

JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

TWELFTH LEGISLATURE.

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PART FIRST.

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AUSTIN:

J. G. TRACY, STATE PRINTER,  
1871.

No candidate having received a majority of the votes cast there was no election.

Mr. Chambers withdrew the name of Rev. F. C. Wilkes.

On the fifth ballot Rev. B. A. Rogers received forty-six votes.

Rev. W. V. Tunstall received twenty-eight votes.

Rev. R. K. Smith received four votes.

Scattering, two votes.

Rev. B. A. Rogers having received a majority of the votes cast, was declared duly elected Chaplain of the House of Representatives of the Twelfth Legislature.

Mr. Gardiner moved that a committee of three be appointed by the Speaker to wait on Mr. Rogers and inform him of his election and request him to act as Chaplain.

Carried.

The Speaker appointed Messrs. Gardiner, B. F. Williams and Posey, such committee.

A message was received from the Governor by his Private Secretary.

On motion of Mr. Sinclair the rules were suspended for the immediate consideration of the message of the Governor, which is as follows:

EXECUTIVE OFFICE, }  
AUSTIN, January 10, 1871. }

*Gentlemen of the Senate and House of Representatives of Texas:*

In compliance with my duty under the Constitution, I now transmit the customary statement of the condition of the State, with recommendation of measures thought of sufficient importance to be presented specially to your consideration.

Since the last annual message I had the honor to send to your Houses, the work of re-organization of the State under the new Constitution and the laws enacted by you in pursuance thereof, at your late session, has been largely performed. The officers for whom provision was made, and in the various judicial districts, judges and district attorneys, have been appointed, and these officers have proceeded to the performance of their duties. It gives me pleasure to state that the people have, I believe, generally seconded the officers in their efforts to re-establish order, and that an improved condition of affairs is quite manifest. It is too early to speak from practical experience in respect to the working of many of the new features of our Constitution and laws, but such defects as have been observed will be pointed out to you, and the appropriate legislation asked to remedy the same.

## THE REVENUE.

The laws providing for a revenue and its assessment and collection, are always of first importance, and present the greatest difficulties. There must, however, be a revenue provided sufficient for the just necessities of the government, and the only questions to be solved relate to its assessment in the manner least oppressive of the poor, and so as to prevent evasion. A number of defects have been found in the law recently enacted; some of them are pointed out by the Comptroller in his annual report, and he therein suggests many amendments, but I do not think the law in its present shape can be so amended as to make it practicable, and I recommend that it be substituted by a less complicated statute, which, in brief terms, will embrace the most necessary frame-work, and leave, under proper limitation, the minor details to the regulation of the Comptroller and a Board of Revision. At my request, the Attorney General has carefully prepared the draft of such a statute, and it will be submitted to you for consideration.

It is difficult to make a close estimate of the revenue of the State for the present and ensuing fiscal year, for the main reason that the assessment and collection of the taxes has been conducted very irregularly and inefficiently since the war, and we have, therefore, no certain basis for a calculation. Thus, while the total value of property was assessed in the year 1867 at \$170,574,442, it was only \$144,260,244 in 1868, and \$149,665,386 in 1869—the last assessment of which returns are complete—an apparent decrease of more than twenty millions in the value of property in the State after 1867. The occupation taxes, also, which are easily collected, do not show the increase that might have been expected, being for 1867 \$133,101 99, while for 1869 they were only \$146,023 30. There is no question but that the population, taxable value of property, and taxable occupations of the State had greatly increased during the two years from 1867 to 1869, and that the apparent considerable decrease in the one case, and only slight increase in the other, is the result of the causes above indicated. The Comptroller, in answer to inquiry from myself, estimates the value of property liable to taxation as at least \$250,000,000, or more than one hundred millions beyond the value as returned by the last assessment. If this estimate is correct, and I think it is, then a large portion of the property of the State escapes taxation, to the detriment of those who are too honest to evade, and are thus compelled to suffer an undue share of the public burdens. The extent of the private lands which have been sold to the State for taxes, gives some idea of the

value of property on which the payment of taxes is evaded. Up to 1868, inclusive, the land sold to the State and unredeemed, amounted to 31,524,600 acres. But further than this, while the total titled lands of the State are estimated at about 90,000,000 acres, it appears by the returns to the Comptroller, that only 47,272,201 acres were rendered for taxation in 1869. A remedy for this evil should be applied without delay by your body. It has been suggested that provision be made for extra clerk hire for the purpose of estimating and collecting the back taxes due the State, and at the close of your last session, a provision was made in the general appropriation act for the collection of these taxes. This part of the act I was compelled to disapprove for the reasons I have given in my message returning it to the House wherein it originated. On mature reflection, I do not think it would be advisable to attempt to bring up and collect the back taxes from the commencement of our State government, as has been recommended. It would cost considerably, and might operate unevenly and oppressively in many cases. In lieu of this, I suggest that all property liable for back taxes be relieved on payment, in addition to the State tax for 1871, of, say three times the amount payable for that year.

The Comptroller, in answer to an inquiry from this office, estimates the revenue for 1871, under the "Act to levy taxes," approved August 15, 1870, at a total of \$900,000; and, as the poll tax and one-fourth of the other taxes are, by the constitution, set apart for school purposes, these items, amounting together to \$283,250, must be deducted. Assuming this estimate to be correct, further provision for the support of the State government will be required, as the current expenses of the government, and appropriations for the maintenance and improvement of the machinery of the Penitentiary, and for other absolutely necessary purposes, must reach the sum of nine hundred thousand dollars. There is no doubt that under a good system of assessment and collection of taxes, the ratio of taxation provided by our present law will be sufficient to supply all the just wants of the government, but some time must pass before this can be effected, hence the necessity—which I hope will be temporary—of increased taxation.

#### STATE BONDS.

Under the act approved August 5, 1870, providing for the issuance and sale of \$750,000 of the bonds of the State, for frontier defense, I have had the bonds properly engraved, printed and signed, but have not yet effected a sale of any part of them. No offer satisfactory, in view of the financial condition of our State, has been made. The

financial condition of Texas should be considered as good as that of any other State, and her bonds should not be put upon the market at a heavy discount. Beyond the debt for frontier defense, now accumulating, we owe but very little, and this is more than balanced by just claims which we have against the United States, accruing before the war. The only debts of any importance, for which the State is properly liable, are those due for military services previous to the rebellion (and not excluded under section 34 of article 12, general provisions of the Constitution) and for money and supplies furnished the Penitentiary since the war. There is also a small amount due for certificates issued in payment of minute companies called out by Governor Hamilton in 1865, and some other small un-audited claims. The Auditorial Board, created by the provisional act of November 9, 1866, reported the total debt, principal and interest, on the first of December, 1867, at \$332,436 17. This, however, includes the sum of \$78,466 51, audited and unaudited "non-interest notes," which are by said section of the Constitution declared void. Deduct this latter sum, and it will leave \$243,969 66 as the total debt on first of December, 1867, which, with interest added to date, and the amount unaudited (about \$60,000,) as above mentioned, due from the Penitentiary, presents the total indebtedness of the State. The exact amount cannot be ascertained from data within my possession, but it certainly does not exceed, at this time, \$360,000, principal and interest, of which, only that part due from the Penitentiary, may properly be considered specie. It will be perceived that I have not included in this estimate of indebtedness the bonds issued to the Common School and University funds, under the provisional act of November 12, 1866, amounting to \$216,641 08 and interest. I can perceive no good reason why these bonds, issued to replace five per cent. United States indemnity bonds, taken and disposed of during the rebellion by the authorities then in possession of the State, should now be a charge upon the people. If it is necessary that the School and University fund should be increased in a sum equivalent to those bonds, it had better be done in plain terms, but there is no such necessity, and it is our experience in the past, that the accumulation of these special funds tends to invite spoliation.

The School and University funds are now, I believe, quite as large as they can safely remain, and the taxes that would go to pay interest on bonds added to swell those funds, might as well be expended directly in support of schools or universities. I, therefore, recommend that the bonds issued to the School and University funds under said provisional act of 1866, be canceled.

Out of the said sum of \$332,436 17, found due by the Audi-

torial Board, the sum of \$125,100 is covered by six per cent. bonds issued to individuals under the same provisional act of November 9, 1866. These bonds have passed, to a large extent, into the hands of persons living out of the State, and as the interest has ceased to be paid since 1867, the credit of the State has been injured among those whose acquaintance with the real financial condition of the State is limited. A part of these bonds may have been issued on "non-interest notes," and consequently be liable to the objection created by the above mentioned thirty-fourth section of article 12 of the Constitution. What portion of them (if any,) is void under that section, should be speedily ascertained, and provision made for the payment of all overdue interest on such of them as are unaffected thereby. To this purpose, I recommend the establishment of an Auditorial Board, to be composed of the Comptroller, Treasurer and Attorney General, with power to examine all indebtedness reported on by the Board organized under the provisional act of 1866, and that authority be given for funding all of that indebtedness (not already funded) in six per cent. currency State bonds; also, that an appropriation be made to pay the interest due on such part of the \$125,100 bonds, issued to individuals, as may be ascertained to be valid. I also recommend that said Board be authorized to ascertain the amount of indebtedness of the Penitentiary, incurred under competent authority, and that the same be funded in six per cent. specie bonds. These are measures of justice to our creditors, and will leave our indebtedness in an ascertained and compact form.

#### STATE CLAIMS AGAINST UNITED STATES.

I have remarked that the State has claims against the United States. These are grounded as follows :

1. Under the act of Congress of twenty-eighth February, 1855, (a supplement to the compromise measure of 1850, adjusting the boundary between New Mexico and Texas,) there was appropriated \$7,750,000, to be paid under certain conditions to the creditors of Texas. Of this sum, there remains about \$250,000, which should come to Texas, because the time allowed for presentation of claims against it has expired, and this State has either already paid, or is responsible for, any further demands that might be presented.

2. Under the acts of Congress of March 3, 1859, and of June 21, 1860, there was appropriated the sum of \$123,544 51, to reimburse Texas on account of military services of volunteers, for protection of the frontier, paid by the State. The accounts and vouchers for these services are, I understand, on file at Washington, and amount to \$167,798 62. The United States should justly pay us

this latter sum and interest since 1859, because the State settled here, by giving to the parties her obligations bearing ten per cent. interest, and a very large portion of our above mentioned present indebtedness, results from the payment of these very claims and interest.

These claims against the United States properly belong to the ordinary revenue fund, and, when realized, may be applied in payment of our indebtedness, and the current expenses of the State government. These claims, though based upon appropriations already made by Congress, having been so long in abeyance, I have thought that further legislation might be necessary on the part of Congress, to warrant the officers of the Treasury in paying us any of them, and accordingly have requested our senators and representatives at Washington, to introduce and urge the passage of a bill for the purpose.

#### PUBLIC SCHOOLS AND SCHOOL AND UNIVERSITY FUND.

The public school system enacted at the last session of your body, has not been put in operation, because of failure to make an appropriation therefor. The constitution having provided that one-fourth of the ordinary taxes, the capitation tax and the income from the School fund, shall be "applied as needed," for the education of the scholastic inhabitants of the State, there is an impression abroad that the sums accruing from these sources, can be drawn from the Treasury and used, without specific appropriation. But section 6, article XII, is very distinct in its declaration that "no money shall be drawn from the Treasury but in pursuance of specific appropriation made by law." I trust that your early attention will be called to the supplying of this omission. The maintenance of a good system of public schools, I regard as second in importance to no other object of government under our institutions. The people expect us to attend to this matter at once, as every day's delay is of irreparable damage to the growing generation, for whose wants we are called upon to provide.

The returns of scholastic census, taken under section 11 of the act of your last session, to establish a system of public free schools, have been received from but a few counties, and from many of these the returns are only partial. They show in twenty-five counties, from which the returns are complete, 42,388, and in sixteen counties, from which the returns are incomplete, 12,331 children within the scholastic age. The State Treasurer informs me that the taking of this census is probably delayed by the omission of the School Law to fix a certain and adequate compensation therefor, to the justices who are required to take it.

Assuming the returns received as a basis for calculation, I estimate the total scholastic population of the State at about one hundred and sixty thousand, of whom at least one hundred thousand, now enjoy no school advantages whatever. This condition should not be allowed to last a moment longer, because, with the ample endowment of our public schools, it is inexcusable. This endowment consists of the "perpetual fund" (of which only the interest can be used) and that portion of the annual taxes assigned by the constitution to the support of the public schools, and which may be appropriated annually to that purpose. The perpetual fund which is now producing (or can be soon made to produce) income, embraces the following items:

1. \$60,258 61 (\$58,999 31 coin and \$1,279 30 currency,) in the Treasury, authorized by act of August 12, 1870, to be converted into United States five-twenty bonds.

2. \$2,759,731 44 gold, consolidated principal and interest, due by railroad companies to the school fund, on the first day of May, 1870. On their respective shares of this amount, all the railroads paid up, on or before the eleventh of November last, the interest and one per cent. sinking fund, coming due at that date, under the act of August 12, 1870, with exception of the "Houston Tap and Brazoria Railroad," and the "Texas and New Orleans Railroad." The amount due from these two roads, on the said first day of May, 1870, was \$1,125,859 45. They are advertised to be sold on the fourteenth and fifteenth days of February next, and I hope to realize therefrom at least half of the amount due the School fund.

3. \$250,000 of the amount claimed in the suits now pending in Washington, based on the Texas Indemnity bonds. I think this amount may reasonably be expected to be realized from those suits after paying all expenses.

4. \$10,269 39, (\$9,800 in United States six per cent. bonds and \$469 39 in currency) reported by S. M. Swenson, Esq., of New York, to be in his hands and belonging to the State. Mr. Swenson desires to hold this as security for a claim which he has against the State, but I have informed him that I have no authority to make such arrangement, and he will probably pay over the amount when called upon.

5. \$61,000 in Texas Indemnity bonds, deposited by Provisional Governor A. J. Hamilton, at the Treasury in Washington. The cash (gold) for these, can be had at any time on application there.

In connection with the Public School fund, or rather the University fund, (the two funds properly being considered together.) I would call your attention to the donation made by acts of Congress, of scrip representing 180,000 acres of land, to provide colleges for

the "benefit of agriculture and the mechanic arts." I have made application at Washington for this scrip and it has probably, ere this, been turned over to the agent appointed; but under the said acts, (July 2, 1862, and amendment July 23, 1866,) of Congress, the State must provide, within five years from 1866, at least one such college as is described in the acts, or must refund to the United States the scrip or its proceeds. Less than one year remains within which this State can secure the benefits intended. I think we cannot safely attempt at present the establishment of more than one of these colleges, and suggest that this be incorporated with the State University. I recommend the early passage of an act applicable to the case.

According to my above estimate of the school fund, the actual cash (or equivalent) gold value of it, is now upwards of two millions five hundred and seventy-five thousand (\$2,575,000) dollars. The items which have not already been realized and placed in the Treasury, will so be within a few months, and when we recollect that the school fund was not long since given up in the minds of most people as totally lost, the above result is very gratifying. I recommend that you authorize all the above sums, as fast as realized, to be converted in United States bonds, and also that similar disposition be authorized of proceeds of sale of school lands or public domain, and of the 2 per cent. per annum received from the railroads, on account of the sinking fund.

The money received from these sources constitute what the Constitution denominates the "Public School Fund" proper. The interest of this fund, and the poll tax, and the one-fourth of the ordinary State taxes, and the proceeds of such special school tax as the Legislature may authorize, is to be appropriated by your body annually to the support of the public schools. If those portions of the fund not now yielding interest, are speedily invested in United States bonds, I think that for the current year, the sum of \$500,000 may be expected, as disposable by appropriation for maintenance of public schools, without resorting to the imposition of any special school tax; and I recommend an appropriation of that amount to the establishment and maintenance of public schools, such appropriation to be drawn only from funds especially disposable for school purposes.

But the first matter requiring attention in this regard, will be the enactment of an efficient school law, to the end that your appropriation may not be expended in vain. The law passed at your last session seems in many respects impracticable, and not likely to carry out the spirit of the excellent provisions of the Constitution. I will instance here, the enactment in that law for enforcing the education of children. The Constitution makers seemed to reason, that parents or

guardians could not wilfully permit children under their care to grow up in ignorance, without themselves becoming guilty of an offense against the public welfare. The Constitution evidently intended the infliction of a substantial punishment on such persons, but the enactment on that subject in the law, will, by most of such delinquents, hardly be considered a punishment.

#### THE STATE GUARD AND MILITIA.

The measures adopted by your body at the last session, for the organization and maintenance of the Militia and State Guard, and of a State Police, have been put under way, to the best of the limited means placed at my disposal therefor. The condition of these corps, and the statement in detail of what has been accomplished, will appear on reference to the report of the Adjutant General and Chief of State Police. There have been organized 39 companies of State Guard, and 83 companies of Reserve Militia. There are of the State Guard, 127 officers and 3,386 privates, and of Reserve Militia 341 officers and 89,478 privates. A large part of the latter corps, though enrolled, is not yet organized into companies and regiments. I have been delayed in the organization and armament of these corps by failure of the appropriation called for at the last session. A number of arms and equipments of the latest pattern are required. The State has recently received from the United States Government 420 Springfield rifle muskets, also a battery of four pieces has been ordered to be turned over by the United States, as part of the quota of arms due the State, and there was already on hand here, one hundred old muskets. I have partly distributed these arms, and also loaned some of the carbines (1,507 in number) purchased for frontier defense, to companies of Militia or State Guard, detailed to protect the civil authorities, where the necessity was urgent.

To complete the organization of the Militia and State Guard, I recommend that an appropriation be made sufficient to cover the expense of enrollment and the purchase of, say about ten thousand stand of small arms. These arms can be issued under such restrictions as will secure the State against loss. Provision ought also to be made for the establishment of a State Arsenal. The necessity for this is obvious, in connection with a permanent military organization.

#### THE STATE POLICE.

The organization of the State Police commenced in July last, but the full number authorized by law has not yet been filled. Many of those appointed, have been found incompetent or otherwise objec-

tionable, and removed; it being the purpose to bring this force up to the highest standard of efficiency. It has been found, however, that the pay provided by the present law is inadequate to compensate the best class of men, especially in view of the fact that they are required to be well mounted, armed, and equipped, at all times. I accordingly recommend that an addition be made to their pay, sufficient to secure and retain the services of good men. The State Police is expensive, but not more so than is absolutely necessary to efficiency. Good government and law and order, cannot be maintained without an efficient military or police force to sustain the civil authority, and this we cannot have without paying liberally for it. I do not think the money expended in this way, has been or will be, used unprofitably. On the contrary, that which has during this short time been accomplished by the Police and Militia in suppressing lawlessness and arresting offenders, and thereby inspiring a feeling of safety and of confidence both at home and abroad, in the future stability of affairs in Texas, has already, in the increased value of property and the swelling tide of immigration to this State, vastly more than set off the present or probable future cost of these forces.

From the first of July to the thirty-first of December, 1870, nine hundred and seventy-eight arrests have been reported by the State Police, though the strength of that force during the time indicated has not averaged more than half that allowed by law, owing to the causes above referred to. Among these arrests, were one hundred and nine of persons charged with murder (in some instances several distinct offenses of this character, being charged against a single individual); one hundred and thirty charged with assault with intent to kill, and three hundred and ninety-four charged with other felonies. Official reports of "criminals evading justice," received from one hundred and eight counties, show a total of two thousand seven hundred and ninety persons, charged with crime in those counties and evading arrests. Twenty-nine counties have not reported. Among these persons charged with crime, seven hundred and two were charged with murder, in some cases two or more—even seven—murders being charged to a single individual; four hundred and thirteen charged with assaults with intent to kill, and one thousand one hundred and thirty-seven charged with other felonies. The great majority of these offenses are of recent occurrence—within three or four years past—and the Police have been put in active pursuit of the parties charged. Many of the arrests made by the Police have been of this class of persons, and many of the offenders, aware that arrangements were progressing for their arrest, have fled the State, and by ridding us in this way of a reckless and vicious class, the Police system has been useful. The Police has

also, since organization commenced, returned to the legitimate owners near thirty thousand dollars of stolen property recovered.

A great preventive of violence and bloodshed (a class of crimes which, you will notice, occupies a large space on our criminal calendar) would be found in an enactment to restrain and regulate the carrying of deadly weapons. The law passed at your last session, forbidding such weapons in public places, is a very partial remedy. Instances of personal violence occur almost daily, where a general and stringent law against the practice would avoid loss of life or bloodshed. Occurrences of that nature are within the experience of everybody. A well considered law on this subject is essential to the complete suppression of lawlessness, and I esteem it my duty to ask your special attention thereto.

On account of the great extent of our State, the number of State Police allowed by law—two hundred and fifty-seven officers and privates—is insufficient, but the cost of maintenance of this force is so great that I do not propose to ask an increase of the total permanent force; but to make the most of the force we have, I think there should be an increase of the number of officers, say two additional captains, four lieutenants and ten sergeants. The arrangement found best adapted to our State, where mail and telegraph facilities are limited, is that of sub-division into a number of police districts, under officers who are made directly responsible for the activity and efficiency of the police in their respective districts, and for this we require more officers. To avoid expense, and at the same time furnish a police force in each county adequate to any ordinary emergency, I recommend that the appointment of not exceeding twenty special policemen for each county be authorized. These special police to serve generally within the county of their appointment, to be paid by the county only when in actual service, under orders from the Governor, or by his authority. Thus an inexpensive force may always be relied on to assist the local authorities.

#### FRONTIER DEFENSE.

The report of the Adjutant General will also show the condition and strength of the Rangers authorized for frontier defense, by the law of June 13, 1870. Of the fourteen companies shown by that report to have been raised, one—Company “A”—has been mustered out, and three others have been ordered to be mustered out, leaving ten, or half the number authorized by the law. All the companies have been reduced to the minimum (fifty) of officers and privates, and I have recently directed disposition to be made of these along

the frontier in such manner as will, I believe, best tend to its protection. If I can arrange to supply and pay these troops, I propose to continue them until otherwise directed by your body. They are not as efficient as they would be if they were allowed to follow the savages to the nests whence the latter raid upon our settlements, but, as it is, they furnish considerable protection, and encourage the extension of the frontier settlements. It is to be regretted that our condition will not justify measures for complete relief of the frontier. The atrocities recently perpetrated by the Indians, are even beyond all previous experience of their murderous doings; but no force that the State could place upon the frontier, would furnish absolute security, so long as the enemy can find a harbor secure from risk of attack, within a few day's journey of the settlements. Under the circumstances, we must suffer this evil with what patience is possible. The philanthropic public of the United States, it is to be hoped, will, after a while, conclude that civilized men, women and children, who are improving and extending the frontier, are at least entitled to as much mercy as, it is insisted, should be shown their savage murderers.

#### RAILROADS.

While the prospects of our frontiersmen continue gloomy, the condition of the State in general presents an agreeable contrast. The impression which is abroad, that an era of peace and quiet and prosperity has commenced here, is attracting an unusual stream of immigrants, and of a more intelligent class than heretofore. With immigration is also coming capital to invest in internal improvements, and there is reason now to anticipate confidently, railroad connection with the Eastern States by at least three distinct routes before the close of the year 1873. It is my belief that, without any assistance from the State, there will be built within our territory, during the next ten years, six thousand or more miles of railroad—enough for the probable wants of our population. Of course, this calculation is founded on the maintenance of peace and the stability of our institutions, for I apprehend that without these prerequisites, no sacrifice on the part of the State would ensure the construction of even a single mile of it. Let us practice a close economy in the appropriation of our State revenue, enforce obedience to the laws, and secure all classes of people in the peaceful exercise of their just rights and privileges. The confidence established by these measures will, alone, soon attract all the capital that can be profitably invested in internal improvements.

On this subject, I took occasion, in my last message to your hon-

orable body, to say that "the absolute necessity for State aid (beyond a liberal charter and the right of way) is not apparent to me as a necessity to insure the success of any honest and feasible enterprise." Your body thought differently, and among other similar measures which had been proposed, the International Railroad Company was chartered, and a subsidy guaranteed to it, to aid the construction of a trunk road across the State. The subsidy or donation was remarkably liberal, and ought to insure exact compliance on the part of the company with the spirit and intent of the charter. Should the company comply in that form, the State ought on her part keep equal faith, though the terms exacted may seem extravagant. With States as with individuals, the very worst disposition to make of a debt or engagement, is to attempt to repudiate it. But I trust that your body will agree with me, as to the advisability of going no further in that direction. Let us set our faces determinedly against all further propositions to pledge the aid of the State to the furtherance of private schemes, whether under the guise of internal improvements, or other specious garb. Not one dollar or cent more, in any shape or form, is the only safe policy.

#### IMMIGRATION.

I have remarked that immigration has largely increased. Both in number and class of immigrants, no previous immigration equals that now flowing into the State. Occurring, as this does, without special encouragement on our part, we may imagine the influx had a well considered law been enacted to organize and perfect the immigration bureau. I am not disposed, however, to recommend the machinery of a costly and complicated organization. A great deal can be accomplished, at little cost, by the dissemination of information concerning our State. For this purpose, and for the employment of a few active agents on this continent and in Europe, but a limited appropriation will be required. Though the Constitution empowers you to aid immigrants by paying their passage in part or *in toto*, it is not advisable, with the many and pressing demands on the Treasury, to make at present an appropriation of this class.

#### GEOLOGICAL BUREAU.

A geological survey of the State will furnish valuable information to persons contemplating immigration or the investment of capital within it. The act passed at your last session, establishing a geological bureau, seems (as well as can be judged without experience of its practical working) unobjectionable, but no appropriation of

money was made to carry the act into effect, and consequently it has remained inoperative.

#### ASYLUMS AND PENITENTIARY.

In regard to the Lunatic and other asylums and the Penitentiary, I must again call your attention to the recommendations of my last message. The asylums should be extended so as to furnish accommodations to all parties properly assignable to each, and should, for the comfort of the patients, be furnished with all the most modern conveniences and improvements. At present the Lunatic Asylum, at least, does not more than very partially furnish that accommodation. The appropriation of \$20,000, made on the fifteenth of August last, for repairs and additions to that asylum, has not been expended, owing to some difference of opinion as to the safety of the present building and feasibility of making such repairs as would ensure its safety, without going much beyond the appropriation. It is the opinion of the Superintendent in charge, that this can be done, and he thinks that with this appropriation he can so repair and extend the buildings as to furnish accommodations for more than double the patients now under treatment. The asylum under its present management has been made to accommodate more patients than ever before, and without extraordinary expenditure. The patients also seem well cared for, and generally improved in appearance.

In compliance with the "joint resolution authorizing the Governor to invite proposals for the location of two penitentiaries," etc., approved August 13, last, I have caused proclamations to issue, calling for proposals, and a report of the result accompanies this message. The Penitentiary at Huntsville is not self-supporting: on the contrary, it is accumulating a considerable debt, but under existing circumstances I believe this to be unavoidable. The location of it is bad, especially in regard to facility of communication. The want of water-power and the increasing scarcity and cost of fuel, cause great expense in running the machinery; while, finally, a large part of the machinery for manufacture of goods, is adapted only to that of a quality of goods which, with slavery, has gone largely out of use, and is not saleable. If no arrangement is made for the location and erection of other penitentiaries, a considerable appropriation—about \$50,000—must be made for additions to the buildings and the improved machinery necessary to the economical working of this one. An appropriation must also be made to cover excess of expenditures over receipts at this institution.

## ANNUAL REPORTS.

The annual reports of the various branches of the Executive Department and of the public institutions (where such reports are required by law to be made) have, with the exception of the Comptroller's report, been printed, and are herewith transmitted.

These reports will furnish you valuable information, and in detail, of matters connected with the administration of the government, which I have not here been able to touch upon at all, or at any rate in more than brief terms. The report of the Comptroller reached my hands on the twelfth day of December, last, and was forwarded by me to the public printer. It was afterwards withdrawn from the public printer, without my consent or knowledge, and materially altered—in one respect to the extent of several hundred thousand dollars. The Comptroller, while he assured me this was done also without his knowledge, yet declined to furnish me his report as it originally stood. Under these circumstances the altered report has not been printed, and the disposition to be made of it is respectfully submitted to your judgment.

## DEPARTMENT CLERKS.

The Comptroller asks for more clerical assistance in his office, and I think the increased service, in that branch of the government, may require an addition of two or three clerks to his present force. The duties required of the Secretary of State, and of my office also, demand the services of more clerks than have heretofore been allowed. But while the wants of the different departments, in this respect, should be so far supplied as to obviate the necessity for overworking the employ<sup>es</sup>, I think a law should be passed exacting a uniform and reasonable day's work from such employ<sup>es</sup>.

## SUPREME COURT BUILDING AND LIBRARY.

A further appropriation is necessary for the completion of the Supreme Court building. Estimates will be furnished of the probable amount required to complete and furnish it. Some disposition ought to be made of the surplus books in the three libraries of the now consolidated Supreme Court. The most of them can probably be disposed of advantageously, where they now are, and the proceeds, or works received in exchange, added to the library at the capitol. A library containing all the reports of the American States and of Great Britain, as well as the recognized common and

civil law authorities of Europe and America, is indispensable to the correct application of the law by the judges, but neither of these libraries approaches that standard. I recommend the sale or exchange of these surplus books, and, if sold, that the application of the proceeds be left to the direction of the judges, and that further provision be made for supplying the library with new reports and works.

## MISCELLANEOUS.

While entering upon your deliberations, it might be well to consider whether any measures can be adopted that will lighten and facilitate your legislative labors. On this head it has occurred to me that the legislation of your last session is, in some respects, worthy of observation. Of a total of 242 public and private acts and resolutions which became laws, 148 (near two-thirds) were of private nature, and of 57 acts which passed both Houses, but failed for different reasons to become laws, 40 were private. Thus it appears that more than two-thirds of the legislation and, I may say, of your valuable time, was at that session taken up (at great cost to the people of the State) in matters of purely personal or private character. A very large share of this legislation is chargeable to acts for private corporations, which, as a rule, can be provided for, and even much better, under a general act authorizing their formation under defined restrictions and limits, by deed recorded and published. The most advanced States of the Union have, either by constitutional provision or by statute, adopted, with decided advantage, a similar enactment, and I trust the experience of those States may induce you to try the experiment here.

To another phase of the legislation of the last session, I also, with great deference, invite your attention. During the last two days of the session 153 acts and resolutions, (more than half of all the acts and resolutions passed) were presented to me for consideration, and of these, 61 were presented during the last thirty minutes. It was entirely out of the question, that I could give these acts the least consideration, and, as the great bulk passed one or both of your houses during the last week or ten days of the session, it was equally impossible that with you, a careful reading and examination of them, could have been had. I was compelled to sign some of the general acts, of most urgent necessity, without reading, and since have discovered very objectionable and impracticable features in some of them. Many of the private acts, which I failed to sign, were doubtless meritorious, and should become laws. A great deal of this hurried legislation, has grown out of the indiscriminate practice of suspending the rule, which requires three readings, on as many

separate days. The Constitution provides, that "in case of great emergency" four-fifths of the house in which the act is pending, may suspend the rule. But no "great emergency" can be imagined, that would warrant suspension of that constitutional provision to put through in haste a private charter or bill of any sort, and the proper scrutiny of objectionable private legislation is habitually evaded in that way.

Finally, a great step can be made towards simplifying legislation by providing at once for the revision of the Civil and Criminal Laws as authorized in Sec. 35 of Art. XII of the Constitution. To this end I recommend the appointment of a board of competent lawyers, whose duty it may be made, to revise the laws, and report to the Legislature, from time to time, as their labor progresses, such corrections and additions thereto, as may be necessary to the framing of a well digested system of laws.

EDMUND J. DAVIS,  
Governor.

Mr. Sheriff offered the following resolution :

*Resolved*, That five thousand copies of the Governor's message be printed in English, two thousand in German, and one thousand in Spanish, for distribution.

Resolution read first and second times.

Mr. Hawkins moved to lay the resolution on the table.

Lost.

On motion of Mr. Sinclair, the resolution was amended by striking out the word "five," and inserting in lieu thereof the word "two."

A message was received from the Senate by the First Assistant Secretary, transmitting House bill No. 1, to be entitled "An act making an appropriation for the mileage and per diem pay of the members, and the per diem pay of the officers and employes of the first session of the Twelfth Legislature," announcing that the Senate had passed the same without amendment.

On motion of Mr. Hawkins, the resolution offered by Mr. Sheriff was amended by adding the following proviso :

"Provided the two thousand copies in German be printed by the German newspaper 'Vorwaerts.'"

Mr. Lane moved to strike out the words "two thousand in German," and to insert the words "one thousand in German."

Lost.

On motion of Mr. McLean, the resolution was amended by striking out the words "one thousand," and inserting in lieu thereof the words "five hundred."