

BULLETIN
OF
THE UNIVERSITY OF TEXAS

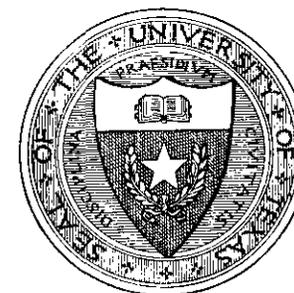
No. 270

OFFICIAL SERIES No. 85

MARCH 8, 1913

*By-Laws of the Board of Regents and
Rules and Regulations for the
Government of the Uni-
versity of Texas*

ADOPTED BY THE BOARD OF REGENTS, NOV. 11, 1912



PUBLISHED BY
THE UNIVERSITY OF TEXAS
AUSTIN, TEXAS

*Entered as second-class mail matter at the postoffice at
Austin, Texas*

The benefit of education and of useful knowledge, generally diffused through a community, are essential to the preservation of a free government.

Sam Houston.

Cultivated mind is the guardian genius of democracy. . . . It is the only dictator that freemen acknowledge and the only security that freemen desire.

Mirabeau B. Lamar.

BY-LAWS OF THE BOARD OF REGENTS

ARTICLE I

TIME, PLACE, AND MANNER OF MEETING

SECTION 1. The regular meetings of the Board of Regents shall be held each year at 10 a. m. on the fourth Tuesdays of April and October, and on the day preceding Commencement Day, in the Regents' room at the Main University in Austin, and in May at Galveston on the day on which the graduating exercises of the Medical Department are held; and the board shall continue in session, except during the Commencement and graduating exercises, until the business before it shall have been disposed of.

SECTION 2. If, not less than twenty days after a regular meeting, the chairman of the board shall receive a request, signed by five members, that he call a special meeting for purposes specified in the request, he shall call the desired meeting by causing written notification of the time, purposes, and place thereof to be mailed to each member of the Board at least five days before the time of the meeting. No business other than that embraced in the call for the special meeting shall be transacted thereat, except by consent of a majority of the whole board.

ARTICLE II

OFFICERS AND THEIR DUTIES

SECTION 1. At the first meeting after its appointment by the governor, the board shall elect a chairman, who shall hold his office for two years and until his successor is duly elected. In case of the death, resignation, or disqualification of the chairman before the expiration of his term of office, the board shall, as soon as practicable, elect another chairman, and, until such election is had, the vice-chairman shall perform the duties of the chairman.

SECTION 2. It shall be the duty of the chairman to preside over the meetings of the board, to call special meetings as herein provided, and to perform such other special duties as shall be

devolved upon him by the board. Under the direction of the board he shall prepare the reports to the Board of Education and Legislature required by law, and shall have power to require the advice and assistance of the president and other officers of the University in compiling these reports.

SECTION 3. At the time of election of the chairman, a vice-chairman shall also be elected, who shall, upon the death, absence, resignation, disability, or disqualification of the chairman, perform the duties of the chairman until the chairman shall resume his office or his successor shall have been elected, as herein provided.

SECTION 4. The board shall, at the time of the election of the chairman, also elect a secretary whose term of office shall be two years, and whose duty it shall be to keep a record of the proceedings of the board, to file and preserve carefully all papers and documents pertaining to the business and proceedings of the board, and to perform such other cognate duties as shall be provided by the board. He shall receive such recompense as may be fixed by the board and shall be removable at the board's pleasure.

ARTICLE III

STANDING COMMITTEES AND THEIR DUTIES

SECTION 1. The following standing committees shall be appointed by the chairman, by and with the consent and advice of the board:

- Executive Committee.
- Committee on Finance.
- Auditing Committee.
- Committee on Buildings and Grounds.
- Committee on Complaints and Grievances.
- Land Committee.
- Committee on the Medical Department.
- Legislative Committee.

SECTION 2. These committees shall remain as constituted (unless a vacancy shall be caused by death or refusal of some member of the committee to act) until the first meeting of the board after its appointment by the governor, at which time, and every two years thereafter, the said committees shall again be constituted by the chairman, as provided in the preceding section.

SECTION 3. In case a vacancy shall occur on any of the standing committees, the chairman of the board shall appoint another member or members of the board to serve thereon until the next regular meeting, at which time the sense of the board shall be taken on said appointment, and, if confirmed, the appointment shall stand until the time for reconstituting the standing committees, as herein provided.

SECTION 4. The Executive Committee shall consist of the chairman of the board, ex-officio chairman of the committee, and two other members. It shall be the duty of this committee to execute such orders and resolutions of the board as shall be assigned to it at any meeting of the board, and when the board is not in session and an emergency shall arise requiring immediate action, it shall take such temporary and immediate action as the emergency shall, in the judgment of the committee, require. At each meeting of the board the committee shall report, in writing, for approval, all action taken by it.

SECTION 5. The Finance Committee shall consist of three members. To this committee shall be referred all questions involving the finances of the University and matters cognate thereto, which the board may desire to be referred.

SECTION 6. The Auditing Committee shall consist of two members. To this committee shall be referred the auditing of all accounts of receipts and expenditures on behalf of the University, and such other matters as the board may desire to have audited.

SECTION 7. The Committee on Buildings and Grounds shall consist of three members. To this committee shall be referred any question relating to the buildings and grounds, both of the Main University at Austin and of the Medical Department at Galveston, and other cognate matters. It shall be the duty of this committee, on behalf of the board, to make and let all contracts for the erection of new buildings, for extensive improvements and repairs to old buildings, and for extensive improvements in the grounds of the University; to prepare and file written contracts therefor, and to report its action, in writing, to the next regularly called meeting of the board for approval. All matters involving ordinary repairs, changes, adjustments, and improvements for the purpose of putting and keeping in good condition and efficient use the buildings, grounds and equipment of the University are committed

to the president, who shall, from time to time, make report of his action in such matters to the board.

SECTION 8. The Committee on Complaints and Grievances shall consist of three members. To this committee shall be referred all matters relating to any complaints or charges concerning the conduct of any member of the faculty or of any employee of the Main University at Austin, with power to examine into and make report thereon; and it shall have like power to hear and examine into all such complaints, charges, and grievances during the time the board is not in session; and, in the event of an emergency requiring prompt action, the committee shall have power to take such provisional action as it may deem necessary until the sense of the board may be obtained at a regular or special meeting. The committee shall report, in writing, at each regular meeting of the board, and at such other times as may be directed, concerning all matters referred to or acted upon by it, and shall make such recommendations as it may deem proper.

SECTION 9. The Committee on the Medical Department shall consist of three members. To this committee shall be referred all matters touching the conduct of the Medical Department which have not, under these rules, been specially assigned to some other committee or to the president. It shall be clothed with the same powers and charged with the same duties with respect to the Medical Department as have been assigned to the Committee on Complaints and Grievances. It shall report, in writing, at each regular meeting of the board, and at such other times as may be directed by the board, touching matters with which it is charged, or which have been referred to it, and make such recommendations as it may deem proper.

SECTION 10. The Legislative Committee shall be composed of three members. To this committee shall be referred all matters relating to the Constitution and laws of the State affecting the interests of the University. It shall be the duty of the members of this committee to familiarize themselves with the history of all legislation pertaining to the University, to prepare and present to the Legislature for passage such new laws and amendments to existing laws as will promote the interests of the University and increase its efficiency, and to report to the board, in writing, all

action taken by it, with such suggestions and recommendations as it may deem best.

SECTION 11. The Land Committee shall consist of three members. It shall have immediate supervision of the work of the land agent (who shall be appointed upon recommendation of the committee); it is authorized to make sales and leases of University lands, forwarding recommendations to the chairman of the board, who will sign and execute all deeds and leases, and to cancel leases; it shall pass upon all rebates or refunds; it shall see that the records of the land agent are correctly and safely kept and that his reports are full and accurate and are promptly filed as directed by the board; and it shall make such recommendations for improving the management of the lands as it may see fit.

ARTICLE IV

RULES OF PROCEDURE AND ORDER OF BUSINESS

SECTION 1. The rules laid down in Cushing's Manual of Parliamentary Law, when not in conflict with any of the provisions of this article, are hereby adopted as the law of procedure for the government of the board when in session.

SECTION 2. The order of business when the board shall meet in regular session shall be as follows:

1. Reading minutes of preceding meeting.
2. Report of president.
3. Reports of standing committees.
4. Reports of special committees.
5. Unfinished business.
6. New business.

SECTION 3. The board shall, in all cases when practicable and desirable, before taking action on any subject or measure coming clearly within the sphere of the duties of any standing committee, refer the same to the proper committee, which shall report its recommendations in writing.

SECTION 4. In the interest of clearness, to prevent misapprehension, and to secure accuracy of record, each maker of a motion or mover of a resolution, at the time of offering it, shall reduce it to writing and deliver it to the secretary of the board.

SECTION 5. All communications to the board from persons not members thereof, except in the case of the president, shall be in writing, nor shall any person be allowed to address the board while in session unless by unanimous consent of all the members present.

ARTICLE V

REPEAL AND AMENDMENT

SECTION 1. All rules, orders, and resolutions heretofore enacted by the board which are in conflict with these by-laws or with the rules and regulations following them, are hereby repealed.

SECTION 2. Neither these by-laws nor the rules and regulations following them shall be added to or amended except by a vote of a majority of all the regents, at a regular meeting; such addition or amendment shall be filed with the secretary, in writing, thirty days before such meeting; and it shall be the duty of the secretary forthwith to mail a copy thereof to each member of the board.

RULES AND REGULATIONS

ARTICLE I

BOARD OF REGENTS

SECTION 1. Subject only to federal and state constitutions and laws, all University policies shall be determined by the Board of Regents, and in them shall be included such policies of the best State universities as are consistent with those adopted by the board.

SECTION 2. The president of the University shall be elected by the board and shall hold his office during good behavior and while he renders efficient and satisfactory service.

SECTION 3. Departments shall be established, offices, professorships and other positions determined, salaries fixed, degrees conferred, and diplomas granted, exclusively by the board.

SECTION 4. Expenditures shall be made only upon appropriations made by the board based upon a budget prepared by the president from reports of chairmen of schools and other officers, showing the necessary expenses to be incurred for the year.

SECTION 5. Requirements for degrees shall be prescribed by the board, but the various faculties are expected to make recommendations at their discretion.

SECTION 6. All appointments, promotions, and dismissals, except as otherwise specifically provided herein, shall be made by the board upon recommendation of the president.

SECTION 7. All University positions shall be kept upon the merit basis. No officer or employee shall be removed except for good cause; and whenever an appointment is made it shall be made solely with regard to the special fitness of the appointee. Appointment of a relative of a member of the board, or any other person occupying an influential position in the University, is wholly disapproved. Political, social, fraternal, or other church influences are to be altogether ignored. The president and the other officers of the University are to feel fully assured that the regents will heartily support them in acting upon this principle.

SECTION 8. The board shall have power to remove any pro-

fessor, instructor, tutor, or other officer or employee connected with the University, when, in its judgment, the interests of the University shall require it; and all contracts now existing between the University and professors, instructors, tutors, and other officers and employees thereof, and those that may thereafter be made, are subject to this provision.

SECTION 9. No member of the instruction force shall be employed in any work which does not come naturally within the scope of his duties, and for which additional compensation is expected, without the approval of the president and the board.

ARTICLE II

OFFICERS OF ADMINISTRATION

SECTION 1. The President of the University shall be the expert adviser and responsible agent of the Board of Regents and the chief executive of the University. He shall be held responsible by the board for the carrying out of its policies, and his discretionary powers shall be broad enough to enable him to meet this extensive responsibility. All other officers, teachers and employees shall be responsible to and under the direction of the president, and all communications between them and the regents relating to the University shall pass through his hands for any endorsements he may deem it proper to make. He shall recommend suitable persons to fill vacancies, and is authorized to fill vacancies temporarily and make other arrangements in all emergencies between the meetings of the board, so that the work of the University shall not suffer. He shall be prepared to give the board information regarding the competence and loyalty of officers, teachers, and employees; shall hold all of them to the full discharge of their duties; and, if in his judgment the necessity arise, shall initiate steps for a change of any of them. He shall keep in sympathetic touch with the students, so far as their number permits, and shall personally and in co-operation with other officers and teachers, help them to become loyal, useful, and efficient citizens. He shall attend all meetings of the Board of Regents and shall follow its directions in any particular matter, but the board will not undertake, ordinarily, to direct the details of executive action, and the president is expected

to act with perfect freedom within the lines of the general policies. it lays down.

SECTION 2. The Dean of the Faculty shall, in the absence of the president from Austin, represent him in appropriate matters, including presiding at meetings of the general faculty. He shall see to the execution of regulations originating in the general faculty, including those dealing with admission to all departments in Austin, the registration of all students in Austin, and the making up of admission conditions. He shall study the needs of the College of Arts, plan for its improvement, and make recommendations to the college faculty with the view to correlating its courses of instruction as well as possible. He shall supervise the preparation of the University catalogue, the schedule of examinations, the schedule of hours and rooms for classes, the annual directory, and the final announcement of courses. He shall edit University publications, pass on candidates for scholarships and applications for loans from the Student Aid Fund, except in the Engineering and Law Departments, and supervise the expenditure of the Student Help Fund. He shall make an annual report to the president.

The deans of the several departments shall see to the execution of regulations affecting their respective departments, shall concern themselves with the interests and attention to duty of individual students, and shall plan for their departments and see that the courses of instruction in their departments are as well correlated as practicable. The Dean of the College is relieved from the two duties last mentioned, but is exclusively charged with passing on the eligibility of candidates for athletic teams. Each dean shall make an annual report to the president.

The Dean of the Medical Department shall perform the duties of the deans of departments and shall represent the president in appropriate matters during the latter's absence from Galveston.

The Dean of Women shall be charged with the general oversight of all the women students of the University. She shall seek to become their representative, guide, and friend, and it shall be her duty to aid and advise them in their University work and in social life, to the end that the highest attributes of independence and true womanly character may be developed.

SECTION 3. The librarian shall have charge of and be respon-

sible for the proper use and condition of the library. All books, pamphlets, maps, etc. (other than account books of record) belonging to the University, shall be deemed to belong to the University library. All reference books and current periodicals, magazines, and newspapers, shall be made as easy of access as practicable to all patrons of the library, and no limitations not necessary to their preservation shall be placed upon their free use. Other books, except such as are referred to in the next paragraph, shall be delivered for use only upon a proper call.

Books which are purely technical and relate to the work of a single school or department may be taken out by that school or department under such regulations and for such times as the librarian may determine; but the librarian shall not thereby cease to be responsible for their safe keeping and proper use.

The librarian may make and enforce such rules for the government of the library as are approved by the president.

SECTION 4. The registrar shall keep permanent, systematic, and convenient records, containing the class grades of each student and all other recordable information about him that he or the University may at any time need. The records shall be so kept as to enable authorized persons to get from them the maximum of legitimate information about students with the minimum expenditure of time and effort. The registrar is authorized to call upon other officers and upon teachers and students for such information as he may need for the performance of these duties.

SECTION 5. The auditor shall be the receiving, disbursing, and purchasing agent for the University, and shall have charge of the accounting department of the institution. He shall devise and have kept a simple but complete set of double entry books, embracing the voucher system, which shall show all the financial transactions of the University of Texas, and in such books, under proper and appropriate headings, shall be entered and kept a full, complete and properly classified system of accounts, showing all properties belonging to the University of Texas, and in such manner as at all times to set forth clearly, truthfully and fully all of the assets and liabilities of the University of Texas.

The auditor shall act as purchasing agent for all supplies for the University except those specially authorized by the Board of Regents to be purchased by the chairmen of schools and deans of

departments for their laboratories and other designated purposes, but no purchases shall be made except upon an order signed by the auditor of which he shall keep a carbon duplicate. He shall audit the accounts of all expenditures, and see that they are charged to and covered by proper appropriations, that all items covered by such expenditures are clearly for the purpose for which the appropriations have been made by the Board of Regents, and that they have been properly approved by the persons responsible for such expenditures; but in no case shall the auditor approve bills or pay out funds except upon the previous authorization of the Board of Regents or other officially designated authority, and he shall be responsible for the proper accounting of every cent received or disbursed by him.

The Woman's Building and University Hall in Austin shall be under the supervision of the auditor. He shall prepare proper books and blanks for keeping a record of receipts and disbursements, and shall have authority to require the managers to furnish to him such reports and statements as may be necessary to give him a clear insight into the financial condition of these dormitories.

The auditor shall be custodian and shall be responsible for the safe keeping of all property belonging to the University of Texas, not in charge of the chairmen of the various schools, or special agents and employees of the institution by authority of the Board of Regents, and he shall keep a true and correct inventory of all property in his charge, and shall have authority to require, at least annually, and oftener if necessary, a statement from such chairmen of schools, special agents, and employees, showing the property in their immediate possession belonging to the University.

The auditor shall be required to furnish to the president of the University and the chairman of the Board of Regents such financial statements and reports as may be required by them.

The auditor shall enter into a bond in the sum of twenty thousand (\$20,000) dollars, with four or more good and sufficient sureties, that he will fully and faithfully perform all the duties now required of him or which may hereafter be required of him by the rules, regulations, and resolutions of the Board of Regents; that he will faithfully and honestly keep, account for, and turn over to his successor, or to such person as the Board of Regents shall direct, and according to the direction of the board, all the moneys,

property, vouchers, and papers belonging to the University, for which he is responsible; and that he will keep a full set of books which shall correctly set forth all the financial and property accounts, transactions, and dealings of the University with all persons, as required by the board.

ARTICLE III

FACULTIES

SECTION 1. Subject to the supervision of the Board of Regents and the authority it has vested in administrative officers, the general charge of the Main University is entrusted to the general faculty of the Main University, and the general charge of the Medical Department, to the faculty of the Medical Department; each of these bodies to consist of such teachers and other officers as may be designated by the Board of Regents.

SECTION 2. Each department of the Main University, including the College of Arts, shall be under the immediate charge of its departmental faculty. The faculty of the College of Arts shall consist of the members of the general faculty who belong to this department, and of such other persons as the Board of Regents may designate. The faculty of each of the other departments of the Main University shall consist of the members of the department who are members of the general faculty; of other teachers with the rank of instructor in the department who have served as such for a year or more; of one teacher, to be designated by the president, for each full course required from outside the department for any degree offered in the department; and of such other persons as the Board of Regents may designate. All members of each faculty shall have a voice in its deliberations, but only those shall have a right to vote who have a right to vote in the general faculty. Legislation exclusively affecting any department shall originate in the faculty of that department; legislation affecting less than all, but more than one department, shall originate in a joint meeting of the faculties of the department concerned; but no legislation shall be effective until approved by the general faculty (or, at its discretion, by its executive committee, which shall include the president, the dean of the faculty and the deans of the several departments), and where necessary by the Board

of Regents. Legislation affecting all departments shall originate in the general faculty.

SECTION 3. The president shall be a member, and chairman ex-officio, of each faculty. In the absence of the president from a meeting of a departmental faculty, the dean of the department shall preside.

ARTICLE IV

SCHOOLS AND DIVISIONS

SECTION 1. The faculties of the various departments shall consist of such schools as may from time to time be created by the Board of Regents.

SECTION 2. The staff of each school shall consist of all members who are concerned with the conduct of its work. Those members of the staff who hold a rank above that of fellow shall constitute the faculty of the school. All members of the school faculty shall have a voice in its deliberations, but only those members shall have a vote who have a seat in the general faculty.

SECTION 3. The chairman of each school, appointed by the Board of Regents to serve for two years, shall preside at its meetings, transmit its recommendations to the president, prepare under its direction the annual report of the school, and, in general, serve as the school's chief executive. It shall be the duty of all of the full professors of a school conjointly, or of its ranking professor, in case there is no full professor, to make annually to the president such recommendations touching salaries and promotions in the school as may be deemed wise, and, on request of the president, to recommend, after conference with other members of the school staff, suitable persons for appointment to vacant positions.

SECTION 4. The faculty of each school shall hold stated meetings at least once each term, and may meet at other times by the call of the chairman, or on written request of a majority of its members. It shall have power to pass regulations (subject to the rules passed by the regents and the general faculty) governing the internal working of the school, propose new courses to the committee on courses, and make recommendations touching equipment and such other matters as may affect the welfare of the school, except in respect to salaries and promotions.

SECTION 5. Before final adoption and submission to the president, the annual report of the work of the school, proposed new courses, plans for equipment, and all recommendations of importance, shall be presented for discussion to the division of which the school forms a part.

SECTION 6. To secure properly co-ordinated action between related schools in the College of Arts, they shall be grouped conveniently into divisions by the Board of Regents.

SECTION 7. The faculty of each division shall consist of the faculties of the schools comprising it. All members of these faculties shall have a voice in its deliberations, but only those members shall have a vote who have a seat in the general faculty. Each division shall elect its own chairman to serve for two years. Stated meetings shall be held at least once each term and meetings may be held at other times by the call of the chairman, or on written request of a majority of the division faculty.

SECTION 8. The division shall have power to recommend to the general faculty requirements for honors in the several divisions; to supervise the work of candidates for honors; to arrange and regulate such seminaries, societies, lectures, etc., as may need combined action; to nominate candidates for fellowships created primarily for the promotion of advanced work; and to make recommendations on any matter affecting the welfare of the division.

ARTICLE V

MISCELLANEOUS

SECTION 1. The fiscal year of the University shall begin on the first day of September in each year, and shall end on the thirty-first day of August next ensuing.

SECTION 2. The chairman of each school shall keep an inventory book in which to enter in detail all apparatus and other property belonging to the school. In addition to keeping this book, the chairman of each school shall present to the auditor, on or before July first, an inventory of all apparatus and other property belonging to the school, together with a statement of the condition thereof; and it shall be the duty of the auditor to present these inventories to the Board of Regents at the October meeting.

SECTION 3. No one connected with the University, in any capacity, shall use for his own pleasure or for any other personal purpose any University property of whatsoever description; and no one shall be permitted to remove from the buildings or grounds any property belonging to the University, even though it may seem to be of no value, unless it be temporarily and pursuant to some well established regulation or usage, or with the distinct approval of the president or auditor of the University.

APPENDIX

I.—HISTORICAL SKETCH OF THE UNIVERSITY

The University of Texas is a State institution, ordained by the Constitution, located by popular vote, endowed, and maintained by legislative grants.

The idea of a university for Texas is as old as Texas. The Declaration of Texas Independence, March 2, 1836, has for one of the main counts in its indictment against the government of Mexico the following: "It has failed to establish any public system of education, although possessed of almost boundless resources (the public domain), and although it is an axiom in political science that, unless a people are educated and enlightened, it is idle to expect the continuance of civil liberty, or the capacity for self-government." In accordance with the doctrine thus proclaimed, the first Constitution of the Republic declares it to be the duty of Congress "to provide, as soon as circumstances will permit, * * * a general system of education."

The first direct steps towards the founding of the University were taken by the Congress of the Republic in two acts passed during January, 1839. One of these provided for the setting apart of land for a campus in the future city of Austin. The other appropriated fifty leagues of the vacant lands of the Republic for the purpose of university education.

The establishment of the University was provided for by an act of the Legislature, February 11, 1858. The preamble of said act reads as follows: "Whereas, from the earliest time, it has been the cherished design of the people of the Republic and of the State of Texas, that there shall be established within her limits an institution of learning for the instruction of the youths of the land in the higher branches of learning and in the liberal arts and sciences, and to be so endowed, supported, and maintained as to place within the reach of our people, whether rich or poor, the opportunity of conferring upon the sons of the State a thorough education, and as a means whereby the attachment of the young men of the State to the interests, the institutions, the rights of the State, and the

liberties of the people might be encouraged and increased, and to this end liberal appropriations have been made; and whereas the increase of population and wealth of the State, and the tendency of events, indicate the fitness of now putting the cherished design into effect; therefore," etc. This act made provision for the endowment of the University by adding to the fifty leagues granted in 1839 one hundred thousand dollars in United States bonds, and one section of land out of every ten reserved for the use of the State by the various acts of the Legislature.

Provision was also made for the organization of the University, but was not carried out because of the Civil War and the unhappy era of Reconstruction. Indeed, under the exigencies of civil war, a large portion of the University endowment had been turned into the general revenue account and appropriated to the necessities of the State. But under direction of the Constitution of 1866 the Legislature refunded the amount previously diverted. The same Constitution provided that "the Legislature shall, at an early day, make such provision by law as will organize and put in operation the University"; but the times were unpropitious, and the organization was still delayed.

Provision for the organization and the maintenance of the University was again made in the Constitution of 1876. This Constitution took away from the endowment the lands which had been added to it by the Act of 1858, and gave in lieu thereof one million acres further west. It made the Agricultural and Mechanical College of Texas, which had been established a short time before and located in Brazos county, a branch of the University "for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith," and provided for the subsequent organization of "a college or branch university" for the instruction of the colored youths of the State. To the lands previously set apart and appropriated for the endowment, the Legislature in 1883 added one million acres.

The act of the Legislature providing for the organization of the University was passed in 1881. It provided for the location of the institution by popular vote, at the same time creating a Board of Regents, to whom was intrusted its organization and government. Among the provisions of the act affecting the policy of the University may be mentioned the limitation of the matriculation fee to

thirty dollars, the admission of men and women on equal terms without charge for tuition, and the injunction that no religious qualification should be required for admission to any office or privilege connected with the University, and that no sectarian instruction be given therein.

By popular election in September, 1881, the Main University was located at Austin and the Medical Department at Galveston. The Academic and Law Departments were at once organized, and on the 15th of September, 1883, the University was formally opened in the present Main University building, then consisting of the west wing only. The exercises were, however, conducted in the Temporary Capitol, since burned, until the first day of January, 1884.

In 1894 the Department of Engineering was inaugurated; in 1898 the Summer Schools; in 1906 the Department of Education; in 1909 the Department of Extension.

The Department of Medicine was opened with the School of Medicine in 1891, following the donation of the John Sealy Hospital to the State by the city of Galveston. The School of Pharmacy was added in 1893, the School of Nursing in 1897.

II.—CONSTITUTIONAL PROVISIONS RELATING TO THE UNIVERSITY.

ARTICLE III

LEGISLATIVE DEPARTMENT

SECTION 48. The Legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes:

* * * *

The support of public schools, in which shall be included colleges and universities established by the State; and the maintenance and support of the Agricultural and Mechanical College of Texas.

ARTICLE VII

EDUCATION

SECTION 10. The Legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a university of the first class to be located by a vote of the people of this State, and styled "The University of Texas," for the promotion of literature, and the arts and sciences, including an agricultural and mechanical department.

SECTION 11. In order to enable the Legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent university fund. And the same as realized and received into the treasury of the State (together with such sum belonging to the fund, as may now be in the treasury), shall be invested in bonds of the State of Texas, if the same can be obtained; if not, then in United States bonds; and the interest accruing thereon shall be subject to appropriation by the Legislature to accomplish the pur-

pose declared in the foregoing section; provided, that the one-tenth of the alternate sections of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of the University of Texas, by an act of the Legislature of February 11, 1858, entitled, "An Act to establish 'The University of Texas,'" shall not be included in, or constitute a part, of the permanent university fund.

SECTION 12. The land herein set apart to the University fund shall be sold under such regulations, at such times, and on such terms as may be provided by law; and the Legislature shall provide for the prompt collection, at maturity, of all debts due on account of university lands heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

SECTION 13. The Agricultural and Mechanical College of Texas, established by an act of the Legislature, passed April 17, 1871, located in the county of Brazos, is hereby made and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith. And the Legislature shall, at its next session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said college in immediate and successful operation.

SECTION 14. The Legislature shall, also, 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, to be located by a vote of the people; provided, that no tax shall be levied, and no money appropriated out of the general revenue, either for this purpose or for the establishment and erection of the buildings of the University of Texas.

SECTION 15. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart, and appropriated, for the endowment, maintenance, and support of said University and its branches, one million acres of the unappropriated public domain of the State, to be designated and surveyed as may be provided by law; and said lands shall be sold under the same regulations, and the proceeds invested in the same manner, as is provided for the sale and investment of the permanent university fund, and the

Legislature shall not have power to grant any relief to the purchasers of said lands.

ARTICLE XVI

GENERAL PROVISIONS

Section 30a. The Legislature may provide by law that the members of the Board of Regents of the State University and boards of trustees or managers of the educational, eleemosynary, and penal institutions of the State, and such boards as have been, or may hereafter be established by law, may hold their respective offices for the term of six (6) years, one-third of the members of such boards to be elected or appointed every two (2) years in such manner as the Legislature may determine; vacancies in such offices to be filled as may be provided by law, and the Legislature shall enact suitable laws to give effect to this section. [Adopted by election November 5, 1912; by proclamation December 30, 1912.]

III.—LAWS RELATING TO THE UNIVERSITY

REVISED CIVIL STATUTES, 1911

TITLE 48—EDUCATION—PUBLIC

CHAPTER ONE—UNIVERSITY OF TEXAS

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Article 2626. [3836] *University funds.*—The following shall constitute a permanent fund for the University of Texas, to be used for the benefit of said University:

1. All lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas under any previous law.

2. One million acres of the unappropriated public domain of the State set apart for that purpose by the present Constitution, and one million acres of land set apart by act of April 10, 1883.

3. All bonds that have heretofore or that may hereafter be purchased with the proceeds of the sales of the University lands.

4. All proceeds of the sales of University lands that are now, or may hereafter be, placed in the treasury of the State.

5. In addition to the foregoing, all grants, donations and appropriations that may be hereafter made, or that may be received from any other source. [Const., art. 7, secs. 10-15. Act Feb. 11, 1858, p. 148. P. D. 3573. See acts 1879, extra session, ch. 18.]

Article 2627. [3837] *Shall be held in trust and invested.*—Such portions of the funds specified in the preceding article as are now in the possession of the State, or that may hereafter be

received, shall be held in trust by the State for the use and maintenance of said University; and all such funds as are susceptible of investment, and that have not heretofore been invested, shall be invested for the benefit of such University in the manner provided in the Constitution and laws on that subject. [Id.]

Article 2628. [3838] *Title by donation may be vested, how.*—Any person, association of persons or body corporate making a donation of property for the purposes of establishing or assisting in the establishment of a professorship or scholarship in the University or any of its branches, either temporarily or permanently, may vest the legal title to the property in any person or persons, body corporate, or the State of Texas, to be held in trust for said purpose, under such directions, limitations and provisions as may be declared in writing in the donation which are not inconsistent with the objects and proper management of said institution or its branches. [Acts of 1889, p. 143, sec. 1.]

Article 2629. [3839] *Donor may direct transmission of title.*—It shall be lawful for the person or persons or body corporate to declare and direct the manner in which said title to said property shall thereafter pass or be transmitted from the person or persons or body corporate receiving it to others in continued succession, to be held and appropriated to the use aforesaid, and it shall be lawful for the donor or donors to declare and direct the person or class of persons who shall receive the benefit of said donation, together with the manner in which the person or persons who shall receive said benefits shall be from time to time selected, as it may become necessary to carry out the objects of the donation; provided, said declarations and directions are not inconsistent with the objects and proper management of said institution or its branches. [Id., sec. 2.]

Article 2630. [3840] *Shall vest in the State in trust, when.*—In the event there is a failure to transmit the title to the property or to bestow its use in the manner as declared and directed in the donation, or in the event they, or either of them should become impracticable from the change of circumstances, the title to the property, unless otherwise directed expressly by the donor, shall vest in the State of Texas, to be held in trust to carry into

effect the purposes of the donation as nearly as may be practicable by such agencies as may be provided therefor. [Id., sec. 3.]

Article 2631. [3841] *Must be subject to laws, etc.*—The title to said property donated shall be received, and the trust conferred in the donation shall be assumed, subject to laws that may be passed and carried into effect from time to time which may be necessary to prevent the loss of, or damage to, the property donated, or an abuse or neglect of the trust so as to defeat, materially change, or prevent the objects of the donation. [Id., sec. 4.]

Article 2632. [3842] *Copies to be filed with board, etc.*—Copies of said donation shall be procured and filed with the board which may have control of the University or any of its branches to which the donation applies, which board shall report the condition and management of the property and the manner in which the trust is being administered, as part of the matters reported pertaining to said institution. [Id., sec. 5.]

Article 2633. [4263a] *Control of University lands confided to regents.*—The Board of Regents of the University of Texas are invested with the sole and exclusive management and control of the lands which have heretofore been, or which may hereafter be, set aside and appropriated to, or acquired by, the University of Texas, with the right to sell, lease and otherwise manage, control and use the same in any manner, and at such prices and under such terms and conditions as may to them seem best for the interest of the University, not in conflict with the Constitution of this State; provided, that such land shall not be sold at a less price per acre than the same class of land of other funds may be sold at under the statutes. [Acts of 1895, p. 19.]

Article 2634. *Control of mineral lands confided to regents.*—Said Board of Regents are invested with the sole and exclusive management and control of all mineral lands within the domain which has been, or may hereafter be, appropriated, set aside or acquired by the University of Texas; and said Board of Regents are hereby empowered and authorized to sell, lease, manage and control said mineral lands belonging to said University as may seem best to them for the interest of the University; and they are further empowered with authority to explore and have explored and develop said mineral lands and to make any contract with any persons whomsoever for the exploration and development of said

mineral lands, and pay the expenses for such exploration or development out of the proceeds of the lease or sale of said land. [Acts 1901, p. 266, sec. 1.]

Article 2635. [4263b] *Duty of commissioner of land office.*—The commissioner of the general land office is hereby directed to furnish to the said Board of Regents complete and accurate maps, and all other data necessary, to show the location and condition of every tract of said University lands, and shall at all times furnish to said board such additional information as they may require, and shall at all times render to said board such assistance as may be possible and as they shall request in the discharge of the duties hereby imposed on said board. [Act 1895, p. 19.]

Article 2636. [3843] *Government of University, how vested.*—The government of the University shall be vested in a board of eight regents, selected from different portions of the State, who shall be nominated by the governor and appointed by and with the advice and consent of the senate. [Acts of 1881, p. 94; amend. 1895, p. 169.]

Article 2637. [3844] *Board of Regents classified.*—The Board of Regents shall be divided into classes, numbered one, two, three and four, as heretofore determined by the board, who shall hold their office two, four, six and eight years respectively, from the time of their appointment. Two members shall be appointed at each session of the Legislature to supply the vacancies made by the provisions of this article, and in the manner provided for in the preceding article, who shall hold their offices for eight years respectively. [Acts of 1881, p. 80; sec. 6.]

Article 2638. [3845] *Shall have right to use seal.*—The regents and their successors in office shall have the right of making and using a common seal and altering the same at pleasure. [Id., sec. 7.]

Article 2639. [3846] *How organized.*—The regents shall elect a chairman of the Board of Regents from their own number, who shall hold his office during the pleasure of the board. They shall establish the departments of a first-class university, determine the offices and professorships, appoint a president, who shall, if they think it advisable, also discharge the duties of a professor; appoint the professors and other officers, fix their respective salaries, and they shall enact such by-laws, rules and regulations

as may be necessary for the successful management and government of the University; they shall have power to regulate the course of instruction and prescribe, by and with the advice of the professors, the books and authorities used in the several departments, and to confer such degrees and to grant such diplomas as are usually conferred and granted by universities. [Id., sec. 8; amend. 1895, p. 169.]

Article 2640. [3848] *May remove officers.*—The regents shall have power to remove any professor, tutor or other officer connected with the institution, when, in their judgment, the interest of the University shall require it. [Id., sec. 10.]

Article 2641. [3849] *Admission fee limited.*—The fee of admission to the University shall never exceed thirty dollars, and it shall be open to all persons in the State who may wish to avail themselves of its advantages, and to male and female on equal terms, without charge for tuition, under the regulations prescribed by the regents, and all others under such regulations as the Board of Regents may prescribe. [Id., sec. 11.]

Article 2642. [3850] *Treasurer.*—The treasurer of the State shall be the treasurer of the University. [Id., sec. 12.]

Article 2643. [3851] *Available fund.*—The regents shall have authority to expend the interest which has heretofore accrued, and may hereafter accrue, on the permanent University fund, for the purposes herein specified, and for the maintenance of the branches of the University. [Id., sec. 18.]

Article 2644. [3852] *Expenditures how made.*—All expenditures may be made by the order of the Board of Regents, and the same shall be paid on warrants of the comptroller, based on vouchers approved by the president and countersigned by the secretary. [Id., sec. 19.]

By act of the Thirty-second Legislature (General Laws, Chapter 57), this article was amended to read as follows:

Article 2644. [3852] All expenditures may be made by the order of the Board of Regents, and the same shall be paid on warrants from the comptroller based on vouchers approved by the chairman of the board or by some officer or officers of the University designated by him in writing to the comptroller, and countersigned by the secretary of the board, or by some other officer or officers of the University designated by said secretary in writing to the comptroller.

Article 2645. [3853] *No religious qualification required for admission.*—No religious qualification shall be required for admission to any office or privilege in the University; nor shall any course of instruction of a sectarian character be taught therein. [Id., sec. 20.]

Article 2646. *Elementary agriculture to be taught.*—The Board of Regents shall require the teaching of elementary agriculture in the summer session of the University, as provided in Chapter 10 of this title.* [Acts 1909, p. 221, sec. 2.]

Article 2647. *Shall confer teachers' diplomas, when.*—The University shall also confer teachers' diplomas and certificates in such cases and under such circumstances and conditions as are prescribed in Chapter 14 of this title.** [Acts 1909, 2 S. S., p. 394.]

Article 2648. *Law licenses to issue on diplomas.*—Law licenses shall be granted upon the diplomas of the Law Department of the University, as prescribed by Article 317.*** [Acts 1905, p. 150.]

Article 2649. [3854] *Annual report to Board of Education.*—The Board of Regents shall report to the Board of Education annually, and to each regular session of the Legislature, the condition of the University, setting forth the receipts and disbursements, the number and salary of the Faculty, the number of students, classified in grades and departments, the expenses of each year, itemized, and the proceedings of the board and Faculty fully stated. [Acts 1881, p. 80, sec. 21.]

Article 2650. [3855] *Board of Visitors.*—There shall be appointed by the Legislature at each regular session a Board of Visitors, who shall attend the annual examinations of the University and its branches and report to the Legislature thereon. [Id., sec. 22.]

Article 2651. [3856] *Expenses of regents and visitors to be paid.*—The reasonable expenses incurred by the board of regency and visitation in the discharge of their duties shall be paid from the available University fund. [Id., sec. 23.]

Article 2652. [3857] *Governor to have issued manuscript*

*See below, p. 30.

**Amended by Act of the Thirty-second Legislature. See below, p. 31.

***See below, p. 31.

bonds.—The governor is authorized and directed to have issued manuscript bonds of the State of Texas to be sold or exchanged at par for the permanent University fund at any time when there is on hand in cash any reasonable amount of such funds not less than five thousand dollars. [Acts of 1889, p. 81.]

Article 2653. [3858] *Character of bonds.*—Said bonds shall be of such denomination as the governor may direct, and shall be redeemable at the pleasure of the State, and shall bear interest at the rate of five per centum per annum, payable annually at the State treasury on the first day of March of each year. [Id., sec. 2.]

Article 2654. [3859] *Form of bonds.*—The bonds issued under this chapter shall recite the title and date of passage of the act of 1889, page 81, shall be signed by the governor and treasurer and countersigned by the comptroller, and shall be registered in the office of the State treasurer; and, after said bonds have been registered, the governor shall offer said bonds to the Board of Education as an investment for the permanent University fund then on hand in cash which are by law authorized to be invested; and, if the Board of Education take said bonds, the treasurer and comptroller shall make the proper entry, showing the facts of the transaction and the necessary transfer of such fund on their books; and, if the Board of Education shall not take said bonds thus offered, the same shall be destroyed and canceled and of no effect whatever. [Id., sec. 3.]

TITLE 48—EDUCATION—PUBLIC

CHAPTER TEN—STATE BOARD OF EDUCATION

Article 2731. *Summer sessions of schools.*—The State Board of Education shall require the teaching of elementary agriculture for teachers in the summer sessions of the State Normal Schools at Huntsville, Denton, and San Marcos, and the Boards of Directors of the Agricultural and Mechanical College at Bryan, of the College of Industrial Arts for Girls at Denton, and of the State University at Austin, shall require the teaching of elementary agriculture for teachers in the summer sessions of these several institutions. [Acts 1909, p. 221, sec. 3.]

An appropriation was made by the Legislature in 1909 for carrying out this provision, but none in 1911.

TITLE 12—ATTORNEY AT LAW

Article 317. [257] [222a] *License to holder of diploma from University of Texas; conditions; clerk to issue; oath.*—Any person holding a diploma from the Law Department of the University of Texas shall be entitled to a license to practice as an attorney and counselor at law in all the courts of this State, without any further examination, upon presentation to the clerk of the Supreme Court of the State such diploma within twelve months from the issuance of the same together with a certificate from the commissioners' court of the county in which such person resides, showing that such person bears a good reputation for moral character and honorable deportment, that he has resided in such county for at least six months, is at least twenty-one years of age, and such other and further facts as may be required by the Supreme Court of this State; and the clerk of the Supreme Court of Texas is hereby authorized and empowered to issue said license upon payment of the fee of ten dollars, as required by law; provided, that nothing herein shall be construed to exempt the applicant for license from taking the oath required by law; and provided, further, that any diploma issued by said University on a grade less than that prescribed by the Supreme Court for examinations of applicants shall not entitle the holder thereof to such license. [Acts 1903, p. 60. Acts 1897, p. 17. Acts 1846, p. 245. Acts 1905, p. 150.]

ACT OF THE THIRTY-SECOND LEGISLATURE, REGULAR SESSION

GENERAL LAWS, PP. 192-193.—TEACHERS' CERTIFICATES

Section 116. A teachers' diploma conferred by the University of Texas upon a student who has satisfactorily completed at least four full courses in the Department of Education and who has satisfied the requirements for the degree of Bachelor of Arts, when presented to the State Department of Education with satisfactory evidence of having done the required work in education, shall entitle the holder to receive a State permanent certificate valid for life, unless canceled by lawful authority.

A person who has satisfactorily completed four full courses in the College of Arts and one full course in the Department of

Education of the University of Texas, or in any college or university ranked as first-class by the State Superintendent of Public Instruction, upon the recommendation of the State Board of Examiners, shall upon presentation of satisfactory evidence of having done the required work, be entitled to receive from the State Department of Education a State first-grade certificate valid until the fourth anniversary of the thirty-first day of August of the calendar year in which the certificate was issued, unless canceled by lawful authority.

Section 117. Any person who holds a diploma conferring on him the degree of Bachelor of Arts, or any equivalent bachelor's degree, or any higher academic degree, from any college or university of the first-class, and who has completed four full courses in education and pedagogy, may receive from the State Superintendent of Public Instruction a permanent State certificate, which shall be valid anywhere in this State during good behavior; provided, that any person who holds a diploma conferring on him the degree of Bachelor of Arts, or any equivalent bachelor's degree, or any higher academic degree, from any college or university of the first-class, who has not had four full courses in education, but who has taught three years in the State, may receive from the State Superintendent of Public Instruction a permanent State certificate, which shall be valid anywhere in this State during good behavior. The institutions to be recognized as colleges or universities of the first-class shall be determined by the State Superintendent of Public Instruction upon the recommendation of the State Board of Examiners.

ACTS OF THE THIRTY-SECOND LEGISLATURE, CALLED SESSION

GENERAL AND SPECIAL LAWS, PP. 76-77.—AUTHORITY TO ACQUIRE LAND

SECTION 1. Power and authority is hereby conferred upon the Board of Regents of the University of Texas to acquire by purchase or condemnation for the use and benefit of the University of Texas such lands within the counties of Travis and Galveston as they may deem expedient for sites on which to erect buildings for the use of the said University and for the extension of the campus

and for other purposes necessary in the conduct of the said University.

SECTION 2. If the said Board of Regents, in seeking to acquire any lands for any of the purposes aforesaid and the owner or owners of said land can not agree for the sale and purchase thereof, the Board of Regents shall request the attorney general to file a petition in the district court of the county in which the land sought to be condemned is situated, describing the land and stating the purposes for which it is desired by the Board of Regents, and praying that the value of such land be ascertained judiciously and a decree be entered vesting title thereto in the State of Texas for the use and benefit of the University of Texas upon the payment of the value so ascertained.

SECTION 3. Upon the filing of any such petition by the attorney general, the clerk of the court shall issue a citation to the owner or owners of the land as in other civil cases, which citation shall be served and returned as in civil cases, and the cause shall be entered on the civil docket in the name of the Board of Regents of the University of Texas as plaintiff and the owner or owners of the land as defendant.

SECTION 4. At the first term of the court after service of citation upon the owner, as provided in the preceding section, the cause, unless continued on motion thereof, shall be tried by a jury upon a single issue as to the value of the land, and the decision of any such jury shall in all cases be final; provided the parties to said proceeding shall have the right of appeal as in other civil cases.

SECTION 5. Nothing in the preceding section contained shall be construed to prevent the parties from waiving a jury and submitting to the court the issue as to the value of the land in question, or from selecting by agreement three persons to ascertain the value of such land, under their oaths and the direction of the court; and the finding and decision of the court or of such persons shall in all cases be final; provided the parties to said proceeding shall have the right of appeal as in civil cases.

SECTION 6. When the value of the land has been ascertained in either of the modes above prescribed, and the court is satisfied with such valuation, it shall enter a decree vesting the title in such lands in the State of Texas for the use and benefit of the Uni-

versity of Texas, to be held, owned, possessed and enjoyed by the State of Texas for the purposes hereinbefore recited. No such decree shall be entered until the value of the land so ascertained, together with all reasonable costs and expenses of the owner in attending such proceeding, shall be paid to him, or into court for his benefit and subject to his order, such costs and expenses to be assessed by the court for which any such proceeding is had, including reasonable attorney's fee to be fixed by court.

GENERAL AND SPECIAL LAWS, P. 100.—PERMISSION TO GALVESTON COUNTY TO GRANT SEAWALL LANDS TO THE BOARD OF REGENTS.

SECTION 1a. Nothing in the foregoing section of this act shall be construed to prohibit the county of Galveston, or the county commissioners' court of said county, from conveying or leasing, and it is hereby expressly empowered to convey or to lease for a period of ninety-nine years or less, to the Board of Regents of the University of Texas on behalf of the State of Texas, any or all of that part of the land acquired for seawall and breakwater purposes which lies to the north and northwestward of the north line of Avenue B, in said city, to be used for hospital purposes in connection with the John Sealy Hospital.

IV.—OPINIONS OF THE ATTORNEY GENERAL

POWER TO PURCHASE LAND

AUSTIN, TEXAS, July 6, 1901.

Hon. Thomas S. Henderson, Chairman Board of Regents, Austin, Texas.

DEAR SIR: I am in receipt of a communication from yourself, bearing date of July 1, 1901, in which you ask for an expression of the official opinion of the Attorney General, upon the question as to whether the regents of the State University of Texas have authority to acquire by purchase additional land for University purposes, as for instance, the purchase of additional grounds on which to erect a gymnasium, and establish an athletic field for practice and instruction in physical culture for the students of the University, and in reply, beg leave to answer:

Article 3843 of the Revised Statutes provides that the government of the University shall be vested in a board of eight regents, and Article 3846 provides that they (the regents) shall establish the departments of a first-class University; and the question as to whether or not a gymnasium and athletic field is a necessary department of a first-class university, is entirely a question for the determination of the regents. Their determination in the matter is not subject to be reviewed by anybody. I therefore give it as the official opinion of the Attorney General's Department that the Board of Regents would have the power and authority to make the purchase inquired about.

Very respectfully,

C. K. BELL,
Attorney General.

CONTROL OF AVAILABLE FUNDS

AUSTIN, TEXAS, November 11, 1905.

Hon. Jno. W. Stephens, Comptroller of Public Accounts, Capitol.

DEAR SIR: We have your letter of the 8th inst. enclosing a communication to you from President D. F. Houston of the University of Texas, of date November 7, 1905, relative to your author-

ity to issue warrant in payment for certain repairs upon one of the buildings of the University of Texas.

The first paragraph of President Houston's letter is as follows:

"The University Auditor, Mr. Winn, reports to me that the warrant clerk has declined to issue warrant on the enclosed voucher for the sum of \$1181.37, due Mr. J. O. Buaas, of Austin, for repairing the auditorium roof, on the ground that the provisions of the closing paragraphs of the appropriation bill, relating to the employment of architects and agreements with contractors were not complied with. The amount in question is to be paid out of the available University funds, and I respectfully submit that it does not come within the scope of the provisions indicated, and that, therefore, the warrant should be issued."

The questions thus presented, are:

First. Had the Board of Regents of the State University authority for repairing the auditorium roof; and

Second. Are said repairs within the operation of the restrictions set forth in the general appropriation act of 1905, relative to the employment of an architect, contractor, etc.

Section 10 of Article 7 of the Constitution of Texas provides as follows:

"The Legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a university of the first class, to be located by a vote of the people of this State and styled 'The University of Texas,' for the promotion of literature, and the arts and sciences, including an agricultural and mechanical department."

We are not aware that the meaning of the word "maintenance" in the above quoted section of the Constitution has been judicially determined.

But the word "maintenance" as used in Article 8, Section 9, of the Constitution, wherein it is provided that "the Legislature may pass local laws for the maintenance of public roads and highways without the local notice required for special or local laws," was construed by one of our Courts of Civil Appeals in the case of *Smith vs. Grayson County*, 18 Texas Civil Appeals, 156.

The court, referring to the last quoted constitutional provision, say:

"It is insisted, however, that this clause of the Constitution

limits the purposes for which local laws may be passed to the *maintenance* of roads already constructed and would not authorize the passage of a statute creating a road system. We do not think the word *maintenance*, as used in this section of the Constitution, was intended to be used in this restricted sense. By the use of the words, *maintenance of public roads and highways*, the framers of the Constitution had reference to maintaining a system of public roads and highways, which would include all the necessary powers to provide and keep up a system of highways."

We have no doubt that the constitutional provision first above quoted, providing for the "maintenance, support and direction of a university of the first class," contemplated the erection and repair, as needed, of all buildings reasonably necessary to fully carry out that beneficent and grand design.

Pursuant to said constitutional requirements, the Legislature of Texas has seen fit to provide in Revised Statutes, Article 3843, that "the government of the University shall be vested in a Board of Regents, selected from different portions of the State, who shall be nominated by the Governor, and appointed by and with the advice and consent of the Senate."

It can hardly be doubted that it was the intention of the legislative branch of the State government to clothe said Board of Regents with a broad discretion in determining what is necessary in the way of buildings for the University; hence, the propriety and advisability of making repairs thereto, of a given kind, such as repairs to the roof of the auditorium, is a matter coming peculiarly within the province of the Board of Regents to determine, and especially so, in view of the fact that the cost of such repairs or improvements is to be paid out of the *available University fund*, and not out of the general fund.

Immediately following the above quoted provision for the establishment of a University, Section 11 of Article 7 of the Constitution provides:

"In order to enable the Legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of the University of Texas, together with all the proceeds of sales of the same, heretofore made or hereafter to be made, and all grants, donations, and appropriations

that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent University fund."

There was thus set apart an extensive trust fund to enable the Legislature to carry into effect the above quoted requirements providing for the "maintenance, support and direction of a university of the first class," and this fund can be used for *no other purpose whatever*.

Recognizing the right of the University to the fund thus created, and also recognizing the fact that, under existing laws, the Board of Regents was already invested with wide discretion and authority, the general appropriation act of 1905 provides, in broad and general terms, and without one single specification or limitation as to details, that the portion of said trust fund available during the years ending August 31, 1906, and August 31, 1907, respectively, may be used during these years "for the maintenance, support, and direction of the University of Texas, including repairs, extensions, improvements and buildings."

It will be noted that the Legislature which made this appropriation acted subsequent to the rendition of the opinion in *Smith vs. Grayson County*, supra, which decision construed the word *maintenance* in such broad terms as to include by analogy, repairs to a University building; yet, that Legislature, as though not content to leave for judicial construction alone, the words, "maintenance, support and direction" found in the constitutional provision for the University, took care to, itself, construe, in the very language of this appropriation act, and in harmony with the decision mentioned, these constitutional terms as including "repairs, extensions, improvements and buildings."

Consequently the legislative intent, that a portion of the available University fund, so appropriated by this act, may be used in repairing the auditorium roof is manifest.

When we come to the consideration of the second question, we find an appropriation out of the general fund to be used for the "maintenance, support, and direction" of the University, this appropriation being made in lump sum of \$81,250 for the first year, and \$61,250 for the second year; but the paragraph making this appropriation does not specifically mention buildings or repairs.

Indeed, an appropriation out of the general revenues to be used

for erecting or repairing University buildings would be beyond the scope of legislative authority, in view of that portion of Section 14 of Article 7 of the Constitution, which provides that: "No tax shall be levied and no money appropriated out of the general revenue * * * for the establishment and erection of the buildings of the University of Texas."

We further find that all the appropriations made by this act for the maintenance, support, and operation of other State institutions are to be paid out of the general revenues, and that, as to each of these institutions, this act, in every paragraph making an appropriation therefor, sets forth numerous specifications and details concerning the character and amount of expenditures to be so made.

As to nearly every one of such other institutions, provision is made for new buildings, or improvements, or repairs, or machinery, or equipments; while, in several instances, two or more of such items are included.

Following all these appropriations, we find the restrictions above referred to, among which are the requirements that all buildings for the erection and equipment of which appropriations are made under this act, and all improvements and repairing of any public building shall be erected and made under the direction, management and supervision of a competent architect to be appointed by the board of managers of the institution for which said improvement is made, and that all architects so employed shall give bond, etc.; that the work shall be done by contract, etc.; that all appropriations made under said act for the erection of new buildings and improvement of old buildings, and equipments of same, or to purchase machinery, may be withheld by the Governor, *if, in his opinion, the condition of the treasury will not warrant the expenditure of any such sum or sums*; that no surplus shall be diverted from *any account to any other account*; and that the money appropriated, or so much as may be necessary, shall be applied to the payment of *each item* for which the appropriation is respectively made, and nothing else.

Some of these provisions and restrictions can not reasonably be held to apply to appropriations of the available University fund. For instance, the provision that the money appropriated, or so much thereof as may be necessary for that purpose, shall be applied to the payment of "each item" for which the appropriation is made,

and nothing else, seems plainly intended to apply alone to the itemized appropriations out of the general fund, and not to the appropriations of the available University fund, the latter appropriation *not being itemized*. So, as to transferring funds from one account to another; the appropriations for the University not being subdivided into specifically enumerated accounts as are appropriations made by this act for various other State institutions.

Again, the provision that the Governor may withhold appropriations made by this act for the erection of new buildings and improvement of old buildings, and equipments of same, or to purchase machinery, if in his opinion the condition of the treasury will not warrant such expenditure, seems to have been intended to meet conditions and exigencies as they may arise, dependent upon and growing out of the amount of revenues which may be in the treasury at a given time to the credit of the general fund, which amount, as the Legislature well knew, varies greatly from time to time, and which the Legislature must have foreseen, will, in the two years covered by this appropriation act, depend, to a greater or less extent, upon the success or failure of various statutes enacted at the same session of the Legislature and designed to produce extensive revenues, a large portion of which, when collected, will go into the general fund.

The evident reasons for this provision of the appropriation act, which seeks to confer such discretion and authority upon the Governor, do not and can not apply to appropriations to be paid out of the University fund, since, as we have seen, that fund can not affect or be affected by the condition of the general revenue.

And, in view of the far-reaching discretion and authority which, as we have seen, have been conferred upon the Board of Regents, and, inasmuch as some of the restrictions above set forth do not apply to the available University fund, and all of said restrictions seem to be intended to apply solely to the same class or character of appropriations, we conclude that none of said restrictions were intended by the Legislature to apply to expenditures out of that particular fund.

A literal application of only that portion of this appropriation act which prescribes said restrictions, would lead to the conclusion that no warrant could legally be issued in payment for such repairs, except when made in compliance with the provisions relative to

the employment of an architect, etc.; and in that view of the matter, you would not, in this instance be authorized to issue the requested warrant.

But Section 3 of the general provisions, found in the final title of our Revised Statutes, as interpreted by the courts, requires that the provisions of all statute laws of this State "shall be liberally construed with a view to effect their objects and to promote justice"; and upon consideration of this appropriation act as a whole, in the light of constitutional provisions applicable thereto, and searching diligently for the controlling intention of the Legislature as expressed in the act itself, we think it reasonably clear that the above mentioned restrictions upon the application and expenditure of appropriated funds do not apply to expenditures of the character under consideration, such as cost of repairs to the auditorium roof, when made under the direction of said Board of Regents and to be paid for out of the available University fund, and not out of the general revenues.

We, therefore, respectfully advise you, that, in our opinion, a warrant should be issued by you in this instance to cover the cost of said repairs. But nothing herein should be construed as holding or intimating that any and all of the restrictions set forth in said appropriation act do not apply to any and all construction, improvements, repairs and equipments made or to be made under the direction and authority of any board of control of any other State institution, in cases wherein such institution is wholly dependent upon the general revenues of the State for maintenance and support, and the bill of expense is to be paid out of appropriations made by the Legislature for that specific purpose out of the general fund.

Yours truly,

W. E. HAWKINS,
Office Assistant Attorney General.

V.—UNIVERSITY INCOME

The income of the University is divided into two classes, the available University fund and general revenue.

THE AVAILABLE UNIVERSITY FUND

The available University fund is under the control of the Board of Regents and may be used for the erection and repair of buildings and the maintenance and support of the University and its branches. This fund is derived from the following sources:

1. Interest accruing on State bonds purchased with the proceeds of the sale of University lands.
2. Interest on land notes arising from the sale of University lands.
3. Land leases derived from the leasing of unsold University lands.
4. Matriculation and laboratory fees paid by students.

GENERAL REVENUE

The income of the University derived from the general revenue of the State is dependent upon the following source:

1. Legislative appropriation biennially. This appropriation is restricted to the maintenance and support of the University.

Laws relating to the Dept of the U. exc App. Bulla,
Land Laws and Colored Men.

- p 532. — Chem taken in re Highway Dept.
p 530. — Librarian in re County Libraries.
— President in re Text Bk Bd.
✓ p. 510-11 — Childrens Hospital
✓ p 498 — Deficiencies.
✓ pp 489-91. — Grazing
✓ 488-89. — Number of Regents
✓ 472-74. — Condemnation of Land.
✓ 469-70 — Terms of Regents.
✓ 468 — Mode of Expenditures
✓ 468-469 — Teachers' Diplomas.
✓ 455-456 — " " "
✓ 440-441 — " " "
✓ 451-452. — Carnegie Pensions.
✓ 452. — Teaching Agriculture
✓ 439-440 — Law Diplomas.
✓ 370 — " "
✓ 415-18. — Inventories
✓ 397. — Amends act of establishment, Secs 5, 8, 9.
✓ 364-65. — Donations
✓ 264 — amends act of establishment Secs. dead
✓ 261-263 act of establishment
Secs 1 (in part) 7, 10, 11, 12, (13?) 14 (15?) (16?)
(17?), 18-23.
✓ 233-234. — Constitution.
✓ 16-17. — Campus.

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An Act for the Relief of the Purchasers of University Lands,
and to Validate the Patents Hereofore Issued.

Whereas, Portions of the university lands were sold under an act approved August thirtieth, eighteen hundred and fifty-six, and under an act approved November twelfth, eighteen hundred and sixty-six; and

Whereas, Full or partial payments have been made thereon, in accordance with the provisions of the acts aforesaid; and

Whereas, The Treasurer of the State has failed and refused to accept payment in part or in whole on the obligations executed for the purchase money of said lands, when tendered in conformity with the provisions of the aforesaid acts, under which said lands were sold; therefore

Section 1. Be it enacted by the Legislature of the State of Texas, That all sales of university lands made under the acts of eighteen hundred and fifty-six and eighteen hundred and sixty-six aforesaid, in which the terms of said acts have been complied with, are hereby validated, and the Commissioner of the General Land Office, on presentation of such evidence, shall be required to issue patents for the same.

Sec. 2. That the Treasurer of the State is hereby authorized and directed, within thirty (30) days after the passage of this act, to give notice by publication in the newspaper having the largest circulation in each of the counties where such lands are situated, for at least four (4) consecutive weeks, that payment may be made in accordance with the provisions of the above recited acts; provided, that all purchasers may have until the first day

Sec 3. That in cases where any portion or portions of said lands have been transferred by the original purchaser or purchasers to other parties, the assignee or assignees shall be subrogated to the rights of the original purchaser or purchasers; and the Commissioner of the General Land Office is hereby required to issue patents therefore to such purchaser or purchasers, upon presentation to said commissioner of evidence of transfer duly made, or upon the judgment of a court of competent jurisdiction; and in the trial of all such cases as are herein enumerated upon the said transfers, oral or written testimony may be used by any of said claimants. Either former or present owner or occupants may be used to establish title thereto.

Sec. 4. That all interests which have accrued upon obligations for the payment on said lands since the first day of January, eighteen hundred and sixty-nine, shall be and the same is hereby abated, and the same shall not be estimated from the date last mentioned until the passage of this act.

Sec. 5. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

Sec. 6. That this act shall take effect and be in force from and after its passage.

Approved March 17, 1874.