

OUR WEEKLY CRESSET.

SEYMOUR, BAYLOR COUNTY, TEXAS, THURSDAY, APRIL, 21, 1887

NEW LAND LAW.

Section 1. Be it enacted by the legislature of the state of Texas: that all lands heretofore or hereafter, surveyed and set apart for the benefit of public or common schools, the university, the lunatic asylum, and blind asylum, the deaf and dumb asylum, and the orphan asylum shall be sold and leased under the provisions of this act.

Sec. 2. The commissioner of the general land office is hereby vested with all the power and authority necessary to carry into effect the provisions of this act, and shall have full charge and direction of all matters pertaining to the sale and lease of said lands, and their protection from free use and occupancy, and from unlawful inclosure, with such exceptions and under such restrictions as may be imposed by the provisions of this act or by the constitution of this state. He shall, as soon as practicable, adopt such regulations, not inconsistent with the constitution of this act, as may be deemed necessary for carrying into effect the provisions of this act; and may from time to time, alter or amend such regulations, as to protect the public interest; but all regulations shall be submitted to the governor for his approval, before adoption or promulgation. He shall adopt all necessary forms of applications for sale or leases, and all other forms necessary or proper for the transaction of the business imposed upon him by this act, including the forms of leases, receipts and acquittances, and may from time to time call upon the attorney general to prepare such forms, and it shall be the duty of that officer to furnish the commissioner of the general land office with such advice and legal assistance as may be requisite for the due execution of the provisions of this act; and it shall be the duty of such commissioner to call upon the attorney general for advice whenever there is any doubt as to the meaning of this act or any provision thereof.

Sec. 3. As soon as may be practicable after the passage and approval of this act, the commissioner of the general land office shall cause all the land belonging to the several funds named in this act, which may be in demand for immediate settlement, to be carefully skillfully classified and valued; and for this purpose he may appoint, with the approval of the governor, such number of competent state agents as may be necessary to effect such classification and valuation; and he shall cause such classification and valuation to be made of the remainder of such lands from time to time as the same may come into demand for actual settlement; and with the approval of the governor he may allow such state agents as may be just and proper, not to exceed the sum of \$100 per month and necessary expense of subsistence. He may also appoint such other assistance as may be found necessary to accomplish such classification and appraisal and the sale or lease of the lands; shall be made in absence of appropriation by law to cover such an expenditure, and the state shall not be liable for any expenditure of this character incurred in the excess of current appropriations.

Sec. 4. It shall be the duty of such state agents as may be appointed under the provisions of this act, under such regulations and instructions as may be prescribed by the commissioner of the general land office, to classify all the lands belonging to the several funds mentioned in this act as prescribed in section 3, lying in the particular territory to which such agent may be assigned, into agricultural, pasture and timber lands; and for this purpose they shall carefully examine the same and after such examination they shall prepare an accurate plat of each section showing the relative proportions of timber and open land on such section, and their situation also the quality of the soil, the topography of the land and the quality and kind of timber and the streams and other sources of water supply and their location, noting such streams as may be

permanent and such other streams as may be important; and from time to time, as may be prescribed by the commissioner of the general land office, such agent shall prepare and forward to the commissioner with such plats, a tabulated statement of all the lands in any particular locality, with the value of each section; and such plats and reports shall be filed in the general land office as a part of the records of said office; but nothing in this section contained shall be construed to require a classification of lands already classified under former laws, if such classification is satisfactory to the commissioner.

Sec. 5. When any portion of said land has been classified to the satisfaction of the commissioner under the provisions of this act or former laws, such lands shall be subject to sale, but to actual settlers only, and in quantities of not less than 100 acres and in multiples thereof, nor more than 640 acres; provided that when there is a fraction of less than 100 acres of any section left, such fraction may be sold; but lands classified as purely pasture lands and without permanent water thereon, may be sold in quantities not to exceed four sections to the same settler; and in no event shall sale be made to a corporation either foreign or domestic, and all sales to a settler shall be upon the express condition that any sale, transfer or conveyance of such land to a corporation either immediate or remote, shall ipso facto terminate the title of the purchaser, and such land shall be forfeited to the state, without re-entry, and become again a part of the particular fund to whom it formerly belonged.

Sec. 6. It shall be the duty of the commissioner of the general land office to notify in writing the county clerk of each county of the valuation of each section of land in his county and in each county attached to it for judicial purposes, which he offers for sale, which notification shall be kept in his office, and recorded in a well bound book which shall be open to public inspection.

Sec. 7. All lands belonging to the public schools, asylums and university funds shall be sold at not less than \$2 per acre. All sections of land having permanent water on or bordering thereon shall be sold at not less than \$3 per acre and no less than 100 acres shall be sold, except in cases where a fractional part of a section less than 100 acres is in lot, in which case the entire fractional part of such survey shall be sold; provided that no watered portion of any section shall be sold unless there is permanent water on or bordering on the part of said sections remaining unsold, and all timber lands shall be sold at not less than \$5 per acre. By timber lands as here used is meant land valuable chiefly for the timber thereon, the minerals in all lands sold shall remain the property of the trust for the particular fund to which the land originally belonged.

Sec. 8. Any bona fide actual settler who may reside on any part of the lands, the sale of which is authorized by this act, at the time this may go into effect, shall have the right for the period of six months after the same shall have been appraised, to purchase such quantity of land as may be limited by this act to include his improvements, upon complying with the provisions of this act regulating sales as in other cases, and such lands shall be appraised without reference to the improvements thereon; provided, that any bona fide settler who owns one section, and no more, prior to the enactment shall have the right to purchase three dry and strictly pastoral sections upon his making oath that he is not acting in collusion with others for the purpose of buying the land for any other person or corporation, and that no other person or corporation is directly or indirectly interested in the purchase of the same; provided further, that any purchaser and actual settler upon any of the public free school lands, university and asylum lands, under any former law, who, for any cause, has failed to pay the principal and interest on

either, due the state upon such land on the first of August, A. D. 1887, and by reason of such failure or default such purchaser's lands has or may be forfeited to the state such purchaser shall have the prior right, for six months from the date this act takes effect, to purchase his said land at such a price as the unpaid principle at the time of the default, and the interest due thereon under such former purchase up to the time he purchases under this act shall aggregate; and such purchaser shall in all other respects be governed by the same penalties, restrictions and requirements enjoined by this act upon other purchasers and actual settlers.

Sec. 9. All sales shall be made by the commissioner of the general land office or under his direction, and he shall prescribe suitable regulations whereby all purchasers shall be required to reside upon as a home, the land purchased by them for three consecutive years next succeeding the date of their purchase, such regulations shall require the purchaser to reside upon the land for three consecutive years herein mentioned, and to make proper proof of such residence and occupancy to the commissioner of the general land office, within one year next after the expiration of said three years, by his affidavit, corroborated by three disinterested and creditable citizens of the county and certified to by some officer of the county wherein the land is situated, authorized to administer oaths. Any person desiring to purchase land in accordance with the provisions of this act, shall forward the applications to the commissioner, particularly describing the land sought to be purchased, which application shall be all the applicant makes with the applicant, in effect that he desires to purchase the land for a home, and has in good faith settled thereon; and he shall also swear that he is not acting in collusion with others for the purpose of buying the land for any other purpose or corporation, and that no other person or corporation is interested in the purchase except himself. The purchaser shall transmit to the treasurer of the state one fortieth of the aggregate purchase money for the particular tract of land; and send the commissioners his obligation to the state, duly executed and binding the purchaser to pay to the state on the 1st day of August of each year thereafter until the whole purchase money is paid, one fortieth of the aggregate price, with interest thereon from date at the rate of five per cent per annum on the whole unpaid purchase money, which interest shall also be paid on the first day of August of each year; and upon receipt of one fortieth of the purchase money by the treasurer, and the affidavit and obligation aforesaid by the commissioner, the sale shall be deemed complete from the date the affidavit and obligation are filed in the general land office; provided that if the land applied for be timbered land then the purchaser shall be required to pay the full amount of the purchase money at the time of the purchase.

Sec. 10. All purchasers shall have the option of paying the purchase money for their lands in full at any time after they have occupied the same for three consecutive years, and when they have made such a payment in full, together with the proof, that they have occupied the land and homestead for three consecutive years, they shall be entitled to receive patents for the same upon payment of the patent fees prescribed by law. Purchasers may also sell their lands at any time after sale is effected under this act, and in such cases the vendee or any subsequent vendee may file his own obligation with the commissioner of the general land office together with the duly authenticated conveyance or transfer from the original purchaser, and the intermediate vendee's conveyance or transfer if any there be duly recorded in the county where the lands lie, or to which it may be attached for judicial purposes, together with his affidavit, stating that he desires to purchase the land for a home and that he has settled on the same.

not acting in collusion with others for the purpose of buying the land for any other person or corporation and that no other person or corporation is interested in the purchase save himself, and thereupon the original obligation may be surrendered or cancelled, and the vendee shall become the purchaser direct from the state and be subject to all the obligations and penalties prescribed by this act, and the original purchaser shall be absolved.

Sec. 11. If upon the first day of August of any year the interest due on any obligation remains unpaid the commissioner of the general land office shall endorse on such obligation "land forfeited," and shall cause an entry to that effect to be made on the account kept with the purchaser, and thereupon said land shall be forfeited to the state without the necessity of re-entry or judicial ascertainment, and shall revert to the particular fund to which it originally belonged and be resold under the provisions of this act or any future law; provided, if any purchaser shall die, his heirs or legal representative shall have one year in which to make payment after the first of August next, after such death. And if any purchaser shall fail to reside upon and improve in good faith the land purchased by him, he shall forfeit said land and all payments made thereon to the state, and such land shall be again for sale, as if no such sale and forfeiture had occurred, or if he shall fail to make the proof of occupancy within the time and in the manner prescribed by the regulations of the commissioner of the general land office, as provided in section 9 of this act, he shall in like manner forfeit the land and all payments thereon to the state; and provided further, that nothing in this section shall be construed to inhibit the state from instituting such legal proceedings as may be necessary to enforce such forfeiture or to protect any other right to such lands which suits may be instituted by the attorney general, under the direction of the governor, in the proper court of the county in which the land lies, or in the district court of Travis county and jurisdiction of such cases is hereby expressly conferred on said courts.

Sec. 12. The commissioner of the general land office shall retain in his records of his office all applications, affidavits, obligations and all other papers relating to sales of said lands, and shall cause to be kept accurate accounts with each purchaser. All purchase money due upon lands, as well as accrued interest, and all other moneys arising from the sales or leases of said lands, shall be paid by the purchaser or lessee direct to the treasurer of the state, who shall also cause an accurate account to be kept with each purchaser, and who shall execute duplicate receipts for all sums of money paid to him under the provisions of this act; one of which receipts shall be delivered to the purchaser or his agent, and the other transmitted to the commissioner of the general land office.

Sec. 13. The commissioner of the general land office shall adopt such regulations for the sale of the timber or timber lands as may be deemed necessary or judicious; such regulations shall be subject to the approval of the governor. Such timber shall not be sold for less than \$5 per acre, cash, except in such cases as the commissioner may ascertain by definite examination of a state agent that any particular section is sparsely timbered or contains timber of but little value, in which case he shall be authorized to sell the timber on said section at the best price on the best terms practicable; provided such timber is sold at not less than \$2 per acre; and in no case shall less than one section of timbered land be sold to any purchaser, except in cases of fractional sections, which may be sold under the provisions of this act; provided, that the purchaser shall have three years from date of his purchase within which to remove the timber therefrom, or if he fails to do so, he shall be deemed to have sold the same in

ment.

Sec. 14. The public lands, and all lands belonging to the public schools, asylums or university fund shall be leased by the commissioner of the general land office, in accordance with the provisions of this act. Such leases shall be for a term of not more than five years, and the lessee shall pay an annual rental of not less than four cents per acre for all pasture lands leased which rental shall be paid each year in advance, the first payment to be made at the time the lease is executed, and if at termination of the lease such land is still subject to lease the lessee or lessees thereof, whose term of lease has expired, shall have the refusal of such land as he has been leasing on the terms and at the price that may be fixed therefor by the commissioner of the general land office. All leases shall be executed under the hand and seal of the commissioner of the general land office, and shall be delivered to the lessee or his authorized agent, and such leases shall not take effect until the first annual rent is paid and the lease is duly filed for record in the county where the land lies or to which it may be attached for judicial purposes, and it shall not be necessary for the commissioner to acknowledge such lease before the same is placed on record.

Sec. 15. Any person desiring to lease any portion of the public lands, or the lands belonging to the several funds mentioned in this act, shall make application in writing to the commissioner of the general land office, specifying and describing the particular lands, he desires to lease, and thereupon the commissioner, if satisfied that the lands applied for are not in immediate demand for actual settlement, and that such lands can be leased without detriment to the public interest shall notify the applicant in writing that his proposition to lease is accepted, and thereupon he shall execute and deliver to lessee, and in the name and by the authority of the state a lease of said land for such term as may be agreed upon, and deliver the same to such lessee of said land for such term as may be agreed upon, and deliver the same to such lessee when satisfied that the lessee has paid to the treasurer of the state the rent for one year in advance. No lands classified as grazing shall be subject to sale during the existence of such lease and the possession thereof by such lessee shall not be disturbed during the term of such lease, so long as the rents are paid promptly in advance each year as required by this act. The lands classified as agricultural lands, which may be leased under this act, shall be leased subject to sale as provided by this act, and whenever such leased lands are purchased, the lessee shall give immediate possession to such purchaser; provided that he shall have a pro rata credit for his next year's rent or thereon returned to him as he may be provided further that no such lessee shall be permitted to erect any improvements on the land so long as such section of land so sought to be purchased, and provided, that no actual settler who shall purchase land within any leasehold shall be permitted to turn loose more than one head of cattle or horses for every ten acres of land purchased by him and uninclosed. Each violation of the provisions of this act, which restricts the number of stock which may be turned loose on lands leased from the state, shall be an offense, and the offender on conviction shall be punished by fine of not less than \$1 for each head of stock he may so turn loose, and thirty days' violation of the provisions of this act shall constitute a separate offense. Provided, that whenever a town shall be located and established upon any lands sold under this or any former act, the purchaser thereof or his vendee shall be permitted to pay the entire balance of principal and interest due the state upon such land, and obtain a patent therefor at any time; but no payment shall be permitted or patent issue until such purchaser or owner of such land shall file in

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the general land office a certified plat of such town made by the proper surveyor of the county, which shall be accompanied by the affidavit of the owner of said land, corroborated by the affidavit of five disinterested and creditable citizens of the county, to the effect that a town, giving its name, has been located established upon the land, and there has been erected thereon and being occupied by bona fide citizens, twenty business and residential houses or both.

Sec. 16. All lessees shall pay the annual rents due for leased lands directly to the treasurer of the state, who shall execute receipts in duplicate for each payment made by any lessee, one of which receipts shall be delivered to the lessee and the other transmitted to the commissioner of the general land office. The treasurer to be kept an accurate account with each lessee, and the commissioner of the general land office shall file in his office all applications and other papers relating to leases, and keep a record of all leases made, which papers shall constitute a part of the records of his office.

Sec. 17. If any lessee shall fail to pay the annual rent due in advance for any year within sixty days after such rent shall become due the commissioner of the general land office may declare such lease canceled, by a writing under his hand and seal of office, which writing shall be filed with the papers relating to such lease, and thereupon said lease shall immediately terminate, and the lands so leased shall become subject to purchase or lease as the commissioner may determine for the best interest of the state. And during the continuance of all leases, and after forfeiture the state shall have a lien upon all the property upon the leased premises to secure the payment of all rents due which lien shall be prior and superior to all other liens whatsoever, and it shall not be essential to the preservation or validity of such lien that it shall be reserved in the instrument of lease.

Sec. 18. It shall be unlawful for any person to fence, use, occupy or appropriate by herding or line riding, any portion of the public lands belonging to the state, in violation of the provisions of this act. Any person, whether owner of stock, manager, agent, employe or servant, who shall fence, use, occupy or appropriate by herding or line riding any portion of such lands without a lease thereof, shall be deemed guilty of a misdemeanor, and shall, upon conviction be fined not less than \$100 nor more than \$1,000, and in addition thereto shall be imprisoned in the county jail for a period of not less than three months nor more than two years. Each day of such fencing or appropriating, by herding or line riding, shall be deemed a separate offense, and any person so offending may be prosecuted by indictment or information in the proper court of the county where any portion of the land lies, to which it may be attached for special purposes, or in the county of Travis, and jurisdiction of such cases is hereby vested in said courts. And in case any indictment or information is preferred or filed by a non-resident of this state the duty of the government is to cause the extradition of the offender to the proper officers of the county where he is arrested, in order that he may be tried for such offense.

Sec. 19. The provisions of this act, as set forth in the preceding section, shall not apply to persons who are moving, or gathering, or holding for shipment, any stock upon the public lands, provided, the said persons have not erected

fences or other inclosures, or have used any of the lands by joining fences or otherwise, to build or maintain more than three miles, lineal measure of fence, running in the same general direction, without a gateway in same which gateway must be at least ten feet wide and shall not be locked or kept closed so as to obstruct free ingress and egress; provided, that all persons who have fences already constructed in violation of the provisions of this act, shall have two months from the time this act takes effect within which to conform to the provision hereof; provided further, if any person shall build or maintain more than three miles lineal measure running in the same direction without providing such gateway, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$200 nor more than \$1,000, and each day that such fence remains without such gateway shall constitute a separate offense, and be punished as a separate offense; provided further, that the construction of gates as provided for in this section shall apply only to pasture lands; provided further, when herds of cattle, horses, sheep or goats are driven through this state from one place to another place in this state, and it becomes necessary for such herds to pass through any such fence, the owner of such stock so driven through such enclosure, shall move the same as expeditiously and as little delay as practicable through such enclosure.

Sec. 20. The commissioner of the general land office, under the direction of the governor, may withold from lease any public lands necessary for the use of government, or, in his discretion, he may

lease such agricultural lands in small quantities for a less period than five years as the public interest and development of the country may seem to require; and no agricultural lands shall be leased if, in the judgement of the commissioner, they be in immediate demand for settlement, but such lands shall be held for settlement and sold to actual settlers only, under the provisions of this act, and all sections or fractions of sections in all counties organized prior to the first day of January, 1877, except El Paso, Pecos and Presidio counties which section are detached and isolated from other public lands, may be sold to any purchaser except a corporation, at not less than \$2 per acre, upon such terms as the commissioner of the general land office.

Sec. 23. The sum of \$50,000, or as much thereof as may be necessary, is hereby appropriated out of the several funds belonging to the common schools asylum and university to pay the expenses of executing this act, which sum shall be appropriated between said funds according to their respective interests and the work necessary to be done, and shall be expended by the commissioner of the general land office, with the approval and under the direction of the governor.

Sec. 24. Leaseholds created under the provisions of this act shall be exempt from all taxation.

Sec. 25. Nothing in this act shall be construed to impair, interfere with or in any manner affect any lease or sale, or the rights growing out of the same, made under former laws, of the lands herein referred to; provided that any person or persons who have heretofore leased lands from this state at prices fixed by the land board, and whose leases are not yet expired, shall have their rental for the remainder of their unexpired term reduced to the prices charged under this bill for the lease of similar lands.

Sec. 26. All laws and parts of laws in conflict with this act are hereby repealed, and the secretary of the land board is hereby authorized and directed, immediately upon the passage and approval of this act, to deposit with the commissioner of the general land office, all laws, parts of laws, orders, resolutions, reports, journals, minutes, books, papers and records, which shall hereafter constitute a part of the records of the general land office. Approved.

Sec. 21. It shall be unlawful for any person or corporation who may have used any of the lands by joining fences or otherwise, to build or maintain more than three miles, lineal measure of fence, running in the same general direction, without a gateway in same which gateway must be at least ten feet wide and shall not be locked or kept closed so as to obstruct free ingress and egress; provided, that all persons who have fences already constructed in violation of the provisions of this act, shall have two months from the time this act takes effect within which to conform to the provision hereof; provided further, if any person shall build or maintain more than three miles lineal measure running in the same direction without providing such gateway, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than \$200 nor more than \$1,000, and each day that such fence remains without such gateway shall constitute a separate offense, and be punished as a separate offense; provided further, that the construction of gates as provided for in this section shall apply only to pasture lands; provided further, when herds of cattle, horses, sheep or goats are driven through this state from one place to another place in this state, and it becomes necessary for such herds to pass through any such fence, the owner of such stock so driven through such enclosure, shall move the same as expeditiously and as little delay as practicable through such enclosure.

Sec. 22. The commissioner of the general land office, under the direction of the governor, may withold from lease any public lands necessary for the use of government, or, in his discretion, he may

lease such agricultural lands in small quantities for a less period than five years as the public interest and development of the country may seem to require; and no agricultural lands shall be leased if, in the judgement of the commissioner, they be in immediate demand for settlement, but such lands shall be held for settlement and sold to actual settlers only, under the provisions of this act, and all sections or fractions of sections in all counties organized prior to the first day of January, 1877, except El Paso, Pecos and Presidio counties which section are detached and isolated from other public lands, may be sold to any purchaser except a corporation, at not less than \$2 per acre, upon such terms as the commissioner of the general land office.

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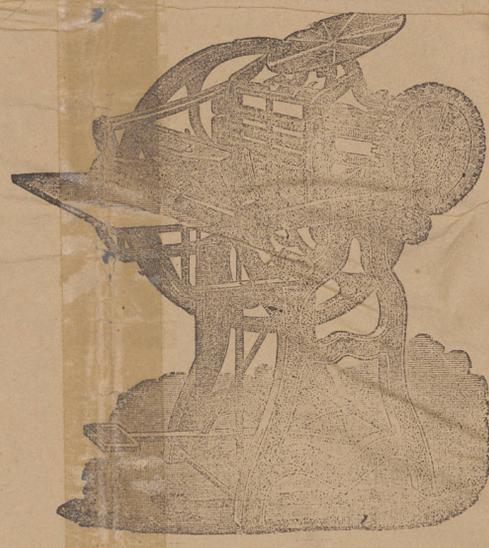
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