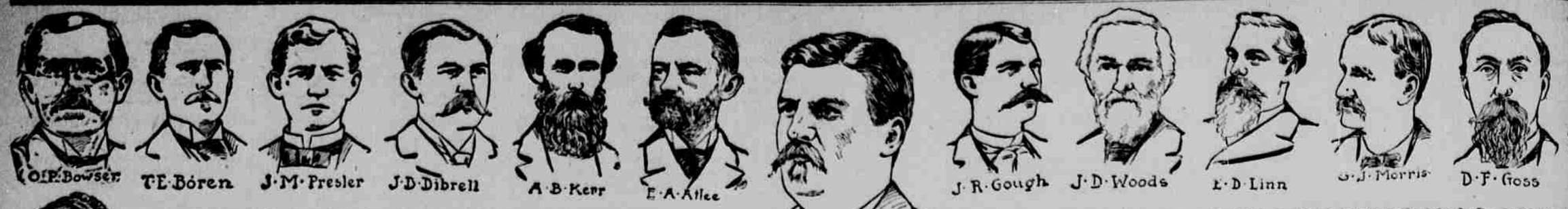

GULBERSON'S MESSAGE.

To the Senate and House of Representatives:

Executive Office, Austin, January 14.—The constitution directs that at the commencement of each legislative session the executive shall by message give to the legislature information of the condition of the State and shall recommend such legislation as may be deemed expedient. In so far as it has been affected by the operations of the State government the past two years the condition of the State exhibits substantial and marked improvement.

Condition of the State Laws Enacted.

The new laws have operated successfully and beneficially; immigration has been encouraged and the population has materially increased; while taxable values have declined in the general National depression, it has not been to such extent as in other States; high character as a field for the safe investment of capital has been maintained and strengthened; the laws have been enforced with diligence and energy; the educational institutions have prospered and enlarged; all benevolent, charitable and penal institutions have grown in usefulness; public expenditures have been greatly reduced; every department of the government has been conducted with ability and economy; and with a moderate tax rate an efficient government has been maintained and a previous indebtedness of $1,200,000 in general revenue and the school fund, due to causes frequently stated, has been discharged, and cash payments resumed and continued without interruption.

Laws Which Have Benefited the People.

Among the laws enacted during the past two years, which have substantially benefited the public, the statute of limitations was made applicable to married women and land titles quieted; contested elections were regulated; the laws were revised and codified; occupation taxes were made uniform; primary celections were legalized and regulated; the colored people were given control of their schools; ad valorem taxation was equalized; railway land titles were validated; connecting lines of common carriers were made responsible for freight losses; the Confederate home was made a permanent State institution supported by taxation; the strongest anti-trust law in the Union was passed; the interests of labor were guarded by an arbitration act, and extravagant and unconscionable fees of office were largly reduced. Though the act appears to need amendment in order to be more effectually enforced, the protective features of the fish and oyster law have proved a decided benefit along the entire coast. Oysters have been more abundant and there have been more fish in the bays since October 1, when the reserved bays were opened, than at any time for two years.

Act Regulating Collection of Delinquent Taxes.

The act regulating delinquent taxes, compelling unwilling citizens to bear their just share of the burden of government, has done much toward correcting existing injustice. In 1894 the total State and school delinquent tax collected was $19,476.21, while in 1895 and 1896, under this act, it was $45,432.50 and $79,966.46 respectively. The delinquent county taxes collected have increased in the same proportion. Time serving complaints against this law are answered by the suggestion that its penalties are necessary to enforce collection and may be avoided by prompt payment of taxes. When it is recalled that enough taxes are now delinquent to defray the general expenses for the year the good effected toward equalizing the burdens of taxation will be properly appreciated.

Change in the School Land Law.

The change in the school land law reducing the price of pasture lands to one dollar per acre, leases to 3 cents per acre and interest to 3 per cent is fully justified by the operation of the present law. Previous to this purchasers and lessees of public lands were forfeiting their claims and defrauding in the payment of interest in unprecedented numbers while since then forfeitures and defaults have lessened and both sales and leases have rapidly multiplied. For the year ending August 1, 1895, the sale of school lands amounted to 209,948 acres and leases to 1,712,301 acres. For the year ending August 1, 1896, with the new law in force, the sales amounted to 1,179,847 acres and the leases to 5,126,967 acres.

Two years ago, when the last regular message was submitted to the legislature, with no money in the treasury to the account of general revenue there was an outstanding registered and estimated indebtedness in that fund of $780,000.

Expenditures Were Greatly Reduced.

This condition of the treasury made it necessary to reduce expenses and accordingly the reduction in public expenditures the past two years, in general statutes and the appropriation bill, was notable and far reaching, embracing Deaf and Dumb Asylum, University, penitentiaries, Confederate home and reformatory. The comptroller reports that for the two years ending August 31, 1896, the total reduction of expenses was $502,520.67, but as this includes part of the years 1894 and 1895 under previous laws and omits consideration of the period from August 31, 1896, to March 1, 1897, the end of the present appropriation year, the entire reduction is not shown. The full reduction in appropriations including legislative per diem, mileage and contingent expenses was $684,281.71, and the deficiencies only $18,049.60, making the actual reduction measured by appropriations of the preceding term $846,182.11 for the two years.

Educational Institutes Make Good Progress.

The condition of the public schools and other educational institutions shows that they have made material and gratifying progress. During the term a deficit of $347,690.50 in the public free school fund has been discharged and school vouchers, which were being discounted, are now promptly paid on presentation. The scholastic population has increased from 693,752 in 1894 to 751,225 for the present year, yet the schools were conducted for four and one-half months the past year on an apportionment of $3.50 per capita, the same as the preceding year, and an apportionment of $4 per capita has been declared for the present year, which should maintain the schools for five and one-half months.

Five and a Half Months' Schooling Assured.

Under an act of the legislature of 1856 part of the school fund was loaned, prior to the war, to the Houston and Texas Central Railway company and the Galveston, Harrisburg and San Antonio Railway company. For many years a controversy has existed between these companies and the State as to the amount due on these loans, the State claiming an indebtedness of more than $1,000,000 and the companies insisting that it has been fully satisfied by payment in State warrants issued during the war. Final default in payment was made by the companies in 1894, and in December of that year suits were begun by me as attorney general to recover the money. These suits have been successfully prosecuted to judgment by the present attorney general in favor of the State in the district court for $1,200,000, from which appeals have been taken and are yet undetermined in the court of civil appeals. Should the State finally succeed in the suits the judgments will undoubtedly be paid, as there is a lien on the railway property amply sufficient to secure payment, and the money collected will be a part of the school fund.

Attendance at the Schools Has Increased.

Notwithstanding the general financial depression, the attendance of students at the University and the medical branch has increased, and at the Agricultural and Mechanical college and the Sam Houston Normal institute has been maintained. The new lease law will probably increase the income of the University from leases $10,000 annually for use in current expenses. The attendance at the blind institute and the white and colored deaf and dumb institutes has grown appreciably. Of the educational institutions only the Prairie View Normal school shows a decrease in the number of students, due no doubt to the stringency of the times. The conduct of the State towards others entitled to her generosity and care is worthy of her traditions and her history. Many more disabled ex-Confederate soldiers have been provided for than heretofore; and the number of orphan children cared for exceeds that of any previous time. The capacity of the several lunatic asylums has been exhausted and the number of inmates accommodated was greater than any preceding term.

The penal institutions are also in a most satisfactory condition. The number of persons confined in the house of correction and reformatory was reduced one-half the past year and would seem to indicate a marked decrease in crime committed by persons under 16 years of age and punished by imprisonment there.

There was a net increase of 296 convicts in the penitentiaries for the two years, the number on hand being 4421. This, with a decided increase in the number of indictments and convictions for felonies, indicate increase in crimes of that grade.

Penitentiaries Have Been Self Sustaining.

Notwithstanding this increase in prison population, the reduction of convict wages, due to monetary depression and the heavy loss of cane by the extreme cold weather in 1895, the penitentiaries, under the present splendid management, have been more than self-sustaining. The appropriation from the general revenue for their support was not used, the total receipts from labor for the two years increased $83,000, the total cost per ca[illegible] taining the forces [illegible] October 31, [illegible] a cash balance [illegible] 301.24. As the agent received his predecessor, [illegible] clear profit ex[illegible] for the two years [illegible] ver conditions [illegible] pita for maintaining the [illegible] decreased, and [illegible] 1896, there was [illegible] on hand of $95,[illegible] present financial [illegible] $64,798.29 from this shows a [illegible] creeding $30,000 [illegible] despite the admentioned. How[illegible]

Lieutenant Governor Jester.

these great institutions of the State have been managed the past two years may be seen from the following comparison of expenditures with the preceding two years:

State Lunatic Asylum.	1893. $151,468.97	1894. $143,986.06	Total. $295,455.03	Decrease.
	1895. $124,731.19	1896. $120,235.73	Total. $244,968.92	$50,485.11
North Texas Lunatic Asylum.	1893. $143,002.16	1894. $162,320.26	Total. $305,322.42	Decrease.
	1895. $134,850.71	1896. $137,969.59	Total. $272,547.30	$32,785.12
Southwest Texas Lunatic Asylum.	1893. $54,886.59	1894. $55,848.43	Total. $110,715.02	Decrease.
	1895. $56,962.89	1896. $47,640.56	Total. $104,603.45	$6,111.57
Blind Asylum.	1893. $43,035.76	1894. $45,857.84	Total. $88,893.60	Decrease.
	1895. $43,483.63	1896. $45,389.06	Total. $88,872.69	$60.91
Deaf and Dumb Asylum.	1893. $41,928.28	1894. $40,351.20	Total. $82,279.48	Increase.
	1895. $48,675.29	1896. $48,965.90	Total. $97,641.19	$15,361.71
Colored Deaf and Dumb Asylum.	1893. $16,712.18	1894. $18,320.89	Total. $35,033.07	Decrease.
	1895. $16,633.55	1896. $16,872.18	Total. $33,505.73	$1,527.34
Orphans' Home.	1893. $17,759.53	1894. $27,383.40	Total. $45,142.93	Decrease.
	1895. $20,093.26	1896. $24,815.18	Total. $44,908.44	$234.49
Sam Houston Normal Institute.	1893. $21,043.95	1894. $36,267.60	Total. $57,311.55	Decrease.
	1895. $29,864.70	1896. $25,852.57	Total. $55,717.27	$3,594.28
Prairie View Normal Institute.	1893. $13,305.27	1894. $28,189.27	Total. $41,494.54	Decrease.
	1895. $16,052.90	1896. $10,700.97	Total. $26,753.87	$14,740.67
A. and M. College.	1893. $27,174.00	1894. $59,436.67	Total. $86,610.67	Decrease.
	1895. $28,029.04	1896. $30,205.02	Total. $58,234.06	$28,376.51
The University.	1893. $37,078.03	1894. $61,779.98	Total. $98,858.01	Increase.
	1895. $62,692.92	1896. $67,924.28	Total. $130,617.20	$31,759.19
Correction and Reformatory.	1893. $28,303.20	1894. $30,206.69	Total. $58,509.90	Increase.
	1895. $33,910.11	1896. $25,659.31	Total. $59,569.42	$11,059.52
The Penitentiaries.	1893. $44,000.00	1894. $45,795.90	Total. $89,795.90	Increase.
	1895. $59,299.37	1896. $58,376.50	Total. $117,665.87	$17,869.97
Confederate Home.	1893. $14,307.76	1894. $36,527.62	Total. $50,835.38	Increase.
Total expenditures for years 1893 and 1894				$1,403,472.12
Total expenditures for years 1895 and 1896				$1,309,441.79

The foregoing table, with other data, shows that for the years 1893 and 1894 there was maintained an average number of inmates of educational, benevolent, charitable and penal institutions of 7712, at a cost from the general revenue of $1,403,472.12, or $90.99 per capita per annum. For the years 1895 and 1896 there was maintained an average number of 8864 inmates at a cost of $1,309,441.79, or $73.89 per capita per annum, without injustice to individuals or detriment to the public service.

The Railroad Commission.

During the past two years the railroad commission has fully sustained the wisdom of its creation. In that time it has established or amended tariffs on practically every species of freight except lumber. The general merchandise tariff was put into operation August 6, 1895, and required great industry and labor. Railway bonds on completed roads aggregating $1,600,000 were examined and registered under the act to prevent fraudulent and fictitious issues of such securities. More than 3000 miles of railroad have been inspected and valued as an honest basis for the issue of bonds. Reduction in rates was made among other things on cotton, general merchandise, agricultural implements, farm wagons, bagging and ties, machinery, engines and boilers, cotton gins, feeders and condensers, cotton presses, beams, columns and girders, stoves and stove ware, wooden ware, furniture, iron castings, horse and mule shoes and packing house goods.

Over Two Million Saved in Freights.

The total amount saved to the people for the two years by the reduction of rates as estimated by the commission is $2,231,000. The work of the board of pardon advisers, difficult and indispensable, has been performed with exceptional efficiency and fidelity. Several thousand applications for pardon have been considered and 291 were granted for felonies from the penitentiaries. From the reformatory 106 pardons were granted, 66 of which were because the applicants were over 16 years of age and therefore illegally sent to that institution. Performing his duties with ability and commendable energy, the State revenue agent has contributed materially to the increased revenue collected during the term from the traffic in beer and whisky and in the enforcement of laws relating to other taxable occupations. The Rangers and volunteer guard, under the direction of the adjutant general, have rendered gallant and conspicuous service in the suppression of crime and the maintenance of law and order.

Entirely Free from Dangerous Epidemics.

Largely through the clear foresight and wise conduct of the State health officer we have been entirely free from dangerous epidemics. An account of the public moneys received and paid out by the executive from funds subject to his order, vouchers for which are filed with the comptroller, is attached to this message, and an examination will show that the amount is less than for many years. The heads of all departments and State institutions have discharged their duties faithfully and with distinguished ability, and your attention is particularly invited to their reports, which contain valuable information and suggestions. In all departments and in every grade of the service a high order of official integrity has been exhibited.

It is not extravagant to declare, in summing up the condition of the State, that in fidelity of the officials, in the liberality and wisdom of her laws, in her great charities and reformatories, in her splendid institutions of learning, in her commercial and industrial progress, in the economy, cleanliness and strength of her government and in the intelligence and character of her people, Texas may invite generous comparison and rivalry with her sisters of the Republic.

Legislation Recommended. Platform Demands.

In the consideration of legislation at this session, easily first is that to which the executive and a majority of the legislators are publicly pledged. This legislation needs neither argument nor extended statement to support it. It has been fully discussed and approved by the people, the legislature is solemnly obligated to enact it, and a failure to do so would justly subject it to severe censure and condemnation. Broadly stated, this legislature is bound by party platform (1) to continue economy and reduce expenses wherever practicable, (2) liberally support the free schools, (3) liberally maintain the higher educational institutions and the Confederate home, (4) supply necessary asylum accommodations for the insane, (5) require express companies to maintain general offices in the State, (6) set apart 50,000 acres of land for a colored university, (7) reapportion and reduce the judicial districts, (8) facilitate the sale of the public school lands, (9) provide for the safe investment of the school fund now idle in the treasury, (10) protect laborers in the prompt payment of wages and fix liens to secure them, (11) amend and broaden the fellow-servant law, (12) adopt measures to abolish gradually the convict lease system, (13) pass a general official fee bill and (14) reform the criminal laws. The first four of these subjects, so far as may be necessary, will be considered in a more appropriate place in this message, and the fifth needs no further notice.

Protection for the Idle School Fund.

The constitution provides that the legislature shall, when deemed practicable, establish and provide for the maintenance of a college or branch university for the instruction of the colored youths of the State, but that no tax shall be levied and no money appropriated out of the general revenue for this purpose. Obviously, the only constitutional method of establishing such college or branch university is to segregate and sell a portion of the unappropriated public land. There are now 4,250,000 acres of such land, and the appropriation should immediately be made, giving priority to this purpose, before it is too late from the exhaustion of the domain.

Judicial Districts Should Be Remodeled.

There are now fifty-four district judges and two criminal district judges with salaries amounting to $140,000 annually. Some of these judges are overworked and others are idle half the year, the length of the terms varying from twenty-eight to forty weeks in the year. The average term will not probably exceed thirty-two weeks out of fifty-two. If each of the districts should be given 100,000 people, which some of them now contain, the number could be reduced to thirty. Having regard for other matters which materially affect the question, such as the extent of territory in the districts, the number of district judges can be safely reduced to forty. This legislation is demanded both by the necessity of equalizing the labor of the judges and cutting off unnecessary expense to the people, and no consideration of incumbents or imaginary geographical difficulties should be allowed to influence or defeat it.

Some Counties Cast Less Than Fifty Votes.

Associated with this subject is the fact that while under the law counties can not be organized except they contain not less than 150 resident voters. At the late election some counties cast less than fifty votes and this fairly represents the number of voters in these counties. Continued organization of such counties is unjustly expensive to the residents and land owners for current expenses, and has frequently resulted in the erection of costly and extravagant court houses and jails. It is a hardship upon the judges and unnecessarily expensive to the State to maintain judicial district machinery there, for it is impracticable to secure grand and petit juries for the transaction of the business of the district court and no useful purpose whatever is subserved.

When the number of voters in counties falls below fifty the organization should be suspended with proper provision for the levy of a tax by the comptroller to discharge their outstanding indebtedness and attaching them to other counties for judicial purposes until organization is resumed. Besides discontinuing the expenses alluded to the time of judicial officers wasted there in vain efforts to transact business may be given to other counties and thus assist in reapportioning and reducing the judicial districts.

Public School Lands for Actual Settlers.

The platform declares in effect that the public school lands should be sold to actual settlers so as to promote the settlement of the country and its speedy development; and to accomplish this as well as that the school fund may be more speedily increased, such legislation should be enacted as will facilitate the sale of such lands rather than perpetuate the lease system. The price of agricultural lands is now two dollars per acre, pasture lands one dollar per acre, timbered lands five dollars per acre, and the rate of interest 3 per cent.

Price for Lands Should Be Reduced.

The only practicable way to facilitate and increase the sale of the lands is to reduce the price or the rate of interest. The price of pasture lands and the rate of interest were reduced in 1895, which should be sufficient; and the price of timbered lands seems low enough. Besides, reference is made in the platform declaration to sales to those desiring homes, and is primarily applicable to agricultural lands. The State should cease to be a land owner as soon as practicable. If the price of these lands should be fixed at $1 or $1.50 per acre it will promote the development of the Western part of the State, put the lands on the tax roll and invest the fund for the benefit of the schools—benefits that will outweigh any probable increase in the value of the lands which will result from holding them indefinitely; but holders should not be permitted to forfeit purchases already made and repurchase at the reduced price.

One of the sources of the available school fund with which the public schools are maintained is the interest derived from the investment of the permanent fund in county bonds.

Investment of the Public School Fund.

In October, 1895, when this subject was called to the attention of the legislature then in special session, there was on hand in the treasury uninvested money belonging to the permanent school fund amounting to $238,000. In April, 1896, when the matter was again referred to publicly the amount had grown to $422,000. Notwithstanding $160,000 of this fund has been transferred to the available fund, on January 7 there was in the treasury uninvested $213,584. This accumulation results from two causes mainly—(1) the increased foreign demand for Texas municipal securities carrying them to a premium, by which the State board of education, limited to the purchase of bonds which bear at least 5 per cent interest, is practically driven out of the market, and (2) almost a concert of action of counties in funding their bonds now held by the State, bearing 6 per cent, into 5 per cent bonds, and frequently disposing of the new bonds to other purchasers.

State Must Compete With Others.

The fund under existing law can only be invested in bonds of the United States, the State of Texas and counties in this State, and since the two former are at a heavy premium investment is practically limited to the last. We are charged to enact such careful and guarded laws as may be necessary for the State board of education to compete with private investors in the purchase of county bonds, so that this money may not remain idle in the treasury, and to meet this requirement it is essential that the minimum rate of interest the bonds shall bear be reduced or the limitation on the amount the board may pay for bonds be modified.

The beneficiaries of the act creating liens in favor of laborers, mechanics and material men should be enlarged so as to embrace any clerk, accountant, bookkeeper, artisan, craftsman, factory operative, mill operative, servant, mechanic, quarryman and common laborer.

Mechanics' Lien Law Needs Enlarging.

Often beneficiaries of such liens are denied the remedy for collecting their claims because they are too poor to employ counsel and the claims are not large enough to justify taking them on contingent fees. When they are compelled to resort to suit to enforce payment of their wages an attorney's fee of ten dollars when the account is less than $100 and 10 per cent when above that sum should be included in the judgment. The venue of suits for wages of labor and enforcement of these liens should be fixed in the county and precinct where the services are performed or where the debtor resides, at the option of the plaintiff. As the law now is laboring men must often abandon and lose their claims because they are unable to collect them through courts in distant counties in consequence of the expense of attending them.

Injustice of the Fellow Servant Law.

More than half a century ago, in South Carolina, a railroad company, in order to relieve itself of responsibility for damages, suggested the doctrine of fellow servants and it was adopted by the court. It has since become the recognized law of the land, except where modified by legislation. Broadly put it means that a person engaged in service can not recover damages of his employer for personal injuries, nor his family if death ensues, if the injury resulted from the negligence of a fellow servant. Be-