

REPORT
OF THE
COMMISSIONER
OF THE
GENERAL LAND OFFICE
1942-1944



BASCOM GILES
Commissioner

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**COMMISSIONERS OF THE GENERAL LAND OFFICE.
REPUBLIC OF TEXAS**

The General Land Office was opened July 20, 1837

Name	Term of Office	Qualified	Remarks
John P. Borden . .	1837-1840	June 21, 1837	Appointed by President Sam Houston
Thos. Wm. Ward..	1841-1846	Jan. 12, 1841	Appointed by President M. B. Lamar

**COMMISSIONERS OF THE GENERAL LAND OFFICE.
STATE OF TEXAS**

Washington

Name	Term of Office	Qualified	Remarks
Thos. Wm. Ward .	1846-1848	Feb. 16, 1846	Appointed by Gov. J. P. Henderson
Geo. Wm. Smyth .	1848-1852	Mar. 20, 1848	Elected
Stephen Crosby . .	1852-1858	Mar. 1, 1852	Elected
Francis M. White .	1858-1862	Mar. 1, 1858	Elected
Stephen Crosby . .	1862-1865	Mar. 1, 1862	Elected
Francis M. White .	1865-1866	Sept. 1, 1865	Appointed by Gov. A. J. Hamilton
Stephen Crosby . .	1866-1867	Aug. 7, 1866	Elected July, 1866—Special Election
Joseph Spence . . .	1867-1870	Aug. 27, 1867	Appointed by General Griffin
Jacob Kuechler . . .	1870-1874	Jan. 19, 1870	Appointed by General Reynolds
J. J. Gross	1874-1878	Jan. 20, 1874	Elected. Died June 15, 1878
W. C. Walsh	1878-1887	July 30, 1878	Appointed by Gov. R. B. Hubbard, and afterwards elected
R. M. Hall	1887-1891	Jan. 10, 1887	Elected
W. L. McGaughey .	1891-1895	Jan. 16, 1891	Elected
A. J. Baker	1895-1899	Jan. 15, 1895	Elected
Geo. W. Finger . . .	1899	Jan. 16, 1899	Elected. Died May 4, 1899
Charles Rogan	1899-1903	May 15, 1899	Appointed by Gov. J. D. Sayers, and afterwards elected
John J. Terrell . . .	1903-1909	Jan. 10, 1903	Elected
J. T. Robison	1909-1929	Jan. 11, 1909	Elected. Died September 6, 1929
J. H. Walker	1929-1936	Sept. 12, 1929	Appointed by Gov. Dan Moody, afterwards elected
Wm. H. McDonald . .	1937-1938	Dec. 16, 1936	Elected
Bascom Giles	1939-1944	Jan. 1, 1939	Elected

Austin, Texas, September 1, 1944.

To His Excellency, Coke R. Stevenson
Governor of Texas
Austin, Texas.

Dear Governor:

I submit a report of the operations of the General Land Office for the biennial term ended August 31, 1944.

The Report shows a very substantial increase in the cash receipts during this biennium, the total being \$20,500,000.00, virtually double any like period in the history of this department. For information as to the sources of this income, and the deposits to the various funds, you are referred to my discussion of office activities, and to the several tables shown in the attached report.

This department has had its share of the prevalent rapid changes in personnel, and the resultant inexperienced help, and the volume of business has increased greatly; but I am happy to state that through it all we have been able to maintain our standard of prompt and efficient service to the public.

Assuring you of my grateful appreciation of your counsel and cooperation in those matters of State which involve our joint efforts, and for your courteous consideration at all times, I am

Sincerely yours,

BASCOM GILES, Commissioner

RECORD COLLECTIONS

With pride I announce that the fiscal year ending August 31, 1944, marked a record collection of \$20,500,000.00. This was double that of any previous year in the history of the General Land Office. The next highest to this record was also accomplished during my administration, same being the year ending August 31, 1943, which saw a collection of over \$10,000,000.00.

The great increase the past year over the previous year was occasioned by three \$3,000,000.00 sales of mineral leases on University lands. The University and A. & M. Permanent Fund now has royalties accruing to it which amount to over \$100,000 monthly.

The Permanent School Fund was also increased by the record breaking amount of \$6,529,000 during the past fiscal year, and is now being increased by more than \$500,000 monthly.

The following figures are given to show the overall picture of these funds during my administration:

University Permanent Fund, Jan. 1, 1939.....	\$28,438,000.00
University Permanent Fund, Aug. 31, 1944.....	\$46,981,000.00
Permanent School Fund Jan. 1, 1939.....	\$62,268,000.00
Permanent School Fund, Aug. 31, 1944.....	\$88,000,00.00

It will be noted that the University Permanent Fund showed an increase of 65% and the Permanent School Fund an increase of 42% during my tenure of office.

1943 LEGISLATION

There was no legislation enacted by the Forty-eighth Texas Legislature which materially changed the existing laws for the sale and disposition of the Public Lands. Briefly stated, some of the relatively important Acts which were passed in 1943 are as follows:

1. H. B. No. 56. Chapter 149 and S. B. No. 287, Chapter 238, providing for the suspension of both the primary and principal terms of certain leases, or the suspension of any condition, obligation or duty thereunder, except the payment of annual delay rental, by the School Land Board in certain instances in which any duly constituted authority of the United States prohibited the owner of a valid oil and gas lease granted by the State from drilling or producing from the leased premises. This is a war-time measure which allows the lease to remain in status quo during the emergency period, and thereafter the lease shall continue in force for a period equivalent to its unexpired term on the date of the origin of the cause for suspension.

2. H. B. No. 12, Chapter 174, which gives to the Commissioner of the General Land Office the power to grant easements for rights of way for telephone, telegraph, electric transmission and power lines, for oil, gas, and sulphur pipe lines, and other electric and pipe lines, and/or leases or easements for electric substations, pumping stations, loading racks and tank farms to be located on unsold Public School Land or other State Land except that owned by the University of Texas.

6 REPORT OF COMMISSIONER OF GENERAL LAND OFFICE

3. S. B. No. 281, Chapter 235, prohibits any person or corporation from reproducing and selling lists prepared by the Commissioner of the General Land Office offering for sale or lease any State owned lands. Prior to the passage of this Act, certain firms and individuals had caused much confusion by selling reproduced lists through advertisements which contained misleading information.

4. H. B. No. 61, Chapter 133, changed the custody of County Surveyors records, in his absence, from that of a licensed Land Surveyor to that of the County Clerk, and made certain changes regarding examinations for Licensed State Land Surveyors.

5. H. B. No. 489, Chapter 301, provided for a rental payment of 10¢ per acre on mineral prospect permits on unsold public school land. Prior to the passage of this Act, no payment was required for the issuance of a prospect permit, and as a result, many State Lands were withheld from the market and from reinstatement by insincere prospect applications.

6. S. B. No. 358, Chapter 279, authorized the Board for Lease of Texas Prison Lands to grant permits for geological surveys or investigations on Prison Lands.

In addition to the Acts noted above, mention should be made of the case of the State of Texas vs. Magnolia Petroleum Company, 173 SW 2d 186, which affirmed the attitude or policy of this office toward mineral deeds executed by surface owners of mineral reserved school land. The judgment cancelled and held for naught the mineral deed from the surface owners, and gave to the State the title and possession to all the oil, gas, or other mineral in and under the land in controversy.

The Supreme Court in *Greene vs. Robison*, 117 Tex. 516, 8 SW 2d 655, a decision written in 1928, held that the Relinquishment Act does not vest any interest or title in the oil and gas in and under mineral-reserved school lands in the owner of the surface estate, but makes him the agent of the State for the purpose of leasing such land for oil and gas. Following this earlier opinion, the Court of Civil Appeals in the *Magnolia* case stated: "It was never intended that the surface owner should execute a deed absolute to the oil and gas in and under his land, but only an ordinary commercial lease, which provides for delay rentals unless and until oil is produced in paying quantities. The surface owner as agent of the State is to have an equal rental and royalty with the State as compensation for his services as such agent, and for the damage done to the surface of the land when exploration for or production of oil is begun. When the lease terminates, then all rights of the surface owner terminate, as he has no interest in the minerals except such as the lease gives him." This decision is in consonance with the general policy previously adopted by the General Land Office.

FUTURE LEGISLATIVE NEEDS

It is a duty of the Commissioner of the General Land Office to supervise the Public Lands, which consist of approximately 30 million acres, in addition to carefully preserving the archives and title papers to the entire area of the State. One of the many duties of the Land Commis-

sioner is to recommend legislation that he deems advisable for the best interest of the State in the handling of its public lands, and it is in this capacity that I submit the following recommendations for your consideration:

1. There is no definite statutory requirement under the Present Laws providing that a lease made by the land owner, in which the State retained a free royalty, be filed in the General Land Office. You may readily see that such a requirement should be made so that the Commissioner will be put on notice whenever mineral development is contemplated so that he could better protect the State's interest, not only in collecting the royalty from the well, if it proves productive, but in many instances, the State could be better protected and the Commissioner could lend assistance in the spacing of the wells prior to development.
2. Under the present statute, leases on Public Free School Land, including submerged lands, contain a 25-year limitation clause on the principal term of the lease. This clause is not contained in University, Prison or Eleemosynary Land leases. Unquestionably, this 25-year law is in direct conflict with the accepted rules of conservation and the ultimate recovery for the School Fund. This provision was made a part of the law prior to proration, at which time it was contemplated that full recovery of all known oil and/or gas could be recovered in such a period. Since it is now the law that production of oil and/or gas be controlled by another branch of the Government for the best interests of all, it is my opinion that this 25-year clause should be eliminated from the statute and leases, as unquestionably, the Public Free School Fund is receiving much less revenue from the sale of leases by reason of that clause being contained therein. I believe that the best interests of the State could be served by setting up a carefully guarded procedure whereby the members of the School Land Board, namely, the Governor, Attorney General and the Land Commissioner, for a period to run concurrently with the present administration, might be permitted to modify the leases in that respect. Not only would this bring in more than an estimated million dollars into the School Fund at the present time, but would enhance the value of future sales.
3. Under the present law governing the fees of Office, I am permitted to charge but \$1.00 for a Certificate of Facts covering one tract of land. At times, the preparation of these Certificates entails almost as much work as preparing an Abstract. The fee for this service should be increased proportionately to the increase in work occasioned by reason of the fact that the records have become more cumbersome due to the added number of transactions affecting a particular tract of land.
4. In 1883 the Legislature realized the necessity of refunding monies in instances where payments were made in good faith as lease and purchase money on lands to which title could not pass for reason of conflicts, erroneous surveys or illegal sales. From 1891 until 1935 the Legislature provided biennial appropriations ranging from \$10,000 to \$85,000 for refunding such monies. In 1937

the appropriation was again made by the Legislature, but was vetoed by the Governor. Since that time, this office has been handicapped in business transactions by having to hold payments in suspense pending resurveying, Court decrees, etc. There is now over \$1,500,000.00 in suspense on which the School Fund is losing more than \$100.00 daily. Therefore, it will be seen that there is an urgent need for an appropriation out of which refunds may be made, so that purchase money, etc., may be deposited directly to the School Fund rather than being held in suspense pending the determination of a question which might ultimately affect only a small portion thereof.

5. Article 5253 of the Revised Civil Statutes of 1925 provides that the Land Commissioner during August of each year shall make out and furnish to the Comptroller a supplementary Abstract of all patents issued from his office during the year ending on the last day of August. Article 5254 provides that the Comptroller may have not more than 1500 copies of the supplementary volume printed and bound for distribution to those officers of the State whose duties require its use, the surplus copies to be sold at a reasonable price to those applying for them.

During the years 1939 to 1941 I made a complete revision of the Abstracts and consolidated them into eight volumes. A special appropriation was provided for the printing of these books, but since that time there has been no appropriation for the printing of the supplemental volumes. The printing of these abstracts is necessary to the Tax Assessors and Collectors and other officers of the State, and an appropriation should be provided therefor. It probably would be well to amend Articles 5253 and 5254 to place the responsibility of printing on the Commissioner of the General Land Office in order that better service could be rendered in preparing these books for use by the County officials.

REVISION OF ACCOUNTING IN RECEIVERS DIVISION

During the biennium, the State Auditor conducted an Audit of the General Land Office. Near the beginning of his Audit, he recommended the installation of International Business Machines in the Receivers Division. Upon this recommendation, these machines were installed, and the system of accounting in that Department was revised. All monies received are passed to the State Treasurer immediately for collection and deposit to the Suspense Account. As soon as the correct disposition has been determined, the payments are cleared to the proper funds. The report of Suspense Account clearances gives file numbers or other references which will enable the Auditor to determine the exact disposition of all monies deposited to the various funds.

This machinery has also been adapted to the preparation of royalty receipts. This work formerly required the time of one employee or more for a period of at least two weeks in each month, whereas they are now prepared currently as the royalty payments are received.

It is planned also to employ these machines in the billing and receipting of interest payments on School Land Purchase Accounts, which will give more prompt and accurate service to the public.

SALES

On May 2, 1944, some 225,000 acres of surveyed School Lands were placed on the market for sale with a reservation of 1/8 of the sulphur and 1/16 of all other minerals to the State as free royalty. This sale included, mainly, lands which had heretofore been sold without a mineral reservation. They had been forfeited, but the previous owners had the right of reinstatement, and upon re-instatement, they would have been placed back in the same standing as though no forfeitures had occurred.

It is interesting to note that the acreage sold May 2, 1944, amounted to, slightly more than one-half of the net acreage forfeited during the biennium, while the consideration in the sale exceeded the amount of the notes cancelled in the net forfeitures after deducting the reinstatements.

The School Land sale of May 2, 1944, was the third such sale during my tenure of office, the other two being on January 3, 1940, and April 8, 1942. As a matter of record, I am listing below the dates of lease sales by the various boards during my administration. These sales dates are as follows:

"School Land Board" Lease Sales

1. December 5, 1939
2. January 2, 1940
3. March 5, 1940
4. April 2, 1940
5. May 7, 1940
6. July 2, 1940
7. December 13, 1940
8. March 4, 1941
9. August 5, 1941
10. October 7, 1941
11. January 6, 1942 *School land sale - not mineral*
12. April 6, 1942
13. September 7, 1943
14. March 7, 1944
15. July 4, 1944

"Board for Lease of University Lands" Lease Sales

1. October 27, 1939
2. November 8, 1940
3. November 14, 1941
4. December 4, 1942
5. June 18, 1943
6. December 3, 1943
7. March 31, 1944
8. August 18, 1944

"Board for Lease of Prison Lands" Lease Sales

1. March 13, 1941
2. September 18, 1941
3. April 16, 1942
4. November 2, 1943
5. December 13, 1943

CLOSING REMARKS

At no time in my 25 years as an employee and Commissioner of the General Land Office, has there been an era in which we have been forced by resignation of the employees to operate this office with so many new and untrained employees. This, of course, has been the result of low salaries which are fixed by the Legislature two years in advance, and which, under the present trend of wages and prices due to the war, are in many instances grossly inadequate. No one person is particularly to blame for this situation, but certainly, it is a condition which is regrettable as the business can be carried on and the records of this office best preserved by employees with a long tenure of service. Except for the services of a number of employees who have remained with their positions through loyalty, it would have been difficult indeed to successfully carry on the business of this office. I feel that these employees, together with many of the new and capable ones, are entitled to an increase in salary, and I am delighted to join the Governor and the Board of Control in recommending to the Legislature that an increase in keeping with the present price level be made in the sense of fairness and justice, and in order that the business of the State can be carried on in an efficient and capable manner without interruption.

To the employees who have served under the above circumstances, I pay my respects and express my sincere appreciation.

Mr. Dennis Wallace succeeded Mr. Alvis Vandygriff as Chief Clerk of the General Land Office on September 1, 1942, and has continued in that capacity. Mr. Vandygriff voluntarily entered the Army Air Corps as a Second Lieutenant, where his loyal and faithful service has been recognized by his being promoted to the rank of Captain. He has just recently been assigned to Special Service in the Air Force in Washington, D. C., in further recognition of the valuable service he is now rendering. Mr. Wallace has carried on the duties and responsibilities of the Chief Clerk of the General Land Office in a most able manner and particularly am I grateful for his fidelity to duty. On several occasions, I have been called out of the office and on two occasions out of the State, in which instances, he has acted in my absence as Commissioner. Mr. Wallace willingly assumed these responsibilities and ably discharged the duties of the office to my entire satisfaction.

Attorney General Grover Sellers and several of his assistants in the Land Division of that office have been particularly cooperative in working with me as Commissioner in addition to working with the heads of several of the divisions of this office concerning problems of State.

The people of Texas have re-nominated me without opposition for another term. May I express my deep appreciation for this endorsement of my previous administration and the opportunity afforded me for service in the coming two years. I trust that I can continue to administer the affairs of this office in such a manner as to be worthy of the respect and confidence the people of Texas have placed in me, and so that they may truly feel that it is an office of the people, by the people, and for the people.

WE SALUTE EMPLOYEES IN THE ARMED SERVICES

Devotion to duty, to honor and to country has been a paramount virtue in the General Land Office for more than a century, and the cheerful self-sacrifice and unquestioned courage of its personnel in times of stress, its proudest tradition.

With heads uncovered, we bow in memory of Ed Cobb, Jr., and Smith C. Murphy, former employees, who, as members of the Armed Forces, have made the supreme sacrifice and laid their brave young lives upon the altar of our country that the ideals upon which our forefathers founded this government shall not perish from the earth.

Tinged with envy, we salute our former comrades, named below. God grant their sacrifices may not be made in vain and that soon they be returned to us, crowned with glorious victory, blessed by the peace loving peoples of the world and rich in their knowledge of deeds gallantly performed, and of having maintained, untarnished, the honor of their predecessors, their comrades and themselves.

ARMY

Becker, F. H., Round Rock	Lowery, Leslie, Beaumont
Bohannon, William Garland, Austin	Lowery, Pat, Jr., El Paso
Box, Francis, San Angelo	Lybrand, J. L., Greenville
Brown, Ralston, San Benito	Marable, Paul, Jr., Clarksville
Cameron, Day, Cameron	Martin, Cecil, Dublin
Cargill, Billie, Wichita Falls	Martin, Edgar, Jr., Gonzales
Carlton, Merrill, Ringgold	Menke, Albert, Austin
Childers, Vernon, Palestine	Murphy, Smith C., Athens
Cobb, Ed, Jr., Dallas	Pederson, Laudie, Meridian
Coffin, Ray, Jr., Dallas	Priest, Billy Floyd, McKinney
Coltharp, Duane, Austin	Ramsey, Ben, Marshall
Crain, Forest, Henderson	Robinson, Homer, Quitman
Cross, Jim, San Antonio	Russell, Jack, Coleman
Culp, Bill, Gainesville	Russell, Perry, Coleman
Fields, Charles, El Paso	Shaefer, Harry, Austin
Flatt, W. W., Cleburne	Shapiro, Irying, Galveston
Ford, Lewis, Victoria	Stevenson, Bill, Beaumont
Holchak, Edwin D., Kenedy	Taulbee, Tom, Fort Worth
Horak, Frank, Caldwell	Vandygriff, Alvis, Waxahachie
Johnson, Frank, Austin	Vick, Kyle, Jr., Waco
Klein, Lester, San Antonio	Whitten, Royce, Paris
Lewis, Roland, Greenville	Woodland, James L., Marlin
Lively, James, Elkhart	Young, Heartsill, San Augustine

NAVY

Ball, Pete, Lillian
Collier, Henry Ward, Jr.,
 Fort Worth
Craig, Bill, Miami
Doss, Nobel, Temple
Glass, W. A., Austin
Hanson, Ernest, Manor
Jones, Oscar, Jr., Marshall
Jones, William Grady, Marshall
Jones, Winfield, Oglesby
Johnson, Tobin, Commerce

Lewis, Charles Edwin, Greenville
Minnox, Jack, Holland
Nicholas, Arthur, Lockhart
Nowlin, R. L., Hillsboro
Owens, Lewis, Vernon
Pharr, Harold, Greenville
Reeves, David, Caldwell
Rios, Richard, Austin
Smith, Coleman, Snyder
Sparks, Jack, Austin

MARINES

Dashiell, John D., Buffalo
Miller, Tom, Jr., George West

Steele, Robert, Dallas

WAC

Booth, Mary Louise, Cuero

Rush A. Modrall

1881-1943

Through the years of its existence the General Land Office has had the benefit of a large number of trained, competent and loyal employees. The subject of this sketch has served under four Commissioners covering a period of more than thirty-four years.

He was a native of Cooke County, Texas, where he lived until about his twentieth year when he moved to Austin. He was first employed in the General Land Office on June 9, 1907.

Assigned to the correspondence desks of important divisions, his ability and attention to duty soon brought recognition. In 1914 he was Chief of the Transcript Division, and in 1916 he was appointed Chief Mineral Clerk under the new Mineral Division, organized to handle the rapidly growing Oil and Gas business in its relations to State Lands. He served continuously as the head of this important division, excepting the years 1937 and 1938, until his death on December 2, 1943.

His genial manner and helpful attitude towards the public won for him the confidence and respect of those with whom he dealt. His unflinching industry, his earnest desire for perfection in all of his work, his cooperative spirit, and his loyal devotion to the Land Office endeared him to the four Commissioners under whom he served, and to his associate workers.

Mr. Modrall was a member of the Masonic fraternity, and was an elder in the First Southern Presbyterian Church of Austin for many years.

"The steps of a good man are ordered by the Lord."

Accounts Division, Section 1, Receiver

C. H. COCKE, Receiver

Report covering the Transactions of the Receiver's Division of the General Land Office for the period of two years, beginning September 1, 1942 and ending August 31, 1944.

During that period of time there were received 53,350 remittances aggregating \$31,146,097.53 and that with a balance of \$1,214,127.38 in the suspense account on September 1, 1942 makes a total of \$32,360,224.91 covering payments on principal, interest, rentals, royalties and fees.

Itemized statement showing disbursement of all funds for each year:

TABLE NO. 1

Receipts and Disbursements

September 1, 1942 to August 31, 1943

Fund No. 44—Permanent School	
Classification 332—Bonus & Rentals on Mineral Leases	\$ 1,276,668.42
Classification 341—Royalty on Mineral Leases	2,790,200.93
Classification 312—Principal on Land Sales	1,472,080.41
Classification 311—Applications to Purchase	309,022.73
Classification 335—Rental on Houses	132.00
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	\$ 5,848,104.49
Fund No. 2—Available School	
Classification 631—Interest on Land Sales	\$ 970,221.11
Classification 333—Applications for Grazing Leases	7,326.75
Classification 334—Rental on Grazing Leases	9,216.59
Classification 336—Rental on Easements	1,919.63
Classification 338—Transfer Fees	54.14
	<hr/>
	\$ 988,738.22
Fund No. 45—Permanent University	
Classification 341—Royalty on Mineral Leases	\$ 761,254.30
Classification 332—Rentals & Bonus on Mineral Leases	2,436,941.83
Classification 312—Principal on Land Sales	156.15
Classification 311—Applications to Purchase	860.47
	<hr/>
	\$ 3,199,212.75
Fund No. 11—Available University	
Classification 336—Rental on Easements	\$ 12,754.84
Classification 338—Transfer fees	983.35
Classification 631—Interest on Land Sales	217.73
	<hr/>
	\$ 13,955.92
Fund No. 1—General Revenue	
Classification 251—Certificates, copies and maps	\$ 26,284.81
Classification 252—Filing fees	2,634.47
Classification 216—Patent fees	16,730.91
Classification 341—Royalty on Mineral Leases	40,373.90
Classification 332—Rentals & Bonus on Mineral Leases	22,497.34
Classification 336—Rentals on Easements	485.79
Classification 338—Transfer fees	6.75
	<hr/>
	\$ 109,013.97

Fund No. 16—Available Deaf & Dumb Institute		
Classification 631—Interest on Land Sales	\$	116.05
Fund No. 17—Available Blind Institute		
Classification 631—Interest on Land Sales	\$	47.78
Fund No. 18—Available Orphans Home		
Classification 631—Interest on Land Sales	\$	140.87
Fund No. 49—Permanent Deaf & Dumb Institute		
Classification 312—Principal on Land Sales	\$	310.30
Fund No. 48—Permanent Blind Institute		
Classification 312—Principal on Land Sales	\$	1,681.74
Fund No. 123—Land Board Fund	\$	7.26
Fund No. 125—A. & M. Mineral Fund	\$	131.00
Total Deposited	\$	10,161,460.35
Total Refunds		181,822.82
Returned checks		6,536.52
Suspense Balance		1,442,585.39
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		\$11,792,405.08

TABLE NO. 2

Receipts and Disbursements

September 1, 1943 to August 31, 1944

Fund No. 44—Permanent School		
Classification 332—Bonus & Rentals on Mineral Leases	\$	1,764,797.73
Classification 341—Royalty on Mineral Leases		2,989,441.44
Classification 312—Principal on Land Sales		1,565,822.09
Classification 311—Applications to Purchase		208,767.49
Classification 335—Rental on Houses		89.14
		<hr/>
		\$ 6,528,917.89
Fund No. 2—Available School		
Classification 631—Interest on Land Sales	\$	705,291.90
Classification 333—Applications for Grazing Leases		4,055.22
Classification 334—Rental on Grazing Leases		16,390.89
Classification 336—Easements		1,110.70
Classification 338—Transfer Fees		9.60
Classification 653—Penal Interest		450.09
		<hr/>
		\$ 727,308.40
Fund No. 45—Permanent University		
Classification 341—Royalty on Mineral Leases	\$	1,196,797.27
Classification 332—Rentals & Bonus on Mineral Leases		10,544,978.69
Classification 312—Principal on Land Sales		196.25
		<hr/>
		\$11,741,972.21
Fund No. 11—Available University		
Classification 631—Interest on Land Sales	\$	510.12
Classification 336—Rental on Easements		9,766.27
Classification 338—Transfer Fees		2,111.01
Classification 653—Penal Interest		3.32
		<hr/>
		\$ 12,890.72
Fund No. 1—General Revenue		
Classification 251—Certificates, Copies and Maps	\$	30,450.39
Classification 252—Filing Fees		5,826.39
Classification 216—Patent Fees		16,208.52
Classification 341—Royalty on Mineral Leases		38,694.38
Classification 332—Rental on Mineral Leases		213,390.47
Classification 336—Rental on Easements		318.90
Classification 338—Transfer Fees		33.26
		<hr/>
		\$ 304,922.31

16 REPORT OF COMMISSIONER OF GENERAL LAND OFFICE

Fund No. 15—Available Lunatic Asylum		
Classification 631—Interest on Land Sales	\$	126.02
Fund No. 16—Available Deaf & Dumb Institute		
Classification 631—Interest on Land Sales	\$	59.48
Fund No. 17—Available Blind Institute		
Classification 631—Interest on Land Sales	\$	23.23
Fund No. 18—Available Orphans Home		
Classification 631—Interest on Land Sales	\$	129.44
Fund No. 48—Permanent Blind Institute		
Classification 312—Principal on Land Sales	\$	730.88
Fund No. 49—Permanent Deaf & Dumb Institute		
Classification 312—Principal on Land Sales	\$	52.77
Fund No. 51—Permanent Orphans Home		
Classification 312—Principal on Land Sales	\$	317.50
Fund No. 123—Land Board Fund	\$	98.67
Fund No. 125—A. & M. Mineral Fund	\$	10.00
Total Deposited	\$	19,317,559.52
Total Refunds		965,703.81
Returned checks		9,383.70
Suspense Balance		1,717,758.19
		<hr/>
Totals Deposited for two years	\$	22,010,405.22
Total Refunds		29,479,019.87
Total Returned Checks		1,147,526.63
Suspense Balance		15,920.22
		<hr/>
		1,717,758.19
		<hr/>
		\$32,360,224.91

RECORD OF MAIL RECEIVED AND SENT

Mrs. Era Bates, Assistant Receiver

TABLE NO. 3

Letters and documents received, 9-1-42 through 8-31-44		91,105
Listed Letters, Certificates and Notices sent	37,545	
Form Letters, Interest Notices, Receipts for Interest, Rental and Royalty payments, and lists of land for sale or lease	149,855	187,400

Accounts Division, Section 2, Bookkeeping

C. R. LEGGOTT, Chief Accountant

The activity of this section is shown in the following tables:

TABLE 4

Land Purchase Accounts Closed

During the two years from September 1, 1942 to August 31, 1944, accounts covering 1,927,394.28 acres, aggregating \$2,987,565.96 in notes, have been paid in full and closed, as follows:

	Acres	Value
School 3 per cent	1,858,229.68	\$2,876,621.13
School 5 per cent	67,416.06	106,833.93
School 8 per cent	598.21	1,198.76
Eleemosynary Institutions	607.78	1,050.80
University 5 per cent	542.45	1,861.34
TOTALS	1,927,394.28	\$2,987,565.96

TABLE 5
Open Purchase Accounts

Annual accruals calculated and set up, and payments received applied to the following open accounts covering lands belonging to the several State Institutions:

	Acres	Value
School 3 per cent.....	9,110,713.83	\$14,703,225.26
School 5 per cent.....	931,868.40	2,038,377.58
School 4 per cent.....	220.66	1,221.00
School 8 per cent.....	1,885.74	1,587.78
University 5 per cent.....	1,634.30	5,594.82
Blind Institute 3 per cent.....	1,472.35	2,243.21
Blind Institute 5 per cent.....	158.95	304.29
Deaf & Dumb Institute 3 per cent.....	327.10	556.93
Deaf & Dumb Institute 5 per cent.....	1,063.80	2,066.07
Lunatic Asylum 3 per cent.....	27.80	40.66
Lunatic Asylum 5 per cent.....	200.80	412.16
Orphan Asylum 3 per cent.....	1,917.92	2,494.39
TOTALS	10,051,491.65	\$16,758,124.15

TABLE 6
Land Sales

Sold under Advertisement by School Land Board:

Sales	Acres	Value
For cash.....	5,308.99	\$ 22,497.81
Terms 1/5 cash.....	153,861.48	92,735.37
Terms Notes.....		343,964.20
TOTAL	159,170.47	\$459,197.38

Other sales:

	Acres	Value
Vacancies-Cash	6,257.54	\$ 32,949.51
Vacancies-Terms	394.74	1,557.87
Acts 1931, Ch. 271, Sec. 5.....	190.18	431.18
Acts 1935, Ch. 78, P. 174.....	392.28	784.56
To U.S.A., (Judgments).....	7,569.20*	31,509.84
TOTAL	14,803.94	\$ 67,232.96
Excess acreage-acquittance deeds.....	26,215.48	201,749.73
GRAND TOTAL.....	200,189.89	\$728,180.07

*Does not include School land heretofore sold on terms to individuals, and taken over by U. S. A.

Does include 20.84 acres listed under vacancies.

TABLE 7
Land Purchase Accounts Forfeited

	Acreage	Acreage Bal.	Notes Canceled
Forfeited			
School 3 per cent.....	298,038.72		
Reinstated	132,332.92	165,705.80	\$204,521.71
Forfeited			
School 5 per cent.....	154,434.69		
Reinstated	21,204.57	133,230.12	208,602.36
TOTAL 9-1-44.....		298,935.92	\$413,124.07

Accounts Division, Section 3, Audits

J. F. CLARK, Chief Auditor

TABLE 8

State Areas Reporting First Production of Oil and Gas from
September 1, 1942—August 31, 1944

Class of Lease	Number of Leases	County	Field	Acres
Relinquishment Act	6	Pecos	Apco-Warner	1,954.75
Relinquishment Act	1	Pecos	Pecos Val. H. G.	960.00
Relinquishment Act	5	Rusk	East Texas	148.67
Relinquishment Act	4	Pecos	Abell	259.99
Relinquishment Act	1	Pecos	Masterson	1,120.00
Court Order	1	Gregg	East Texas	8.00
Relinquishment Act	1	Polk	Segno	200.00
Agreed Judgment	6	Montague	Roger & Roger	257.50
Relinquishment Act	1	Matagorda	North Bay City	150.00
River Bed	1	Matagorda		150.00
Court Order	2	Reagan	Grayson	649.70
Relinquishment Act	1	Montgomery	Conroe	23.14
Relinquishment Act	2	Galveston	Dickinson	16.625
Submerged	1	Chambers	Smith Point	640.00
Total	33			6,538.38

TABLE 9

Oil and Gas Leases on Which Production Ceased
September 1, 1942—August 31, 1944

Class of Lease	Number of Leases	County	Field	Acres	Prod. Ceased
Relinquishment Act	1	Gregg	East Texas	4.20	6-1-43
Relinquishment Act	1	Duval	Seven Sisters	40.00	5-1-43
Submerged	1	Galveston	Caplen	960.00	4-1-43
Relinquishment Act	1	Pecos	Lehn	80.00	2-1-43
Relinquishment Act	1	Pecos	Abell	240.00	9-1-43
Submerged	1	Nueces	Flour Bluff	40.00	5-1-43
Relinquishment Act	1	Live Oak	Ezell	10.00	1-1-44
Relinquishment Act	1	Pecos	Fromme	960.00	9-1-43
Relinquishment Act	1	Crockett	Noelke	160.00	2-1-44
Relinquishment Act	2	Pecos	Netterville	125.00	9-1-42
Relinquishment Act	1	Reeves	Anthony	80.00	3-1-42
Relinquishment Act	1	Gregg	East Texas	46.00	11-1-42
Relinquishment Act	1	Gregg	East Texas	4.43	10-1-42
Total	14			2,749.63	

TABLE 10

Table of Oil and Gas Royalties Which Accrued to the Permanent School Fund from September 1, 1942, through August 31, 1943

1942	Oil Royalty Payments	Totals	Number of Leases	Gas Royalty	Totals
Sept.	\$188,586.43			\$5,193.30	
Oct.	198,433.15			5,561.48	
Nov.	189,900.20			5,328.69	
Dec.	272,504.49			5,829.31	
1943					
Jan.	206,898.40			4,624.22	
Feb.	585,696.97	\$1,642,019.64	511	5,394.66	\$31,931.66
March ...	203,433.06			4,798.56	
April	233,725.10			5,668.92	
May	288,231.91			6,478.21	
June	271,768.16			5,318.04	
July	240,910.20			5,772.38	
Aug.	243,575.69	1,481,644.12	539	5,837.15	33,873.26
Total ...	Oil	\$3,123,663.76*		Gas	\$65,804.92
Producing Wells.....			2,341		

1943	September 1, 1943 through August 31, 1944				
Sept.	\$245,359.27			\$6,069.71	
Oct.	269,194.11			6,761.13	
Nov.	265,876.33			6,906.36	
Dec.	274,932.80			8,071.39	
1944					
Jan.	272,760.68			7,135.14	
Feb.	259,935.92	\$1,588,059.11	540	6,090.05	\$41,033.78
March ...	268,680.56			7,723.53	
April	261,359.04			7,984.30	
May	273,540.69			7,525.05	
June	266,254.37			7,473.90	
July	280,237.16			8,792.30	
Aug.	292,361.78	1,642,433.60	559	8,317.15	47,816.23
Total ...	Oil	\$3,230,492.71*			\$88,850.01
Producing Wells.....			2,331		

Recapitulation

September 1, 1942 through August 31, 1944

Period	Oil	Gas
Sept. 1, 1941 through Aug. 31, 1943.....	\$3,123,663.76	\$ 65,804.92
Sept. 1, 1943 through Aug. 31, 1944.....	3,230,492.71	88,850.01
Total Oil and Gas.....	\$6,354,156.47	\$154,654.93
GRAND TOTAL.....	\$6,508,811.40	

*This includes royalty deposited to Suspense on account of boundary litigation and over-riding royalty.

Bonus and Rentals Paid on Oil and Gas Leases

September 1, 1942 to August 31, 1944

TABLE 11

	Acres Leased	Bonus and Rentals
Land Allocation		
School Land including River Beds and Submerged Areas.....	1,459,347	\$ 3,041,466.15
Prison Lands.....	16,693 (A)	235,887.81
University Lands.....	362,014	12,981,920.52

(A) Includes bonus out of oil and rentals on exploration permits.

Minerals Other Than Oil and Gas, Coal and Lignite.

Prospect Permits, Mineral Leases and Mining Claims
Granted September 1, 1942 through August 31, 1944

TABLE 12

Type of Claim	Number of Claims	Total Acres	Amount Paid
Permits	28	10,361.14	\$1,036.14
Leases	8*	3,084.00	2,975.64
Mining Claims.....	83	1,554.39	1,740.69

*Four leases matured from permits granted during the preceding biennium.

TABLE 13

Table of Metallic Royalties Which Accrued to the Permanent School Fund
September 1, 1942, through August 31, 1943

	Monthly Total	Six Months' Total	Producing Leases
1942			
Sept.	\$ 377.49	-----	-----
Oct.	268.54	-----	-----
Nov.	224.07	-----	-----
Dec.	7,264.19	-----	-----
1943			
Jan.	296.46	-----	-----
Feb.	335.27	\$ 8,766.02	-----
March	2,700.52	-----	-----
April	422.91	-----	-----
May	353.30	-----	-----
June	1,666.96	-----	-----
July	398.36	-----	Mercury 2
Aug.	2,405.92	\$ 7,947.97	Sodium Sulphate 6
Total for the year.....		\$16,713.99	

September 1, 1943 through August 31, 1944

1943				
Sept.	_____	\$ 503.11	_____	_____
Oct.	_____	418.55	_____	_____
Nov.	_____	1,768.72	_____	_____
Dec.	_____	418.35	_____	_____
1944				
Jan.	_____	307.05	_____	_____
Feb.	_____	1,106.24	\$ 4,522.02	_____
March	_____	270.43	_____	_____
April	_____	291.01	_____	_____
May	_____	542.83	_____	_____
June	_____	297.74	_____	_____
July	_____	507.31	_____	Mercury 2
Aug.	_____	433.87	\$2,343.19	Sodium Sulphate 6
Total for the year	_____	\$6,865.21		
Total for the biennium	_____	\$23,579.20		

Engineering Division

Chief Engineer

Ralph J. McMahon—Sept. 1, 1942 to March 1, 1943

G. C. Morriss—March 1, 1943 to Sept. 1, 1944

Sept. 1, 1942—August 31, 1944

Section 1

Compilation of Maps

The Engineering Division has established an all-time record for a two-year period in compiling, lettering and tracing the 23 official county maps listed below in the biennium from September 1, 1942 to September 1, 1944.

This record has been made despite the fact that our country's armed services have, on an average, taken more employees from the Engineering Division than from any other Division of the General Land Office.

To a person unacquainted with the mechanics of map making, the mere listing of the maps made over a given period of time is unimpressive. I, therefore, believe it is of interest to record the procedure in making an official original survey county map. The following records must be assembled and studied and the information derived therefrom incorporated in the compilation of an official original survey county map:

- (1) Original and corrected surveyors' field notes.
- (2) Surveyors' certified sketches, statements, reports and connecting lines.
- (3) Court decrees and judgments.
- (4) U. S. Government topographic maps when available.
- (5) City limits of incorporated towns and cities when available.
- (6) Railroad alignment maps.
- (7) County boundary lines.

In order to interpret correctly and use the information gathered from these sources, it is necessary that the compiling draftsman have a working knowledge of land surveying and the rules and regulations governing Land Office drafting procedure as derived from the State land laws and the courts' interpretations of such laws, together with other qualifications too numerous to mention here.

When the compiling draftsman has completed the detail work, his detail sheet is passed on to the finishing draftsman who must be an expert at "lines" and "lettering." The finishing draftsman then transfers the detail sheet by carbon process to what is known as the "hard copy" and then inks in all details which completes the map. The map is then passed to the tracing draftsman and a tracing is made on tracing cloth, from which tracing blue prints and white prints are made for sale to the public at the statutory fee of \$1.25 for blue or white print paper maps, and \$3.00 for blue or white print cloth maps.

An approximate average of 900 working hours is required to complete one map, which figure is indicative of the amount of work expended in making the 23 maps listed as follows:

TABLE 14

Maps Compiled

County	Date of Completion
Anderson	December 14, 1942
Austin	November 29, 1943
Comanche	May 15, 1944
Culberson	March 22, 1943
Dallas	December 21, 1942
Delta	November 6, 1942
Donley	March 7, 1944
Ector	June 3, 1943
Ellis	August 20, 1943
Fisher	May 10, 1944
Franklin	December 4, 1942
Hudspeth	February 18, 1943
Hunt	April 5, 1944
Johnson	June 17, 1943
Llano	November 1, 1943
Marion	December 16, 1943
Montgomery	March 31, 1943
Polk	October 18, 1943
Tarrant	September 2, 1942
Throckmorton	February 28, 1943
Tyler	February 14, 1944
Walker	February 26, 1944
Wise	August 31, 1942

Maps in process of compilation but not completed: Brown, Coleman, Eastland, Houston, Irion and Val Verde.

TABLE 15

Working Sketches and Blue and White Prints

	Number	Value
Working Sketches on Personal Orders	134	\$2,444.75
Working Sketches for Mineral Applications	28	834.00
Blue and White Prints of Official County Maps	2938	4,346.05
Topographic Maps and Bulletins	1289	509.45
		<hr/>
		\$8,134.25

Maps, sketches, and other work for other State
Departments (No charge)

Health Department	660 yards used
Fire Insurance Department	360 yards used
Attorney General Department	350 yards used
Railroad Commission Oil & Gas	220 yards used
House of Representatives	100 yards used

Section 2

Applications and Field Note Examinations

TABLE 16

Number of Files examined in filing Field Notes and passing claims to patent.....	15,350.
Number of Field Notes examined and filed.....	2,583.
Acres of Excess developed in Corrected Field Notes of School Surveys.....	13,509.81
Acres of Excess developed in Corrected Field Notes of Individual Surveys.....	17,540.16
Number of files, unsurveyed land, examined, SF (G.F.C.).....	188.
Number of acres unsurveyed land, G. F. C. approved.....	9,796.97
Number of acres unsurveyed land, G. F. C. pending.....	881.41
Number of files unsurveyed land not completed within the 120 days limit, rejected and cancelled.....	41.
Mineral prospects filed, metallic.....	118.
Mineral prospects rejected, metallic.....	2.
Mineral applications for alleged vacancies filed.....	27.
Mineral applications for alleged vacancies rejected.....	12.
Mineral applications for alleged vacancies pending.....	10.
Mining claims, field notes examined and approved.....	118.

Section 3

Reclamation Service

In 1939 the 46th Legislature at its regular session passed an Act abolishing the office of State Reclamation Engineer (Article 5421h-1 of the Amendments of the Revised Civil Statutes of 1925), thereby transferring to and vesting the functions of that office in the Commissioner of the General Land Office and transferring all records and property of the State Reclamation Department to the General Land Office.

Supplemental plans were approved for the construction of improvements in four Levee Districts in Rockwall, Kaufman, Dallas and Ellis Counties at an estimated cost of \$194,265.00.

Four sets of plans were approved for independent reclamation projects to be constructed in Cooke, Hunt, Bell and Kaufman Counties at an estimated cost of \$39,704.88.

Nine inspection and advisory field trips were made at the request of individual and district authorities.

Section 4

Resume of Outside Activities

(1) Six months and five days service of one engineer loaned to Lone Star Steel Company at Daingerfield, Texas, for location of Plant Site and Lake for manufacture of pig iron under war service contracts and for other topographic work necessary to such war service plant location.

(2) Loan of service of one engineer for eight weeks to make a war service map of Camp Mabry for Adjutant General Department.

Assistance Rendered Other State Departments

(3) Service of one engineer to survey C. C. Camp site at Huntsville, Texas, for State Health Department.

(4) Service of one engineer for two weeks on Colorado River Survey for Attorney General Department. (Omitted in last report.)

Mineral Division

Supervisors

R. A. Modrall*

Ben J. Krueger

Report for the Biennium

September 1, 1942 to August 31, 1944

TABLE 17

	No.	Acres
Mining Claims Awarded.....	97	1,808.36
Prospect Permits Issued.....	181	92,422.35
Leases Matured out of Permits.....	4	923.94
State Leases by Land Owners under the Relinquishment Act.....	520	551,542.83
Highest Bidder Leases		
Unsold School Land.....	74	18,213.58
Submerged Areas.....	100	57,563.93
River Beds.....	15	1,601.55
Prison Land Leases.....	11	9,817.00
Prison Land Permits.....	3	22,393.96
Free Royalty Leases		
Lands Sold under Chap. 271 (1931).....	43	15,674.03
By Virtue of Court Decrees.....	8	4,138.19
Vacant School Land.....	4	379.25
Files made up to take care of bonus, rental, and royalty on leases never filed in the General Land Office.....	2	
Void File.....	1	
Leases Issued by Land Office on University of Texas Lands.....	744	169,205.43
Assignment of Leases		
Splits: Relinquishment Act Leases.....	131	
Splits: Highest Bidder Act Leases.....	2	
Splits: Prison Land Act Leases.....	1	
Splits: Free Royalty, Chap. 271, Act 1931.....	1	
Splits: By Court Decrees.....	8	
Splits: Vacant School Land.....	1	
Splits: University Leases.....	34	

*Died December 2, 1943.

Abstract Division

Miss Marie Hedick, Abstract Compiler

TABLE 18

Original abstracts entered and former abstracts corrected.....7,417

Patent Division

Mrs. Ethel Wood Roberdeau, Patent Clerk

Patents issued from Sept. 1, 1942 to Aug. 31, 1944, were as follows:

TABLE 19

	No. of Patents	Acres	Fees
School	4,355	1,835,769.34	\$33,041.00
Miscellaneous & Asylum	39	16,121.24	292.00
University	2	111.55	6.00
Mineral	63	1,031.00	189.00
Re-patents	202		
Totals	4,661	1,853,033.33	\$33,528.00

This is 348 patents more than were issued during the preceding biennium. 746 Deeds of Acquittance have been issued during this same period.

Photostat Division

Mrs. Flavia B. Curby—Supervisor

September 1, 1942 through August 31, 1944

TABLE 20

Number of copies for which fees were charged.....	35,230	
Total fees charged for copies.....		\$39,148.25
Number of copies of Land Office records made for the use of this and other departments entitled to the same under Article 3913, R. S. 1925:		
Miscellaneous	1,819	
Attorney General Department.....	4,962	
The University of Texas.....	2,991	
Number of copies from records of other departments under the provisions of Chapter 286, Act of 42nd Legislature and Chapter 166, Act of 43rd Legislature:		
Insurance Department		
Life	8,731	
Casualty	2,034	
Fire	402	
TOTAL	11,167	
Industrial Accident Board.....	250	
State Department of Health.....	781	
State Department of Agriculture.....	185	
Total number copies free work.....	22,155	
Total number copies made.....	57,385	\$39,148.25

Spanish Division

Lurline Gafford, Translator

(1942-44)

TABLE 21

	Number	Fees
Certified translations.....	554	\$1,538.60
Certificates of Fact.....	27	27.00
Certified translations for use in office and other State Departments.....	101	No Fee
Total	682	\$1,565.60

Title Certificate Division

From September 1, 1942 through August 31, 1944

TABLE 22

Number of Certificates	Fees Earned
4161	\$9,055.85

HISTORICAL SECTION

PICTURES OF FORMER COMMISSIONERS
A PRESENTATION CEREMONY

On May 13, 1943, a ceremony of unusual interest took place in the General Land Office; the occasion being the presentation of the pictures of all former Texas Land Commissioners. These pictures, enlarged photographs of originals obtained by me from the two living ex-commissioners and the relatives and friends of the deceased commissioners, were my personal gift to posterity, a tribute to the memory of these eighteen men whose administrative acts are so inextricably woven into the history of the home life and the educational development of our State.

In the large crowd that listened attentively to our program were State Officials, descendants and other relatives and friends of nearly all of these former commissioners, and many members of the Daughters of the Republic of Texas. The presentation address was delivered by Governor Stevenson and the acceptance by Mrs. Ben T. Edwards, President of the Daughters of the Republic of Texas, and a granddaughter of former Commissioner Francis M. White. Miss Margaret Etta Wells, granddaughter of Mrs. Edwards, presented a letter written to Francis M. White by his Land Office employees when he retired from the Land Office in 1862. This letter was accepted and placed in the archives of the General Land Office.

The program was continued with my reading of a brief sketch of each of the commissioners which is here reproduced for its historical value:

Commissioner Giles:

These pictures are of the eighteen former Land Commissioners of this office. These men represent a century of administration and development of the public lands of this State.

The first commissioner to serve the Republic of Texas was **John P. Borden**, a native of New York State, who was appointed by President Sam Houston in June, 1837. He served three (3) years and his task was a hard one. He had to assemble all the land records from the widely separated municipalities of Texas, and it is difficult for us to realize the hardships he encountered in accomplishing this task. Transportation was by wagon or pack horse and often through Indian infested country.

The second commissioner under the Republic of Texas and the first under the State was **Thomas Wm. Ward**, a native of Ireland, who was appointed by President Lamar and qualified in January, 1841. He came to Texas in 1835 as Captain of First Artillery Company of New Orleans Greys, and at the capture of San Antonio, a cannon ball took off a leg. On March 2nd while celebrating Texas independence, he lost an arm while helping to fire a salute. In spite of these handicaps, he continued active and held several important offices. It was during Comr. Ward's administration as land commissioner that the "Archive War" took place.

George W. Smyth, a North Carolinian by birth, was the second Commissioner to serve under the State. He came to Texas in 1828 and was a member of the Convention at Washington on the Brazos in 1836 and was one of the signers of the Texas Declaration of Independence. He was the first land commissioner to be elected.

Stephen Crosby, a native of South Carolina, is the only land commissioner to have served three (3) different times, beginning in 1852 and ending in 1867. Prior to his election, Commissioner Crosby had served as Chief Clerk in the General Land Office under former Commissioner Smyth. Commissioner Crosby's first problem was the difficulty of getting sufficient data to compile the much needed County Maps for the Land Office records, and to eliminate the fraudulent locations made on forged certificates. He was handicapped by inadequate office space until he was able to persuade the Legislature to construct the Old Land Office Building in 1856, which is immediately across the street from this building.

Francis Menafee White, a native of Tennessee, came to Jackson County, Texas in 1830. He served as Land Commissioner twice, being first elected in 1857 and afterwards appointed by Governor A. J. Hamilton. He was very active in the fight for Texas freedom and was unable to go to San Felipe for the consultation of 1835 because of his military duties. When Jackson County was organized in 1837, he was made a member of its Board of Land Commissioners and served several years. He attended the Annexation Convention of 1845. For ten (10) years preceding his election as land commissioner, he served as a member of the Texas Legislature.

Joseph Spence came to Texas from Tennessee and was the first land commissioner under the military rule during the Reconstruction Days, having been appointed in 1867 by General Griffin. Commissioner Spence was a man of unusual business ability and his administration did much to straighten out the land records that had gotten in bad shape during the Civil War.

Jacob Kuechler, born in Germany in 1823, was a graduate of the University of Giessen and came to Texas in 1847 as one of forty (40) students seeking the liberty that they had not found in the Fatherland. Mr. Kuechler was opposed to Secession and went to Mexico during the Civil War. After his return to Texas, he was appointed Commissioner of the General Land Office in 1870 by General Reynolds. He was afterwards elected. Mr. Kuechler was well qualified by education and experience to hold the office and his administration met with favor during the Reconstruction Days.

Captain J. J. Groos, born in Offenbach, Germany, in 1824, was educated as a civil engineer. He came to Texas in 1847 and surveyed lands in Comal, Bexar, Kendall and adjoining counties. He was captain of a Confederate Militia Company during the Civil War. Having been elected land commissioner in 1874, he served until his death. Commissioner Groos published the first printed report of the administration of the Land Office in 1877. A son, Martin Groos, afterwards served as Chief Clerk of the Land Office under Commissioners McGaughey and Baker. Mr. George Groos, a grandson of Captain Groos, has just completed fifty (50) years of service with the Walter Tips Company of Austin.

Captain W. C. Walsh, a native of the State of Ohio, came with his parents to Austin on New Year's Day, 1840. He served as a clerk in the Land Office under Commissioners Crosby and White before becoming a member of the famous Hood's Brigade during the Civil War. He re-

ceived three wounds at the Battle of Gaines Mill, Virginia, which left him physically handicapped for life. He was serving as Chief Clerk of the House of Representatives when Governor Hubbard appointed him Land Commissioner in 1878. Captain Walsh, with the help of S. Rhoads Fisher, brought to a successful conclusion his campaign against land forgeries by sending a number of the boldest forgers to the penitentiary. Commissioner Walsh was largely responsible for the 2,000,000 acre land endowment for the University of Texas, which has made possible its expansive building program.

R. M. Hall was a native of North Carolina and came to Texas in 1872. He was educated as a civil engineer and was the Surveyor of Grayson County preceding his election as land commissioner in 1886. It was during Commissioner Hall's administration that the "Sidings and Switches" issue was raised against the railroads by the then Attorney General James Stephen Hogg. Even though Commissioner Hall opposed this suit, the State was successful in the recovery of 1,400,000 acres. Commissioner Hall recommended that the land endowment of the University of Texas be handled by the Board of Regents. It was under his administration that the renowned short story writer, William Sidney Porter, better known as O. Henry, served as a draftsman in the old Land Office.

W. L. McGaughey, a native of Alabama, came to Texas in 1869, was a school teacher and served as a member of the Texas House of Representatives in the 19th, 20th and 21st Sessions. He was elected land commissioner and served the same four years that James Stephen Hogg served as Governor. Col. McGaughey, in his final report, stressed the necessity of the revision of the State Abstracts. This work was not done until the present administration. This enormous undertaking has now been completed and a new Abstract Book delivered to each County Tax Assessor-Collector by this office.

Captain A. J. Baker, a native of Mississippi, fought in the Civil War before coming to Texas, where he was a member of the 22nd Texas Legislature. The School Land Act of 1895 and 1897 imposed an unusual amount of work on the Land Office at that time. Forfeitures were taken on more than 5,000,000 acres and approximately 6,000,000 acres were sold.

George W. Finger, the first native son of Texas to be elected land commissioner, was born in 1857 on his father's headright of 640 acres in Tarrant County, Texas. He graduated from Mansfield College at the age of 20, a classmate of the Honorable J. H. Walker and Congressman J. W. Stephens. After being admitted to the bar, he served as Reading Clerk in the Texas Legislature, as Legal Examiner under Commissioner McGaughey's administration, and was elected Land Commissioner in 1898. He is the only commissioner to serve less than one year, his term being cut short by his death in May, after taking office in January, 1899.

Commissioner Charles Rogan, a graduate of A. & M. College, was appointed by Governor Sayers to fill the unexpired term of Commissioner Finger. Commissioner Rogan was elected to a second term. It was during his administration that the accounts between the State and Public Free School Fund were balanced as provided in the Constitution

Mississippi
376.58

of 1876, and the sectionizing of the unappropriated areas under the Act of 1900 was begun. Commissioner Rogan sold more than \$665,000.00 worth of pine timber at a price better than \$5.00 per acre, which was the highest on record up to that time.

John J. Terrell served under Commissioners Baker and Rogan before he was elected in 1902. He adopted the policy of printing rules and regulations for the sale and lease of public lands and also printed the lists of lands coming on the market. It was during his administration that the competitive bidding Act of 1905 was passed, providing for the sale of school land. On September 1, 1905, under this new sales act, Commissioner Terrell sold more than 5,000,000 acres, and later during his administration, sold an additional 6,400,000 acres, making a grand total of more than 11,000,000 acres of surveyed school land sold. His chief problem was to see that purchasers occupied and improved the lands they bought as they were required to do by the statutes.

J. T. Robison was born in Cass County. He served on various desks in the Land Office, including those of Legal Examiner and Chief Clerk, prior to his election as Commissioner in 1908. He served more than twenty (20) years continuously as Commissioner of the General Land Office, which service was ended by his death in 1929. He wrote a great many of the land laws of Texas, including the now famous "Relinquishment Act of 1919," and it was under his administration that the revenue from oil royalties grew from \$502.00 in 1914 to more than \$3,000,000.00 in 1929. Commissioner Robison was directly responsible for the erection of this present Land Office Building, to which the records were moved in September, 1918. It was under Mr. Robison that I first became associated with the Land Office.

J. H. Walker, born in Johnson County, Texas, first entered State service in 1899 as Spanish Translator under Commissioner Finger. After serving as Chief Clerk in the Comptroller's office, Mr. Walker returned to the Land Office under Commissioner Robison and served as Chief Clerk continuously from 1909 to 1929, except for two years when he was financial agent for the State Prison System under John L. Wortham. Following Mr. Robison's death in 1929, Mr. Walker was appointed Commissioner by Governor Moody. He was afterwards elected three times and voluntarily retired to assume the duties of Land Officer of the University of Texas, which position he now occupies. It was my privilege to have served ten years with Mr. Walker while he was Chief Clerk and seven years under him while he was Commissioner. I have never heard anyone say that Mr. Walker did not give him a square deal. He is affectionately known as "The Grand Ol' Man of the Texas Land Office."

William H. McDonald, of Eastland County, was elected in 1936 and remained in office one term.

At the conclusion of these biographical sketches, a paper prepared by former Commissioner J. H. Walker, reminiscent of his long service in the Land Office, was read by Mr. J. F. Clark, for Mr. Walker, who was in El Paso at the time.

The exercises were closed with an appropriate and inspiring prayer by Dr. S. G. Posey, Pastor of the First Baptist Church of Austin.

OUR MINERALS AND OUR TEXAS CONSTITUTIONS

The mineral most needed by the early white settlers in Texas was not gold but SALT. Lack of transportation facilities forced these pioneers to depend largely upon local salt deposits for their supplies of this essential mineral. One of the most important of these deposits was the famous and now historic salt lake in Hidalgo County, known as "El Sal del Rey." For long years this deposit had supplied salt to the people for many miles on each side of the Rio Grande. Title to the mineral had remained in the several successive ruling governments of Spain, Mexico, the Republic of Texas and the State of Texas.

On November 18, 1797, the crown of Spain conferred a grant of 315,391 acres of land to Juan Jose Balli, lying in what is now Hidalgo, Willacy, Kenedy, and Brooks counties, but no copy of the title was recorded in Hidalgo County until 1851, and the field notes and map of the land were filed in the Land Office October 24, 1879.¹ "El Sal del Rey" was within the limits of this grant.

In 1839 a survey of one league and one labor of land was made by virtue of a First Class Headright Certificate issued by the Board of Land Commissioners of Bexar County to Maria de los Santos Menchaca on March 22, 1838. This survey was patented to H. M. Lewis, Assignee, on December 20, 1847, by patent No. 348, Vol. 6, 1st Class.² It covered all of "El Sal del Rey." On February 11, 1850, the Third Texas Legislature validated this Patent No. 348, Vol. 6, and relinquished all the rights of the State to said land.³

The Ninth Texas Legislature passed a joint resolution, approved January 10, 1862,⁴ setting out that the lake, "El Sal del Rey" could not be legally patented and could not be lost by prescription; that the State needed the revenues of the said lake and the people needed the salt at a "reasonable rate." It was therefore resolved that the Governor be "authorized and required" to appoint an agent whose duty it was to take and hold possession of the Salt Lake in behalf of the State and to collect and pay over the revenues arising therefrom into the State Treasury. The Governor was empowered to detail a force of militia or such troops as might be in the State service to support the agent in his work.

The Journal of the Constitutional Convention of 1866, at page 214, shows that the Committee on General Provisions made a report through its Chairman, Mr. Hancock, as follows: "Committee Room March 17, 1866. Hon. W. M. Taylor, President pro tem of the convention: The committee on general provisions of the Constitution, to whom was referred an ordinance relative to the salt lake known as 'El Sal del Rey' have had the same under consideration, and direct me to report the following substitute for same, and recommend its passage: Section to be added to the general provisions of the Constitution: That the State of Texas hereby releases to the owner of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of

¹Land Office File San Pat. 1-738.

²Land Office File San Pat. 1-147.

³Gammel's Laws of Texas Vol. 3, P. 766, Chap. CLXIV.

⁴Gammel's Laws of Texas Vol. 5, P. 505, Chap. VIII.

taxation as the Legislature may impose. All islands along the Gulf coast of the State, not now patented or appropriated by locations under valid land certificates, are reserved from location or appropriation in any other manner by private individuals than as the Legislature may direct."

The above report was apparently adopted as an ordinance,⁵ and enrolled and engrossed as such, but appeared in the printed text of the Constitution as Art. VII, Section 39.

The long controversy over "El Sal del Rey," coupled with the decision in *Cowan v. Hardeman*,⁶ November 19, 1862, construing the mineral reservation in the fourth section of the Act for the relief of James Erwin and others passed June 3, 1837, were the factors that wrought this change in our organic law. This release provision was carried forward in the constitutions of 1869 and 1876. In spite of these constitutional provisions, "El Sal del Rey" was still a bone of contention, and in 1884 the State of Texas brought suit against Salvador Cardenas and others holding under the grant of 1797 to Juan Jose Balli, and against F. J. Parker⁷ who claimed title under the patent of 1847 to H. M. Lewis. The Court held that the Constitution of 1866 released all the minerals to those owning the land. The Court went even further and said that the effect of this release provision was both retroactive and prospective. The prospective feature of this decision was held to be dicta in the case of *Cox v. Robison*⁸ which held further that the Texas Legislature had power to provide for the reservation of minerals in future grants of the school and other public lands.

"El Sal del Rey" was a source of conflict between Texas citizens, and between the State and her citizens for nearly 40 years. In the light of our present knowledge of the mineral resources of Texas, it is hard for us to understand why one old salt lake could have been of such importance as to be the moving factor that caused a radical change in our State Constitution, by which change the State unwittingly gave to the landowners untold billions of dollars in oil, gas, sulphur and other minerals. Had all these minerals been retained by the State and disposed of in a business like manner, our State tax structure would have been a model of simplicity, and our educational funds would have been astronomical in amount.

The discussion which follows is limited to the minerals other than oil, gas and sulphur; the latter have been developed under separate provisions of our statutes.

OUR STATE'S MINERALS OTHER THAN OIL AND GAS UNDER LEGISLATIVE ACTS FROM 1883 THROUGH 1943

The following provision for the support of the Public Free Schools was made under Article VII, Section 2, of the Constitution of 1876:

"All funds, lands and other property heretofore set apart and appropriated for the support of the public schools; all the

⁵Page 360-361, Journal of the Constitutional Conv., 1866.

⁶26 Texas P. 217.

⁷State of Texas v. F. J. Parker, Adm'r.

⁸Cox v. Robison 150, S. W. R., P. 1149.

alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads, or other Corporations, of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual school fund."

Recognizing that no provision had been made for the protection of the State's minerals in the grants to the Public schools, the University and the Eleemosynary institutions, Land Commissioner W. C. Walsh, in his report dated 9-1-1882, called attention to the necessity for some legislation on this matter, and discussed at some length the bad features of the law then governing the sale of the School, University and Asylum lands, proclaiming it wrong in principle and worse in application. His main objection was that the operation of this law was building up large land monopolies to the detriment of both the educational funds and the homeseekers of the State. He asked for new laws to conserve the educational lands and minerals, and asked for a bonded special officer to administer the law under the direction of a Land Board.

In response to Captain Walsh's request, the Eighteenth Legislature passed an act "to provide for the classification, sale and lease of the lands heretofore or hereafter surveyed and set apart for the benefit of the Common School, University, the Lunatic, Blind, Deaf & Dumb, and Orphan Asylum Funds." Section 14 of this Act says: "The minerals on all lands sold or leased under this Act are reserved by the State for the use of the fund to which the land belongs." Texas Supreme Court in *Greene vs. Robison*, 210 S. W. R., p. 498 held this general reservation as ineffective.

This Eighteenth Legislature also passed "An Act to provide for the disposition of the minerals in the Public School, University, Asylum and Public Lands of the State of Texas." This Act reserved all minerals in the land from the operations of the laws for the sale of such lands. The Act provided for the filing of mining claims of 300 feet by 1,500 feet upon discovery of coal, iron, tin, copper, lead, silver or gold. After a survey and return of field notes to the Land Board, the owner was required to work the claim under regulations prescribed by the Board, the annual minimum to be \$200.00 worth of work. The Fund to which the mine belonged was to receive five per cent of the gross receipts.

The report of the Secretary of the Land Board showed 78 mining claims filed from April 14, 1883 to December 31, 1886, and only \$12.25 paid as due the State. Report of the Land Commissioner for the biennium ending August 31, 1888, stated that no protection was afforded the owners of mining claims under the Act of 1883 and a new law was needed.

The Twenty-first Legislature convened on January 8, 1889. Under the title of "Mines and Mining," a long and supposedly comprehensive act was passed by a large majority vote of both houses and was approved by the Governor on March 29, 1889. Under this Act, all lands containing valuable minerals were reserved from sale or other disposition except as provided by that Act. It was the duty of the Land Commissioner immediately upon the passage of the Act to have a map made showing the location of all public school, university, asylum and public

lands which were unsold at that date; and it was made the duty of the State Geological survey to examine such lands as soon as practicable thereafter, and to designate such tracts as were mineral bearing. Just what effort was made by these State officials to comply with these stupendous orders is not apparent in the later reports of either the Land Commissioner or the State Geologist.

Under this Mining Act of 1889, provision was made for three classes of mining claims as follows:

Sec. 4. A mining claim of 21 acres, maximum, on lodes or veins bearing silver, cinnabar, lead, tin, copper, or other valuable metals. Owner of a claim was required to do \$100 worth of development work annually, and to pay \$50.00 per year annually to the Land Commissioner as a credit on the price of \$25.00 per acre for the land. Patents could issue after 5 years upon full payment. No royalty payments were required.

Sec. 10. Claims up to 160 acres to individuals and 320 acres, maximum, to associations of persons could be located on lands containing deposits of coal, iron ore, kaolin, baryta, salt, marble, fire clay, oil, natural gas, or valuable building stones, upon payment of ten dollars per acre if situated more than 10 miles from a railroad and not more than \$20.00 if less than ten miles. No royalty was set out for claims in this category.

Sec. 16. Placer claims were to be filed on and patented under the same conditions and terms as claims on lodes or veins except that the minimum was 40 acres for the individual and 320 acres for a company. The minimum price was \$10.00 per acre, with no royalty.

Grounds for automatic forfeiture of claims were: Failure to survey and return field notes to the Land Office as set out in the Act; failure to request patent within 5 years from date of application for survey; and failure to do the assessment work and file report of same. There were 5 claims that were paid out and patented under this Act, covering 39.23 acres, consideration paid, \$980.75.

In 1895, the Twenty-fourth Legislature passed a general sales¹ act providing for the classification and sale of the School and Asylum Lands. The only classifications recognized were "grazing," agricultural and timber land. The Revised Civil Statutes of 1895 carried, under Title LXXXVII, Chapter 1, Art. 4041, a release of all mines and minerals to the owners of the soil. No reservations of minerals were made in any lands granted prior to September 1, 1895. The Twenty-fourth Legislature also passed a Mining Act which was, in most of its provisions, a copy of the Act of 1889. Two important changes were made. The first was the opening of the State lands in the Pacific Reservation to exploration and purchase. These lands had been taken off the market under the Act of January 22, 1883. The second change was in the article or section pertaining to non-metallic minerals. The quantity of such mineral-bearing land that could be purchased by a person or association of persons was a minimum of 40 acres up to a maximum of 640 acres. The terms of sale were fifteen dollars per acre if within 10 miles of a railroad, and ten dollars per acre if more than 10 miles,

¹Act of April 4, 1895, Chapter 47, Page 63.

payable one-tenth of the purchase price in cash, and the balance in nine equal annual installments, with interest from date at four per cent per annum. Lands containing valuable deposits of gold, silver, lead, cinna- bar, copper or other valuable metals were excluded from the operations of this section. Lands containing such metals were subject to sale under Section 4, 5, 6, 7, 8 and 9 of this Act. The maximum area of a claim was 21 acres, and the price was \$25.00 per acre, payable within five years from the date of application for survey. The owner of a claim was required to do \$100.00 worth of development work annually and to file his affidavit showing the nature of the work, with the surveyor, within one month after the expiration of each year. No yearly payment on principal, no interest, and no royalty payments were required under these provisions for sale of the metallic minerals and a claim could be held, worked and produced for five years without any payment to the State.

To correct the defect in the mining claim section of the 1895 Act, the Twenty-ninth Legislature passed an act effective April 15, 1905, repealing Art. 3498m and amending Articles 3498f, 3498g, and 3498L of the Revised Civil Statutes of 1895. As amended, the owner of a mining claim was required to make a first payment of one-fifth of the aggregate price when his application and field notes were filed in the Land Office, and to give his note for the unpaid balance of the purchase price, payable one-fifth annually with four per cent annual interest on the balance, until the entire purchase price and interest were fully paid.

Before the above amendment became effective, 87 mining claims aggregating 1,610.43 acres had been paid in full for \$40,628.20, and patented, without any accrued interest. Under the amendment, 28 claims, aggregating 556.31 acres were paid in full for \$13,905.45 principal and \$1,232.02 interest. The average per acre return to the school funds on these metallic mineral claims was \$25.57.

Of the lands containing minerals other than gold, silver, lead, cinna- bar, and copper, there were 36 applications covering a total of 4,880 acres, on which \$60,800.00 principal and \$17,310.38 interest was paid in full for patenting; an average gross return of \$16.00 per acre to the school funds. All of the minerals acquired under each of the foregoing acts were on unsold lands.

On June 26, 1901, the Texas Supreme Court handed down a decision² holding that unless the mineral classification was placed on each tract of State land before its sale, there was no reservation of the minerals. Under this decision, the necessary mineral classification was placed on numerous tracts of school land, but many other tracts in potential oil fields were sold without the mineral reservation because no one had vision enough to include every unsold tract under the mineral classification until many years later when most of the school land had been sold.

In 1913, the Thirty-third Legislature, under the provisions of Chapter 173, opened to mineral prospecting, mineral development and the lease of mineral rights "all lands which have been heretofore sold or disposed

²Schendell v. Rogan, 63 S. W. R., p. 1001.

of by the State of Texas, with a reservation of minerals or mineral rights therein, as well as all land which may hereafter be sold with reservation of minerals or mineral rights therein, and lands purchased with the relinquishment of the minerals therein." The unsold School, University, Asylum and other public lands also came within the scope of the Act. It was declared to be the policy of the State to open such lands to mineral prospecting and development on a system providing for payment of rents and royalties to the several funds to which the lands belonged on the basis of gross output of any of such minerals.

Under this Act, oil and gas were separated from the other minerals and special provision was set up for acquiring the rights to these two minerals. Coal and lignite were also covered by special articles. Mining claims on veins or lodes were limited to 1500 feet in length to 600 feet in width, and other mineral claims including placers, were limited to 40 to 320 acres. The owners of each class of claims were required to do \$100.00 worth of labor per annum "on such claims," and to file sworn itemized statements in the Land Office and also in the office of the county clerk. In full payment for the right to take from any mineral claim, whether metallic or non-metallic, any mineral or deposit, the owner or holder of such claim was required to pay "a royalty or rental" equivalent to five per cent of the gross output of such mine or claim. Owners of lands in which the minerals were reserved were given a six months' preference right to prospect, locate and apply for the mineral rights upon such land so purchased. The owners of permits or leases were required to pay the owner of the surface of mineral reserved land, 20 cents per acre per annum.

The issuance of a permit or lease, or the filing of a prospector's affidavit on unsold land included in this Act was not a bar to the sale of the surface, but the surface purchaser acquired no rights to the minerals.

Under this Act, many applications for prospect permits for oil and gas were issued, but relatively few for other minerals, of which only one group of 4 claims, covering 120 acres, in Hudspeth County, paid royalty of any consequence. The mineral in these 4 claims was gypsum and the total royalty paid the State was \$2,405.32. Production ceased in 1928.

In Chapter 83, Acts of the Thirty-fifth Legislature, Regular session, January 9 through March 21, 1917, the Mineral Act of 1913 was amended as to some sections and repealed as to others. Sulphur was placed in the Coal and Lignite section with a royalty of twenty-five cents per ton to the State. All other minerals except oil and gas, coal or lignite, and sulphur were included in one group, and the maximum area of one claim was limited to 80 acres. Five such claims might be included in one permit, if all were contiguous. If the land had been sold with the mineral reservation, the applicant for a permit was required to pay ten cents per acre per annum to the landowner and the same to the State through the Land Commissioner. The life of a permit was 5 years without production. Leases were to be applied for and issued upon proof of production in commercial quantities. A five per cent royalty on gross production was payable to the State. During the life of a per-

mit, but prior to issuance of a lease of any of the minerals within the provisions of this Act, except petroleum and natural gas, the owner of the permit could elect to pay \$100.00 per acre and secure a patent to such minerals. Under this 1917 Act, more than four thousand oil and gas prospect permits were issued and seventy-six permits for other minerals. Of the latter, one 80-acre silver claim in Hudspeth County was matured into a producing lease and paid royalty of \$213.92 over a period of about ten years from date of the permit. Production ceased in 1929.

The Second Called Session of the Thirty-sixth Legislature convened on June 23, 1919 and adjourned on July 22, 1919. At this session, two bills were passed providing for the development of the State's mineral resources, both of which became effective on October 21, 1919. One of these Acts, Chapter 81, was the much discussed Relinquishment Act which placed the control of oil and gas leases in the owner of soil of School lands theretofore or thereafter sold with a reservation of the minerals to the State.

Other minerals, except oil and gas, coal and lignite, were made subject to sale and development under the provisions of Chapter 79, which repealed the Act of 1917, and restricted both metallic and non-metallic minerals to claims of 600 feet by 1500 feet maximum size, required an application for survey to be filed with the county surveyor, and after survey the application and field notes to be sent to the Land Office, where upon examination and approval an award was to be issued subject to the conditions of payment of fifty cents per acre yearly on a purchase price of \$10.00 per acre, and the filing each month of January an affidavit showing performance of annual assessment work of excavation either in shaft, tunnel or cut of ten feet in depth or length by four by five feet for the other dimensions. The work on a group of claims could all be done on one, if all contiguous. After five years from date of award, the owner had the right to pay the balance due on the purchase price and obtain a patent after which no further assessment work was required. Two per cent royalty payment was required upon production as shown by net Smelter, Mill, Mint, or Refinery returns, or from sales of ore by the owner. This royalty of two per cent was to be perpetual whether the claim was patented or not.

This Act included all valuable mineral-bearing deposits, placers, veins, lodes and rock carrying metallic or non-metallic substances of value except oil, gas, coal and lignite that might be in any Public Free School Land, University Land, or Asylum Land which had theretofore been sold with a reservation of mineral therein, and all of said substances that might be in or upon said land that was purchased with the relinquishment of the mineral therein, and all lands of which the mineral rights had reverted to the State of Texas as the Sovereign Government, and all of said substances that might be in or upon any other public land including islands, river beds and channels which belong to the State.

This Act of 1919 was not amended until Chapter 271 of the Acts of 1931 became effective. This Chapter 271 was a combination Sales and Lease Act. It included all lands heretofore set apart to the Public Free School Funds under the Constitution and laws of Texas, and all of the unappropriated and unsold Public Domain remaining in the State, of

whatever character, except river beds and channels, and islands, lakes and bays, and other areas within tidewater limits.

All lands sold under the provision of this Act are with a reservation of one-sixteenth of all minerals as a free royalty to the State, except a one-eighth royalty on sulphur and other mineral substances from which sulphur may be derived. The Texas Supreme Court, in *Wintermann vs. McDonald*, held that this Act authorizes the purchaser of the land to act as agent of the State in executing leases thereon for any or all minerals in such lands purchased under the Act.

Under this 1931 Act, all minerals in all unsold School Land, islands, salt water lakes, bays, marshes and reefs owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas were subject to lease by the Land Commissioner, for the production of minerals, except gold, silver, platinum, cinnabar and other metals, under public advertisement for sealed bids.

Under Section 12, Act of 1931, anyone desiring to prospect for gold, silver, platinum and other metallic ores and precious stones could secure a permit good for one year upon State-owned land by filing an application with the Land Commissioner, designating the area wanted. No payment of any kind was required. Within the year, the permittee could file application for a lease covering the area designated, for the purpose of mining any of the minerals under his permit, and remit fifty cents per acre as the first annual rental payment on the lease, which could be continued for five years by making annual payments, unless some of the minerals mentioned were discovered, in which case one-sixteenth of the value of the minerals, moved or sold, should be paid monthly to the Land Commissioner as royalty. Section 12 was amended in 1943 to require payment of ten cents per acre on each permit.

By the Act of 1931, the Legislature provided for the disposition of the minerals in all unsold school lands. The minerals reserved to the State in sales prior to 1931, except oil and gas, are disposed of under Chapter 79, Acts of 1919, (Articles 5388-5403 R. C. S. 1925), with royalty changed to $6\frac{1}{4}$ per cent by the amendment of 1935.

Since October 21, 1919, there have been some 2,100 mining claims awarded covering approximately 36,000 acres. Many of these claims were forfeited after the first year, some after the second or third year, while 123 claims totaling 1,720.12 acres were paid in full for \$17,201.26, to August 31, 1944, and some 400 claims are still being paid out on the annual payment basis. No royalty appears to have been paid on any of the patented claims.

The State has received \$38,197.85 on 2 per cent royalty basis from sodium sulphate claims on 143.10 acres in Ward County, from July, 1933 to 6-30-1944.

From June 1, 1929, to July 1, 1939, a coal and lignite lease on 320 acres in Brewster County paid a total royalty of \$1,650.26. Production ceased in 1939.

One mercury claim of 20.66 acres in Presidio County paid \$23,593.88, on $1/16$ royalty basis from July, 1940 through June, 1944. A royalty check of \$30.57 was received for mercury shipped from a lease in Presidio County, and another check of \$12.82 was received for mercury

royalty from a lease in Brewster County during the same interval. The mercury sold in 1941-1943 ran from \$153.00 to \$194.00 per flask, the average being about \$180.00. In June, 1944, the price had dropped to \$95.00 per flask. During this era of high prices no other mercury royalties were paid to the State, although there were several hundred valid mining claims and leases in the heart of the quicksilver belt. With the exception of the above royalty payments on mercury, sodium sulphate and coal, there have been no other royalties worth mentioning, during my tenure of office, on minerals other than oil and gas.

In the face of this apparent lack of returns, 83 mining claims covering 1,554.39 acres, 8 leases covering 3,083.94 acres, and 28 prospect permits covering 11,835.34 acres were granted during this biennium. Failure of adequate royalty returns to the State may be due to several causes. It may indicate a lack of mineral deposits of workable value, filing for speculative purposes only, a lack of skill and capital to develop, or a lack of willingness to pay the State her dues. The wide discrepancy between the large acreage filed upon and the meager royalty returns still remains an unsolved problem.

Although the money returns seem to be in favor of the outright sale of the minerals in place as under the Act of 1895 and Amendment of 1905, yet it is very doubtful if it would be wise to eliminate the royalty feature of the present law. To increase the returns, the price of the minerals in lands sold prior to 1931 might be increased to \$20.00 per acre, payable at the annual rate of \$1.00 per acre. This change might stop some of the speculative filings. Annual assessment work has been largely a farce on the vast majority of these mining claims. The work should be done under the supervision and approval of a competent mining engineer from the Engineering Department of the Land Office, who should reside in the Trans-Pecos region where the most mining activity is. The further duties of this engineer would be to make personal monthly inspection of each mine that is being worked, checking ore shipments to the El Paso smelter, or other points, inspecting furnace operations in the quicksilver belt, and making sure that proper reports and returns are made to the Land Office on all mining claims or mining leases. No annual assessment work is required on patented mining claims, and there are no offset provisions such as are provided for in the oil and gas statutes. In case of production on privately owned land adjacent to such claims, the mining engineer should make examinations for underground encroachment. The history of the encroachment on the "Rainbow" Claim in Brewster County some years ago showed the necessity for vigilance in proximity to large scale workings.

As an example of holding, without any production, there is an individual who has acquired 60 mining claims, aggregating more than 1,000 acres, in the past 23 years. Patents have been issued on 39 of these claims covering about 600 acres. Through the years affidavits of annual assessment work on all claims have been duly filed until patents were issued, yet in all that lapse of time, and with all that alleged development work, no production has been reported and no royalty paid on any of these claims, although all of them are in an area where much quicksilver has been produced. It is believed that proper State supervision would have changed this picture.

The terms of the leases for all of the minerals in all school land sold under the 1931 Act, with a 1/16 free royalty to the State, are entirely under the control of the purchaser. Approximately 385,000 acres have been sold under the provisions of this Act and its amendments. The Texas Supreme Court in construing this Act said: "The royalties reserved by the State under the provisions of this law constitute a fee in the minerals in place, and will follow the land"; and in the same section the Court said further: "The owner of the land acts as agent for the State in making the mineral leases." (Winterman vs. McDonald, S. W. R. 102, 2nd, p. 167). Under this construction, these leases are titles emanating from the State and should be archived in the Land Office under Section 1, Article XIV of our State Constitution. Up to this time, some leases for oil and gas made under the provisions of this 1931 Act have been filed here, but no leases for other minerals have come in. The law should be amended to require all of these leases to be filed in the Land Office to establish their validity. The Act of 1931 carries no provision for offsets, nor for the filing of statements of production of oil and gas or other minerals, and it seems necessary to more fully define the duties and responsibilities of lessees under this Act. The procedure with reference to minerals other than oil and gas needs special attention.

I have attempted to show the results of the various legislative acts covering the disposition of our minerals, other than oil and gas, over a period of more than 60 years. One conclusion is inescapable: the royalty paid to the State is insignificant, and totally inadequate as a yardstick for the return on the money invested in the purchase, and spent in efforts to develop these hundreds of claims and mineral leases through the interval covered. A further conclusion is that if the State is to get any worthwhile royalty returns from these minerals, it must come through intelligent State supervision of ground operations rather than further legal experiments.