

JOURNAL

OF THE

House of Representatives

OF THE

SIXTEENTH LEGISLATURE OF THE STATE OF TEXAS,

(EXTRA SESSION,)

CONVENED IN AUSTIN, JUNE 10, 1879.

GALVESTON, TEXAS:

PRINTED AT THE NEWS BOOK AND JOB ESTABLISHMENT.

1879.

they may deem for the public good upon the following subjects of legislation to wit:

[*See the body of the message.*]

In testimony whereof I hereunto sign my name and cause the seal of state to be affixed, at the city of Austin, this the twelfth day of May, A. D. 1879.

O. M. ROBERTS, *Governor.*

By the governor:

JOHN D. TEMPLETON, *Secretary of State.*

Mr. Coleman moved that a committee of five be appointed by the speaker to wait upon his excellency the governor, and inform him that the House of Representatives of the Sixteenth Legislature in special session convened, is now duly organized, with a quorum present, and ready to receive any communication he may see fit to transmit to the House.

The motion prevailed.

The speaker appointed the following committee:

Messrs. Coleman, chairman; Finlay, Baker, Reeves, and Jones of Hunt.

Mr. Flewellen moved that a like committee be appointed by the speaker to inform the Senate that the House of Representatives of the Sixteenth Legislature is now in session and ready for the transaction of business.

The motion prevailed.

The speaker appointed the following committee:

Messrs. Flewellen, chairman; Linn, Rumsey, Merritt, Henderson of Van Zandt.

On motion of Mr. McComb, Mr. Frost was excused indefinitely on account of sickness.

On motion of Mr. Smith, of Titus, Mr. Brown, of Gregg, was excused until Thursday on account of sickness in his family.

A committee from the Senate was announced, informing the House that the Senate was in session and ready for the transaction of business.

REPORT OF COMMITTEE.

Mr. Coleman, chairman of the select committee to wait upon the governor, submitted the following report:

Hon. John H. Cochran, Speaker of the House of Representatives:

SIR—Your special committee of five, appointed to wait upon his excellency the governor, and to inform him that the House of Representatives of the Sixteenth Legislature, in special session convened, is now duly organized with a quorum present, and ready to receive any communication he may see fit to transmit to the House, beg leave to report that they have performed said duty, and that his excellency the governor requested your committee to inform the House that he would immediately send a message to the House.

COLEMAN, *Chairman.*

The following message and accompanying documents were received from his excellency the governor:

EXECUTIVE OFFICE, STATE OF TEXAS,
AUSTIN, June 10, 1879.

To the honorable Senate and House of Representatives in Legislature assembled:

I have called you together to consider some matters of very great importance to the welfare of Texas. They involve the determination

practically of whether or not the principle shall be enforced and established on a permanent basis, that the first and highest duty of the state is to secure to the people an efficient and economical government for the protection of their rights of person and of property; the determination practically of whether or not the taxes which they pay annually shall be applied first to the accomplishment of that object in preference to every other; the determination of whether or not the expenses of the government shall be annually met and promptly paid by the annual revenue, that can with reasonable certainty be collected, without an increase of taxation that would be onerous or oppressive, and without an increase from year to year in the future of the public debt incurred to pay deficiencies of the revenue to meet the annual expenses; the determination of whether or not those who now and hereafter administer the state government will sell the public lands still left, as soon as practicable, to pay the public debt, and relieve the people from paying the taxes necessary to pay the interest and sinking funds, instead of giving away the public lands; the determination of whether or not the large amounts of lands belonging to the common school fund and other special funds shall be more expeditiously sold, so as to increase those funds, and thereby proportionally relieve the people from paying taxes to support the institutions and objects to which those special funds are devoted.

Upon all these subjects my views and recommendations were fully expressed in the inaugural and messages communicated by me to the Sixteenth Legislature at its regular session, which are again submitted for perusal and consideration by those of your honorable bodies who may desire it.

They embrace, for the most part, the subjects that have anxiously engaged the strenuous efforts of all of the departments of the state government during the last five years of its administration. Whatever I have added is in harmony with and furtherance of that which has been heretofore accomplished in that effort during that time, in the improvement of our condition as a state; and is to further perfect that which was then inaugurated and pursued vigorously, but which it was not practicable under the circumstances to bring to a completeness of accomplishment within that period. It is not at all singular or strange that we should find ourselves in the present condition in the affairs of the state at this juncture, when we consider our history for the last eighteen years, with the consequences thereby entailed upon us in the natural course of things. In every government or state, during a great protracted war, there is a cessation or retardation in the usual and regular material development of the country that leaves a vacuum in the current of gradual progression which, upon a return of peace is invariably attempted to be filled by extraordinary efforts in all the channels of industrial pursuits, and governmental efforts that leads to and ends in undue inflation in everything. Then commences an effort to find and reach the true peace standard under the changed state of things, both in private and public affairs. Great difficulty is always found in getting down to that standard, which usually requires many years and many struggles in its progress of accomplishment. We are now safely in that progress and have arrived at an advanced point in it already. Surely it cannot be so soon forgotten what powerful efforts and rapid strides in that direction were made by those controlling the public affairs of the state during the last five years pre-

ceding this, in all of the departments of the state government. In the natural course of events it is the mission of the present administration to reach if possible in all the departments of the state government that standard, upon which the government can hereafter be efficiently and economically administered, without an increase of public debt, and to inaugurate a policy looking to a relief from the burdens which have incidentally resulted from the events through which we have passed, and to advance upwards in the scale of general prosperity and good government.

The matters submitted for your action in the proclamation convening the Legislature are as follows:

First—To make appropriations for the annual payment of the interest on the public bonded debt of the state and for a sinking fund for the ultimate discharge of said debt, if not otherwise paid.

Second—To provide for the sale of the public lands, now amounting to over 15,000,000 of acres, in order to pay off the public debt of the state, now amounting to about \$5,500,000, and thereby save the necessity of imposing on the people, as soon as practicable, taxes to pay the interest on it, now amounting annually to near \$400,000.

Third—To make an appropriation of a specific amount for the annual support of the free common schools, out of the interest of the state and railroad bonds, now over \$3,000,000 in amount, and so much more out of the general revenue as can be spared therefrom after providing for the prompt payment of the necessary expenses of an efficient and economical state government, and to repeal all laws or parts of laws that undertake to set apart or designate the amount of said annual appropriation for said purpose, in advance of or differently from the said specific appropriation now to be made, in order that hereafter each recurring Legislature may be left entirely free to determine the amount that can be safely appropriated specially for said purpose under the then existing financial condition of the state.

Fourth—To provide for the sale more expeditiously of the lands belonging to and set apart to the free common school permanent fund, amounting now in surveyed and unsurveyed lands to about thirty-five million of acres, and the investment of the proceeds thereof in order to raise a large fund in the shape of interest-bearing bonds to enable this state, as soon as possible, "to establish and make suitable provision for the support and maintenance of an efficient system of public free schools," which is required by the constitution, which has not yet been done or even approximated by the very large appropriation of one-fourth of the entire revenue raised by taxation annually, aided by the interest of \$3,000,000 of state and railroad bonds belonging to its fund, and never can be by a direct state tax, without the aid of a large fund yielding interest, and it may be not then without the aid of voluntary local taxation as is done in other states.

Fifth—To provide for the sale of the university lands more expeditiously, and the investment of the proceeds thereof, there being now, of bonds, money and notes belonging to said fund something less than one-half a million dollars, and of lands, surveyed and unsurveyed, one million and over two hundred thousand acres, in order that in some reasonable time in the future a state university may be established, which has already been deferred forty years, since the donation of fifty leagues

of land to it, and may be deferred forty more under the present mode of selling and not selling its lands.

Sixth—To provide for the sale and investment of the proceeds of the lands belonging to the funds of the Lunatic Asylum, of the blind and the deaf and dumb institutes, and of the orphan asylum, now consisting of over four hundred thousand acres, to aid in the support of those institutions, which now cost over \$75,000 annually out of the general revenue derived from taxation, and should be enlarged as soon as practicable to receive double the number of inmates, if all were received that should be.

Seventh—To provide for appropriation out of the general revenue for defraying incidental expenses of the board of education, in the management of the free common schools, and the expenses of the normal schools at Huntsville and Prairie View, instead of drawing them from the fund set apart for the support of the free common schools, which the constitution requires to be distributed to the counties according to their scholastic population, and to repeal or amend all laws not conforming to such appropriations from the general revenue as here indicated.

Eighth—To amend the law establishing the Agricultural and Mechanical College at Bryan, so as to allow the board of directors to devote and apply the interest of its fund or a part of it to other purposes than to pay "directors, professors and officers," so that it may be made more conformable to the design of said institution, for the education of skilled labor in agriculture and the mechanic arts.

Ninth—To make an appropriation and amendments for prompt execution of the laws passed in the late session of the Legislature for the collection of back taxes and for the collection of taxes from non-residents in the unorganized counties.

Tenth—To provide more efficient laws to regulate the organization of new counties, and to better provide for the appointment of officers in the unorganized counties.

Eleventh—To make additional appropriation upon various subjects in the public service that upon examination may be found wanting or deficient, so that warrants can be issued for all necessary expenses.

Twelfth—To provide by law for the return to the comptroller's office before the meeting of each regular session of the Legislature of all sheriffs', attorneys' or other valid claims against the state for which warrants may not have issued, so that correct estimates may be made of any deficiencies in the appropriations, and to provide against the issuance of "O. K." certificates.

Thirteenth—To provide adequate penalties for the embezzlement of the funds collected for the state and for default in not returning them according to law to the state treasurer, and to authorize the prosecutions to be maintained in Travis county, either by original jurisdiction or by the change of venue in such cases.

Fourteenth—To amend the law letting out on contract the conveying of convicts to the penitentiary, so as to permit the sheriff to carry them in one week after adjournment of the court, if the contractor does not apply for them.

Fifteenth—To provide for the appointment of a financial agent to act in aid of our members of congress in prosecuting and collecting our claims against the United States, to be paid out of what may be collected.

Sixteenth—To make appropriations and provisions that may be neces-

sary to receive and accommodate in the Lunatic Asylum, and in the Blind and Deaf and Dumb Institutions, all such persons in the state as are entitled under the laws to have the benefit of said charities, many of whom cannot now be received and accommodated in such institutions.

Seventeenth—To amend the laws relating to the adjutant general's office, so as to authorize the purchase of a lot for the erection of the arsenal provided for, outside of the capitol grounds; to equalize the compensation and arming of the police and frontier force, and to equalize the salary of the clerk with other clerks of the same grade.

Eighteenth—To provide for the appointment of a board or boards, when necessary, to inspect and condemn for the sale, exchange or destruction of useless or defective property, belonging or pertaining to any of the executive departments or state institutions, or state boards.

Nineteenth—To make a contingent appropriation, to be used, if necessary, in the event that the lease of the penitentiary is abandoned, or its control is resumed for any cause by the governor; which appropriation was made, though not used, and should be repeated for the interest of the state.

Twentieth—To amend the law so as to allow indigent convicts who are pardoned out of the penitentiary to be furnished with clothing and transportation, the same as other discharged convicts are by law.

Twenty-first—To provide for sheriffs', clerks' and attorneys' accounts against the state, in criminal cases, to be made out separately under oath, and to be allowed by the judge and recorded in the minutes of the court at the term in which said cases are tried, and to require the judge to disallow said accounts for the trial or conviction of each party when several are tried together, and to disallow a repetition of said accounts when the same party or parties are tried or convicted on several indictments founded on the same transaction.

Twenty-second—To provide for a commission or other tribunal, or some remedy in aid of the supreme court and of the court of appeals in the dispatch of the business that has accumulated in said courts beyond their capacity to decide; the said courts being now at least one thousand cases behind in their business from year to year.

Twenty-third—To provide for a change or transfer of the civil jurisdiction of the different county courts, or of any one or more of them, and a corresponding change in the jurisdiction of other courts under the provisions of the constitution allowing it, so as to relieve the court of appeals, as far as practicable, from the trial of any other than criminal cases.

Twenty-fourth—To provide for the protection of the interest of the state and of its citizens by the passage of such laws as may be found necessary in relation to the Mercer colony claim, and any suit or suits that have been or may be brought concerning it, or any other claim against the state or department, or officer thereof.

Twenty-fifth—To provide for a state board of health to co-operate with the national board of health, if upon consideration it should be deemed proper.

Twenty-sixth—To provide for holding state, district and county elections on a different day from that upon which congressional elections are held under the laws of the United States.

Twenty-seventh—To provide for authority to attorneys and agents of the state to bid for and to buy in for the state lands sold under execu-

tions issued upon judgments in favor of the state, and for the selling of the same so as to collect the money due to the state, and the same authority to the attorneys and agents of the counties to collect money in similar cases coming to the counties.

Twenty-eighth—To amend the tax law, making a discrimination in favor of sleeping cars owned by persons or companies in this state, and impose such tax upon all sleeping cars as the Legislature may deem proper.

Twenty-ninth—To re-enact the law of 1876 for the collections of tax on delinquent list, repealed as is supposed by mistake, in the passage of a law for the collection of taxes on lands which had not been rendered, and on other subjects to which the attention of the Legislature may be called during its special session by messages from the chief executive of the state.

The following subjects are also submitted for consideration and action, should the Legislature deem it proper to act upon them:

Thirtieth—An amendment of the law relating to requiring tax collectors to bid in lands for the state, so as to prevent a conflict in the two statutes passed upon that subject by the Sixteenth Legislature, in Senate bill No. 123 and House bill No. 338.

Thirty-first—An amendment of the law relating to sheriff's fees for conveying prisoners, to prevent conflict between the two statutes passed by the Sixteenth Legislature in the Penal Code as amended and Senate bill No. 252.

Thirty-second—An amendment of the laws relating to cattle and hide inspectors, so as to reconcile the real or apparent conflict in the several laws passed by the Sixteenth Legislature, as to the power of the governor to appoint in counties bordering on Red river, and as to other matters in House bill No. 99, Senate bill No. 322, Penal Code, article 785, and Revised Civil Statutes, article 4659.

Thirty-third—A law providing that the moneys collected on forfeited bail bonds and recognizances, or so much thereof as may be sufficient, shall be paid into the state treasury in each and every case wherein a reward or expenses have been paid out of the state treasury for the arrest and return of fugitives from justice.

Thirty-fourth—A law to provide for the disposition of useless papers and instruments in the treasury department.

Thirty-fifth—To amend the law making the deficiency appropriation passed by the Sixteenth Legislature so as to make an equal distribution to all of the owners of claims, according to their amounts, as nearly as practicable, of the money that may be in the treasury from time to time for their payment, and to provide for warrants not bearing interest to be issued to tax collectors embraced in said act who are indebted to the treasury, and to add other valid and just deficiency claims that may be found due.

Thirty-sixth—An amendment of the law passed by the Sixteenth Legislature, providing a mode of making payment of school teachers' accounts during the scholastic years of 1875 and 1876, so as equally to provide for the payment of superintendents and directors of schools during the same periods.

Thirty-seventh—An amendment of the law relating to county finances in respect to accounts approved by the commissioners' court.

Thirty-eighth—An amendment of the laws so as to extend or alter

the times of holding courts in Marion and other counties if found necessary.

Thirty-ninth—An amendment of the law establishing a normal school at Prairie View, in respect to the fund to be applied to it, the law establishing the normal school at Huntsville extending the time for perfecting the title to the property donated to the state.

Most of the heads of legislation here indicated will require but little explanation or investigation for their objects to be understood. The mere reading of them will likely suggest their necessity or propriety to those who may deem legislation upon them to be proper at this special session.

The finances of the state having been the subject which mainly caused the Legislature to be convened in special session, it may be proper to present my views generally upon that subject as a predicate for such recommendations as I may make thereon.

The prime object of concern, and of interest to the public welfare in any government, is the proper management of its fiscal affairs. It is the most difficult and complicated of all the parts of governmental machinery and action, especially when there have been disturbing causes, arising out of changes in systems of finance, changes in the government or essential changes in the condition of the country. Texas has from its very origin been subjected repeatedly to all these disturbing causes at different times, and often.

The consequences of this are most strikingly illustrated in the introduction to the able and exhaustive report of the Hon. S. H. Darden, comptroller of public accounts, to Gov. Coke, in 1876, in which is historically exhibited the startling fact that during thirty years of our existing, from 1846 to 1876, both inclusive (leaving out the period during the war and military rule), the annual revenues collected by taxes have not at any time been sufficient to pay the annual expenses of the government, and that other means had to be obtained to pay the ever-recurring deficiencies in the revenue.

At one time \$100,000 of the common school fund, and at another time \$100,000 of the university fund were taken for that purpose, and at other times the proceeds of the sale of our new Mexican territory were used to defray the expenses of the state government. This does not show an entire want of political wisdom in those who controlled our public affairs throughout that whole period, when we come to understand the condition of things under which they acted, so much as it does the great difficulty for any one, under such disturbing causes, continually recurring, to anticipate with any certainty prospective revenues, and prospective expenses, so as to insure their being equal to each other. Unless past experience furnishes a sure guide, by the uniformity and stability upon which it is based, free from the changes constituting disturbing causes, our financial estimates will be like dealing in futures, stimulated by ever-present flattering hopes of good results. In that report is found estimates of this deficiency for the year ending 31st August, 1876, the sum of \$212,034 57, and of deficiency for the year ending 31st August, 1877, the sum of \$300,000.

In November, 1876, Governor Coke, just before his retirement from the gubernatorial office, issued to the public a letter (sustained by an exhibit from the comptroller's office) containing a masterly and elaborate exposition of the financial condition of the state; showing the large

amount of floating debt thrown by the previous administration upon him, his management thereof to establish the credit of the state and the extraordinary expenses necessarily incurred in defending the frontier, in building a college and penitentiary, and in other things incident to the righting up and restoring to order the administration of the government. The estimate of \$300,000 deficiency was based upon an assessment of taxable property in the state of \$260,000,000. Gov. Coke hoped that the assessment of 1877 would reach \$300,000,000, and so it did, as it did also in that of 1878. By that means, and by the improvement in the laws for the collection of taxes, and by an additional poll tax imposed, he reasonably expected that the revenues would more than overcome the then estimated deficiency of \$300,000. But the extraordinary expenses continued in a considerable degree at least, and the collection of revenue did not fully meet expectations in point of time and amounts, however well founded in anticipation, and the current expenses increased on some subjects.

The comptroller, in his report of expenses up to August 31, 1879, makes no estimate of deficiency to exist at that period. But Governor Hubbard, in his message to the Legislature in January last, estimated the deficiency at the end of the fiscal year, thirty-first of August, 1879, at \$102,250 86. But in the data given by him upon which he bases his estimate, he leaves out \$100,000 sinking fund, which the present treasurer will reserve and invest in bonds, if there should be an appropriation for it, and also expressly the expenses of the Legislature to be not included. If those amounts had been added his estimate of deficiency at the end of this fiscal year, thirty-first of August, 1879, a part of the comptroller's report for 1876, Governor Coke's letter of 1876, and an extract from Governor Hubbard's message in January last to the Sixteenth Legislature, exhibiting the facts recited from them, are herewith submitted as accompanying documents.

At the meeting of the last Legislature in January last, it was generally estimated that the deficiency at the end of 1878, both in appropriation and money to pay it, to be \$300,000, and that was the amount found at the close of its session, if we exclude from the deficiency bill \$240,000 in claims due tax collectors, which will require no money to pay.

The appropriations in 1876 to meet prior deficiencies were about \$200,000, and at the same time \$200,000 bonds were authorized to be sold to pay deficiencies that might accrue, and which were sold and applied to help out the revenue. The sinking fund, amounting, during that period, from August 31, 1876, to 31st December, 1878, to \$233,000, was not reserved, except about \$25,000 of it, and to buy in bonds of the state, and the balance of it was used as revenue, amounting to \$208,000. On the 31st of December, 1878, and thence up to the adjournment of the Legislature, 24th of April last, there was no permanent surplus in the treasury to pay warrants regularly when presented, without any delay at all times; nor had there been for several years previously. Now, if these facts are considered as they stood from the commencement to the end of the last session of the Legislature, they then showed this state of financial operations of the state during the two and one-third years preceding the first day of January, 1879, that \$208,000 sinking fund had been used as revenue to keep the deficiency down to \$300,000, as it was estimated in 1876, and the bonds issued to aid revenue were equal to deficiency, previous deficiency \$200,000 each, and therefore the revenue received in

the treasury during the two and a half years before the first of January, 1879, was less than the expenses of the government \$208,000, the sinking fund used as revenue, being an annual failure to meet expenses of \$69,333.

Since then the valid claims that should have been in the deficiency bill have been ascertained (how much more will be cannot be guessed now) to the amount of \$115,000, which, added to the \$208,000, makes \$323,000, showing that the expenses had exceeded the revenue received in the treasury during two and a half years upon an average of over \$100,000.

Under the view which these precedent facts would necessarily impress, that the government was being carried on, as it always had been since 1846, with annual expenses exceeding the annual revenues collected and received in the treasury to pay them, I recommended to the Sixteenth Legislature a retrenchment in the expenditures, generally, upon all subjects so far as it was practically consistent with an efficient and economical government, and to provide means of increasing the revenue wherever it could be done without acting oppressively upon the interests of the country.

The Sixteenth Legislature, similarly impressed with myself as to what was required at their hands, engaged themselves most industriously in a long and laborious session, and passed many valuable laws for the accomplishment of those objects, except in renewing the appropriation of one-fourth of the revenue for the support of public free schools. The large appropriation for the support of schools and for frontier protection and police force are the main subjects that had increased the taxes, increased the public debt, and for years back had embarrassed the finances of the state so that there was no regular certainty in the warrants for current expenses being paid at the treasury on demand, which resulted annually in a loss of thousands of dollars to those who held them, and encouraged speculations in the debts of the state, to the great discredit of our financial system. The appropriation for the frontier and police force and the pensions to veterans and other meritorious objects, were made to yield to the necessities of the hour. The schools alone of the important objects were held up in the appropriations to the former high standard of expense.

The manner and time in which the laws passed on the subject distributed the money for the schools, constituted a source of embarrassment to the treasury during one-half or two-thirds of the year, even if the state could afford to appropriate so large an amount annually to them by holding back from the treasury and clogging up in the treasury large amounts of money, which, after so long a time, would be returned to or turned over in the treasury as revenue to pay debts. It might possibly have been found that, with the improvements made in our finances, the revenue in succeeding years might have sustained so large an appropriation, which it had failed to do in former years. Still there was no certainty of it, and its possibility depended largely on future contingencies. Is it not reasonable to suppose that those who have gone before us were as patriotic and wise politically as we are? For more than a third of a century in making estimates of the future, in which, as we find by our financial history, they have failed of realization at each and every time they have tried it, upon prospective probabilities. Is it not time, that after a failure of nearly forty years in the calculations of future probabilities, there should be a determined effort to provide for a certainty for

one time, and now, for what then we may hope will be continued in the future, that the annual expense shall not be greater than that which the annual revenue collected will promptly pay, without increasing the burden of taxes upon the people?

To give whatever aid I could in the accomplishment of that object has guided my recommendations and official conduct as governor of Texas. (I herewith submit to the members of your honorable bodies copies of my inaugural and messages to the Sixteenth Legislature for the consideration and perusal of those who may desire it.)

Since the adjournment of the Legislature, our financial prospects have brightened, to the extent of having in the treasury a surplus of receipts above expenditures that enable us to pay warrants when presented. Whether this is to be permanent, or as heretofore only temporary at this time of the year, can only be at present the subject of speculative calculation. For notwithstanding there was on the seventh day of this month in the treasury the sum of \$193,292 67 of revenue subject to the payment of warrants after deducting the money for the July interest on public debt and a year's appropriation for sinking fund, the comptroller reports to me his estimate of the deficiency at the beginning of the next fiscal year, first of September, 1879, to be \$239,439. If this reduction of deficiency and cash on hand should be a permanent or not a temporary result, it will show that improvements in our collection of taxes, introduced during the administration of Governor Coke in 1876, and carried on through the administration of Governor Hubbard, though not exhibiting ostensibly its results as soon as it was anticipated, and now beginning to be felt in the general operations of our financial system. While we should hope such to be the case, we should not rely too confidently on it. Because, as explained by me fully in one of my messages, the months of March, April, April, May and June, constitute a period of the year under the laws regulating our financial system, in which we might expect a surplus of money in the treasury the same as there is a scarcity in the late summer and fall months, whether the revenue for the year is equal or less than the expenses of the government. It should be borne in mind that the last crop sold at low prices; that the newspapers are covered by the sheet with land sales for taxes; that the skies have not been propitious for a good crop this year; and that much of our hopes of improvement in the future taxes are based upon new experimental modes of taxation; that already there has been exhibited on the tax roll a shrinkage in the value of taxable property of the state of about \$15,000,000, and that after all the amount of revenue that can be raised permanently depends mainly upon the permanently active productive property and industries of the state.

And if our most sanguine anticipations should be realized as to the production of new taxes, and the effect of reduction of expenses so that we find the treasury of the state with a permanently running surplus of one or two hundred thousand dollars to bridge over the occasional and periodical chasms of scarcity in revenue, it would be the true condition for the treasury of the state to occupy towards its creditors of all sorts, and its continued permanency from year to year, through a succession of years, would be the best evidence that we were in no danger of going in debt to defray the expenses of the government, and that we had the solid capacity "to pay as we go."

It is said that the Legislature provided the means, by issuing bonds,

to pay in part the deficiency and postpone the balance of it, the answer is that, that merely as had been done before, created an interest-bearing debt, as part of our financial system, to be repeated when necessary, but of itself gave no certain surety that another deficiency would not be created by the time of meeting of the next Legislature to be disposed of in the same way.

PUBLIC FREE SCHOOLS

Is another subject that mainly entered into the occasion of the Legislature being convened in special session, and it is therefore proper that I should give my views thereon, as a predicate for such recommendations as I may make in relation thereto.

The best and most satisfactory common schools that we ever had were those during a number of years before the late civil war. Then the state aided the people's schools with a bounty, by paying for indigent scholars that went to school. In other states, where good public free schools are maintained, the state devotes a sufficient amount from the public treasury or public funds to take control and give direction to and supervision of the schools; but the great bulk of the means to support and maintain them is contributed by the local authorities where the schools are taught, all being regulated by law and working in harmony.

It is hardly necessary now to indulge in any speculations as to the best modes and means of promoting common school education in this state. The constitution, which must control legislation, indicates both the mode and the means by prescribing that "it shall be the duty of the Legislature of the state to establish and make suitable provision for the support and maintenance of an efficient system of public free schools." By this the state assumes the whole duty and burden of establishing them, that is, of prescribing how they shall be instituted and conducted, as well as to provide the means to make them public free schools. The manner of providing the means for their support and maintenance as free schools so as to render the system, established by the Legislature, one efficient system is also prescribed in the constitution. It is in the power given to sell common school lands (of which there are now about 35,000,000 acres), and by investment in bonds to increase its fund, now over \$3,000,000 in bonds drawing interest for it. It is the power "to set apart annually not more than one-fourth of the general revenue of the state, and a poll tax of one dollar." The interest on the bonds and the taxes authorized and levied are required to be applied annually to the support of the public free schools. What standard of efficiency, when was it to be arrived at, what degree of learning does it import, what is to be the qualification of its teachers, who shall supervise its operations, what shall be the character of school houses, and whether rented, built or bought by the state, what shall be the ages of the scholars, what amount shall be distributed, and in what manner, how shall the schools be organized and conducted, how and when shall the lands be sold to increase the fund? These and many other questions might be put, when considered in connection with the condition of the country. Its scattered population, and its financial capacity show that a large discretion was necessarily left to the Legislature in the accomplishment of the object required of them. The convention must be supposed to have intended something practical, and not that the Legislature should or could at once speak into existence an institution in this new country, with complete efficiency, as it exists in

older states that have been half a century in building up and perfecting them. Nor could they have intended that the vain effort to do it should be attempted in a way to sacrifice or even jeopardize other important objects. But rather it is to be supposed that they required that the Legislature should at once set about it, and continue their efforts from time to time as the condition of the country might permit and require and develop the means placed at their command, and step by step advance in its improvement until it should mature into "an efficient system of public free schools."

The constitution enjoins upon the government numerous other important duties. One of them is to make good laws and have them well executed for the protection of the life, liberty and prosperity of its people. That is not emblazoned in terms upon the pages of the constitution with positive and specific directions, like that for the school system. The reason for that is, not but that it is more important relatively, but because it is nothing new and because it underlies and pervades the whole fabric of the constitution. The direction of duty about the schools is positive and specific, simply because it was designed to map out a new system and to introduce a new feature in our governmental policy and give it a shape we had not long been familiar with in this state; and, therefore, it follows that the mode of expression adopted to impose the duty to establish public free schools is no criterion of its relative importance, compared to other duties, and no evidence that it is given a special precedence over others. While all duties are binding, they are, in the very nature of things, not equally imperative in the obligation of their performance when all cannot be performed to the fullest extent. The duty upon a man to feed, clothe, shelter and protect his family is more imperative than that to send his children to school, though he may be in duty bound to do all these things, if he can.

The highest and most imperative duty resting upon a state is to make good laws and have them all well executed, for the protection of life, liberty and property, and certainly those who perform that duty for the state are entitled to be its preferred creditors, who should be paid for their services without delay and without suffering discount.

That being done with certainty, it is our duty to support and maintain the public charities, and the public free common schools to the extent of our ability, if for no other reason because the constitution imposes it upon the Legislature as a duty. That is reason enough, and there is no use in arguing the right or the wrong of it now.

It should be done in a manner that would least discommode the accomplishment of the more important object. I herewith submit a detailed report from the Secretary of the Board of Education, containing a statement of the operations of the systems of public free schools from 1874 to the present time. From an examination of this it will be seen that the mode of distributing the funds to the counties involves uncertainty in estimating the proper amount, which results in lapping over from year to year parts of it in the precaution properly used not to apportion too much, by which the scholars of subsequent years get the benefit of part of that which was appropriated to those of former years. This, strictly considered, might be found contrary to the constitution.

The board, when the new amendment of the school law goes into effect, will apportion on the first of July each year the fund to the counties. They will have no tax rolls by which to determine the amount of

the assessment for the year, and will have to guess what it will be by what it was on a former year, and it will not be ascertained what amount should have been apportioned until the close of the accounts of the treasurer on the last of August of the next year. This results from an appropriation of a fourth or a sixth of the revenue, instead of a specified amount in dollars, as it was formerly done. Another objection is, that the apportionment is made, and the whole amount in the shape of orders on the tax collectors in favor of the county treasurers is sent out at one time, which causes the taxes of all sorts to be withheld from the state treasury, and, in addition, a large amount of school fund in the treasury from being turned over to the revenue until those orders are satisfied and returned to the comptroller, which causes a scarcity of revenue in the treasury for nearly half the year after those orders are sent out, and it would have that effect, and consequently greatly embarrass our financial system in making prompt payment of warrants when presented during that time if our revenue was equal to expenses. Another objection to the system is that there are provisions in the tax law and in the school law that specify the proportion of the taxes to be levied and collected for the schools, which is construed to have the effect of making the amount when received in the treasury a special fund, and thereby ties up the hands of succeeding Legislatures from appropriating it to any other purpose, whether the state can afford to devote the amount to schools or not. It would be much more in accordance with the principles of good government and more in harmony with the provisions of the constitution, that it should be received into the treasury as revenue, wholly subject to the disposition of the Legislature, and be appropriated as revenue, and not as a special fund. I therefore respectfully recommend that those provisions be repealed, and that the Legislature appropriate a particular amount named in dollars, which will include the one dollar poll tax, the interest on the bonds of the school fund, and enough of the revenue to fill out the amount appropriated. The only limitation in the constitution is that the revenue appropriated shall not be more than one-fourth of the revenue, leaving out the one dollar poll tax.

The Legislature will be as well fitted to determine the amount to be devoted to schools as the Board of Education, who have in effect been making the appropriations under the present law, by a rule laid down by the Legislature; or, if another mode can be found by which the amount can be made certain by the Legislature, after they shall have provided for other necessary objects of expenditures, that may answer the same purpose.

I respectfully recommend that the law be changed, so that the board of education shall give orders at one time for only one-half of the amount apportioned to each county or city entitled to it, and for the other half at another time, after the first order is returned.

I respectfully recommend that separate appropriations be made for the normal schools, and for the expenses of the board of education in superintending the schools out of the revenue. These items being incidental to and connected with the common school system, may well be taken into consideration as part of it in estimating the portion of the public revenue that can be appropriated to that purpose. It is important that each object capable of separate appropriation should appear in the appropriation act, so as to give public information of what amounts have been appropriated for each, which has not been the case in regard to the pub-

lic free schools since 1875. (I herewith submit a report of President Gathright about the Normal School at Prairie View):

THE SALE OF THE PUBLIC LANDS—THE UNIVERSITY, ASYLUMS AND PUBLIC FREE SCHOOL LANDS.

In my inaugural and messages, again submitted for your consideration, I endeavored to urge the propriety of immediately inaugurating the policy of expeditiously selling all of these lands. It will take fifty years to extinguish our public debt by the two per cent. sinking fund, the lands will be gone long before that time, and the people will have to be taxed to pay the debt in the end and the interest of it in the meantime.

The scholastic population is increasing faster than the public free school fund. That means increased taxation to preserve the present standard of schools. There are now about thirty-five millions of acres of school lands, which ought to increase the present school fund from three to fifteen or twenty million dollars. With such a fund drawing interest we might hope indeed to build up and maintain an efficient system of public free schools with the aid of a light tax that would hardly be felt. Equally as good reasons may be given for the sale of all the other lands. I respectfully recommend one commissioner be appointed to sell all of these lands under the direction and sanction of a board of executive officers; that an appropriation be made to pay his salary and incidental expenses, and that each class of land shall be made to bear the expense of selling in proportion to the value of its land that may be sold. I have good reason to believe that with the facilities thus furnished, and upon extensive publications being made to let it be known, great quantities of land can be rapidly sold, and that it will be the best and fastest way to settle the country with a good population. I deem this a matter of great importance to the public interest in many respects, but especially as it looks to a more speedy closing up of the interest that the state has in lands, and will relieve the people from taxes in proportion to the lands sold.

THE AGRICULTURAL AND MECHANICAL COLLEGE—THE LUNATIC ASYLUM, AND THE BLIND AND DEAF AND DUMB INSTITUTES.

These are state institutions that have been erected at considerable cost, and are in a state of incompleteness with reference to the objects to which they are devoted. Learning that to be the case, I have procured reports from those respectively in control of them, in order that they might speak for themselves in representing to your honorable bodies what they respectively deem necessary to the efficiency of these institutions. I respectfully invite your attention to these reports.

As to the college, I think that the law prescribing that the annual interest of the fund donated by the United States, now amounting to about \$14,000 be applied to the compensation alone of the "directors, professors and officers" of the college, should be repealed, and authority be given by law to directors to apply a part of that interest at least more specifically to the main objects for which the donation was made, which is defined by our constitution to be learning in agriculture and the mechanical arts, and the natural sciences connected therewith. The institution is evidently incomplete in that respect. It is incomplete also in the absence of other improvements, and a library and apparatus to fit it for the objects of its institution.

As to the asylums, as they are styled in the constitution, surely there

is a very high obligation on the state to provide the means of taking care of every indigent insane person in the state, and to receive into the Blind and Deaf and Dumb schools every person in the state that needs and requires the benefit of those institutions. As the state has founded them and advanced thus far with them, as in the case of the Agricultural and Mechanical College, it would seem proper that they should be brought to a completeness sufficiently to answer the objects, in a reasonable degree, of their foundation. It is certainly within the capacity of the state to do this in an economical way, and then it can more vigorously devote its attention to the promotion of other objects of useful improvements. It is a great drawback to an object of interest to be left to drag along in inefficiency, when a small amount compared with that which has already been bestowed to start it, would finish it according to the original design. It is upon such consideration that I have thought proper now to invite your attention to these institutions.

Reports of the adjutant general and of the commissioner of the general land office, and herewith submitted for your consideration, and which fully explains the objects of their being presented.

In these reports, as well as in those of the state institutions, you will find descriptions of things that are useless or defective, and should be disposed of; and they are thus brought to your attention to induce the passage of a law for the appointment of boards of inspection when necessary to have such property condemned and disposed of.

ADDITIONAL APPROPRIATIONS.

There are additional appropriations which I will recommend, amounting, as now ascertained, to \$86,000 on the regular appropriations, and to \$115,000 on the deficiency appropriation, passed at the regular session of the Legislature, which I will itemize and explain the propriety of in another message.

The money for the payment of interest on the public debt at the proper time, and that for the annual sinking fund, is in the state treasury awaiting your appropriation, which I respectfully recommend. I also respectfully recommend, not as a mere formality, but as a means of indicating what I regard as my official duty, to recommend that whatever amount can be safely spared, after the necessary expenses are certainly provided for carrying on the government economically and efficiently administered, and a reasonable provision for the public institutions, be appropriated for the support and maintenance of the public free schools.

O. M. ROBERTS, *Governor*.

STATE FINANCES.

EXTRACTS FROM REPORT OF HON. STEPHEN H. DARDEN, COMPTROLLER, FOR 1876.

By reference to the table giving a statement of the public debt, it will be observed that the receipts from revenue have not been sufficient to meet the expenses of the government during the fiscal year just ended; and there are now warrants unpaid amounting to \$212,034 57, notwithstanding every effort has been made to enforce the prompt collection and payment into the treasury of the taxes assessed.

The receipts from ordinary sources of revenue during the fiscal year ending August 31, 1876, with balance on hand at the close of the last fiscal year, exclusive of transfers to special accounts, were \$997,992 85.

BILLS AND RESOLUTIONS.

By Mr. Clemens:

Resolved, That the morning session of the House shall hereafter commence at 8 o'clock in the morning and continue till 12 o'clock.

Laid over under the rule.

By Mr. Gause:

A bill to be entitled "An act to repeal 'an act to amend article 4759 of the Revised Civil Statutes of the State of Texas, adopted on the day of February, 1879,' approved April 22, A. D. 1879."

Read first time and referred to committee on revenue and taxation.

By Mr. Coleman:

A bill to be entitled "An act to make an appropriation to pay the interest on the public debt due July 1, 1879."

Read first time and referred to committee on finance.

A message was received from his excellency the governor.

On motion of Mr. Johnston, of Shelby, the following message of his excellency the governor, just received, was taken up and read:

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

To the honorable Senate and House of Representatives in Legislature assembled:

In addition to the heads of legislative action pointed out in my message of the tenth instant, there are some others, which, like many of those then mentioned, if acted on, might facilitate the better administration of the government on the subjects to which they relate, and with that view they are herewith respectfully submitted to your consideration:

ADDITIONAL SUBJECTS OF LEGISLATION.

40. A law permitting both civil and criminal jurisdiction to be transferred from the county to district courts in any of the counties, and where such has been or may be done to provide how former judgments and proceedings shall be transferred or executed.

41. An amendment of the law for the collection of taxes, so as to require tax collectors to force the collection of taxes during the time of the year that the people generally have most money to pay them before the first of March in each year.

42. An amendment of the law passed by the Sixteenth Legislature relating to the penitentiaries, declaring for what purpose buildings within the walls of the penitentiary at Rusk shall be erected, together with their quality.

43. An amendment of the quarantine law, so as to allow guards to be appointed and employed by the governor, upon recommendation of the state health officer, at certain channels and other places which are not under the control, or not convenient to any local board of health, to be subject to the directions of the state health officer as to their duties.

44. An amendment of law relating to the proceedings in the land office, and the issuing of patents and requiring parties to pay for patents when issued, and also to authorize patents to be delivered where the money for them was deposited, in pursuance to law with the former commissioner, but which is not now to be found there and has not been accounted for by one of his predecessors, as shown in the report submitted by Capt. Walsh, commissioner of general land office.

45. Amendment of bell-punch law in respect to the appropriation, and to define its application to druggists, if deemed doubtful.

46. A law for the postponement of taxes for a few months, as requested by petitioners of Smith county, should the Legislature deem proper.

ADDITIONAL APPROPRIATIONS.

In examining the regular appropriation act passed at the regular session of the Sixteenth Legislature, with the Hon. S. H. Darden, the comptroller of the state, it was concluded that the following additional appropriations would be proper if the Legislature should see fit to make them:

COMPTROLLER'S OFFICE.

Additional clerk force for extra work under laws of Sixteenth Legislature relating to assessing and collecting taxes in unorganized counties, and to the collection of taxes from non-residents in unorganized counties.....	\$10,000
Furniture necessary.....	250
Repairs to building to make it secure.....	250

ADJUTANT GENERAL'S OFFICE.

Increased pay of clerk.....	600
-----------------------------	-----

JUDICIARY DEPARTMENT.

Fees of sheriffs, clerks, attorneys, etc.....	60,000
Librarian for supreme court at Austin.....	300
Special district and supreme judges.....	7,000

DEPARTMENT OF INSURANCE, STATISTICS AND HISTORY.

Increase so as to have two clerks (one for state library).....	500
--	-----

TREASURY DEPARTMENT.

For repairs and contingent.....	150
---------------------------------	-----

TREASURY AND COMPTROLLER'S OFFICES.

Increase of salary of porter per year (now \$300).....	180
Presidential electors in 1880.....	800
Rewards and expenses by the state in recovery of fugitives.....	5,000
Compensation of agent to sell bonds.....	1,000
For engraving bonds (will cost \$10,000, only \$5000 appropriated)	5,000

\$91,030

ADDITIONAL APPROPRIATIONS TO THE DEFICIENCY ACT.

Sheriffs, clerks and attorneys, already ascertained.....	75,000
Conveying prisoners to penitentiary.....	40,000

\$115,000

There should be an appropriation of \$30,000, as was made in 1876, to be used on condition that it became necessary, from any cause, for the state to take charge of and provide for the convicts of the penitentiary instead of the lessees.

It is respectfully submitted that wherever certain fees to officers and other expenses are prescribed by statutes, and not limited by the specific amount appropriated in the act, it is very important that sufficient appropriation should be made in advance, otherwise the claims are generally sold as "O K" accounts, although there might be money in the treasury to pay them when presented, and thereby the holders sustain a loss, without any advantage to the state. And in such cases the amount expressed in the appropriation act neither increases or diminishes the

real amount of expense. The special appropriation for the purchase of the bell punches being \$10,000, should be amended so that the amounts received from the sale of them should be returned to that appropriation, so far as it may be necessary, and not all go to the revenue; otherwise, it will be deficient as estimated about \$5000.

The special appropriation of \$500 out of the sale of capital lands to pay an architect should, it is believed, be increased at least \$1500, because it should be done by a first-class architect, and it should contain full specifications and designs of all parts of the building, with the estimated cost of it, to furnish a guide, not only in making the contract for the building, but also for the full and correct performance of the work by the contractors according to the contract that may be made.

I beg leave again to call your attention to the necessity of making some additional appropriations, should you see proper, to the several state institutions, which is shown by the respective reports accompanying the message of the 10th of this month. The amounts necessary to be appropriated, consistently with our ability, I have not assumed to estimate, but must leave to the careful scrutiny of the Legislature, after they shall examine said reports. It will certainly be found that something should be given to each one in order to make it answer the purpose of its institution. It is easily understood that a small additional aid might greatly perfect the operations of these institutions. For instance, the Agricultural and Mechanical Collège (upon which the state has spent in its erection \$180,000, and more has been spent by the profits of its good management) has not been furnished by the state with a library and apparatus, etc., for the benefit of the scholars. Now a college without these is grossly incomplete, and a small appropriation for that and other purposes would greatly increase the benefit of the large amount already bestowed upon it. So in the case of the Lunatic Asylum, there is a building completed which would enable the superintendent to receive fifty more inmates, if there was a small appropriation to fit it up and support and take care of that many more. And similar facts relate to all of the other state institutions.

I did not submit any report about the Sam Houston Normal School at Huntsville, because there was no one who was authorized to make a report.

With a view to obtain information for the use of the Legislature, I requested three gentlemen of Huntsville of well known respectability and capacity to act as a voluntary committee to inspect and report upon the buildings, so as to show what might be necessary to fit up the institution as designed by the Legislature. I herewith submit their report, which I am confident may be relied on, in which they show a necessity for an appropriation of fifteen hundred dollars, I respectfully submit for your consideration. Another matter connected with this institution is that the citizens of Huntsville will not be able to make a complete legal and equitable title to the property within the sixty days as required by the state, nor indeed until after the meeting of the Methodist conference in November next, for which the property is held in trust, as shown by the deeds submitted to the attorney general and myself. I entertain no doubt but that it will be done, and recommend an extension of time within which they may be allowed to perfect the title.

You will see by the report of President Gathright that a small appropriation will be needed to put the Normal School at Prairie View for

colored pupils in proper condition to receive and support the pupils as provided and designated by the Legislature. The importance of these normal schools as a necessary incident to an efficient system of public free schools in this state cannot, as I think, be well overestimated. They are simply indispensable in the effort gradually to attain that desirable object. They learn teachers the best modes of teaching by a regular system. Any one who will visit the public free schools in the city of Houston, under the management of Professor Smith, will be made to understand the great benefit in our common schools of teaching teachers how to teach a common school, and from which the conclusion will be reached that no efficient system can ever be attained in Texas, whatever else may be done, without the aid of normal schools. I regard it as the first step in the right direction, which, if persisted in, will, above all else, to the extent of its expense, aid in the consummation of the final success of the undertaking to establish a system.

In explanation of part of item 44, in the heads upon legislation submitted to you, about money deposited for patents not found there now, I respectfully submit to you the report of the present commissioner of the general land office, Hon. W. C. Walsh, on that subject, and for other parts of it refer to the report already sent.

Under the tenth head of subjects for legislation, I respectfully call your attention to the fact that there is now a controversy going on between the newly organized county of Wheeler and the county of Clay, to which its territory has heretofore been attached for judicial purposes, as to which set of officers shall collect the taxes, the profits of collection, as well as the benefit of the county tax, being doubtless the ground of controversy. Other counties preparing to organize will soon be in the same controversy. Another cause of trouble which should be removed by legislative action arises out of the necessity of holding district courts in counties organized at a great distance from other counties where courts are held, and when organized there being no law prescribing any time for holding their courts. For information on these subjects I respectfully refer you to a letter intended to give information to the Legislature from the county attorney of Wheeler county, which is herewith submitted, showing that a petition will be submitted to you, asking relief on those matters.

I would respectfully suggest that there is great danger, under the present law for organizing new counties, of an evil arising in two ways. First, that it will be organized by persons who are not permanently settled, for speculative purposes, when it should not be organized; and second, when there are enough of settlers to organize a county, but extraneous influences are brought to bear, either there or in the county to which it judicially belongs, to prevent the organization. It is to the interest of the state that the county should be organized when there are the proper number of actual *bona fide* settlers on the soil who have fixed permanent homes in the county limits, but the very reverse if there are not such settlers. The whole matter of organization is taken out of executive control by the present laws. And a very strong reason why the law should be changed and even subjected entirely to the action of the Legislature when in session, is that as now illustrated in the case of Wheeler county, when the county is organized, when the Legislature is not in session there is no time fixed by law, and cannot be until the succeeding session of the Legislature, for holding its district courts, and none can be held. This,

then, is a matter of such increasing importance that I respectfully ask for it your favorable consideration. And that more light may be thrown upon this subject to those not familiar with it, I respectfully submit for your consideration a letter in the nature of a protest against the organization of Wheeler county, addressed to me as governor, by the general agent of the Texas Land company.

I respectfully submit for your consideration the petition of citizens of Smith county for postponement, for a few months, of collection of taxes, stating the reason of present embarrassment, and ask for it a favorable consideration, as a compliance with their wishes may facilitate rather than retard the collection of taxes due for 1877 and 1878, still not collected.

The additional appropriations requested to be added to the appropriation for current expenses of the year, estimated at \$91,030, is asked to prevent a deficiency appropriation on those items the next session and to provide for the issuing of warrants to cover the estimated expenses. If the items are examined it will be found that some of them will not apply to the second year, and therefore need not be included in the additional appropriation for the years 1880 and 1881. For instance, the additional appropriation asked for the engraving of the bonds is only temporary, and arises out of the fact that it has been ascertained that the engraving of the bonds of the denominations of \$1000 and of \$100 will cost \$3500, and those of the denominations of \$10 and of \$5 will cost \$7000, making in all \$10,500, and there was only \$5000 appropriated for engraving all of them. An inferior engraving of the smallest bonds can be procured for \$5500. Those of the larger denominations of \$1000 and \$100 have been ordered, and are being engraved, and arrangements have been made for the engraving of those of the smaller denominations as soon as an additional appropriation is made for that purpose.

There is also a needed item of appropriation of at least \$300 to pay the guard or custodian of the East Texas Penitentiary, who has been employed since the 7th day of March last, at \$50 per month, in pursuance to an act of the Sixteenth Legislature; and in reference to the improvements of that penitentiary, so as to fit it for convicts as soon as practicable, it has been ascertained by an examination and estimation of the architect and engineer appointed for that purpose, that with the \$60,000 appropriated for it in each year for two years, the walls and grading can be completed and buildings for shops and other purposes erected within the wall to a great extent, if not entirely sufficient. The architect has drawings and estimates to exhibit these results. But the character of said buildings should depend largely upon the work that is designed to be done within the walls. The penitentiary was located there, as indicated by the act of the Legislature, for making iron. There being no coal in that region, and the iron ore being, so far as known, mainly surface ore, it might not be profitable to undertake more than to establish a forge for castings, plows and other things needed in that penitentiary for use in other employments that may be adopted. That locality is well adapted to manufacturing leather, and those things that are made of leather; and it is well adapted to spinning and weaving cotton fabrics, and also for making wagons and other implements of husbandry.

It is of the first importance in this matter that the Legislature should at this session indicate by an act the employments to be adopted in said penitentiary, as the only indication that has heretofore been made has

reference only to the manufacture of iron. By doing so, the board will be enabled to proceed to advertise at once for a contract for building houses and other necessary structures to the extent of the \$120,000 appropriation, as well as for erecting the wall and grading the space within it, which has already been done, though the contract for that has not yet been made.

I beg leave to call your attention to an act of the Legislature passed on the thirteenth of May, 1871, entitled "An act to incorporate the Galveston Medical College and Asylum," in which the state assumed to pay for attention to a certain class of our citizens not residents of Galveston county, in a hospital at Galveston, the expenses incurred not exceeding five thousand dollars per annum. I am informed by Dr. T. J. Heard, one of the professors of said college, that arrangements have been made which will throw this expense, or so much as may be incurred under said act, upon the state treasury for payment, which, if upon examination it is found to be a continuing obligation on the state, as the act imports, will require an annual additional appropriation of \$5000. I respectfully submit the communication of Dr. T. J. Heard on this subject, with the accompanying copy of the law to which it refers, for your consideration.

I have asked for an additional appropriation of \$5000 for rewards and the expenses of recovering fugitives, and the employment of attorneys to represent the state. I have, from that appropriation, employed Mr. Samuel Wilson at a very reasonable fee, to attend to the Mercer colony suit in the federal court in Travis county, and as the case will most probably be carried to the supreme court of the United States, however it may be decided here, another fee will have to be given for its defense there. I have also employed Messrs. Sneed and Sheeks to continue their services in the land fraud cases, in the district court of Travis county, at a very reasonable fee for the conviction of each person, and not for each conviction against the same person. These fees will not probably amount to more than \$3000 in the two years, which will leave \$13,500 annually for rewards and expenses in recovering fugitives from justice, which it is believed will average an expense of \$250 in each case. At that rate the amount appropriated will reclaim only fifty-four or fifty-five fugitives from justice per annum. And to reduce it to that amount, I have, since an appropriation has been made, given a reward to the extent of actual expenses and reasonable pay for the time occupied by the person who may go after the party charged, presented in an itemized account, sworn to.

In order to prevent the money of the state from being uselessly spent, I have endeavored to carry out two measures of precaution: *First*—To ascertain that the escaped party can probably be convicted, if brought back; *and second*—To ascertain if there is a good bail bond or recognizance that binds sureties for his appearance, and in that event I furnish to the sureties a requisition to bring him back without expense to the state. Acting on these as general rules, to which there will be exceptions from circumstances that cannot be foreseen and detailed in advance, much money may be saved to the state, and that which is used will have practical effect.

Since the appropriation has been made numerous requisitions have been issued, and persons have already been brought from other states under them, and convicted of capital and other felonies. Almost every day

information is received from a distance of the locality of persons who have escaped, showing that the number is very large; and if any considerable number of them are desired brought back, there should be an increase of the appropriation. The bringing of them back and convicting them, especially in offenses of a higher grade, has a most salutary effect, and it should be our effort to bring every one of them back, as long as there continues to exist any reasonable probability of their conviction. The increase of the appropriation will not increase the necessity of its use, but if necessary to be used, as I believe it will, it will afford a prompt payment to those who will render the state a most valuable service, and they will not be required to wait for a deficiency appropriation at the next session of the Legislature, which would be the cause of great discouragement in rendering the service, and necessarily increase the amount for which any one could be procured to do it.

I have not made a recommendation of any specific amount to be devoted and appropriated for the support of public free schools; which includes an appropriation for the normal schools, and for the incidental expenses of the board of education, because I could not foresee what amounts, additional to those already made, would be made by the present session for current expenses, and in aid of the greater efficiency of the state institutions of charity and learning. But I do respectfully recommend that said estimated amounts for current expenses, and that reasonable amounts be appropriated to the Lunatic Asylum, the Deaf and Dumb, and Blind institutions of learning, to the two normal schools, and to the Agricultural and Mechanical College in the most economical way that may be found necessary to make them reasonably efficient, with reference to what already has been spent on them, so as to bring them to some degree of completeness in the performance of that for which they were designed. And though I have not assumed to state any such amounts as are necessary, I have furnished the data, in the shape of reports, that will enable the Legislature to exercise a sound practical judgment as to how much money can be profitably appropriated for such objects.

I further respectfully call attention to the previous appropriations, made during past years for the sinking fund, to pay the public debt, if it should be thought necessary to renew them to make them still binding on the treasury, so that out of the incoming surplus revenue—if any there should be in the next two years—an amount should be, if practicable, invested in bonds to be destroyed, corresponding to the amount that should heretofore have been used as sinking fund for that purpose, but was used as revenue to pay current expenses and not reserved, as prescribed by the laws under which the bonds were issued, and by the appropriation act for which the money was set apart for that purpose. This would show our bond creditors that we act upon a settled policy to provide for and appropriate the sinking fund according to law, whenever the surplus revenue will permit it. From this appropriation would flow two desirable results, if our anticipations of increased revenue should be realized—first, it would increase confidence in our determination and ability to pay our debts, according to assumed obligations, and elevate our financial credit at home and abroad; and, second, we would buy in as many or more outstanding bonds of the state as we now issue, as necessary to pay \$200,000, the debt in the deficiency act of the Sixteenth Legislature, resulting in the fact that during this adminis-

uration the bonded public debt would not be increased, and if, during that time, the balance of the deficiency debt, amounting as now estimated, to \$208,000, for which warrants will be issued bearing four per cent. interest can be paid by the surplus revenue, it should certainly be done, and under the provisions of the act may be done, and thereby stop the interest on them. As to their merits as debts against the state, they stand as high as any other debts, and, indeed, have this precedence: that money collected from the taxes of 1872, designed in the due course of things for their payment, was held up in the treasury by their postponement in the deficiency appropriation act; and if that act had been passed to take effect on its passage warrants for them would have been issued to the amount of \$408,000, as now ascertained, and the money in the treasury on the seventh of this month, subject as revenue to be paid on debts amounting to \$248,000 would have been paid out to satisfy that amount of them, and there would on that day have been out still unpaid the sum of \$165,000, and no money in the treasury to pay them, only as it might come in. The consequence would have been warrants would have sold at a heavy discount, from the date of the passage of that act in April last up to the present time, and with a prospect of continuing to do it, until the increase in the revenue, and the diminution in expenses, provided for by the Sixteenth Legislature, could have produced the result of making the current revenue received exceed the current disbursements for expenses the sum of \$165,000.

From this it is plain that the surplus now in the treasury has on it two demands of a high order in equity and fair dealing, one of which is to pay back the sinking fund that has been used to produce that surplus, and the other is the deficiency debt for which it was collected from the taxes of 1872, and to which it would, to the extent of the present surplus, have been paid, but for the postponement referred to.

Another obligation, under the constitution is, as far as practicable, to provide for the maintenance of public free schools, during the next two years out of the resources at command. The amounts required by the constitution to be annually appropriated to that purpose are the one dollar poll tax, estimated at \$125,000 each year, and the interest of the state and railroad bonds belonging to its fund, amounting to \$184,124 80 per annum, which amounts to \$309,124 80, to which may be added a small amount that was not appropriated to the counties by the board of education last September, which amount will not be ascertained until a settlement of the books and accounts in the comptroller's office at the end of this fiscal year on the thirty-first of August next, which will be in time for the next appropriation of the school fund in September next.

To these amounts it is desirable to add, by an appropriation for each of the two years, enough of the revenue to keep up the schools to a reasonable standard of usefulness, so that there shall be no such discouragement as to produce a want of confidence that the state will continue the effort to build up an efficient system of public free schools whenever, by the sale of its lands, by the readjustment of our financial affairs on a sound, permanent basis, and the improvements in the regulation of them, that object can and will be accomplished.

In the following named years there were appropriations of the following specific amounts, and schools were taught each year as here indicated: 1873-4, appropriated \$819,800, school taught four months; 1874-5, appropriated \$513,925, school taught four months; 1875-6, appropriated \$505,400, time taught not reported.

These were the last appropriations of specific amounts; and though the scholastic population has increased since that time, the wages of teachers, as well as other employes of the government and officers, have decreased to conform to the monetary condition of the country.

I herewith respectfully submit for your consideration estimates of cash on hand, and of receipts of revenue and disbursements from the treasury for expenses of the government, prepared and certified to by the Hon. S. H. Darden, comptroller of public accounts, on and from the seventh day of this month (June, 1879) to the end of the next fiscal year, on the thirty-first day of August, 1880, being part of two fiscal years:

COMPTROLLER'S ESTIMATES.

Estimates of cash on hand, receipts and disbursements, from June 6, 1879, to August 31, 1880, no deductions for school fund being made from general revenue.

RECEIPTS.

1. Cash on hand June 7, 1879.....	\$450,935 00
2. Office fees for three months at \$5000 per month.....	15,000 00
3. Occupation taxes for June, July and August, 1879....	87,500 00
4. Collections to be made on assessments for 1878.....	200,000 00
5. Claims of sheriffs to be adjusted.....	230,699 64
6. Net collections as general revenue from assessments of 1879, one year occupation tax, office fees and taxes on lands in unorganized counties.....	1,655,000 00
Total.....	\$2,639,434 64
Deduct for school fund $\frac{1}{4}$ of \$87,500 and \$230,000, included above.....	129,375 00
Total for state revenue.....	\$2,509,759 64.

DISBURSEMENTS.

1. Balance to be paid on current appropriation for the year ending February 28, 1880, \$227,000 having been paid to June 1, 1879.....	\$496,753 00
2. Deficiency in current appropriation.....	91,530 00
3. Current expenses on appropriation for year ending February 28, 1881, from March 1, 1880—6 months.....	311,961 00
4. Deficiency in last named appropriation from March 1, 1880, to August 31, 1880—6 months.....	40,765 00
5. July interest, 1879.....	157,912 75
6. September interest, 1879.....	26,470 00
7. Sinking fund for 1879 (regular).....	100,000 00
8. Back sinking fund due (estimated).....	200,000 00
9. January interest, 1880—6 months.....	157,713 75
10. March interest, 1880.....	26,000 00
11. July interest, 1880.....	157,713 75
12. September interest, 1880.....	26,470 00
13. Sinking fund, 1880.....	100,000 00
14. Deficiency appropriation for year ending February 28, 1879.....	523,000 00
15. Deficiency in above appropriation to meet unaudited debt.....	115,000 00
16. Expenses extra session Sixteenth Legislature.....	50,000 00
Total.....	\$2,581,289 25

SUMMARY STATEMENT.

Disbursements to August 31, 1880.....	2,581,289 25
Receipts.....	2,509,759 64

Deficiency in revenue August 31, 1881..... \$71,529 61

[NOTE.—Should we add to receipts \$200,000, proceeds of sale of deficiency bonds, there would be an excess of receipts over expenditures of \$128,470 39.]

This estimate of receipts and expenditures is made from the best data at hand, this date, June 7, 1879. STEPH. H. DARDEN, *Comptroller*.
To his excellency O. M. Roberts, Governor.

In making an estimate to provide for all of these objects as their relative importance may demand, I most respectfully recommend that it be made with a view, if practicable, that upon a settlement of accounts at the end of the fiscal year ending the thirty-first of August, 1881, all these antecedent obligations shall have been satisfied, and that there be no outstanding debts for current expenses up to that time.

By that means the Legislature that meets in January, 1881, will be put in a situation to increase the school appropriation for 1880 and 1881 that you may now make, if the means at command can then be ascertained to justify it; or, if they do not choose to do that, they may find themselves in condition to diminish the taxes to carry on the government for all purposes to below fifty cents on the one hundred dollars, which certainly should be done if practicable.

In making estimates of future increase of revenue upon new modes of taxation it must never be lost sight of, that the values produced in a county pay the taxes, and that whatever new devices may be invented at last, the permanent amount of taxes collected from year to year must depend upon the amount of property and industries permanently productive of values, and that therefore we must rely mainly upon the known results of the past in estimating the unknown results of the future.

I respectfully submit that the Legislature being now convened, some of the other subjects, to which their attention has been called, may be acted on with great benefit to the country, especially those relating to the collection of taxes and other matters pertaining to the regular administration of the government.

O. M. ROBERTS, *Governor*.

LETTER OF HON. W. C. WALSH.

GENERAL LAND OFFICE, AUSTIN, TEXAS, June 11, 1879.

Hon. O. M. Roberts, Governor:

SIR—Permit me to call your attention to the fact that Emile Feus, receiver of the general land office, under the administration of Hon. Jacob Kuechler, was a defaulter to the amount of two thousand three hundred and twenty-three dollars. These funds were the property of parties who had business with this office and were deposited in his hands under the provisions of the act of November 10, 1866, which authorizes such deposits with the receiver.

This amount stands upon the books to the credit of the various depositors, but cannot be paid by the present receiver without rendering his accounts short to such an amount as he may so pay.

The bill was ordered engrossed.

The following message from his excellency the governor received this morning, was laid before the House by the speaker:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, TEXAS, June 20, 1879. }

To the honorable Senate and House of Representatives in Legislature assembled:

GENTLEMEN—I respectfully submit for your consideration the following additional subjects of legislation:

47. An amendment of the law passed at the regular session of the Sixteenth legislature, relating to the execution and recording of deeds and other instruments.

48. An amendment of the law for the collection of taxes to allow and require taxes to be collected in a county different from that in which it was assessed, where property is removed, or in other events which make it necessary.

49. A law to quiet titles issued from the government, and to prevent locations thereon until title is adjudicated.

50. A law to make the lien for material furnished, labor done on railroads more full and complete.

51. A law to amend the estray law to make it more practical, especially in reference to estraying horses.

52. An amendment of the law to encourage stockraising, etc., to enable any other county to be included therein and in such other matters as may be deemed proper.

53. An act to bid off property by the state and by counties, sold on executions on debts due by judgments, and when necessary to dispose of the same, and of the judgments also, to collect money or part of it so due.

54. A law for the better protection of crops and products of the soil.

55. Amendment of the law for protection of frontier, in reference to the power of the members of the troops to act as civil officers and in aid of them.

56. A law to define what property used for school purposes is exempt from taxation, under section 2, article 8 of the constitution.

57. A law taking such action as may be necessary and proper in regard to a bill to amend the charter of Dallas, which failed at the last session by not being enrolled and presented to the governor.

58. An amendment of the law fixing the branches of the supreme court and court of appeals to which the cases of certain counties are returned.

59. A law to regulate and enforce the collection of cost and expenses in case of change of venue.

60. Amendment of law as to right of county judges to practice law in certain courts.

61. An amendment of the law of taxation relating to drummers and entry of horses at a race, if the Legislature should think proper.

62. A law to enable lands sold for taxes to be redeemed where purchaser is absent or cannot be found.

63. An act to enable municipal authorities of towns and cities and county courts to co-operate with each other in improvements connected with the town or city and county necessary to promote the sanitary regulations thereof.

64. An amendment of the laws relating to quarantine so as to secure greater efficiency therein.

65. The Senate is respectfully requested to act upon appointments of notaries public and other officers sent to them for advice and consent.

I have submitted to your consideration many subjects of legislation in this and the previous messages during this session, in deference to the wishes of members of the Legislature who have requested it.

O. M. ROBERTS, *Governor.*

By leave, Mr. Gause introduced a bill to be entitled "An act to validate the titles to land reserved from location or patented at the time titles issued thereto."

Read first time and referred to judiciary committee No. 2.

By leave, Mr. Henderson, of Smith, a bill to be entitled "An act to amend article 3785, chapter 3, title 78 of the Revised Civil Statutes, passed at the regular session of the Sixteenth Legislature."

Read first time and referred to committee on education.

Mr. Wurzbach moved to take up House bill No. 22, "An act to amend 'an act known as the bell-punch law,'" it being the special order for Monday at 11 o'clock A. M.

The motion prevailed.

The bill was taken up, read second time and ordered engrossed.

By leave, Mr. Finlay offered the following resolution:

Resolved, that two hundred and fifty copies of the several items of legislation on different subjects recommended by the governor to the Legislature, in his several messages be printed for the use of the House, under the direction of the chief clerk.

The resolution was adopted.

House bill No. 23, being "An act to enforce the collection of delinquent taxes," was taken up, read second time with a favorable report from committee on revenue and taxation.

Mr. Goodson offered the following substitute for section 18:

"Whenever the assessment list of the assessor is approved by the commissioners' court, if any person who has listed any personal property for taxation shall be absent to remove said property from the county, the taxes so assessed shall in such case become due, and the collector of taxes shall be required to proceed at once to the collection of said tax in the same manner as other taxes when due."

The substitute was adopted.

Mr. Goodson offered the following substitute for section 19:

"Section 19. There being no law now in force for the collection of delinquent taxes creates a necessity that this act shall take effect from its passage, and it is so enacted."

The substitute was adopted, and the bill ordered engrossed.

By leave, Mr. Wurzbach introduced a bill to be entitled "An act to regulate the payment of costs of sheriffs and other officers in criminal cases by counties, where a change of venue has been granted."

Read first time and referred to committee on state affairs.

Mr. Henderson, of Smith, moved to suspend the rules to take up House bill No. 30, being "An act to postpone the time for the forced collection of taxes by levy and sale until the thirty-first day of October, A. D. 1879, in such county or counties in this state as had no legal col-

the Revised Civil Statutes, passed at the regular session of the Sixteenth Legislature," have had the same under consideration, and instruct me to report the same back to the House and unanimously recommend its passage.

HENDERSON, of Smith, *Chairman*.

Laid over under the rule.

Mr. Venters, chairman of committee on contingent expenses, submitted the following report:

COMMITTEE ROOM, AUSTIN, June 21, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee on contingent expenses, to whom was referred the several claims herein mentioned, have carefully examined the same and the committee instruct me to approve the same, viz: *Texas Capital*, \$10; J. D. Elliott, \$24; John Cardwell, \$29 10.

VENTERS, *Chairman*.

Mr. Wurzbach, chairman of committee on revenue and taxation, submitted the following report:

COMMITTEE ROOM, AUSTIN, June 21, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee on revenue and taxation, to whom was referred House bill No. 32, "An act to provide for the assessment of sleeping and parlor cars, held in this state, and to prescribe the method for levying and collecting the tax hereby imposed upon the same," have had the same under consideration and instruct me to report the same back to the House and recommend that the bill do pass.

WURZBACH, *Chairman*.

Laid over under the rule.

The following message from his excellency the governor, was read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, June 21, 1879. }

To the honorable Senate and House of Representatives of the State of Texas in session assembled:

I respectfully submit the following subjects of legislation for the consideration and action of your honorable bodies if you should think proper:

An amendment of article 690 of the Penal Code, adopted at the regular session of the Sixteenth Legislature so as to embrace sheep as well as other stock.

A law extending the time for the completion of the number of miles required by law to be completed by railroad companies, in such cases as the circumstances may be thought to justify it.

O. M. ROBERTS, *Governor*.

A message was received from the Senate informing the House of the passage by that body of House bill No. 14, "An act supplementary to an act entitled 'an act to establish a state normal school.'"

REGULAR ORDERS.

House bill No. 2, entitled "An act to make an appropriation to pay the interest on the public debt, and to provide a sinking fund for the redemption of the bonds of the state for the fiscal years ending March 1, 1880 and 1881," was taken up with majority and minority reports from committee on finance, the majority being adverse and the minority favorable to the passage of the bill.

The bill was read second time.

Mr. Coleman moved to suspend the further consideration of the pend-

EXECUTIVE OFFICE, STATE OF TEXAS, }
 AUSTIN, June 23, 1879. }

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

I desire most respectfully and urgently to call your attention to the subject of quarantine, in which every citizen of the state is profoundly interested, and should expect from the Legislature the adoption of such measures as will if possible exclude from our borders the yellow fever and other infectious diseases of similar character. In April last a proclamation was issued, declaring quarantine against all vessels from ports south of twenty-five degrees north latitude, because it was ascertained that yellow fever existed in ports south of that line, liable to have trade and communication with the ports of Texas. At once Dr. R. Rutherford, the state health officer, visited the different ports of our gulf coast to put himself in communication with the local boards of health, and to ascertain what places or points on the coast required to be made quarantine stations, where there is no city or town authorities to act, so that health officers might be appointed at such places by the governor, in pursuance to article 7341 of Paschal's Digest, second volume, which is made article 4092 of the Revised Civil Statutes. Accordingly health officers have been appointed at Brazos Santiago. There are other places of the kind where it is very important health officers and guards should be appointed at which small vessels may land, or enter without being liable to inspection by any of the local boards established by the town or city authorities on the coast. There is much danger of the yellow fever being introduced into the state through these unguarded points on the coast. The difficulty of a full provision against this danger will be seen by the reference which will be made to existing laws on the subject.

First, then, the state of the law as it now exists on quarantine will be mentioned. The eighty-third title of the Revised Civil Statutes embraces in condensed form the previous laws of 1870 and 1874 in article 4090 to 4098, both inclusive. The act passed at the late session of the Sixteenth Legislature is an amendment and supplement to this. Title 83, by attaching to article 4090, thirteen other articles, indicating them by letters from "a" to "m."

By this is plainly exhibited the intention to make the articles in the Revised Civil Statutes (which are copied from laws in force now), and the amendment and supplement passed by the Sixteenth Legislature a complete regulation of our quarantine.

An examination will make it obvious that some additional provisions are actually necessary to make it complete. It will be seen that these statutes contemplate that the quarantine, when declared by the governor, shall be carried into execution by the local boards of health in towns, cities and counties, and by such officers as the governor may appoint for the places when there are no local authorities (under article 4092, Revised Civil Statutes), and by the state health officer, acting in aid of the governor in ascertaining the necessity for declaring quarantine at any part of the border of the state, and in settling disagreements between local boards as prescribed in act of Sixteenth Legislature articles 4090*d*, 4090*e*, 4090*b*, 4090*h*.

POWERS OF OFFICERS AND BOARDS UNDER THE LAW.

Neither the governor nor the state health officer has any control over the manner in which the local boards shall execute the laws relating to

quarantine, unless a dispute should arise between two or more local boards, which would ordinarily happen after the yellow fever had entered the state, whereas the leading object should be to have a uniformity of regulation under the direction of the state health officer approved by the governor, so as to keep the yellow fever out of the state, so that there would be no disputes to settle between local boards after it gets in.

EXPENSES OF QUARANTINE AND HOW PAID.

The Sixteenth Legislature appropriated \$20,000 generally for the expenses, and \$5000 for the erection of necessary buildings at stations.

The law of 1870 provided for certain fees upon vessels landing in Texas ports to be levied and used by the local authorities at the ports, and if there was a deficiency they had a right to present their account for the balance to the comptroller for allowance, and his order on the treasury for it. The right of the state to levy such a fee was contested and resisted successfully in the federal court at Galveston, several years ago, since which time, all of the quarantine expenses have been allowed by the comptroller upon the certificate of local boards, in accordance with the law of 1870, copied in article 4097 of the Revised Civil Statutes.

The law then copied in article 4096 of the Revised Civil Statutes, has been inoperative in aiding the state to pay the expenses, as was anticipated from it. The state health officer is allowed ten dollars per day and all necessary traveling expenses, to be paid on the approval of the governor (article 4090*c*, laws Sixteenth Legislature). There is a provision that no health officer shall draw from the state treasury more than ten dollars per day, while in service (article 4090*m*). Those under the control and appointed by local boards, get their pay through the accounts of said boards, allowed and ordered by the comptroller (article 4097, Revised Civil Statutes, and article 4090*m*, laws Sixteenth Legislature). But there is no provision whatever for the manner in which the health officers appointed by the governor, at places where there are no local boards, shall be paid (see article 4092, Revised Civil Statutes). It is made the duty of such health officers, so appointed by the governor, as well as of those appointed by local boards, "to furnish persons detained by them at quarantine stations with subsistence and shelter" (article 4090*k*, Revised Civil Statutes), and still there is no mode provided for authenticating accounts for such expenses for allowance and payment. It is very important that this should be done, as it renders the compensation and expenses of such officers precarious, and may cause an abandonment of such places, much to the hazard of the whole state.

The regular appropriation act of the Sixteenth Legislature, appropriated \$5000 for building quarantine station houses at such points as the health officer may deem suitable. This act leaves it unprovided as to how that money is to be accounted for, or upon whose approval the accounts made in making said buildings shall be paid. There is therefore an uncertainty about the law as it now stands that may be a great impediment in carrying it out. Should it be desired to give the governor, with the aid of the state health officer, such authority in the management upon all the borders of the state as will enable them to keep and make them responsible for keeping the yellow fever out of the state, material amendments to the present laws must be made, so as to give them some control, which they have not now, either negative or affirmative, or both, over the action of the local boards on the borders of the

state in the manner in which they act in their effort to keep it out. Under the existing laws, if the yellow fever is kept out of the state, it must depend on the local board on the coast, and on the borders of the state, and it is for the Legislature to determine whether it is to be left in that condition or not. The power of the governor now is simply, with the aid of the state health officer, to declare quarantine, to appoint certain health officers at necessary points where there are no local boards, and to settle disputes between local boards arising in their local regulations under the law. Having given this careful exposition of our quarantine regulations, as they now exist by law, I most respectfully recommend that such amendments be made as will in the view of the Legislature be necessary to secure the objects intended, the leading one of which, above all others, should be to keep the yellow fever out of the state, and to let no conflicting interest of any sort stand in the way of its effectual accomplishment.

O. M. ROBERTS, *Governor*.

House bill No. 3, entitled "An act making an appropriation to pay the interest on the public debt and to pay the sinking fund," was taken up.

Read third time.

On motion of Mr. Finlay, the House went into committee of the whole House to consider the pending bill.

(In committee of the whole House, Mr. Baker in the chair.)

The committee of the whole House, after considering House bill No. 3, a bill to be entitled "An act making an appropriation to pay the interest on the public debt and to pay the sinking fund," reported the bill back to the House, recommending its passage.

(The speaker in the chair.)

Mr. Baker, chairman of the committee of the whole House, submitted the following report:

Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee of the whole House, to whom was referred House bill No. 3, being "An act making an appropriation to pay the interest on the public debt, and to pay the sinking fund," have had the same under consideration, and instruct me to report the same back to the House and recommend that the bill pass.

BAKER, *Chairman*.

The bill was taken up, and the question being upon the final passage of the bill, the "ayes" and "noes" were ordered:

AYES.

Mr. Speaker,	Daugherty,	Grant,	Loe,
Baker,	Delaney,	Henderson of S,	Maedgen,
Beck,	Douglass,	Henderson of VZ,	May,
Benavides,	English,	Henry,	Merritt,
Bell,	Estes,	Hill,	Mills,
Brown of Gregg,	Evans,	Holmes,	Moore,
Brown of L,	Finlay,	Hurst,	Mullins,
Bryan,	Fisher,	Jackson,	McCall,
Cain,	Flewellen,	Jones of Hunt,	McComb,
Callaway,	Ford,	Johnson of C,	Oxsheer,
Cochran,	Freeman,	Johnston of Leon,	Philpott,
Cocke,	Frost,	Johnston of S,	Pickett,
Coleman,	Fry,	King,	Pauli of Fayette,
Collins,	Gaither,	Larkin,	Polley of Sabine,
Crossland,	Gause,	Leonard,	Polley of Wilson,
Crow,	Geiger,	Linn,	Proctor,
Daniel,	Gibson,	Linton,	Reeves,

Flewellen,	Jones of Hunt,	McCall,	Smith of Harris,
Ford,	Johnston of Leon,	McComb,	Smith of Titus,
Freeman,	Johnston of S,	Oxsheer,	Smith of Travis,
Fry,	Larkin,	Pauli of Fayette,	Taylor of Marion,
Gibson,	Leonard,	Saunders,	Thomas,
Goodson,	Maedgen,	Singletary,	Williams,
Henderson of VZ,	May,	Sledge,	Wurzbach—42.
Holmes,	Mullins,		

NOES.

Baker,	Foster,	Jones of Bastrop,	Polley of Wilson.
Beck,	Gaither,	Johnson of C,	Proctor,
Bell,	Gause,	King,	Reeves,
Brown of L,	Grant,	Linn,	Scott,
Callaway,	Guy,	Merritt,	Stewart of Delta,
Cochran,	Henderson of S,	Mills,	Stewart of H,
Collins,	Henry,	Moore,	Stiles,
Crossland,	Hill,	Philpott,	Taylor of Fannin,
Daniel,	Hurst,	Pickett,	Upton,
Finlay,	Jackson,	Polley of Sabine,	Venters—41.
Fisher,			

Absent, not voting—Brown of Gregg, Douglass, Frost, Geiger, Linton, Rumsey.

A message was received from his excellency the governor.

Mr. Smith, of Henderson, moved to take up the governor's message received on yesterday, together with the one just received, and have the messages read.

The motion prevailed.

The following messages from his excellency Governor O. M. Roberts, were read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, June 24, 1879. }

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

I respectfully call your attention to the accompanying letter of the commissioner of insurance, statistics and history, and the memorial of persons engaged in insurance business, requesting an amendment of the laws on insurance for their better protection, who do such business in this state according to the law, and recommend such action thereon as the Legislature may think proper.

Another subject of legislation, submitted for your consideration, is the passage of a law providing that a party charged with an offense under the penal laws shall not be punished twice for the same offense, once by the officers of the city or town corporation and another time by the officers of the county.

Another subject is to provide for fees or compensation of county judges in criminal cases.

I also submit for your consideration and such legislative action as you may deem proper, the subject of internal improvement, accompanied by a memorial of citizens of Brazoria county.

O. M. ROBERTS, *Governor.*

DEPARTMENT OF INSURANCE, STATISTICS AND HISTORY, }
AUSTIN, TEXAS, June 24, 1879. }

To his Excellency O. M. Roberts, Governor of Texas:

SIR—I have the honor to ask for an executive communication to the Legislature, inviting attention to the importance of some law that will

define who are agents of insurance companies, and to fix their liability for acting without authority of law.

In anticipation of your excellency's compliance with this request, I have prepared a bill for legislative action whenever such action may be authorized.

Our law in this particular is defective, by reason of omissions and obscurity, that render its provisions difficult to enforce; this trouble will be obviated by the measure proposed. The revenues of the state will, most probably, be thereby increased; and the high standard of insurance prescribed in this state will be maintained by its adoption.

Most respectfully,

V. O. KING, *Commissioner.*

To his Excellency O. M. Roberts, and to the Honorable President of the Senate and Speaker of the House of Representatives of the Legislature of Texas:

We, undersigned citizens of Brazoria county, would respectfully represent that they reside on or near to Oyster creek, which river is opened for navigation for more than forty miles; provided a bend of said stream near its mouth, about one hundred yards across, should be cut sufficiently wide and deep for passage of vessels. Now, the undersigned pray said honorable bodies on the recommendation of the governor, that they will grant sixteen sections of land per mile for three miles, the distance of said Oyster creek around said bend, unto John L. Hudgins, Dr. William Holt, Mr. William May and their associates, when said bend shall be cut through forty-five feet wide and with three feet of water at ordinary tide.

J. L. STRATTON,

M. D. HOLT,

WM. R. HOLT,

B. F. HOLT,

A. W. HOLT,

GEORGE COCKS,

JOHN HOSKINS,

EDD FALLETT,

J. K. PERRY,

FRANK PERRY,

JACK MENTUS,

DENNIS LUCKET,

BEN BUSH,

ANDERSON GOOD,

THOS. BROWN,

NICK WILLIAMS,

JEFF EVANS,

FRANK GIBBS,

CHAS. ANDERSON,

DAN. ADDUSON,

W. H. HOLT,

WM. J. D. MAY,

T. W. BAHAN,

B. FRANK HOLT,

WALTER HOLT,

W. D. HOSKINS,

I. C. HOSKINS,

JOHN ROSS,

JOHN PERRY,

A. E. AYRES,

HENRY LUCKET,

CHAS. GASBY,

ZACK TAYLOR,

PHILL RUCKER,

RUBE ANDERSON,

ALBERT GIBBS,

BARNER CARTER,

W. W. GROCE,

ALEX. WILLIAMS,

W. JACK BRYAN."

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, June 25, 1879. }

To the honorable Senate and House of Representatives in the Legislature assembled:

I respectfully submit for legislative amendment of the laws passed by the Sixteenth Legislature, relating to the collection of taxes in towns and

cities so as to reconcile the conflict found in articles 451 and 4760. Also, a law for relief of certain citizens of Harris county from taxes this year, because of a storm destroying their property, as represented in their memorial. Also, a law amending article 4744 of the Revised Civil Statutes, so as to require delinquent and insolvent lists of taxpayers to be sworn to by the tax collectors.

O. M. ROBERTS, *Governor.*

REPORTS OF STANDING COMMITTEES.

Mr. Linn, chairman of committee on engrossed bills, submitted the following privileged report:

COMMITTEE ROOM, AUSTIN, June 25, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee on engrossed bills have carefully examined and compared House bill No. 27, "An act to diminish the civil and criminal jurisdiction of the county courts of Upshur, Erath, Comanche, Eastland, Palo Pinto, Stephens, Shackelford, Throckmorton, Taylor, Callahan and Panola counties, and conform the jurisdiction of the district courts of of said counties to such change," and find the same correctly engrossed.

LINN, *Chairman.*

Mr. Finlay, chairman of judiciary committee No. 1, submitted the following report:

COMMITTEE ROOM, AUSTIN, June 25, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

Your judiciary committee No. 1, to whom was referred House bill No. 65, "An act to diminish the jurisdiction of the county court of Navarro county," have had the same under consideration, and instruct me to report the same back and recommend its passage.

FINLAY, *Chairman.*

Mr. Frost moved to suspend the rules to take up House bill No. 65, just reported back to the House by judiciary committee No. 1.

The motion prevailed.

The bill was taken up, with a favorable report from judiciary committee No. 1, read second time and ordered engrossed.

Mr. Frost moved a further suspension of the rules to place the bill upon its third reading and final passage.

AYES.

Baker,	Finlay,	Jackson,	Rumsey,
Beck,	Fisher,	Jones of Bastrop,	Saunders,
Bell,	Foster,	Jones of Hunt,	Scott,
Benavides,	Freeman,	Larkin,	Singletary,
Brown of L,	Frost,	Maedgen,	Sledge,
Bryan,	Fry,	May,	Smith of Harris,
Cain,	Gaither,	Merritt,	Smith of Titus,
Callaway,	Garrison,	Mills,	Smith of Travis,
Carlton,	Gause,	Moore,	Stewart of Delta,
Cochran,	Geiger,	Mullins,	Stewart of H,
Cocke,	Gibson,	McCall,	Stiles,
Coleman,	Goodson,	McComb,	Taylor of Fannin,
Crossland,	Grant,	Oxsheer,	Taylor of Marion,
Crow,	Guy,	Philpott,	Thomas,
Daugherty,	Henderson of S,	Pauli of Fayette,	Upton,
Delaney,	Henderson of VZ,	Polley of Sabine,	Venters,
English,	Henry,	Polley of Wilson,	Williams,
Estes,	Hill,	Proctor,	Wurzbach--79.
Evans,	Holmes,	Reeves,	

twenty-ninth and thirtieth judicial districts, prescribing the times of holding the district courts therein, and providing for the appointment of district judges for the twenty-eighth, twenty-ninth and thirtieth judicial districts," approved February 22, 1879, was taken up, read first time and referred to committee on judicial districts.

Senate bill No. 9, "An act supplemental to and amendatory of 'an act to make an appropriation for the support of the state government for the year beginning March 1, 1879, and ending February 28, 1881,' approved April 22, 1879," was taken up, read first time and referred to committee on finance.

The following message from his excellency was then taken up:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, June 26, 1879. }

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

I respectfully call your attention to the necessity of an act of the Legislature being passed for the better security of the funds in the land office that collects there from time to time, without any safe place of deposit; with that view recommend to your consideration a bill for that object prepared by the commissioner of the general land office, herewith submitted for your consideration.

I most respectfully call your attention to the fact that under the contract for the printing of the Penal Code and the Code of Criminal Procedure, and the Revised Civil Statutes, they cannot be distributed to the counties of this state before the first day of November next. The Penal Code and Code of Criminal Procedure go into effect on the twenty-fourth day of July next, and the Revised Statutes on the first day of September next. It follows that many of the provisions of said statutes will go into force before they can be known by the people of the state. I would respectfully recommend, therefore, that such statutes as have not been passed by the regular session of the Sixteenth Legislature, with an emergency clause so as to take effect on their passage be postponed as to the time of their being in force as laws until the first day of November next, with the exception of the appropriation bills that have been so passed.

In this connection I would respectfully call your attention to the report of the secretary of state exhibiting the action of the printing board in procuring the printing of Code of Revised Statutes and the expenses incurred for the same, together with the report of the codifier appointed for the purpose of preparing the same for the press, showing what has been done and what still remains to be done by him in pursuance to the law prescribing his duties, from which it will be seen that a small additional appropriation for his compensation will be necessary.

Another subject of legislation to which your attention is respectfully called, is the protection and for the benefit of settlers upon lands that may be escheated to the state.

O. M. ROBERTS, *Governor.*

GENERAL LAND OFFICE, }
AUSTIN, TEXAS, June 26, 1879. }

Hon. O. M. Roberts, Governor:

SIR—The Sixteenth Legislature, at its regular session passed a bill, viz: Senate bill No. 203, to authorize the state treasurer to keep a special

deposit account with the general land office, etc. As I failed to find the act among the general laws just published, I sought information from the secretaries of the two bodies and am informed that the bill passed both houses, but for some reason or accident it was not enrolled.

I would most earnestly request your excellency to call this matter to the attention of the Legislature. Under existing laws large amounts of money, known in this office as general deposits, accumulate in the hands of the receiver, which he cannot pay into the treasury, nor can he deposit them for safe keeping elsewhere. This throws upon him a heavy responsibility, entirely disproportioned to his salary, and affords him no adequate protection in the way of secure vaults.

The enactment of this law will protect depositors, the state and the receiver, and place the money where such funds belong, viz: in the vaults of the treasury.

I regret, sir, that I have been compelled to encroach so often on your time, but the importance of this law would not permit me to remain silent. I have the honor to be, sir,

Yours respectfully,

W. C. WALSH, *Commissioner.*

His excellency O. M. Roberts, Governor:

The following is the statement of the appropriation to this department for printing and binding the Revised Civil Statutes of Texas and the manner of its disbursement:

Amount appropriated, \$22,000. Amount contracted by the printing board to be paid A. H. Belo & Co. for printing and binding ten thousand copies, \$21,550; for codifying amounts regular session, \$400; advertising for bids paid out of this fund, \$40; balance, \$10—\$22,000.

JOHN D. TEMPLETON, *Secretary of State.*

His excellency O. M. Roberts, Governor:

The revising the proof, indexing the volumes, and incorporating the amendments made at this extra session, will occupy the time of the codifier three months, and with assistance needed in holding copy, aiding in verifying the accuracy of the indexes, will require an expenditure of \$825. From the above statement of the secretary of state, of the demands, past and prospective, upon the amount appropriated for printing and binding the Revised Statutes of Texas, it will be seen that but \$10 is left, and to meet the contract made with A. H. Belo & Co., the publishers contracted with for the printing and binding by the printing board, promptly upon its fulfillment, the sum of \$815 should be appropriated additional to the amount set aside at the regular session for printing and binding these statistics.

JOHN N. LYLE,

Codifier of the Laws of Texas.

Mr. Linn, chairman of committee on engrossed bills submitted the following privileged reports:

COMMITTEE ROOM, AUSTIN, June 26, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee on engrossed bills have carefully examined and compared House bill No. 63, "An act to change and fix the times of holding the terms of the district courts in the eleventh judicial district of this state," and find the same correctly engrossed.

LINN, *Chairman.*

EXECUTIVE OFFICE, STATE OF TEXAS,)
AUSTIN, June 25, 1879.)

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

I respectfully submit for your consideration and action the passage of a law requiring druggists and dispensers of medicine to be licensed by a board of medical examiners.

O. M. ROBERTS, *Governor.*

Referred to committee on public health and vital statistics.

EXECUTIVE OFFICE, STATE OF TEXAS,)
AUSTIN, June 25, 1879.)

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

In consideration of the numerous memorials upon the subject, I respectfully submit to your consideration the propriety of an amendment of the occupation tax upon merchants should you think proper to legislate upon that subject.

Also the amendment of the law relating to the practice of medicine.

Also, such action as the Legislature may see proper to take on the subject of the land frauds, and the procuring of evidence, and the investigation of the same.

I would most respectfully represent to the Legislature that I have been receiving almost daily information of the killing of convicts at the camps in Wood county, and have given direction for the assistant superintendent, lately appointed, as soon as he accepts and is sworn into office, to investigate that matter. The people in that section of the state are aroused by what they alleged to be repeated and shocking acts of cruelty in the guards in killing the convicts and in the mode of working them under the guards. Much of this information has but recently come to my knowledge by telegrams, and in other unofficial manner, but it is sufficiently authentic to impose on me the duty of asking the Legislature now in session to make such investigation and take such action as the importance of the matter demands.

O. M. ROBERTS, *Governor.*

The speaker referred so much of the message as related to taxation, to committee on revenue and taxation; so much as relates to the practice of medicine and pharmacy, to committee on public health and vital statistics; so much as relates to land frauds, to select committee on land frauds; so much as relates to ill treatment of penitentiary convicts, to committee on penitentiary.

A message was received from the Senate informing the House of the passage of Senate bill No. 46, "An act to fix in favor of contractors and material men, liens on railroads for labor done thereon and material furnished therefor, and to provide for the speedy and efficient enforcement of said liens.

By leave, Mr. Smith, of Harris, introduced an act to regulate the practice of medicine, surgery and pharmacy, and to repeal articles 3625, 3626, 3627, 3628, 3629, 3630, 3631, 3632, 3633, 3634, 3635, 3636, 3637, 3638, title 73, of the Revised Civil Statutes.

Read first time and referred to committee on public health and vital statistics.

Mr. Coleman moved to postpone all intervening business upon the speaker's table before Senate bill No. 5, substituted for House bill No.

dining-room, palace or parlor cars used upon the railroads of this state, and to prescribe the method for levying and collecting the tax hereby imposed upon the same, and to repeal all former laws in conflict therewith;"

Senate bill No. 20 (substitute for House bill No. 12) "An act to amend articles 1057, 1058 and 1059 of the Code of Criminal Procedure of the State of Texas, passed and adopted at the regular session of the Sixteenth Legislature;"

House bill No. 15, "An act to amend section 60 of an act to provide for the organization of the state penitentiaries, and to regulate the management of the convicts therein;"

House bill No. 10, "An act to provide for the prompt accounting for and payment of public moneys by tax collectors to the proper receiving officers," with amendments by the Senate.

The speaker, in compliance with constitutional requirements, signed Senate bill No. 5, "An act defining and prescribing what funds shall constitute the available school fund, and repealing all laws in conflict therewith."

A message was received from his excellency the governor.

Mr. Taylor, of Marion, moved to take up the message just received from his excellency the governor.

The motion prevailed.

The following message was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS,)
AUSTIN, June 30, 1879. }

To the honorable Senate and House of Representatives in the Legislature assembled:

I respectfully ask of your honorable bodies an amendment of the law regulating the penitentiaries in such matters as may be deemed proper, and especially so as to enable the appointment of one or more additional assistant superintendents of the penitentiary. The present law requires the assistant superintendent to visit and inspect the camps of convicts at least once in each month. They are scattered from northeastern to southwestern Texas, and in such numbers as that it is simply impossible for him to do it and do his duty as required by law. The contract with the lessees provides for the payment of three commissioners out of the proceeds of the hire of the convicts, whose salary formerly was two thousand dollars each. This is a service imperiously demanded by humanity. The labor of the convicts pays for it and the convicts are entitled to it. The reports made to me by Col. W. W. Lang, former assistant superintendent, show that one person cannot perform this duty; that a mere visit to the camps with a formal inspection is useless; that the convicts are afraid to report any wrong done them by the guards or the employes, and that cruel and unauthorized punishments are inflicted with impunity.

Humanity would require that every convict that is not inured to outdoor hard labor should be worked inside of the walls of the penitentiary as soon as possible. To put a man or boy, who is not used to work, in a wood-chopping camp and require him to do a good day's work in the heat of summer, and in the cold of winter, is simply to kill him, without an accident, as is well attested by their graveyards. Still the lessees cannot be expected to feed and clothe them without their working at something that will make a profit when they are able to work.

I respectfully call your attention again to the necessity of a law declaring what buildings shall be erected within the walls of the East Texas Penitentiary, at Rusk, so that by the meeting of the next session of the Legislature, most, if not all of the convicts may be placed within the walls of the two penitentiaries at Huntsville and Rusk.

The present mode of employing the convicts, while it may be no great punishment to some, who are used to hard labor, and happen to be well treated, is to others a horrible bondage; which should be put an end to as soon as practicable, and in the meantime I trust I may be excused for again urging that some of the money we may make may be spent in the employment of a sufficient number of assistant superintendents, who can and will see that they are protected from undue labor, from undue exposure to heat and cold and other causes of suffering, and from the willful and unwarranted outrages committed by guards. It is but justice to say that I have heard of no culpable conduct on the part of the lessees in the treatment of the convicts, and would submit the consideration in reference to them, that they must employ guards to keep the convicts who cannot always be under their immediate supervision when scattered in camps over the country, and, however, they may endeavor to prevent it, irregularities will happen in the management of the convicts so situated, all of which but shows more strongly the necessity of a constant supervision of these camps by officers employed by the state.

Another subject that is respectfully submitted for your consideration and action is the passage of a law regulating the proceeding by *quo warranto*. The writ exists here by common law, but the mode of proceeding under it should be defined so as to adapt it to our mode of judicial procedure as it is done in many of the states.

Another subject is an amendment of the law so as to collect rents off of those that enclose school lands, public lands of any sort under the control of the state.

Another subject is the passage of a law, should the Legislature think proper, to give to the Agricultural and Mechanical College the use of such duplicates of specimens in the geological collection now in the state library as can be spared therefrom without injury to the collection. It is hardly necessary to state any reason for the propriety of this as it is obvious that they might be made useful at the college, and if carefully selected would not injure the collection. O. M. ROBERTS, *Governor*.

Resolution of the board of the Agricultural and Mechanical College:

Resolved, That his excellency, Governor Roberts, be respectfully requested to submit to the present called session of the Legislature for their action, the matter of the passage of a law or resolution authorizing the state librarian to turn over to the Agricultural and Mechanical College of Texas, in all cases when there are one or more like specimens of minerals, etc., pertaining to the geological department in said library, one of such specimens, an inventory of all specimens turned over to said college to be taken and retained by said librarian.

The unfinished business of yesterday's session being House substitute for House bills 18 and 19, "An act to provide for the sale of the alternate sections of land in organized counties as surveyed by railroad companies and other works of internal improvements and set apart for the benefit of the common school fund, to provide for the investment of the proceeds, and to repeal all laws in conflict therewith," its consideration was resumed.

Delaney,	Holmes,	Mills,	Proctor,
Douglass,	Jackson,	McCall,	Reeves,
English,	Jones of Bastrop,	McComb,	Saunders,
Estes,	Jones of Hunt,	Philpott,	Singletary,
Frost,	Larkin,	Pauli of Fayette,	Smith of Titus,
Geiger,	Leonard,	Polley of Sabine,	Thomas,
Grant,	Linn,	Polley of Wilson,	Upton—42.
Henry,	Merritt,		

NOES.

Baker,	Freeman	King.	Sledge.
Bell,	Gaither,	Linton.	Smith of Harris,
Cocke,	Gause,	Loe,	Stewart of Delta.
Collins,	Gibson,	Maedgen.	Stewart of H,
Crossland	Guy,	May,	Stiles.
Daniel,	Henderson of S.	Moore,	Taylor of Fannin.
Evans,	Henderson of VZ,	Mullins.	Taylor of Marion.
Finlay,	Hill,	Oxsheer	Venters,
Fisher,	Hurst,	Pickett.	Williams,
Flewellen,	Johnson of C.	Scott,	Wurzbach—41.
Poster,			

Absent, not voting—Goodson, Johnston of Leon, Johnston of Shelby, Rumsey, Smith of Travis.

(Mr. Upton in the chair.)

A message was received from the Senate informing the House of the passage by the Senate of the following bills:

Senate bill No. 33, "An act to amend the first section of an act entitled 'an act authorizing the payment of taxes of non-residents of counties to be made at the comptroller's office,'" approved March 22, 1879;

Senate bill No. 16, "An act to provide for the resumption of the state penitentiary;"

House bill No. 23, "An act to enforce the collection of taxes;"

House bill No. 17, "An act to equalize and regulate the pay and arming of all military or police companies organized and operated under any law of this state, except those organized under the militia law;"

House bill No. 41, "An act to provide for the transfer of judgments rendered in the county courts when the civil and criminal jurisdiction (or either) has been transferred to the district courts, and to authorize the enforcement thereof."

Also transmitting a certified copy of Senate bill No. 34, lost in the House, and that the Senate adheres to its amendment to House bill No. 6; that it has appointed upon the part of the Senate a committee of conference on the differences between the two houses, consisting of Senators Houston, Ledbetter, Swain, and asks for the appointment of a like committee on the part of the House.

A message was received from his excellency the governor.

On motion of Mr. Pickett, the following message just received from his excellency the governor was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS,)

AUSTIN, July 2, 1879.)

To the Honorable Senate and House of Representatives in Legislative assembled:

I respectfully submit to your consideration the passage of such law or laws as may be necessary to settle the boundaries of counties, and especially the disputed boundary between Montague and Wise counties, as indicated in the draft of a bill herewith submitted.

Also, a law facilitating the arrest of criminals within the state by the frontier and police of the state, a bill concerning which has already been introduced in the House of Representatives, copies of which are herewith submitted.

O. M. ROBERTS, *Governor.*

On motion of Mr. Baker, that portion of the Senate message (just received) relating to House bill No. 6, was taken up.

Mr. Baker moved that a committee of conference composed of three members on the part of the House be appointed to act with a like committee on the part of the Senate upon the disagreement of the two houses on House bill No. 6, it being "An act to amend an act entitled 'an act to authorize the governor, attorney general and superintendent of the penitentiary to contract for conveying convicts from the places where convicted to the penitentiary."

The motion prevailed.

The speaker appointed Messrs. McComb, Stewart of Delta, and Fisher as said committee.

Mr. Larkin moved to further postpone the special order to take up House bill No. 28, "An act supplemental to and amendatory of 'an act to amend and supplement the existing quarantine law of the State of Texas, title 83 of the Revised Statutes, and repealing section of said Revised Statutes,' approved April 10, 1879."

The House refused to further postpone the special order.

The special order, to wit: Senate bill No. 45, "An act to amend section 2 of 'an act to provide for the printing, binding and distribution of the Revised Civil Statutes, Penal Code and Code of Criminal Procedure,' approved April 26, 1879," was taken up.

Mr. Foster offered the following amendment:

"*Provided*, that nothing contained in this amendment shall be so construed as to in any wise interfere with the contract already made for the publication of said Revised Statutes, further than to secure the insertion of the amendments aforesaid; *and provided further*, that the contractors for the publication thereof will insert the amended articles of the present extra session as herein provided, at not exceeding fifty dollars of additional cost to the state over and above the present contract price therefor.

The amendment was adopted.

Mr. Gibson offered the following amendment.

Page 3, lines four and five, strike out the words "out of the amount appropriated for printing and binding the Revised Statutes of Texas."

The amendment was lost.

Mr. Foster offered the following amendment:

By striking out the following words in lines twenty-seven, twenty-eight and twenty-nine: "and in case the printing of said Codes and Revised Statutes has progressed too far, when an amendment is passed, to insert it in its proper place, he shall have the same published in the appendix."

The amendment was adopted.

Mr. Taylor, of Marion, offered the following amendment:

On page 3, line three, after the word "him," insert "in no case to exceed five hundred dollars."

The amendment was adopted and the bill passed to a third reading.

Mr. Johnston, of Shelby, moved to suspend the constitutional rule to place the bill upon its third reading and final passage.

COMMITTEE ROOM, AUSTIN, July 4, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee on engrossed bills have carefully examined and compared House bill No. 43, "An act to amend article 3785, chapter 3, title 78, of the Revised Civil Statutes, passed at the regular session of the Sixteenth Legislature," and find the same correctly engrossed.

LINN, *Chairman.*

COMMITTEE ROOM, AUSTIN, July 4, 1879.

Hon. John H. Cochran, Speaker of the House of Representatives:

Your committee on engrossed bills have carefully examined and compared House bill No. 73, "An act defining the manner in which lands sold at tax sales to individuals may be redeemed by the owner," and find the same correctly engrossed.

LINN, *Chairman.*

On motion of Mr. Stewart, of Delta, the House adjourned until this evening at 4 o'clock.

AFTERNOON SESSION.

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

Absent—Brown of Gregg, Douglass, English, Finlay, Linn, Mills, McCall, Polley of Sabine.

On motion of Mr. Clemens, Mr. Wurzbach was excused until next Tuesday on account of business.

On motion of Mr. Taylor, of Marion, Mr. Johnston, of Leon, was excused indefinitely on account of business.

On motion of Mr. Henderson, of Smith, Mr. Brown, of Gregg, was excused for this evening on account of sickness.

The following message from his excellency the governor was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, July 4, 1879. }

To the honorable Senate and House of Representatives in the Legislature assembled:

GENTLEMEN—I herewith respectfully submit to you the itemized account for the improvement of the mansion and its grounds. The different items of improvement were, when practicable, let out to the lowest bidder, and the work has been done so as to insure a permanent benefit as far as it has gone. The vouchers for every item of the account are to be found in the comptroller's office. I respectfully request the appointment of a committee of each House to examine said accounts, with the vouchers; and also to inspect the work done in and upon the mansion and upon the grounds and the manner in which the money appropriated has been spent under my direction.

1879—Accounts approved for repairs on mansion April 25:

By account in favor of C. W. White.....	\$69 75
May 1, by account in favor of W. M. Smith.....	11 00
May 5, by account in favor of I. Stein.....	27 35
April 1, by account in favor of R. M. Castleman	28 25
May 9, by account in favor of B. Radky	16 55
May 19, by account in favor of C. W. White.....	10 15

May 22, by account in favor of D. W. Jones.....	\$94 32
May 27, by account in favor of W. A. Rucker.....	20 00
May 28, by account in favor of C. A. Dahlich.....	4 50
May 30, by account in favor of C. H. Rez.....	45 35
May 30, by account in favor of Sallie M. Vinton.....	5 50
May 31, by account in favor of Texas Building Association...	345 00
June 2, by account in favor of R. M. Castleman & Co.....	54 70
June 2, by account in favor of A. J. McClery & Co.....	21 28
June 2, by account in favor of J. T. Barreck.....	229 50
June 3, by account in favor of B. Radky.....	23 00
June 6, by account in favor of Sam Norwood.....	24 00
June 7, by account in favor of George Miller.....	2 50
June 7, by account in favor of Jack Rainy.....	4 00
June 13, by account in favor of Texas Building Association...	42 00
June 14, by account in favor of Moffat & Cornwall.....	200 00
June 30, by account in favor of C. H. Blye.....	114 15
July 1, by account in favor of C. W. White.....	36 75
July 3, by account in favor of J. W. Henning.....	371 45
June 28, by account in favor of Moffat & Cornwall.....	200 00
	\$2,000 00
To amount of appropriation for repairing mansion.....	2,000 00
July 3, by amount of account approved for J. Lamore, architect	55 00
July 3, by amount of account approved for J. W. Henning....	187 83
	\$242 83
To amount paid out of contingent fund for mansion.....	165 83
Balance unpaid and will be paid out of the mansion contingent after the first of March next.....	77 00

The vouchers for each item above set out are filed in the comptroller's office. Respectfully submitted. O. M. ROBERTS, *Governor*.

Mr. Johnston, of Shelby, moved that the message be referred to a select committee of three to be appointed by the speaker.

The motion prevailed, and the speaker appointed Messrs. Johnston of Shelby, Cain and Reeves as said committee.

Mr. Henderson, of Van Zandt, moved to suspend the rules to take up House bill No. 79, "An act to levy a tax upon commercial travelers, drummers, traveling salesmen or solicitors of trade by sample or otherwise, and repealing all laws in so far as they may conflict with the provisions of this act, and to provide for the collection of the same."

The House refused to suspend the rules.

The business pending upon adjournment being substitute for Senate bill No. 9, "An act supplemental to and amendatory of an act entitled 'an act to make an appropriation for the support of the state government for the years beginning March 1, 1879, and ending February 28, 1881,' approved April 23, 1879."

The question being upon the adoption of lines twelve, thirteen and fourteen under the head of Agricultural and Mechanical College, Mr. Upton moved the previous question upon the adoption of lines twelve, thirteen and fourteen, page 9 (printed bill), which was recorded and the main question ordered.

Mr. Finlay moved to suspend the rules to take up all Senate bills upon the speaker's table upon their first reading.

The motion prevailed.

Senate bill No. 16, "An act to provide for the resumption of the state penitentiary," was taken up and read first time and referred to committee on penitentiaries.

On motion of Mr. McComb, the House took a recess until 9 o'clock this evening.

NIGHT SESSION.

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

Absent—Benavides, Carlton, Clemens, Crow, Delaney, Freeman, Garrison, Geiger, Hurst, Jones of Bastrop, Johnson of Colorado, King, Loe, May, Mills, Pickett, Sledge, Williams.

The following message from his excellency the governor was taken up and read:

EXECUTIVE OFFICE, STATE OF TEXAS, }
AUSTIN, July 5, 1879. }

To the honorable Senate and House of Representatives in Legislature assembled:

SIRS—I respectfully suggest the propriety of the passage of a law authorizing the purchase for the state out of the appropriation to the East Texas Penitentiary some land adjoining the small tract on which it is situated, as it is only eleven acres and is entirely surrounded by other people's land that can be purchased at a reasonable price.

O. M. ROBERTS, *Governor.*

Senate bill No. 29, "An act to amend article 3695 of an act to adopt and establish the Revised Civil Statutes of the State of Texas, passed during the first session of the Sixteenth Legislature," was taken up and read first time.

Senate bill No. 92, "An act making an appropriation to pay the salaries of the judges of the commission of appeals."

Read first time.

Senate joint resolution No. 86, "Joint resolution authorizing the comptroller of the state to pay out certain moneys in his hands."

Read first time.

Senate bill No. 90, "An act to authorize the governor, comptroller and attorney general of the state to purchase additional lands for the use of the penitentiaries."

Read first time.

Senate bill No. 82, "An act to provide for the sale of the public domain, and apply the proceeds of such sale to the public school fund, and to the payment of the public debt."

Read first time.

Senate bill No. 88, "An act to define who are agents of insurance companies and to fix their liability for acting without authority of law."

Read first time.

Senate bill No. 89, "An act to amend the charter of the city of Dallas."

Read first time.