to support the conviction. We think it does. Appellant was in possession of the horses recently after the theft, and, when he sold them to John Childers, gave his name as J. T. Willington, when in fact his true name was Marsh Freese. There is no error in the record, and the judgment is affirmed.

SIMKINS, J., concurs. DAVIDSON, J., absent.

KING v. STATE.

(Court of Criminal Appeals of Texas. Feb. 1, 1893.)

REVIEW ON APPEAL—STATEMENT OF FACTS—PRESUMPTIONS.

Where the record does not contain a statement of the facts, an appellate court will presume that the lower court correctly refused certain requested instructions.

Appeal from district court, McLennan county; L. W. Goodrich, Judge.

S. A. King was convicted of swindling, and appeals. Affirmed.

R. L. Henry, Asst. Atty. Gen., for the State.

DAVIDSON, J. Appellant was convicted of swindling, and his punishment assessed at a term of two years' confinement in the penitentiary. Special charges were requested by defendant, submitting to the jury the supposed absurdity of the alleged false pretenses, as well as the issue of insanity. Both were refused. The false representations seem to have been sufficient to induce the bank president to pay defendant the money asked on the draft presented by him, and the pretenses, as alleged, do not sustain his contention that they were irrational and absurd. The record does not contain a statement of the facts. Therefore, we presume the court correctly refused the requested instructions. The judgment is affirmed. Judges all present and concurring.

GIEB v. STATE.

(Court of Criminal Appeals of Texas. Feb. 1, 1893.)

ENACTMENT OF STATUTES — BILLS RAISING REVENUE — KEEPING SALOON OPEN ELECTION DAY—DEFENSES.

1. Acts 1891, c. 90, authorizing towns and villages incorporated for free-school purposes to levy taxes, which bill originated in the senate, is not in conflict with Const. art. 3, § 33, providing that "all bills for raising revenue shall originate in the house of representatives;" the revenue contemplated by this provision of the constitution being such as is raised for general purposes.

2. An information under Pen. Code, art. 178, providing a penalty against keeping open saloons during the day on which an election is held for any purpose whatsoever, which alleges that the election was "held by lawful authority," is sufficiently specific. Janks v. State, 15 S. W. Rep. 815, 29 Tex. App. 233, followed.

3. An objection that there were informalities in the order under which a special election was held will not be entertained on an appeal from a conviction of keeping open a saloon on the day of the election; the validity of such election not being open to attack in a collateral proceeding. Janks v. State, 15 S. W. Rep. 815, 29 Tex. App. 233, followed.

Appeal from Val Verde county court; W. K. Jones, Judge.

Peter Gieb was convicted of keeping open his saloon on an election day, and appeals. Affirmed.

C. C. Thomas, for appellant. R. L. Henry, Asst. Atty. Gen., for the State.

DAVIDSON, J. Appellant was convicted for keeping open his saloon on an election day. Several objections were urged to the information, all of which were overruled. We deem it necessary to notice but two of these: (1) The act of 1891, under which the election was held, is unconstitutional and void, because, being a revenue bill, it originated in the senate, and therefore the information charged no offense; (2) it failed to allege the school district was incorporated for school purposes only. We do not think these objections well taken.

1. The act complained of is not a bill raising revenue, within the meaning of article 3, § 33, of the constitution, which provides that "all bills for raising revenue shall originate in the house of representatives." This provision of the constitution has reference to bills raising revenue for such general purposes as the legislature is required or authorized to raise, and to cover such appropriations as are made by that body, and does not apply to laws of special or local character, nor to such police regulations as are put into operation by a vote of the people in particular localities. If the law be local in its operation, and the tax an incident to it, or the tax is to be raised by a municipal corporation for purposes and objects specified in its charter, it is not a revenue law, within the contemplation of the cited provision of the constitution. The act of 1891 was created under and by virtue of the provisions of article 11, § 10, of the constitution, which had direct reference to the incorporation of school districts, and the support of schools by such corporations.

2. The information alleged the election was "held by lawful authority." We think this sufficient. It was not necessary the information should have averred in terms that the district was incorporated for school purposes only. Janks v. State, 29 Tex. App. 233, 15 S. W. Rep. 815.

3. It is further contended that the order for the election was not sufficient, and that there were other informalities occurring in regard to the manner of ordering and holding the election. That this was so is wholly immaterial in this prosecution. The election averred in the information cannot be attacked in a collateral manner, as is sought to be done in this case. It was held under the forms of law, and, as was said in Cooper's

Case, "it was not a farce, and the mischief intended to be prevented by the statute would as likely arise in one case as the other." 26 Tex. App. 575, 10 S. W. Rep. 216; Janks v. State, 29 Tex. App. 233, 15 S. W. Rep. 815. Finding no reversible error in the record, the judgment is affirmed. Judges all present and concurring.

YOKUM v. STATE.

(Court of Criminal Appeals of Texas. Feb. 4, 1893.)

RECOGNIZANCE ON APPEAL — DESCRIPTION OF OFFENSE—DISMISSAL.

Where defendant has been convicted of "unlawfully and willfully using loud and vociferous language in a public place, in a manner calculated to disturb the inhabitants of said public place," and his recognizances on appeal recite that he has been convicted of "disturbing the peace," the appeal will be dismissed, there being no such offense under the Penal Code as "disturbing the peace."

Appeal from Archer county court; A. Llewellyn, Judge.

D. Yokum was convicted of using loud and vociferous language in a public place, and appeals. Appeal dismissed.

Whitton & Denny, for appellant. R. L. Henry, Asst. Atty. Gen., for the State.

HURT, P. J. Appellant was convicted for going into and near a public place, namely, a saloon in the town of Archer city, "and did unlawfully and willfully use loud and vociferous language, in a manner calculated to disturb the inhabitants of said public place." The recognizances state that appellant has been convicted of "disturbing the peace." The assistant attorney general moves to dismiss the appeal, because there is no such offense, eo nomine, as "disturbing the peace." The motion is well taken, and the appeal is dismissed. Judges all present and concurring.

LOVEGROVE v. STATE.

(Court of Criminal Appeals of Texas. Feb. 1, 1893.)

CRIMINAL LAW—INSANITY AS A DEFENSE—EVIDENCE.

1. A defense of insanity, supported only by evidence that defendant was subject to epileptic fits, and that his mother had been temporarily deranged at some period of her life, is not established where the other evidence clearly shows that he knew he was committing a wrong.

2. Where insanity is pleaded as a defense, defendant must establish such fact by a preponderance of evidence.

Appeal from district court, Red River county; E. D. McClellan, Judge.

Charles Lovegrove was convicted of horse stealing, and appeals. Affirmed.

Wm. S. Thomas, for appellant. R. L. Henry, Asst. Atty. Gen., for the State.

SIMKINS, J. Appellant was convicted of the theft of a horse, and sentenced to five years' confinement in the penitentiary, from which he appeals. The sole defense in the case was insanity, and the first question is the sufficiency of the evidence, which appellant claims establishes insanity. It appears from the statement of facts that, after working some three months for H. G. Tomlinson, in Red River county, appellant, in the night, took his employer's horse, saddle, bridle, gun, and dog, and started for the Indian Territory, leaving a note to his employer stating that he had killed a man in Virginia, and was on his way to surrender to the law, and was gone by way of Texarkana. Tomlinson tracked the horse by means of dogs, and followed the trail of appellant, which went in a northwest direction, instead of east to Texarkana. He recovered his horse from a man to whom appellant had traded him, and overtook appellant near Red River. Appellant, finding himself pursued, abandoned the horse, and ran into the thicket, where he was found lying wounded, having attempted to commit suicide. The only evidence of insanity was epileptic attacks, supposed to have been occasioned by a blow on the head in early life, and that the mother of appellant was deranged at some period of her life, but had since recovered; and the belief of appellant's father that he was not right in his mind. Still the evidence undoubtedly shows that defendant well knew that he was doing wrong when he stole the property, and fully appreciated the consequences of his act. The letter, so far from proving insanity, was an ingenious plan to throw his pursuers off his track. The evidence does not support his plea of insanity. There is no proof of any epilepsy for months before or after the theft was committed, and we do not think the jury erred in finding against the plea.

2. The charge of the court to the effect that appellant must establish his plea of insanity by a preponderance of testimony is in accordance with the decisions of the court, which are well supported by authority, and we have no desire to reopen the question. Webb Case, 9 Tex. App. 512; King Case, Id. 557; Mendiola Case, 18 Tex. App. 466; Nevling v. Com., 98 Pa. St. 322; Coyle v. Com., 100 Pa. St. 573; Baccigalupo v. Com., 33 Grat. 807; Boswell v. State, 63 Ala. 308; Graves v. State, 45 N. J. Law, 203; State v. Redemeier, 71 Mo. 173; State v. Paulk, 18 S. C. 514; McDougal v. State, 88 Ind. 24; People v. Pico, 62 Cal. 50; Walker v. People, 26 Hun, 67; Dejarnette v. Com., 75 Va. 867; Whart. Hom. § 668; Whart. Crim. Ev. § 340. The judgment is affirmed. All judges present and concurring.