

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES

OF THE
STATE OF TEXAS,

BEING THE
CALLED SESSION OF THE EIGHTEENTH LEGISLATURE,

BEGUN AND
HELD AT THE CITY OF AUSTIN, JANUARY 8, 1884.

AUSTIN:
E. W. SWINDELLS, STATE PRINTER.
1884.

Mr. Coffman nominated W. W. Harris, of Williamson county.

Mr. Fisher of Harris nominated Will Lambert.

Mr. Douglass nominated Tom Moore, of Bell county.

The nomination of Mr. Harris was duly seconded by Messrs. Robertson of Williamson, and Cochran of Dallas.

The nomination of Mr. Lambert was seconded by Messrs. Garrison and Upton.

The nomination of Mr. Moore was seconded by Mr. Pendleton.

The Speaker appointed Messrs. Fisher of Harris, Robertson of Williamson, and Douglass, tellers, when the House prepared their ballots.

Upon counting up the first ballot it appeared that

W. W. Harris had received 31 votes,

Will Lambert had received 25 votes,

Tom Moore had received 23 votes.

The Speaker announced that there was no election, no one candidate having received a majority of the votes cast, and ordered the second ballot, when

Mr. Douglass withdrew the name of Tom Moore, and favored the election of Mr. Harris.

Upon casting up the second ballot it appeared that

W. W. Harris had received 51 votes,

Will Lambert 33 votes.

The Speaker declared that W. W. Harris, having received a majority of the votes, was duly and constitutionally elected Enrolling Clerk of the House of Representatives, Eighteenth Legislature.

Mr. Harris presented himself to the Speaker, took the oath of office, and entered upon the duties of same.

The following message was received from the Senate:

SENATE CHAMBER.
AUSTIN, TEXAS, January 8, 1884.

Hon. Chas. B. Gibson, Speaker of the House of Representatives:

I am instructed by the Senate to inform your honorable body that a resolution has passed that body to appoint a committee of three Senators to act with a like committee from the House, to inform the Governor that the Legislature is organized and ready to proceed to business, and that Senators Cooper, Houston and Gooch are appointed by the Senate to act on said joint committee.

WM. NEAL RABEY,
Secretary Senate.

Mr. Frymier, chairman of special committee, submitted the following privileged report:

AUSTIN, TEXAS, Jan. 8, 1884.

Hon. C. B. Gibson, Speaker of the House of Representatives:

Sir: Your committee, appointed to notify his Excellency the Governor and the honorable the Senate that the House was duly organized, beg leave to report that they have discharged said duty.

Respectfully,

B. F. FRYMIER,
Chairman.

The Senate committee was announced and received, informing the House that the Senate was organized ready for the transaction of business.

The following message from his Excellency the Governor was received and read:

EXECUTIVE OFFICE,

AUSTIN, TEXAS, January 8, 1884.

Gentlemen of the Senate and House of Representatives:

Notwithstanding some adverse circumstances, I am yet able to congratulate you on the general prosperity that pervades our country.

Before leaving the capital, in April last, you proposed several amendments to the State Constitution, all of which were adopted by the people in August. One of these amendments changed the mode of raising revenue to support free schools, and, therefore, it became necessary that some provision be made to raise the requisite school funds, as well as a consequent reduction of the taxes for general purposes. This and other grave matters, hereinafter noticed, were the controlling causes for the special session of the Eighteenth Legislature.

FENCE CUTTING.

The first subject to which I invite your attention is the fence troubles. There may have been, and doubtless were, causes of complaint, in some instances, against the action of large pasture men; but they amounted to nothing but excuses. On the other hand pasture men found excuses for acts neither justified or excused by law. Indeed, they were simply excuses on either side. As for justifications, there were none.

If the law-abiding people had acted promptly, at the beginning of these troubles, the law would have proven ample. But the mistaken policy of standing back prevailed. As the good people stood back, the lawless advanced, until the small penalty affixed to the offense of fence cutting is inadequate to stop the evil. If the law had been put in motion the entire able-bodied force of the State would have been invoked, if necessary, to execute it.

There is not, and has not been, necessary means placed at the disposition of the Executive to meet extraordinary emergencies. He cannot employ detectives; for he neither has the lawful authority, nor the money to pay such a force. He cannot call into active military service a single man, except in case of rebellion, insurrection or invasion; and even in such emergencies he has not, at his disposal, the money to feed, move or equip a military force. If he should declare fence cutters outlaws, as has been suggested by a learned district judge, the country would still be in ignorance as to who were the outlaws. Besides, such proclamation would not make any man an outlaw, and would violate Sec. 20, Art. 1, of the Constitution.

Rewards have been offered in all cases, of course, bearing some proportion to the punishment affixed by law to the offense.

There are no effective laws in republican governments without moral forces to back them. It is an erroneous idea that the man whose fence has not been cut has no interest in the contest between his neighbor, whose fence has been cut, and the person who cut it. There is not and cannot be a violation of the laws, and individual rights, without affecting each and every individual and the whole body politic. It is only a question of time when the lawless disease will affect the whole. A man who can educate himself to the idea that it is not wrong to

cut and destroy the fence of another, will soon reach the point in his vicious schooling that will make him believe the corn crib, the barn, the factory, the dwelling, the bank, the law office, printing office, and in fact, all the material wealth of the country, to which he is inimical, must also go. There is not a single grievance, real or supposed, for which there is not a peaceful remedy. If men enclose public lands without paying for them, they can and should be punished under the law. If men enclose public highways, the law provides penalties therefor. If a small farmer or ranchman has been enclosed by another, the law affords ample relief. If large territories are enclosed and the public inconvenienced thereby, the commissioners' courts can open roads. If the laws in any event are not ample, the people must seek relief at the hands of the Legislature.

When we become members of society, we expressly agree to yield some of our natural rights for the good of all, and there is nothing that can justify us in departing from the peaceful methods to secure relief except it be imminent and pressing danger to us, or those dependent upon us, that will not admit of delay.

If a public highway was enclosed, any citizen could remove the obstruction; and, in such case, he need not seek cover of night to do it. If on tomorrow morning we go to the Avenue of this city and find a long line of fence crossing it, any one is justified in tearing it down to the extreme edges of the street; but when he goes one foot beyond the highway, he himself becomes a trespasser and may be punished for his act.

If it was against good policy to allow an individual, or a number of individuals, to enclose large bodies of land in one enclosure, it was the act of the people's representatives.

The doctrine that land and water are free, and individuals cannot acquire separate and exclusive right thereto, cannot prevail here until society is disrupted. Constitutions and laws must perish, and the whole structure of our civil government ruthlessly swept away, and in its stead, chaos will rule and ruin become universal.

You, gentlemen of the two houses, come fresh from the people, some of you from the very midst of the disturbances here discussed, and must be better prepared to deal with the subject than I can possibly be, but I make the following suggestions and recommendations:

I recommend the absolute repeal of the law permitting persons to enclose school or public lands of any sort.

I recommend the enactment of a law making it highly penal for any one to enclose any public land without a contract with the State, by which he may lawfully do so.

I recommend a law making it a highly penal offense for any person to knowingly enclose or surround the residence or land of another, without express authority of such person or owner.

I recommend a liberal system of highways, wherever the public good demands it, requiring full and complete payment to the land owner for all damages.

I recommend a law making it a felony, punishable by confinement in the penitentiary for a number of years, for any person to wilfully or wantonly

destroy or injure the fence or other property of another.

I recommend the repeal of the limitation laws in cases named above for past and future offenses.

I recommend a law making it a highly penal offense for any one to drive their stock on to any lands, private or public, for the purpose of grazing, without the express authority from the proper source to do so; or to herd stock on any public or private lands without express authority from the proper source to do so.

I recommend the repeal of limitation laws so far as they would bar a recovery in a civil suit for damages for the destruction of fencing.

I recommend a law giving a land owner a lien on stock that may trespass on lands, with the knowledge or consent of the owner and against the will of the land owner, for all damage done by said stock, and value of grass and property destroyed by them.

The present emergency points out, very clearly, the weakness of our form of government, under the present Constitution. While the present Executive does not covet extraordinary powers, the suggestion is made with the view of bringing the subject prominently before the people of Texas.

It is a singular system that charges the Executive with causing the laws to be faithfully executed, and, yet, does not give him the power of a justice of the peace, or county attorney, except in cases of insurrection, rebellion or invasion; and even then, he has not been provided with the means to meet these extraordinary emergencies.

While I have exerted every power and agency placed at my disposal to protect society and punish evil doers, and shall continue to do so, I will not trample under foot the Constitution that I have sworn to support. But this lawless conduct must be checked and punished, and I trust that your experience and wisdom will suggest and formulate remedies equal to the demand.

Appeals are often made for the appointment of officers in remote parts of the State. No particular officer is designated, or authority pointed out for such appointments; but it is undoubtedly true that in the larger counties of the west, some unorganized, there are persons and settlements that rarely see an officer and are not thrown in contact with the administration of the law; and as a means of enforcing the laws, and in justice to these people, I recommend the creation of such courts and officers in those parts of the State, as in your judgment may be deemed necessary.

Some question may arise as to your power in this respect. I think that the clause, "and in such other courts as may be established by law," found in Sec. 1, Art. 5, of the Constitution ample authority. I recommend this as one of the repressive means in the fence troubles. Doubtless other remedies will suggest themselves to the members of the two houses. Whatever may be done, however, will prove inadequate, unless the law-abiding element in the disturbed districts will unite in self-defense, not by resorting to violence, but in the moral forces that will compel the local officers to do their duty. Looking to this end, I recommend that a heavy penalty be attached to the failure or neglect of any sheriff, deputy sheriff, or constable, who shall fail or refuse to go at once, when notified of a violation of law, to the scene of the trouble and to do all in his power to as-

certain the guilty parties and arrest them. The same penalty should be attached to the failure of any justice of the peace or county attorney who may fold his arms when informed of a violation of law.

If the lawless elements that are now destroying fences and other property do not cease their depredations, it may be necessary to try them for their misdeeds in other jurisdictions, and I recommend a provision by which they may be prosecuted in any locality, when the State may choose to do so.

There are no classes, no industries or material interests in our State that have not suffered by the hands of the lawless elements here referred to. Every energy of this government, under the Constitution, should be invoked to restore order and punish crime; and I have great confidence that your wisdom and prudence will bring into life remedies that will prove adequate. I wish to impress the fact that I have more anxiety to see the laws enforced and life and property protected than I have about the success of any measure herein suggested, and I will most gladly yield to other measures that may offer more fruits.

FREE SCHOOLS.

The amendment to the Constitution adopted by the people necessitates some changes in the present school law. The report of the Board of Education, and the report of Hon. B. M. Baker to the board, has been printed and will be presented for your consideration. In them you will find much valuable information and suggestions that will doubtless aid you in the solution of the important matter.

It will be seen that in many counties money apportioned for educational purposes has not been used, and I recommend that in such cases, that in future apportionments, such counties or districts be charged with these unappropriated funds, or that they be returned to the treasury. I recommend that the chief officer of the Educational Department, not including the Board of Education, be styled the Superintendent of Education; that he have such powers and perform such duties as may be prescribed by law or the Board of Education, and that his appointment or election be provided for.

Authority should be lodged somewhere to divide the counties into convenient districts, to be as near permanent as possible, thus enabling and encouraging the people to erect permanent and comfortable school buildings. School houses properly constructed and conveniently located is one of the most effective modes of encouraging and insuring regular schools.

It is especially desired that provision be made for a more rigid examination of applicants to teach, as to character, fitness and acquirements.

Should the counties be divided into districts, local trustees should be elected in each district and the general management and control of the school confided to this board. No more efficient way of promoting school interests can be suggested than to enlist the patrons in their management under a general system of laws. Sometimes matters might not please all; but, at last, if each community succeeds in pleasing itself, others may well be content.

Whether or not the time has arrived to authorize districts to levy a tax, and, if so, to what extent, is submitted to your sound discretion.

As a means of forcing the teachers to make regular reports, so as to enable the counties to forward their reports to the Educational Department, the law should forbid payments to teachers until their reports shall have been made.

REDEMPTION OF LANDS PURCHASED BY THE STATE FOR THE NON-PAYMENT OF TAXES.

This is a different question from that of an extension of time for redemption. Here the title has become completely vested in the State, and the State is required to place these lands on the market to the highest bidder; and if the original owner desires to become the owner again, he must take his chances with other bidders. There can be no reasonable objection to allowing original owners, who wish to be reinvested with title to such property, to pay the State such sum as the Comptroller shall name, so as to reimburse the State, to include the whole tax due up the date of redemption, with annual interest at eight per cent and costs of every character.

THE PROTECTION OF THE PROPERTY OF THE STATE AT THE CAPITAL.

The law provides no adequate mode by which the public servants of the State can protect the property of the State at this place. There is a constant outlay of money for repairs to the government property here, and the members of the Legislature cannot well understand how it is that large appropriations are asked for and actually required to repair grounds, fences and public buildings and furniture. I regret to say that there appears to be a feeling here that seems to indicate that the State should not look to the ordinary methods, and I recommend the enactment of a law that will enable the public servants at the capital to protect the public property.

JUDICIAL DISTRICTS.

It will be found upon examination that the judicial district bill passed at the regular session of the Eighteenth Legislature, which takes effect , 1884, needs some corrections and amendments to cure certain defects, which have from time to time been pointed out by members of your own bodies.

INVESTMENT OF THE SCHOOL FUNDS.

Inasmuch as the Legislature submitted an amendment to the Constitution, which was adopted in August last, providing that the Board of Education should invest the permanent school fund in United States, State or county bonds, "and in such other securities and under such regulations as may be prescribed by law," I have deemed it proper to give the Legislature a chance to say whether or not other securities than those named should be purchased.

It is proper to observe that the Board of Education, since the adoption of the amendment, has invested \$1,355,748.92 of the school fund in county bonds. The bulk of the amount has been invested in 6 per cents at par.

I have no recommendation to make about "other

securities," for investing the school fund. If permission is granted counties to fund their indebtednesses, I have no doubt but that county bonds will absorb all the permanent school and asylum funds for years to come.

In the opinion of the Board of Education, there could not be two bodies, each with plenary power to invest the school funds in United States, State and county bonds, and as this, by the Constitution, is to be done under the direction of the Board of Education, it was believed that the Constitution was, to that extent, self-acting, and no legislation was necessary; hence the Board, in the interest of free schools and to save the people from taxation, proceeded at once to loan the permanent fund to counties, and it is now all invested in not less than 6 per cent. valid county bonds.

The United States and State bonds owned by the school fund might be transferred to the university fund at better rates than could be obtained from the market, and result in advantage to both funds; as the school fund could be easily reinvested in county bonds at a better interest than it is drawing at present, while the university fund can only be invested in State and Federal bonds, for which a high premium must be paid in the markets.

EXPOSITION AT NEW ORLEANS.

It would seem that a laudable pride in our State, as well as the material advantages to accrue, which at once suggests themselves to members, should induce us to take steps to properly represent the State at the world's fair to be held at New Orleans, beginning in December next, and I earnestly recommend suitable provision be made for that purpose.

DEFICIENCIES.

Under the bill granting pensions to Texas veterans there exists a deficiency of about sixty-three thousand three hundred and seventy-five dollars.

There is also a deficiency in the appropriation for contingent expenses and to pay officers and employees of the regular session of the Eighteenth Legislature of about seven hundred and sixty-three dollars.

I recommend appropriations to meet these deficiencies.

COUNTY LIABILITIES.

Various counties of the State have a floating indebtedness, and owe more or less for bridges and other purposes, that they recognize as valid debts, and in some cases they have issued bonds. The Board of Education, so far, has refused to purchase for the school fund any county bonds except those issued to build court houses, and subsidy bonds issued prior to the adoption of the present Constitution, on the ground that there appeared to be no express authority to issue any other species of bonds. If these counties were authorized by law to fund their debts, including all character of claims recognized by them as valid, they could put their bonds covering such indebtednesses on the market, and the Board of Education would feel authorized to buy them.

SCHOOL LANDS.

The bill passed by the regular session of the Eighteenth Legislature has been found to be very unwieldy, and the board has had great difficulty in putting it into operation. It has been ascertained, from experience, that the system of local agents in the counties was both expensive and unsatisfactory, and under the liberal provisions of the law, allowing the board to change the rules laid down in the law, many changes have been made.

The new rules require the bidders on sales and leases to describe, accurately, the lands they want; and they are also required to swear to the correctness of the description. In this way, the board not only saves the enormous expense to the school fund of classifying the lands actually sold, but also saves the unnecessary expense of classifying those that no one now wishes to purchase.

The board is not offering any watered sections for sale or lease, and in regions where water is very scarce it might be advisable to withdraw the waters and a small quantity of land from sale, permanently, and dedicate them to public use. In this way, vast areas of dry country could be utilized that could not be if the few living waters there should fall into private hands.

I also recommend the reservation of strips of land, at suitable intervals, for public highways, so that in future there can be neither trouble or expense attending the opening of roads.

I herewith transmit for your information and consideration, a communication from the Commissioner of the General Land Office, whose vast experience in such matters render his suggestions valuable.

TAXATION.

The amendments to the Constitution proposed by the Legislature, submitted to and adopted by the people, so changed the law that one-fourth of the general revenue will no longer go to the support of free schools, and until additional legislation is had, thirty cents on the one hundred dollars will be levied and collected for general purposes, and no part thereof will be set apart for the school fund. It will, therefore, be necessary to levy a specific tax for free schools. The amount to be levied is at your discretion, not to exceed the maximum named in the Constitution.

It is suggested that with the one-fourth of the occupation tax, interest on bonds and land notes, and funds from other sources, that a levy of ten cents on the one hundred dollars' worth of property will be sufficient to maintain the schools the requisite time.

The report of the Board of Education, together with the estimates furnished by the Secretary, and the Comptroller's report, will greatly assist you in arriving at the rate of taxation absolutely necessary.

Of course thirty cents on the one hundred dollars worth of property, now levied for general revenue purposes, will not be necessary. With the increase of taxable values, the revenues will increase. Twenty-two and one-half cents has been sufficient in the past, and I suggest that eighteen cents on the hundred dollars will produce sufficient revenue, with

that derived from other sources, to support the government. The ensuing year will demonstrate whether it is sufficient or not, and, as the Nineteenth Legislature will meet a year hence, the amount can then be increased or diminished as may be found necessary.

In arriving at the amount of tax necessary to be levied, it must be borne in mind that the large expenditures for the present year, comprising appropriations for the North Texas and Austin Lunatic Asylums, Deaf and Dumb Asylum, the Alamo, Agricultural and Mechanical College, and others, aggregating about a half million dollars, will not have to be repeated.

There should not be in the treasury of the State more money, of any character, than is absolutely necessary to meet the current demands on an economical basis.

To permit funds belonging to the common schools, university or asylums to remain in the treasury unproductive, while the people's means are being taken by taxation raised to support these institutions, is as clear a violation of the Constitution as to make direct levies of larger sums than is required to carry on the government in an economical form. To admit that there is more money in the treasury than is necessary to carry on the government in an economical way is to admit that the people's servants have violated the Constitution. This, however, cannot always be avoided in a large and rapidly growing State like ours, but we should strive to conform as near as possible to the demands of the Constitution.

ATTACHMENT LAW.

After the adjournment of the regular session of the Eighteenth Legislature, the Executive received a number of letters from members of that body, enquiring about the attachment law, which was asserted had been passed. As no such bill ever reached the executive office, I deemed proper, in issuing the call for the special session, to mention the subject, that the law might be re-enacted.

JNO. IRELAND,
Governor.

DEPARTMENT OF EDUCATION,
AUSTIN, Nov. 21, 1883.

To His Excellency John Ireland, Governor:

SIR: To conform the school law to the amended Constitution, each county in the State should be divided into convenient school districts, on which the county commissioners may levy local taxes for the maintenance of free schools; each school district should elect three school trustees who should decide how many schools should be taught in the district and at what points they should be located. They should employ teachers, approve vouchers, supervise and manage the schools, under the direction and with the approval of the officer in charge of the schools of the county. They should serve without pay. If district superintendents are provided for, teachers should be examined for certificates by them, otherwise by boards appointed by the county judges. Maximum wages for teachers should be fixed by law, and they should be subject to removal by the officer in charge of the county, on recommendation of the trustees. They should be required to conform to the rulings of the trustees, but should be allowed to appeal to the county and State authorities. A sufficient number of schools should be taught in every district, to make them convenient to all persons of scholastic age. The teacher should, at the close of his school, make a full report to the officers in charge of the county. His report should be approved by the trustees, and his last month's salary should depend on its prompt return. The officers in charge of the counties should make annual re-

ports to this department, and a part of their compensation should depend upon a prompt return of such reports. The county judges might still manage schools, pay teachers, appoint examining boards, etc., but it is a very unsatisfactory plan, and if adhered to will do harm to the efficiency of the new system. These officers, in nearly every instance, despise the duties made incumbent upon them by the school law, and are anxious to be relieved of them. Besides, their duties as county judges, take up too much of their time for them to give the schools any supervision. They can only be the agents of the State to distribute the public fund. I suggest that you advise the Legislature to divide the State into superintendent's districts, and provide for "district superintendents." A scholastic population of two thousand (2000) would about make a district, which would require all the energies of a superintendent. In some cases more than one county would be necessary to make a district. In such districts the superintendents would have more territory to travel over, but fewer schools to visit. About one hundred and twenty district superintendents, at a cost of about one hundred thousand dollars, (\$100,000), would be necessary. If superintendents were required to take scholastic census, fifteen thousand dollars (\$15,000) annually would be saved, to go toward their salaries. County judges now get annually about fifty thousand dollars (\$50,000). This would also go toward superintendents' salaries, and would make the superintendents system cost only about twenty-five or thirty thousand dollars (\$25,000 or \$30,000) more than that of the county judges. The superintendents could take scholastic census, grant certificates, approve vouchers, visit schools, supervise, manage and control them, report to this department, and execute its directions.

As this communication is submitted for your consideration during the preparation of your message to the Legislature, I will again urge the propriety of your advising the creation of the office of "State Superintendent of Public Instruction," or "Commissioner of Education." It will cost no more than the present management, and can be made a good deal more efficient. The Governor, Secretary of State, and Comptroller have each too much labor in their own offices to devote the necessary time and thought to the management of public schools. The Secretary has no power to rule upon any question or to give any direction, and dares not give his opinion upon any new or important question. His opinions are not respected because he has no legal power to express them, and he presents the sad spectacle of pretending to have the management of the schools, while, in fact, he is totally without influence or power. If the present board were called together to decide all important questions, and to give direction in all important matters they would have to convene every day, and remain in session all the time. I hold that an able and efficient man in charge of the schools could manage them more efficiently, and to better satisfaction, than a board composed of the Governor and department officers can possibly do, no matter how able and well informed they may be:

1. Because these officers have not the time to devote to the purpose.

2. Because in the nature of things they cannot be as well informed on school subjects as a competent man who makes them a study.

The Board of Education as now constituted could continue its present constitutional duty of apportioning the school fund, and the management of the schools be given to a superintendent or commissioner. That officer might also be Secretary of the Board of Education. I feel that I can urge this question with propriety because your Excellency knows that I do not consider myself fit for the position I ask to be created, and I have no thought of aspiring to it. I am not, therefore, making an effort to elevate myself.

I am, with high respect,

Your obedient serv't,
B. M. BAKER,
Secretary Board of Education.

GENERAL LAND OFFICE,
AUSTIN, December 18, 1883.

Hon. John Ireland, Governor of Texas:

SIR: As requested by you on yesterday, I have the honor to submit herewith, in as brief a form as possible, my views on the school land law, as passed by the last Legislature.

First. The requirement that the board should immediately cause the classification of all the educational lands of the State would necessitate a heavy draught upon the various funds for which no equivalent is visible. The State holds in trust for all classes some 40,000 sections of land. Of this num-

ber probably 30,000 have no marks on their lines or corners, and their exact position must be determined by actual survey from their connections. This could scarcely be done for less than \$5 per section, and may be safely estimated to cost \$150,000. The preparation of tabulated statements of this work and their record in this office would cost at least \$5000 more.

Second. The agents required in the organized counties, and districts embracing unorganized counties, would number not less than 150. If competent agents can be secured at an average cost of \$500 per annum the compensation could only be regarded as reasonable, yet the total of such payments would reach the sum of \$75,000. These expenses, with others incidental to advertising and clerical force, would aggregate not much less than \$250,000 within the first twelve months, and an annual after expense of one-half that amount. When we reflect that much of this land is not now marketable, and that much more, through the fence cutting troubles, may not be in demand for an indefinite period, I think it dangerous to the educational interests of the State to expend so large an amount.

SECOND—ACTUAL SETTLERS.

The law provides protection for those who actually settled upon these lands prior to January 1, 1883, but in its practical working it operates as a prohibition to further settlement by the class of men who make homes and extend the lines of civilization. The avowed object of all parties is to secure population and encourage settlement, but it is hard to convince a poor man who discovers a desirable piece of school land on January 2, 1883, that his neighbor who squatted on like land December 30, 1882, is entitled to a preference of one dollar per acre, and six months in which to determine his willingness to pay it. It would seem a wiser policy to say to the prospective settler that he shall have the land he selects at some fixed price, conditioned upon actual residence and improvement of the same for a term of years. Under the law the man who seeks a home to-day on any of our educational lands must be prepared to wait at least thirty days, and then outbid any one who may wish to defeat his settlement. These delays and uncertainties should be eliminated from the law so far as settlers are concerned.

Third. The leasing feature of the present law is "a delusion and a snare." The minimum rental of four cents per acre is equivalent of but two per cent on the minimum value of the land, and would seem to invite leasing, but the qualification which subjects any portion of the leased lands to sale without releasing the lessee from his obligation as to the remainder, effectually destroys the invitation. The facilities offered by the law for an enemy to break up a lessee are too apparent to need recital.

Fourth. Section 8 of the present law authorizes sales to the highest and best bidders, and suggests a variety of questions. If A. offers \$2.50 per acre for seven sections of pasture land, and B. offers \$1 per acre for one of said sections, which is the highest and best bidder? The law lodges the authority to determine this question with the agent who may be appointed by the Board. Again, if A. offers six cents per acre for the lease of twenty sections, and B. offers two dollars per acre for the purchase of one of these sections, is it policy or good judgment to sell to B. and defeat the lease to A.? In fact should not the Board, or whoever may be clothed with the necessary power, have the discretion to sell or lease, as may be to the best interests of the school fund. There are many matters of detail in the present law to which objections could be made if the impracticability of the whole did not prevent its enforcement. The Board tried the law in Jones county, by selling in strict conformity with its provisions. It is only necessary to examine the report of the sales made, to show the failure of that mode as a means of securing anything above the minimum, either for sale or lease. Many of those who have applied under the provisions of section 5 of the present law seem to misunderstand what is meant by the words "actual settlers." The meaning of these words has been fully explained by the Supreme Court, but it would be better to define them by statute, and prevent a repetition of the many mistakes now made.

The plan adopted by the Land Board, while it is yet an experiment, I believe will prove in every respect preferable to the law. By this plan the purchaser classifies the land he wishes to buy, and saves the expense to the school fund. Agents are dispensed with, and their compensation saved, while every opportunity for competition is offered which the law contemplated. If the Legislature will supplement this plan as follows: 1, provide for the oath describing the land,

so that false swearing may be indicted as perjury; 2, that the actual settler shall have the land at a fixed price, according to class, and conditioned on a continuous residence for say three years; and, 3, give to the Board the discretion to either lease or sell, as may be to the interests of the State, I think the matter will be in as good a shape as possible for the present.

I have the honor to be,
Yours respectfully,

W. C. WALSH,
Commissioner.

Mr. Cochran introduced House bill No. 1, to be entitled "An act to amend articles 4662 and 4665, chapter 1, title 95 of the Revised Statutes as amended and approved May 4, A. D. 1882, and to amend articles 4666 and 4668, chapter 1, title 95 of the Revised Civil Statutes; to reduce taxation for general revenue purposes, to conform the tax laws to the amended Constitution and to provide for the levy and collection of a tax to maintain a system of free school under the amended Constitution."

Read first time by caption and
Referred to Committee on Revenue and Taxation.

Mr. Wurzbach introduced House bill No. 2, to be entitled "An act to amend article 684 of the Criminal Code."

Read first time by caption and
Referred to Committee on Agriculture and Stock-raising.

Mr. Brown offered the following resolution:

WHEREAS, the destruction of wire fences, the enclosing of the public school lands, non-resident lands, and the fencing in of small land owners by larger ones, and the lack of roads, gates, etc., for public convenience have been for some months fruitful topic of discussion through the press, and our otherwise happy and prosperous State has been in several localities in a state of commotion bordering on anarchy and civil war, rendering life, liberty, and prosperity, unsafe; and

WHEREAS, the people are looking with much concern on the action of the present Legislature for a solution of existing troubles; therefore,

Resolved, by the House of Representatives, first, that it is the duty of each and every member to rise above all sordid or selfish views of these vexed questions, and give his support to such measures as should receive the approbation of every lover of justice and equal rights.

Resolved, second, that it is the sense of the House of Representatives that this object could be best accomplished by the appointment by the Speaker of a special committee of five members from the House from different sections of the State to act with a like delegation from the Senate (or such number as that body may appoint) to take into consideration the causes of the present troubles within our borders and recommend by bill or other wise measures of relief, and after due deliberation and consultation of his Excellency the Governor, and receiving his approbation, to secure proposed legislation, to report the result of their conclusions to the House of Representatives and the Senate.

On motion of Mr. Wurzbach, the consideration of the resolution was postponed till to-morrow morning at 10:30 o'clock, and made the special order for that hour, to be considered in committee of the whole House.

Mr. Frymier introduced House bill No. 3, entitled "An act to extend the time within which all persons whose lands have been sold for taxes and bought in by the State, may redeem the same, and to correct errors in such sale."

Read first time by caption and
Referred to Committee on Revenue and Taxation.

Mr. Upton introduced House bill No. 4, to be entitled "An act making an appropriation for mileage and per diem pay of members and per diem pay of officers and employees of the called session of the Eighteenth Legislature."

JOURNAL

OF THE

SENATE OF TEXAS,

BEING THE

CALLED SESSION OF THE EIGHTEENTH LEGISLATURE,

BEGUN AND

HELD AT THE CITY OF AUSTIN, JANUARY 8, 1884.

AUSTIN:
E. W. SWINDELLS, STATE PRINTER.
1884.

An act to prevent the unlawful use of the school, university and asylum lands.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That it shall be unlawful for any person, firm or corporation to fence, or aid in fencing, or cause to be fenced, any school, university or asylum lands, within this State, unless the same shall have been first leased from the State.

SEC. 2. It shall be unlawful for any person, firm or corporation to herd, or aid in herding, or cause to be herded, loose herded or detained for grazing, any cattle, horses or sheep on any school, university or asylum lands within this State, unless the same shall have first been leased from the State.

SEC. 3. Any person who shall knowingly violate any of the provisions in sections 1 or 2 of this act shall be guilty of a misdemeanor and, upon conviction, shall be fined one hundred dollars for each year, or part of a year, for each section, or part of a section (meaning each six hundred and forty acres of land or less whether surveyed in sections or not), which shall be used or trespassed upon contrary to the provisions of this act.

SEC. 4. The owner of the cattle, horses or sheep shall be liable to the State in the sum of one hundred dollars for each year, or part of a year, for each six hundred and forty acres or less that may be used or trespassed upon, contrary to the provisions of this act, which may be recovered in a civil action, without affecting the criminal prosecutions prescribed herein.

SEC. 5. Where such unleased land is now fenced, or herded upon, contrary to the provisions of this act, it shall be a bar to the criminal and civil prosecution hereinbefore provided for any violation prior to January 1, A. D. 1885, if the violator of this act, or the owner of the cattle, horses or sheep, shall, prior to the first day of September, A. D. 1884, pay into the State treasury thirty-two dollars for each section of six hundred and forty acres (or tract of less size) used contrary to this act, for the benefit of the fund to which the land belongs.

SEC. 6. The State Land Board shall make suitable rules and regulations, and appoint agents to protect the interest of the State in matters arising under this act.

SEC. 7. The Governor is authorized, and it is made his duty, to employ all means which he may think proper and necessary to ascertain all infractions of this act in the unorganized counties, with a view to the enforcement of this act, and, to enable him to secure the enforcement of this act, in such unorganized counties, the sum of ten thousand dollars is hereby appropriated out of the money arising from the lease of lands mentioned in this act.

The following reasons for voting, this morning, against Senate bill No. 68, were asked to be printed in the journal:

On Senate bill No. 68, authorizing counties to issue bonds to build bridges, and for road purposes, I voted "no" on its engrossment and final passage—1. Because it is in keeping with that tendency of the present to draft upon the future. One of the chief evils of the present, is the vast volume of county and municipal bonds now outstanding. I shall always vote to diminish, rather than increase, that volume. Bonded debts make investment for the favored few, and burdens for the many. The only exception Texas should make in an anti-bond policy, is to allow counties, cities and towns having control of their own school affairs, to issue bonds to build school houses.

2. Because the amount fixed by the bill to pay interest on the bonds, and to provide a sinking fund to retire the same, leaves an insufficient amount, even though the maximum limit allowed by the Constitution should be annually levied, which, together with the labor tax, now provided for by law, is inadequate to keep the roads and bridges in such repair and condition as to meet the public convenience. It will require both the whole money and labor tax to keep the roads and bridges in proper condition, when such taxes are annually expended on the roads and bridges.

A. E. STRATTON, JR.

The following message was received from his Excellency the Governor:

EXECUTIVE OFFICE,
Austin, January 30, 1884.

Gentlemen of the Senate and House of Representatives:

I am in receipt of a concurrent resolution, a copy of which is herewith submitted.

In complying with the request of the two houses, I deem it proper to say that there does not appear at present any urgent

necessity for an amendment to the law referred to, or for a correction of what is said to be an error in the enrollment of the bill.

But it has become notorious that hints of improper influences having been brought to bear in some direction which caused the bill to be enrolled as it was. I therefore, while submitting the question for your consideration, with grave doubts as to my power, I at the same time believe that it is due to the employees who had charge of the bill, that an investigation should be instituted in order to show how the error occurred. I desire to express the doubt that may have suggested itself to members whether a subject for legislation at a called session arising as this does, really originates with the Executive or the two houses.

But five working days are now left, and it is with much solicitude that I note the fact that not a single bill has reached the Executive on the one great question before the two houses. I still indulge the hope that in the next few days you will be able to pass the necessary laws to restore quiet to the country and protect life and property, and that these measures, when perfected, will bear the genuine impress of having been passed in the interest of good government, and that no one can point to them and justly say that they are class legislation.

JOHN IRELAND, Governor.

Senate concurrent resolution No. 1: Whereas, under the act of April 14, 1883, as it appears on page 105 of the general laws of the Eighteenth Legislature, no one is eligible to appointment to the office of Superintendent of the Lunatic Asylum unless he has been a resident of such asylum for at least three years; and

Whereas, the above provision was stricken from the original bill by a House amendment, which was concurred in by the Senate, and was not in the act as passed by the two houses, but from some cause was in the bill as sent to the Governor;

Now, therefore, *be it resolved by the Senate and House of Representatives,* that his Excellency, John Ireland, be respectfully requested to submit the above matter to the consideration of the two Houses, to the end that the act may be amended so as to conform to the bill as it in fact passed.

MARION MARTIN,
President of the Senate.

I hereby certify that the above Senate concurrent resolution originated in the Senate, and passed the same January 9, 1884.

WM. NEAL RAMEY,
Secretary of the Senate.

CHAS. R. GIBSON,
Speaker of the House of Representatives.

I hereby certify that the above Senate concurrent resolution passed the House January 9, 1884. Ayes, 59; nays, 36.

J. W. BOOTH,
Chief Clerk of the House.

Senator Matlock offered the following resolution:

Resolved by the Senate, the House concurring, that a joint committee, consisting of two Senators and three members of the House, be appointed to inquire as to whether any error was committed in the enrollment of the Senate bill known as the "Lunatic Asylum bill," passed at the regular session of the Eighteenth Legislature, and to report to the Legislature at its present session the cause of such error, if any.

Adopted.

The President appointed on said committee, on the part of the Senate, Senators Matlock and Martin.

Senator Cooper moved to adjourn till to-morrow morning at 10 o'clock.

Adopted, and

The Senate adjourned by the following vote:

YEAS—16.

Buchanan,	Gooch,	Patton,
Cooper,	Harris,	Peacock,
Farrar,	Houston,	Perry,
Fowler,	Johnston of Shelby,	Randolph,
Getzenderan,	Martin,	Stratton.
Gibbs,		