1875. }

" *Hon. Guy M. Bryan, Speaker of the House of Representatives:*

"In obedience to a resolution passed by your honorable body on the 27th of April, 1874, which reads as follows, viz: 'That the comptroller of public accounts and treasurer of the state be and they are hereby instructed to furnish to this House, at its next session, all information in relation to the claims of Thomas Toby that is on file in their respective offices, we have the honor to submit for your consideration the accompanying statements, which embrace all the information to be had on the subject from an examination of the records of our respective offices. The claims presented by Thomas Toby for his credit we have subdivided into three classes, viz: first, second and third, the character of each of which is explained in statements submitted. The amount aggregating for his credit \$154,328 38; the amounts of his debt to the State from various sources, including the sale of land scrip, \$94,879 94, showing balance in favor of Thomas Toby, \$59,448 44. In the above credits is included interest at the rate of ten per cent. up to the time the final account was rendered, March 31, 1838. There is also included in the credits above five per cent. commission on shipments, also five per cent. commission upon the whole amounts of the first issue of land scrip, which he claims by reason of his having the scrip printed at his own personal expense.

"We append a list of claims for which the vouchers are missing, a part of which appears to have been acted upon by the secretary of the treasury in 1837, and passed to the credit of Thomas Toby. The remainder do not appear to have been examined. Neither of these classes has been included in the credits, but are referred to the Legislature to determine whether they should be included in the account or not. After a careful examination, we find no evidence that any of the above claims have ever been audited or any money paid on account of the same. We have compared them with the accounts of McKinney and Williams, and find that they include no item of the claims presented by Thomas Toby."

We have the honor to be, very respectfully, your obedient servants.

STEPHEN H. DARDEN, *Comptroller,*
ANDREW J. DORN, *Treasurer.*

The following communication was received from his excellency the governor and ordered read:

Hon. Wells Thompson, Lieutenant Governor and President of the Senate:

SIR—It is due to your honorable body to know that on yesterday (nineteenth) the report of the commissioners to codify the laws in printed form, was expressed to the secretary of state. It should reach the Capitol to-day. I am also advised that the Revised Civil Statutes will reach the state department on Wednesday, the twenty-second instant. This short delay was not anticipated, and could not have been prevented by the executive, as a reference to the honorable commissioners themselves and the public printer, will attest. The Criminal Codes have been delivered.

I have the honor to be your obedient servant,

R. B. HUBBARD, *Governor.*

The following messages were received from his excellency the governor, with accompanying documents, which were ordered read and placed upon the journals of the Senate:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 20, 1879. }

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

GENTLEMEN—I respectfully call the attention of the Legislature to the present condition of the controversy, yet unsettled, as to the boundary between the United States and Texas, in which the county of "Greer" is involved, and to the accompanying communication from the commissioner of the general land office.

The United States commissioners, as doubtless known to your honorable bodies, and the Texas commissioners appointed under the act of the Legislature approved February 11, 1854, and an act of the Congress of the United States, of June 5, 1858, to adjust this boundary, differed as to the main channel of Red river at the mouth of Prairie Dog river, the Texas commissioners claiming the north fork, while the United States commissioners claimed Prairie Dog river (or the south fork) as the main channel. Owing to the late civil war the controversy has never been finally and definitely settled. The difference between the two forks (the area therein) constitutes the present county of "Greer."

Neither the State of Texas nor the United States at present issue patents to these lands. It is a territory noted for fertility, healthfulness and in all respects most valuable and attractive to the settler. The present commissioner of the general land office of Texas has lately made application to the secretary of state of the State of Pennsylvania for a map known as "Melish's" map of the United States, published at Philadelphia (improved to the first of January, 1818). It is on reliable information said that the north fork is there laid down as the main channel of Red river. No response has yet been received to these inquiries. The above map is thus referred to in a document now on file in the general land office of Texas, endorsed boundary between Spain and the United States, taken from Revised Statutes of Arkansas, October 4, 1843, in which the following words occur: The whole being laid

down in "Melish's" map of the United States, published at Philadelphia January 1, 1818, etc., as heretofore recited.

I respectfully suggest to the Legislature that steps be taken at once through our delegation in Congress, to settle finally this old controversy. There is no doubt in my mind from all the sources of information within my reach that the north fork of Red river is the main Red river, and that, therefore, the county of Greer is a rightful part of the territory of Texas and under her jurisdiction.

R. B. HUBBARD, *Governor.*

GENERAL LAND OFFICE, }
AUSTIN, TEXAS, January 18, 1879. }

Hon. R. B. Hubbard, Governor:

SIR—The correspondence between yourself and this office, relative to Greer county, does not appear to have been copied, as no copy can be found.

I have examined the matter as thoroughly as possible with the laws and archives on file here, and find that the whole question is embraced in "which is Red river, the north or south fork?" It appears that the south fork is longest and has a wide and water-worn bed, but the whole stream dries up at times. The north fork is shorter, but affords abundant running water at all seasons.

I find a document on file here indorsed "Boundaries between Spain and the United States," taken from the Revised Statutes of Arkansas, October 4, 1843, in which the following words occur:

"The whole being laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818."

I have applied to the secretary of state of Pennsylvania to learn if a copy of such map is in the hands of any government department of that state and to get a sketch of the portion in question. The topographical map to which I referred in our conversation, I learn, is private property, but will try to get it for you this evening.

Respectfully,

W. C. WALSH, *Commissioner.*

Referred to the committee on public lands.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 17, 1879. }

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

GENTLEMEN—I herewith have the honor to transmit to your honorable body the accompanying certified copy of a communication received from the late attorney general, Hon. H. H. Boone, relating to his itemized account, duly verified, showing the fees received by that officer during his term as attorney general. Said accounts are on file in the executive office, subject to the examination or order of the Legislature. By reference to these accounts, and the accompanying communication of attorney general, it will be observed that the fees amounted not only to more than the appropriation to cover them, but to more than the constitutional limitation. In accordance with the spirit of the constitution, and because of the services rendered by this most capable officer which entitle him to the maximum compensation allowed him, I respectfully and earnestly recommend a deficiency appropriation sufficient to make the pay of the late attorney general amount to four thousand dollars per annum.

R. B. HUBBARD, *Governor.*

ATTORNEY GENERAL'S OFFICE, }
AUSTIN, Jan. 14, 1879. }

Hon. R. B. Hubbard, Governor:

DEAR SIR—I hand you herewith itemized accounts, sworn to by me, showing the fees I received during my term as attorney general. You will see that the amounts received were short of the amounts allowed by the constitution. I hand you with these itemized accounts copies of accounts of fees in felony cases. The original accounts, properly approved, are in the custody of the comptroller, except the one for the Austin term, 1878, which was not filed with the comptroller, as the appropriation for that year had been already exhausted by the fees received from Tyler and Galveston terms of that fiscal year. From these approved accounts it will be seen that the fees in felony cases were as follows:

For the part of the fiscal year of 1876, \$360; for the fiscal year ending August 31, 1877, \$2355; for the fiscal year ending August 31, 1878, \$2625; for the part of the fiscal year from September 1, 1878, to January, 1879, \$610.

These fees amounted, as will be seen, not only to more than the appropriations to cover them, but to more than the constitutional limitation.

If my services while attorney general have been worth so much to the State, I would be glad to have a deficiency appropriation sufficient to make the pay of the office amount to \$4000 per annum.

I have the honor to subscribe myself most respectfully and truly your friend,

H. H. BOONE.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 17, 1879. }

I hereby certify that the above is a true and correct copy of the original now on file in the executive office.

SUMNER B. CALLAWAY, *Private Secretary.*

Referred to committee on finance.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 20, 1879. }

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

GENTLEMEN—I herewith transmit a communication from the artist John G. Chapman making certain propositions for the sale to the State of his lifesize painting of Col. David Crockett. I also herewith transmit the certificate of Hon. Bailie Peyton, late of Tennessee, as to the fidelity of the artist in giving a lifelike portrait of this historic character who died for the liberties of Texas at the Alamo.

This painting has lately been retouched by the artist, and is in the possession of the superintendent of public buildings and grounds for inspection of the Legislature.

R. B. HUBBARD, *Governor.*

NEW YORK, December 4, 1878.

To his Excellency Richard B. Hubbard, Governor of the State of Texas:

I beg very respectfully to advise your excellency that expedition of the portrait of Col. Crockett has been unavoidably delayed until now—

chiefly that it was considered prudent by practical business friends here to await a time of less risk in transportation—and further, that I desired to verify the stability of its restorations before returning it to Austin. It has been expedited to address of your excellency, in charge of the Adams Express Company, per railroad, by my friend, Mr. W. W. Wortherspoon (426 West Thirteenth street, N. Y.), who has kindly assumed responsibility for expenses incurred, and further, to attend to all matters of business in my behalf relating thereto, having full authority to that effect.

The picture will, I hope, arrive in as good condition as it has been sent forward in, having truly spared neither pains nor expense in permanent restoration of its original and unique integrity, in every respect. As it is returned without being rolled, it will only be required to replace it carefully in its frame.

To just and liberal consideration of your excellency and the Legislature of the State of Texas I leave naming amount of compensation for the picture, which has been held by me for more than forty years in anticipation of the gratification of its possession by the State of Texas—an unique, veritable and historic record of a hero prominently associated with her national existence.

On the death of Col. Crockett the value of the picture was estimated at \$5000. True, it had then received no injuries from accidents or careless exposure, which are now permanently repaired or arrested from risk of further increase by my own hand (at outlay of time, labor, transportation, etc., of nearly \$1000), and it is in truth, upon many other considerations, of more intrinsic value now than ever. For obvious reasons, however—chiefly advanced years, making it scarcely likely that I shall ever again revisit my native country and earnest desire to secure for my work the creditable position that its subject so well deserves—I frankly express to your excellency a readiness to accept for it whatever amount (not under \$3000) the State may please to give me, in just consideration of its worth and circumstances, under which I confidently place it at disposal of your excellency and the Legislature.

I scarcely need request that your excellency will not allow a copy to be made from the picture previous to decision of the Legislature with regard to its purchase.

I remain, most respectfully, your excellency's very obedient servant,
JOHN G. CHAPMAN.

AUSTIN, TEXAS, February 24, 1877.

Having been requested by Governor R. B. Hubbard to examine the portrait of Col. David Crockett, now in the hall of the House of Representatives in this city, representing him as a hunter with his dogs, and to express my opinion as to its merits, I take pleasure in stating that, although the buckskin suit in which he is taken somewhat mars the symmetry of his fine person, and full justice is not done to the kind and benevolent expression of his face; yet, I consider it an excellent likeness—far the best I have ever seen of him.

I was well and intimately acquainted with Col. Crockett—having served with him in the Congress of the United States.

Witnesses:

C. R. JOHNS,

T. P. MARTIN.

BAILIE PEYTON.

Referred to the committee on public buildings.

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, January 20, 1879. }

To the Honorable Senate and House of Representatives :

GENTLEMEN—I have the honor herewith to submit to your honorable bodies the certified official statement of the comptroller showing—

1. The amount expended by Texas for frontier defense from the 28th day of February, 1855, to August 31, 1878, amounting in the aggregate to \$1,787,640 42. This large amount, with lawful interest thereon, for which, by the articles of annexation between the republic of Texas and the United States, the latter government should be held responsible in law and all good conscience, has, though repeatedly demanded, never been recognized or paid by the government.

2. By section 6 of an act of Congress, approved January 21, 1860, an appropriation of \$123,544 51 was made to cover expenditures by the State, for the period embraced between the 28th of January, 1855, and January 28, 1861. This appropriation has never been drawn, though likewise demanded.

3. In the comptroller's report of August 31, 1874, attention was called to the unexpended balance of the \$7,750,810 left with the United States government by this State to pay the debt of the late republic of Texas. This balance amounts to \$101,113 27, which is still in the treasury of the United States and should be withdrawn and paid to this State—the just and rightful owner thereof. This also has been demanded. I have, as did my immediate predecessor, called the attention of the delegation in Congress from this State to these claims, and urged their prompt recognition and payment by the United States government. So far no success has attended these efforts. Aside from expenditures for frontier defense, nearly a quarter of a million of dollars, because of said statutory appropriation, as said actual deposit of money, is unquestionably due to Texas now, and has been for many years. I respectfully and earnestly urge upon your consideration the propriety and necessity of again, by joint resolution or by any other means which to your wisdom may be deemed most advisable, calling upon our delegation in Congress to press these claims to the immediate attention of the general government.

R. B. HUBBARD, *Governor.*

Statement, showing the amount paid by the State of Texas for frontier defense from February 28, 1855, to January 28, 1861:

For pay of companies under Captains Callahan, Benton and Henry, act December 17, 1855.....	\$ 15,571 01
For subsistence for above three companies, act December 17, 1855.....	5,750 60
For paymaster for above companies, act December 17, 1855.....	100 00
For pay of six companies called out by General Smith, act January 14, 1856.....	46,106 88
For battalion expense on account of contract for above companies, act January 14, 1856.....	4,026 43
For pay of Captain Wm. Tom's company, act August 30, 1856.....	1,494 72
For pay of Wm. G. Tobin's company, act August 30, 1856.....	917 46
For pay of L. English's company, act August 30, 1856....	1,764 86
For supplies for Captain Tom's company, act August 30, 1856.....	408 97

For paymaster for Captains Tom and English's companies, act August 30, 1856.....	100 00
For pay of four companies, Captains Cormack, Conner, Hodges and Frost, act November 17, 1857.....	18,867 62
For pay of three companies minute men, Captains Sanson, Davenport and Black, act January 13, 1857.....	4,000 00
For pay of Captain John S. Ford's company, act January 27, 1857.....	68,997 31
For pay of subsistence of Captains Ford's, Bourland's and Brown's companies and pay of peace commissions, act February 8, 1860.....	60,545 02
For pay of necessary expenses incurred by Captain Tobin's company, act January 12, 1860.....	9,748 28
For pay of necessary expenses and subsistence of troops on the Rio Grande, act February 15, 1860.....	36,966 40
For protection of the frontier, act February 15, 1860.....	111,564 47
For pay of Captain Williams's company in 1858-9, act April 1, 1861.....	10,070 82
For supplies for Williams's company in 1858-9, act February 1, 1861.....	7,497 15
Total.....	\$ 404,498 00

Amounts paid by the State of Texas for frontier defense from October 20, 1865, to August 31, 1877:

For pay of Parker and Wise county minute companies, called into service by Gov. A. J. Hamilton.....	\$3,671 00
To provide for protection of the frontier, act June 13, 1870	524,562 95
For ranging companies and minute men, act May 4, 1874	127,527 19
For protection of the frontier, act May 4, 1874.....	300,981 45
For protection of the frontier, act March 15, 1875.....	149,469 42
For protection of the frontier, act August 15, 1876.....	117,249 68
For paymasters of frontier forces, act May 19, 1871.....	1,656 00
Total.....	\$1,225,117 69

Amounts paid for frontier defense from September 1, 1877, to August 31, 1878:

For protection of the frontier, act March 15, 1875.....	\$53 33
For protection of the frontier, act August 15, 1876.....	31,827 35
For protection of the frontier, act August 15, 1876.....	126,108 05
Total.....	\$157,988 73

Referred to committee on Federal relations.

Senator Terrell presented the petition of the heirs of Catlet Burnet for bounty land.

Read and referred to the committee on private land claims.

Senator Lair introduced a bill entitled "An act to amend an act to provide for the speedy assessment and collection of taxes upon land and real estate in cases when such property has been subject by law to taxation, but the assessment thereof has been omitted."

Read by caption and referred to the committee on finance.

Senator Homan introduced a bill entitled "An act to provide for fund-

ing the bonded and floating debt of the State of Texas, and to authorize and require the issue of four per cent. interest bearing bonds of the State for that purpose."

Read by caption and referred to the committee on public debt.

Senator Tilson introduced a bill entitled "An act to give effect to section 2 of article 9 of the constitution, regulating the manner of removing and locating county sites."

Read by caption and referred to committee on counties and county boundaries.

Senator Motley introduced a bill entitled "An act to amend section 1 of an act entitled 'an act to provide for the transferring of all criminal cases in which indictments have been found to the proper court having jurisdiction thereof,' approved August 12, 1876."

Read by caption and referred to judiciary committee No. 2.

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

Hon. Wells Thompson, President of the Senate:

Your committee on engrossed bills have examined Senate bill No. 16, entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged," and find the same correctly engrossed.

BROWN, *Chairman.*

ORDERS OF THE DAY.

Senate bill No. 16 entitled "An act to make persons charged with crimes and offenses in the several courts of the State of Texas competent witnesses in the cases in which they are so charged," was taken up, read third time and passed.

Senate bill No. 13 entitled "An act to provide for the time and place of holding the supreme court of the State of Texas," was taken up, with majority and minority reports of committee, when, upon motion of Senator Hobby, it was postponed and made the special order for to-day week.

Senate bill No 14 entitled "An act to provide for the time and place of holding the court of appeals of the State of Texas," was also taken up with majority and minority reports, when, upon motion of Senator Hobby, it was also postponed and made the special order for to-day week.

Senate bill No. 8 entitled "An act to repeal 'an act to levy a tax on the privilege of keeping or harboring dogs, and to provide for the assessment and collection of the same,'" with majority and minority reports, was taken up and read second time, when, upon motion of Senator Homan, the further consideration of the bill was postponed until January 30th, and that it be made a special order for that day.

On motion of Senator Stewart, Senator Burnett was added to judiciary committee No. 2.

On motion of Senator Duncan the Senate took recess until 10:45 A. M. Recess expired. Senate met. Roll called; quorum present.

(Senator Terrell in the chair.)

Senator Storey, chairman committee on finance, submitted the following report:

Hon. Wells Thompson, President of the Senate:

Your committee on finance have had under consideration House bill No. 17, to be entitled "An act making an appropriation for mileage and

per diem pay of the members and the per diem pay of officers and employes of the Sixteenth Legislature," and I am instructed by the committee to report the bill back to the Senate with the recommendation that it do pass.

STOREY, *Chairman.*

On motion of Senator Moore the report of the committee was adopted.

On motion of Senator Moore the rules were suspended and the bill placed on its second reading by the following vote:

YEAS.

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

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,

Moore,
Patton,
Ripetoe,
Stewart,
Shannon,
Swain,
Storey,
Terrell,
Tilson--27.

NAYS--none.

Bill read second time.

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

YEAS.

Blassingame,
Brown,
Buchanan,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--29

NAYS--none.

Bill was then read third time and passed by the following vote:

YEAS.

Blassingame,
Buchanan,
Brown,
Burnett,
Davenport,
Duncan,
Edwards,
Ford,
Gooch,
Grace,

Hobby,
Homan,
Houston,
Lane,
Lair,
Ledbetter,
Martin,
McCormick,
McCulloch,
Moore,

Motley,
Patton,
Ripetoe,
Stewart,
Shannon,
Storey,
Swain,
Terrell,
Tilson--29.

NAYS--none.

A message was received from the House inviting the Senate to meet it in the hall of the House of Representatives to witness the inauguration ceremonies of the governor and lieutenant governor elect.

On motion of senator Hobby, the Senate repaired to the House to aid in the inauguration ceremonies referred to in House message.

(In joint session.)

Roll called; quorum present.

The doorkeeper announced the joint committee on inauguration with the retiring governor, R. B. Hubbard, and the governor and lieutenant

governor elect, O. M. Roberts and J. D. Sayers, who were invited to seats on the speaker's stand.

His excellency, R. B. Hubbard, delivered the following address:

VALEDICTORY ADDRESS OF GOVERNOR HUBBARD.

You have assembled in the capitol to-day to witness the peaceful transition from one to another administration of the government of your State. You behold the transfer of the state government held for more than two years to other trusted servants. Such change in the kingly and imperial governments of other countries would be signalized by revolution and bloodshed. Here, under the ægis of a written constitution, our citizens of yesterday become rulers, and our rulers private citizens to-morrow. I congratulate you that you have lived to witness this day, and I welcome this morning's sunny sky upon a prosperous and happy State of nearly two millions of people. May God, who brought help to the task of our fathers when they laid deep and firm the foundation of the republic in wisdom, strengthen and continue to vouchsafe the heritage which has been transmitted from sire to son. May sectional discord and strife never more rend our country, state and national, or ambition pollute our leaders. Long before your heads have grown gray, or the old and venerable statesmen of this day have passed away, Texas will stand side by side with the very oldest states, no longer begging but demanding her rights. During the years I have held the reins of power I have to say of my able associates, some of whom remain and some go with me, they have ably supported and aided me, as have the people who have witnessed my labors and devotion to the public interests. As I received the trust, so it passed to my honored successor—untarnished. I now lay down the toils of an arduous service, invoking for my successor a wise and happy administration of the state government of a State for whom we should live and for whom we should die.

Judge John P. White, of the court of appeals, now administered the oath of office to the governor elect, Hon. O. M. Roberts, who then delivered the following inaugural address:

INAUGURAL ADDRESS OF GOVERNOR ROBERTS.

Fellow-Citizens, Senators and Representatives of the Legislature:

Called by the voice of the people to preside over the destinies of our large State at this important period of its history, I accept the position with a full appreciation of the responsibility resting upon me. Had I much more experience in public affairs than that given me by a long career in its service in different positions, mainly judicial, I should feel diffident of my ability to meet successfully the demands of the hour. The State, emerging from the ruin of the civil war and from the consequent difficulties of its changed condition, has already advanced in the work of reforming its institutions and in resuscitating and husbanding its resources. Still, much remains to be done in that direction to establish permanently good and efficient government, economically administered. This is the impending necessity of the day; and whatever energy, influence and power I may have will be directed to that as the leading object. In the effort to accomplish it I confidently rely upon your lead in the matter as the legislative department, and upon the intelligence, patience and patriotism of the people of Texas. The democratic party stands pledged to that policy, as announced in the late can-

vass, and their large majority at the late election for state officers fully indorses it. Nor did any opposing party dissent from it. It may, therefore, be taken to be in accordance with the common sentiment of the country. The democratic party, being now in full charge of all of the departments of the state government, is responsible for its being carried out as far as it is practicable under existing circumstances.

However certain this may be, the policy of the incoming administration of the state government demanded, by a common sentiment, an examination into its details will show it to be environed with intrinsic difficulties to be surmounted, and extraneous matter relating to the past, present and future to be considered in both of the branches into which the propositions must be divided—which are, first, that the laws, organic and ordinary, should be so reformed and rigorously executed as to more certainly and speedily protect the rights of persons and of property; and, second, that the expenses of the government should be so reduced that they can be paid by the taxes which the people are reasonably able to pay, and which may be collected without increasing the public debt of the State annually.

Under the first branch it may be found necessary to amend the constitution so as to remodel or at least improve the judicial department, which is generally conceded to be inadequate to the wants of the country; also, the revised and digested codes, submitted to the Legislature, embracing the whole body of the statutory laws, civil and criminal, may, when examined and adopted, be expected to remedy many defects, which have long been accumulating upon our statute book. This is the department of the government that acts directly upon the people in the suppression of evil and in the maintenance of the right constituting their actual government, and it should be organized for efficiency, and maintained in full vigor at all hazards, and at all necessary expense that can be borne by the country. This is the first and highest duty of this or any other State. There has been a tendency, from several causes, to weaken this arm of the government, which should always be strong. It is not infrequently seen in our courts that the greatest strength of legal ability stands in the bar, instead of sitting on the bench. And, worse still, the State's counsel is seldom equal to cope with the body of the bar that he has to meet. In the determination of rights in a free country, learning and intellect should match each other, at least on equal terms, and if there is a difference, that which rules should be superior to that which is ruled. A false idea of economy, and a supposed acquiescence in popular will, have brought this about.

Another cause of weakness, delay and inefficiency is found in positive laws, limiting or cutting off judicial discretion from the apprehension of the abuse of power. This likewise limits or relieves from responsibility, making no one to blame if things go wrong. To make the practical operations of government efficient, responsibility must be imposed and assumed. They can not be made to move by inflexibly fixed rules like an automaton. The tendency of legislation has long been too much directed towards that end, the evils of which are now continually perceived in the practical administration of the laws.

There are powerful influences operating upon the country which should induce an increase of this direct force of the government, rather than permit a diminution of it. The large emigration from other countries, the former spirit of speculation and subsequent monetary depression and

want of profitable employment, the extension of our frontier and the changed condition of a large colored population, have all contributed to generate and exhibit an amount and character of crime and civil wrong entirely unprecedented in this country. The very inadequacy of the power of correction has provoked, and many continue to provoke, outrageous wrongs as a substituted remedy, without and against law. This inadequacy is also increased by the present habits of the people, in which their pursuits and avocations are more closely and constantly followed and their time considered more valuable than formerly, by which they have more indifference and even reluctance in giving their aid in any way in the execution of the laws, except on full compensation in money. All this has brought forth and exhibited a new feature of government here that few might commend, but all acquiesce in upon emergencies, which is a frequent call for the military to aid the civil authority in the execution of the laws, and the giving rewards to officers to make arrests. This is a radical departure from the principles of local self-government, planted in this country and derived from the common law of England and decided leaning to the practices of civil law countries, in which the people look to a police force, rather than to their own participation, for their protection. This growing sentiment of looking to an extraneous power and means to regulate local self-government throughout the whole State should be nipped in the bud before it is too late. The remedy is to infuse into our judicial department a power of action that shall inspire the people with confidence in its capacity to govern, and then the people will crowd to its aid, instead of holding back as they now do. "God helps those who help themselves," and so do the people the world over. Although we may not be able to do all that may be necessary, it behooves us to do whatever we can to accomplish this most desirable object.

There are exceptional cases wherein extraneous aid at the command of the government is necessary, as in occasional uprising combinations or party feuds, which may happen in communities ordinarily capable of self-control; and in cities where a police force is necessary, being in effect a quasi military power to aid the civil authority; and in a sparsely-settled stock-raising country, such as we have upon our western frontier; for the civilization capable of republican local self-government begins and ends with the plow. So it has been and is. An agricultural population, sufficiently contiguous for co-operation, must predominate or hold the balance of power to establish and permanently maintain local self-government as known in the history of the past in this country.

For this reason there should be a greater check than now exists by law upon the organization of new counties on our stock-raising frontier. The assumption that underlies the proposition to organize one of our unorganized counties on the frontier is that there are in that territory a sufficient number of settlers with fixed, permanent habitations in reasonable proximity, possessing intelligence, integrity and property sufficient to keep the peace and execute the laws, and also to defray the expense of a local government within it. And if any county already organized should, from any cause, permanently fall below that standard of capacity for local self-government, so as to require a standing military police through a number of years, it should be abolished and attached to a county that can govern itself locally. So long, therefore, as we have a vast area of country not settled by a population at least partly agricultural, the State may need a small movable police force to aid occasionally

in the execution of the laws, the sooner it can be dispensed with entirely as an auxiliary the better. For a reliance upon it and the use of it all over the State would, in time, fundamentally change our free institutions by the creation of a central power that might be used despotically to the destruction of local self-government, which has so long been the protector of our rights and our liberties and the object of our political pride.

In connection with this subject, the penitentiary system as a mode of punishment must be considered. It was adopted on two grounds—one for the reform of the convict, and the other to secure a more certain conviction of the guilty than could be procured by the old plan of whipping and hanging. It may be doubted whether our plan of leasing and working the convicts outside of the penitentiary is favorable to reform any more than whipping and hanging. Still the other ground holds good even under our defective plan, and it would be contrary to the spirit of the age not to continue in the effort to perfect it as far as may be found practicable, so as to accomplish both of its leading objects. This should be done as far as practicable in such way as would incur as little expense to the State as possible. In this connection, also, are laws for properly imposing and collecting taxes. Our system of taxation is founded on the correct principle—that as the leading objects of government are the protection of persons and of property, so an *ad valorem* tax should be levied upon property and a poll tax upon persons. An occupation tax should hardly be supposed to be levied as a drawback imposed upon one occupation in preference to another equally lawful, but rather as a means of taxing property of a transient nature passing through the hands of those taxed in such manner as can not generally be reached and identified in the ordinary way of levying an *ad valorem* tax. There is an unusually large amount of such transient property that is a fruitful source of litigation and consequent expense to the government that is not adequately reached either by the occupation tax or by the *ad valorem* tax assessed upon property owned on the first day of January every year. The tax designed to be levied upon the annual production may not, and actually does not, reach the bulk of it, because a large portion of that which is produced, such as cotton, wool, wheat, beef canned, cattle and other marketable stock is transported out of the State before the first day of January. From the habits of trade, since we have railroads, the stock on hand of a grocer merchant on the first day of January, is not an accurate, or even an approximate criterion of the amount of property that passes through his hands and is consumed during the year. This may be verified by reference to the assessment of goods, wares, etc., in any county. In Galveston county, for instance, it is only \$1,751,782, which amount may be sold annually by one or two houses in the city of Galveston. It might not be proper to reach this transitory property in both wholesale and retail houses, nor by taxing both, that which is produced and that which is consumed during the year, because that would to a considerable extent result in a double tax upon the same values. This deficiency in the tax laws operates to the prejudice of the agriculturist whose capital is invested in land, improvements and farming stock permanently kept on hand, and is reached by his property being assessed on the first day of January in each year; whereas the retail merchant and grocer, from the present habit of ordering and paying for additions to his stock monthly or quarterly during the year after the first day of

January in each year, escapes taxation upon the bulk of the property which he sells and is consumed during the year, which very property is generally more expensive to the government in its protection than the more stable and permanent capital of the agriculturist. The transitory property is not adequately reached, therefore, by either our occupation tax or *ad valorem* tax. Virginia, it is reported, is successfully reaching it by a tax upon the retail of liquors according to the quantity sold, and this may lead the way to reaching it by a tax upon the property annually consumed, rather than upon that produced, which our tax laws now ineffectually attempt to do. That would also distribute the burden more generally than it is now done, because there are a great many more consumers of such property that is retailed than producers of that which is now taxed.

There is also a great deficiency in the payment of the poll tax, a correction of which demands the most rigid remedy that it is practicable to apply. The amount of land bid in by the State and held up indefinitely also demands a remedy. Any man who is able to pay his taxes, and wilfully fails to do so, is receiving protection and, if a citizen, participates in the rights and privileges of citizenship without rendering a consideration to the government therefor, and imposes an undue burden upon other persons, which is a gross injustice that should not be tolerated in this or any other state. There is another class of persons, the special protection of whom incurs expense, which has not as yet been adequately compensated for by any mode of taxation that has been adopted here. They are those who travel for business or otherwise, on railroads and steamboats, who might be reached by an occupation tax on common carriers of passengers, assessed by their number, or by the length of travel within this State. This protection to the traveler is a thing of real value which the government holds itself bound to furnish by the remedies afforded for injuries and losses for traveling on railroads and steamboats, which have largely increased the expenses of the government and which is not compensated for by the ordinary tax on railroads and steamboats, it being no special benefit to them. These common carriers pay taxes on their property as other persons for their own protection, and not for the protection of the rights of the persons whom they carry. This subject has not until lately been of sufficient importance to deserve attention. In our present emergency it is proper for the government to require compensation for its protection, general and special, wherever substantial rights are protected that necessarily increase its expense. Though it may be difficult to make the protection and the compensation for it exactly equal, it is certain that if we stand still and rely only upon our old modes of adjustment amid the new industries and accrual of rights and developments of wealth, we will fall short of a full appreciation of the progress of the age, and close every year with crippled resources, entailing upon us an accumulating debt, which has already reached over five millions of dollars since the late civil war, with a large deficiency bill every session of the Legislature to foot up.

The enactment of proper laws and the proper execution of them in the courts of the country, and in the collection and disbursement of taxes, together with the operations of the executive departments, constitute the government proper. If our attention could be devoted to them solely or even mainly, as was the case in our former period of cheap government and low taxes, we would have no difficulty with a proper adjust-