

HOUSE JOURNAL  
of the  
NINTH LEGISLATURE  
REGULAR SESSION



**CAPITOL OF TEXAS**

**1855 - 1881**

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Texas State Library

*HOUSE JOURNAL*  
of the  
*NINTH LEGISLATURE*  
REGULAR SESSION  
of the  
*STATE OF TEXAS*

**November 4, 1861 - January 14, 1862**

Compiled and Edited from the Manuscripts in the  
Texas State Archives

by

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with an Introduction by

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## INTRODUCTION

A scant nine months after Texas became a member of the Confederacy the regular session of the House of Representatives of the Ninth Legislature convened on November 4, 1861. Because the Civil War was taking its toll of men and money at the unbelievably rapid pace, the Ninth Legislature was doubly burdened with the problems of Texas and the Confederacy. At that point in the war, most Texans had every confidence in the Confederacy and were determined to contribute whatever was needed to insure victory. Likewise, the legislators put aside their differences in favor of full cooperation for the good of the "cause."

The manuscript journal for this session of the House of Representatives has been lost. Therefore, this compilation, though incomplete, is the best source of information now available. The journal, pieced together from original bills of the Ninth Legislature, committee reports, the existing manuscript journal of the Senate, and newspaper accounts, lacks several features of some importance. There is only one listing of votes taken, and no complete record of proceedings on particularly controversial bills.

In this session one finds several significant and unusual occurrences. C. W. Buckley was elected Speaker at the beginning of the session. He resigned on December 7, 1861, and was succeeded by Nicholas H. Darnell, who served the remainder of the regular session. Buckley returned to the House of the Ninth Called Session and was elected Speaker without opposition. Research reveals that this resignation in the middle of a session is unique. Ira H. Evans was removed as Speaker in 1870, during the turbulent times of Reconstruction, and A. M. Kennedy resigned at the end of the regular session of 1909; however, no other speaker has resigned while a legislature was underway. Those bits and fragments available reflect that the transition from Buckley to Darnell was made smoothly.

A significant act was Governor Lubbock's veto of the

bill appropriating funds for the payment of the legislators. The Governor reasoned that eighty thousand dollars was an arbitrarily set and inflexible amount far surpassing the actual appropriation needed to pay the members, and that to secure this amount the state would have to rob the "unprotected orphans and minors" and defile the "sacred" School Fund. A Governor's veto usually provokes wrath from one or more legislators; but this one affected all members and their pocketbooks. The controversy was highlighted by a newspaper article entitled "And for his Vesture they cast lots," along with reports which revealed the positions of the opposing sides. Needless to say, an appropriation bill was passed and approved.

The failure to locate a Public Printer was the cause of much distress to the members of the Ninth Legislature, particularly since both Governors Clark and Lubbock complained sorely of having to read the manuscripts. As in the past, a main problem of this legislature was the protection of the Texas frontier. With the war taking many Texas men away from their homes, the task of protecting the western frontier against Indians was expensive and troublesome. The legislators wrestled with this and came up with extensive changes in the militia law. The eleemosynary institutions of Texas were in their infancy. A report of Governor Lubbock on the blind asylum is one which touches the sentiment and makes the reader reflect on the progress which has been made in this area. Another item of interest has to do with the payment of Eli Kirk for the purchase of furniture for the Capitol. An investigating committee headed by Representative James Walworth gave a rather thorough history of the movements of Kirk regarding the purchase of this furniture in New York. Kirk was seeking relief for money spent in excess of the stipulated amount, but the House refused to engross his bill.

All in all the journal of this regular session of the House of Representatives reflects the excitement of the times. Even though the journal itself cannot be consid-

ered exciting reading, the subjects considered have a quality of urgency. In the reconstruction of the journal, James M. Day, Director of State Archives, and his staff should be commended. Even though the original manuscript has been lost, other fragments of the session have been preserved so that the journal presented herewith has a semblance of completeness and accuracy. The fact that this could be accomplished reflects the value of the archives of the State of Texas and of the publications program which calls for the editing and publishing of the manuscript archives.

Price Daniel

Austin, Texas

## PREFACE

This is an incomplete and inaccurate account of the proceedings of the House of Representatives of the regular session of the Ninth Texas Legislature. It necessarily must be so because the manuscript journal has been lost.

Just when this loss occurred is difficult to determine. One can presume the documents were present in 1914 when the Texas Library and Historical Commission voted to publish these journals. At that time no mention was made that any of the journals were missing. They were not present in 1943 when the National Association of State Libraries published the *Supplement Check List of Legislative Journals*, but the exact date of their disappearance cannot be ascertained.

Lacking the manuscript journals, an effort had to be made to piece together the fragments which could be located. When the House and Senate were in joint session, the proceedings could be taken from the Senate journal. Contemporary newspapers provided information, particularly the *Tri-Weekly Telegraph* of Houston and the *Texas State Gazette* of Austin. Many of the commentaries came from those sources.

The bulk of the information on the bills and the committee reports were taken from the originals in the Archives. These bills were filed by the bill number assigned by the clerk, and most of the bills contain the information as to when they were introduced and passed through their various readings. This information was extracted from each bill and was inserted in the journal on the day of the action. The bills were divided into "House Bills," "Senate Bills" and "Original Bills." They are so recorded in the journal, but the question as to what constituted an "Original Bill" is somewhat problematical. Since the rules of the House cannot be found, the problem cannot be fully solved; however, some information on this can be gleaned from the documents themselves.

Those bills designated "House Bills" were written on paper of a uniform size and color. Usually each line was numbered and they appear to have been written by the same hand. The "Original Bills" are in various handwritings on paper of no uniform description, and the language is neither as formal nor as precise as that in the "House

Bills." One other major distinction between the two groups of bills is the distance they travelled through the legislative process. The "Original Bills" usually have a notation that they were introduced, read the first time and referred to committee, but then no succeeding notation is made. The "House Bills" have notes of the first reading and second reading, engrossment, and whatever action succeeded. Thus the bills which reached engrossment are usually designated "House Bills" while those which fell by the wayside bear the nomer "Original Bills." This latter category was found in the First Legislature of 1846 and was carried through the Twelfth Legislature of 1870-1871. The rules were apparently changed at the outset of the Thirteenth Legislature as the term "Original Bill" no longer appears.

Committee reports presented another problem with regard to dates. The date the report was approved by the committee was usually noted on the report. But that date was not always the same as the one when it was presented on the floor of the House. When the date of presentation to the House was known, the report was inserted on that date. When the only date available was the one when the report was passed by the committee, the report has been inserted at that place in the journal. This procedure leaves some room for possible error, but it has been deemed the most accurate course to follow.

Uniformity of presentation has been striven for in each day's proceedings. The regular order of business not being know with certainty, the decision was made to present Bills and Resolutions first to be followed by Messages, Committee Reports, and Commentaries. From these headings can be gleaned the type of subjects considered, how they were dealt with, and their final disposition. Perhaps the biggest hiatus in this journal is the lack of a voting record for each member. This simply could not be determined and included.

This preface could not be closed without expressing appreciation to Floree Haire, Georgia Sykes, Newton Mitchell, and Mike Smyers, who assisted with the Archives reference work and allowed the time to complete the compilation of this work. Other staff members who assisted in various capacities are Elizabeth Whitlow, Bill Kleinschmidt, and John Muegge.

James M. Day  
Director of State Archives

**JOURNAL**  
**OF THE**  
**HOUSE OF REPRESENTATIVES**  
**OF THE**  
**NINTH LEGISLATURE**  
**REGULAR SESSION**

Austin, Texas

Monday, November 4, 1861<sup>1</sup>

The House was called to order at 10 o'clock, by Bird Holland, Secretary of State, W. L. Chalmers, former Chief Clerk officiating as clerk pro tem; 77 members answered to their names and took their seats as follows:

From District 2, composed of the counties of Liberty and Polk—D. Willis.

From District 3, Tyler and Hardin—John T. Bean.

From District 4, Jasper and Newton—Lipscomb Norvell.

From District 5, San Augustine and Sabine—R. F. Slaughter.

From District 6, Shelby—Franklin F. Roberts.

From District 8, Nacogdoches and Angelina—John C. Rusk.

From District 9, Houston—J. T. Smith.

From District 10, Anderson—C. L. Price.

From District 11, Trinity, Houston and Anderson—G. F. Alford.

From District 12, Cherokee—S. T. Harrison.

From District 12, Cherokee—F. E. Williams.

From District 13, Rusk—Isaac Dansby.

From District 15, Harrison—A. Parker.

From District 16, Harrison and Panola—S. B. Hendricks.

From District 17, Smith—Franklin M. Hays.

From District 17, Smith—James A. Hardin.

From District 18, Cass—B. D. Foscue.

From District 20, Cass, Titus and Bowie—R. D. Hooks.

From District 20, Cass, Titus, and Bowie—John C. Rhea.

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<sup>1</sup>All information for this date is taken from the Texas State Gazette (Austin), November 9, 1861, and the Tri-Weekly Telegraph (Houston), November 15, 1861.

From District 21, Upshur—A. H. Abney.  
 From District 21, Upshur—W. P. Beall.  
 From District 22, Red River—G. H. Bagby.  
 From District 23, Lamar—James W. Mosely.  
 From District 24, Hopkins—William M. Ewing.  
 From District 25, Lamar and Hopkins—W. A.

Wortham.

From District 26, Wood—J. D. Rains.

From District 27, Van Zandt, Kaufman, and Henderson—G. D. Manion.

From District 27, Van Zandt, Kaufman, and Henderson—J. J. O'Quinn.

From District 28, Hunt—Louis Starr.

From District 29, Fannin—James M. Reid.

From District 30, Fannin and Hunt—John W. Marshall.

From District 31, Grayson—James D. Woods.

From District 34, Galveston—M. M. Potter.

From District 35, Galveston and Brazoria—Thomas

E. Hill.

From District 36, Harris—J. C. Walker.

From District 36, Harris—Horace Cone.

From District 37, Montgomery, Grimes and Brazos—

J. G. McDonald.

From District 38, Walker—H. M. Elmore.

From District 39, Leon and Madison—C. F. Bannerman.

From District 40, Freestone, Limestone and Falls—Dunbar Bragg.

From District 40, Freestone, Limestone and Falls—A. Perry.

From District 41, Navarro and Hill—Pines H. Shelton.

From District 42, Ellis, Johnson and Parker—T. C.

Neal.

From District 42, Ellis, Johnson and Parker—Joseph Ward.

From District 43, Tarrant—R. M. Gano.

From District 44, Dallas—James Thomas.

From District 45, Denton—T. W. Daugherty.

From District 46, Cooke, Montague, Wise, Jack, Young, Clay, Wichita, Archer, Wilbarger, Baylor, Throckmorton, Hardeman, Knox, Haskell—J. M. Lindsey.

From District 47, Matagorda, Wharton and Fort Bend



**Richard M. Gano**

Photograph from  
Mamie Yeary, *Reminiscences of  
the Boys in Gray, 1861-1865*  
(Dallas: Smith and Laman  
Publishing House, M.E. Church  
South, 1912), opposite p. 113.

—C. W. Buckley.

From District 48, Austin—Zimri Hunt.

From District 49, Colorado—C. M. Terrell.

From District 50, Fayette—Larkin F. Price.

From District 51, Washington—A. H. Rippetoe.

From District 52, Washington and Fayette—R. T.

Flewellen.

From District 53, Burleson and Robertson—A. S.

Broadbuss.

From District 54, Bastrop—B. H. Davis.

From District 55, Travis—E. D. Townes.

From District 56, Travis and Williamson—A. H.

Chalmers.

From District 57, Williamson and Milam—John A.

Buckholts.

From District 58, Caldwell, Hays and Blanco—Sam  
J. P. McDowell.

From District 59, Bell and Lampasas—J. T. Flint.

From District 60, McLennan and Bosque—W. R. Sed-  
berry.

From District 61, Coryell, Hamilton, Comanche,  
Erath, Brown, Palo Pinto, Buchanan, Eastland, Shackel-  
ford, Callahan, Coleman, Jones, Taylor, Runnels—J. M.  
Costley.

From District 62, Calhoun, Victoria, Jackson and De-  
Witt—F. M. Taylor.

From District 62, Calhoun, Victoria, Jackson and De-  
Witt—W. P. McLean.

From District 63, Lavaca—J. E. Harwell.

From District 64, Gonzales—J. W. Stell.

From District 65, Guadalupe—W. E. Goodrich.

From District 66, Comal—J. A. Staehely.

From District 67, Gillespie, Kerr, Bandera, Mason,  
Menard, Kimble, and Edwards—E. D. Lane.

From District 68, Burnet, Llano, San Saba, McCul-  
loch and Concho—J. P. Magill.

From District 70, Karnes, Bee, Live Oak, Atascosa,  
McMullen, Frio, LaSalle, Zavala, and Dimmit—F. B. S.  
Cocke.

From District 71, Bexar—Angel Navarro.

From District 73, Cameron—James Walworth.

From District 74, Cameron and Hidalgo—A. Wer-  
biskie.

From District 75, Starr and Zapata—John P. Ford.

From District 76, Webb, Nueces, Duval and Encinal—Charles Russell.

Honorable C. W. Buckley was elected Speaker without opposition, and took the Chair.

Mr. W. L. Chalmers was elected Chief Clerk without opposition.

For First Assistant Clerk, W. M. Walton and P. W. Humphries were nominated. Mr. Walton on first ballot was elected, receiving 44 votes.

For Enrolling Clerk, Mr. Burkhart, Mr. Garrison and Mr. Hollingsworth were nominated; on the second ballot Mr. Garrison was elected, receiving 40 votes.

For Sergeant-at-Arms, Messrs. Hardeman, Russell, Blue and Manchaca were nominated; on the third ballot Mr. Hardeman was elected, receiving 42 votes.

For Doorkeeper, Messrs. Hall, Mangum, Lovejoy, Hopkins, Smyth, Randall and Manchaca were nominated; on the second ballot Mr. J. L. Lovejoy was elected, receiving 42 votes.

Committee appointed to wait upon the Governor and other unimportant business transacted. Adjourned to 10 o'clock tomorrow.

Tuesday, November 5, 1861

### IN JOINT SESSION<sup>2</sup>

The Speaker announced that the two Houses had convened for the purpose of counting the votes for Governor and Lieutenant Governor. Mr. Hartley was appointed teller on the part of the Senate and Messrs. Flewellen and Elmore on the part of the House. On opening the returns from Bexar County it was found that a vote taken at Camp Magruder was irregular; no precinct being established there, a special return was made by the Chief Justice of Bexar County. This return was by the Speaker submitted to the joint session whether it should be counted. Mr. Davis of the House moved that said return be rejected. The yeas and nays were called for. On the part of the Senate there were 16 yeas and 11 nays. On the part of the House there were 41 yeas and 20 nays, so the vote was rejected. On

<sup>2</sup>Abbreviated from the journal of the Senate, November 5, 1861. See James M. Day (ed.), *Senate Journal of the Ninth Legislature of the State of Texas, Regular Session, November 4, 1861-January 14, 1862* (Austin: Texas State Library, 1963), 6-9.

motion of Mr. Goodrich of the House, there were deducted from the vote of Red River County as returned the following votes: from F. R. Lubbock's vote 18, from E. Clark's vote, 31, from T. J. Chambers' vote 12, from J. M. Crockett's vote 33, from F. F. Foscue's vote 16, those being the votes cast at Fort Arbuckle out of the State of Texas by the volunteers stationed at that place.

The following table shows the result:

For Governor	Lubbock	Clark	Chambers	Scattering	For Lieutenant Governor	Crockett	Foscue	Taylor	Jones	Hemphill
Counties										
Anderson	154	694	60	.....		477	421	.....	.....	.....
Angelina	98	221	85	.....		117	227	6	4	.....
Atascosa	80	31	27	.....		148	1	33	.....	.....
Austin	249	279	210	.....		471	56	.....	.....	.....
Bandera	10	27	1	.....		30	2	6	.....	.....
Bastrop	311	20	374	.....		575	106	.....	.....	.....
Bee	73	81	38	.....		132	4	38	.....	.....
Bell	228	179	255	.....		660	1	.....	.....	.....
Bexar	1025	289	170	.....		1202	7	207	.....	.....
Blanco	138	31	95	.....		206	.....	24	.....	.....
Bosque	129	74	120	.....		223	80	16	.....	.....
Bowie	198	87	12	.....		44	239	.....	.....	.....
Brazoria	250	112	107	.....		433	7	15	.....	.....
Brazos	133	80	52	.....		250	3	.....	.....	.....
Brown	62	23	.....	.....		60	.....	.....	.....	.....
Buchanan	.....	.....	.....	.....		.....	.....	.....	.....	.....
Burleson	221	101	305	.....		581	1	.....	.....	.....
Burnet	155	63	72	.....		233	1	.....	.....	.....
Caldwell	249	14	188	.....		395	23	21	.....	.....
Calhoun	192	110	40	.....		277	51	6	.....	.....
Cameron	587	46	16	.....		277	.....	357	.....	.....
Cass	107	239	214	.....		309	171	.....	4	.....
Chambers	92	6	34	.....		121	.....	2	.....	.....
Cherokee	160	872	43	.....		273	769	.....	.....	.....
Clay	.....	.....	.....	.....		.....	.....	.....	.....	.....
Collin	387	213	242	.....		594	88	.....	.....	.....
Colorado	250	136	236	53		566	71	.....	.....	.....
Comal	319	38	44	.....		535	.....	152	.....	.....
Comanche	3	106	3	.....		111	.....	.....	.....	.....
Cooke	93	157	48	.....		79	202	.....	.....	.....
Coryell	40	58	47	.....		172	9	3	.....	.....
Dallas	263	452	218	.....		586	140	11	.....	.....
Denton	257	325	29	.....		561	9	.....	.....	.....
De Witt	202	135	120	.....		426	16	.....	.....	.....
Ellis	191	307	76	.....		448	90	14	.....	.....
El Paso	537	88	1	.....		246	.....	340	.....	.....
Erath	65	212	24	.....		253	8	2	.....	.....
Falls	69	56	107	.....		173	13	5	.....	.....
Fannin	212	235	314	.....		252	418	7	.....	.....
Fayette	304	49	771	.....		1021	83	.....	.....	.....
Fort Bend	173	157	14	.....		269	67	1	.....	.....
Freestone	128	376	55	.....		243	325	.....	.....	.....
Galveston	603	60	103	.....		421	303	.....	.....	.....

For Governor  Counties	Lubbock	Clark	Chambers	Scattering	For Lieutenant Governor	Crockett	Foscoe	Taylor	Jones	Hemphill
Gillespie .....	267	47	2	.....	.....	264	.....	46	.....	.....
Goliad .....	117	167	12	.....	.....	266	1	6	.....	.....
Gonzales .....	250	255	238	.....	.....	692	7	.....	.....	.....
Grayson .....	577	404	151	.....	.....	636	424	.....	.....	.....
Grimes .....	308	164	286	.....	.....	667	72	3	.....	.....
Guadalupe ..	127	77	224	.....	.....	290	7	67	.....	.....
Hamilton ....	17	85	11	.....	.....	75	.....	10	.....	.....
Hardin .....	75	43	45	1	.....	119	3	20	.....	.....
Harris .....	1629	297	306	.....	.....	1916	250	.....	.....	.....
Harrison .....	150	313	247	.....	.....	573	126	.....	.....	.....
Hays .....	75	25	157	.....	.....	233	3	3	.....	.....
Henderson ..	33	252	40	.....	.....	142	174	.....	.....	.....
Hidalgo .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Hill .....	216	231	86	.....	.....	450	8	5	.....	10
Hopkins .....	144	380	147	.....	.....	226	361	10	5	.....
Houston .....	142	90	403	.....	.....	479	81	6	.....	.....
Hunt .....	244	143	24	.....	.....	226	101	.....	.....	.....
Jack .....	21	23	4	.....	.....	39	2	.....	.....	.....
Jackson .....	88	25	92	.....	.....	168	20	5	.....	.....
Jasper .....	79	277	5	4	.....	190	32	25	.....	.....
Jefferson ....	53	156	26	.....	.....	156	1	55	.....	.....
Johnson .....	135	335	52	.....	.....	349	97	27	.....	.....
Karnes .....	50	176	29	.....	.....	229	.....	14	.....	.....
Kaufman ....	130	424	64	.....	.....	444	172	.....	.....	.....
Kerr .....	65	76	12	.....	.....	72	3	74	.....	.....
Lamar .....	257	254	307	.....	.....	421	379	.....	.....	.....
Lampasas ....	100	81	22	.....	.....	160	1	14	.....	.....
Lavaca .....	184	184	402	.....	.....	602	19	22	.....	.....
Leon .....	312	96	279	.....	.....	533	131	.....	.....	.....
Liberty .....	181	67	151	.....	.....	201	189	.....	.....	.....
Limestone ....	219	274	68	.....	.....	502	3	3	.....	.....
Live Oak .....	48	100	3	.....	.....	122	.....	18	.....	.....
Llano .....	52	55	23	.....	.....	103	.....	13	.....	.....
McLennan ....	96	119	487	.....	.....	545	7	1	.....	.....
Madison .....	56	2	121	.....	.....	170	4	.....	.....	.....
Marion .....	65	163	193	.....	.....	91	314	7	.....	.....
Mason .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Matagorda ..	88	60	13	.....	.....	74	74	.....	.....	.....
Medina .....	57	48	38	.....	.....	99	.....	39	.....	.....
Milam .....	93	130	349	.....	.....	481	17	37	.....	.....
Montague ....	129	24	43	1	.....	46	22	.....	.....	.....
Montgomery ..	106	46	244	.....	.....	345	35	.....	.....	.....
Nacogdoches ..	240	392	151	.....	.....	570	149	.....	.....	.....
Navarro .....	242	274	90	.....	.....	479	4	36	.....	.....
Newton .....	49	207	32	.....	.....	150	34	10	.....	.....
Nueces .....	73	257	10	2	.....	176	33	89	.....	.....
Orange .....	124	34	5	.....	.....	112	31	1	.....	.....
Palo Pinto ..	16	101	1	.....	.....	81	13	3	.....	.....
Panola .....	51	606	22	.....	.....	393	259	.....	.....	.....
Parker .....	321	445	11	.....	.....	712	31	3	.....	.....
Polk .....	112	19	322	.....	.....	343	97	5	.....	.....
Red River ....	312	108	337	.....	.....	69	655	3	.....	.....
Refugio .....	15	83	5	.....	.....	92	.....	11	.....	.....
Robertson ....	130	123	28	1	.....	212	64	.....	.....	.....
Rusk .....	302	752	105	.....	.....	463	664	.....	.....	.....
Sabine .....	66	167	.....	.....	.....	234	.....	.....	.....	.....

For Governor	Lubbock	Clark	Chambers	Scattering	For Lieutenant Governor	Crockett	Foscue	Taylor	Jones	Hemphill
Counties										
San Augustine	59	266	12	.....		322	12	.....	.....	.....
San Patricio	5	49	17	.....		68	.....	2	.....	.....
San Saba	53	77	.....	.....		140	.....	.....	.....	.....
Shelby	40	325	122	.....		271	85	72	.....	.....
Smith	201	869	8	.....		214	865	.....	.....	.....
Starr	42	117	61	.....		61	.....	159	.....	.....
Tarrant	148	578	82	.....		536	228	4	.....	.....
Titus	530	117	118	2		661	113	2	.....	.....
Travis	504	188	118	.....		123	697	.....	.....	.....
Trinity	85	193	100	.....		236	117	8	.....	.....
Tyler	120	244	115	19		376	14	31	.....	.....
Upshur	383	686	75	.....		807	224	29	.....	.....
Uvalde	24	90	7	.....		97	2	10	.....	.....
Van Zandt	67	215	7	.....		121	128	.....	.....	.....
Victoria	89	97	199	.....		358	20	.....	.....	.....
Walker	234	37	316	.....		481	79	.....	.....	.....
Washington	458	77	625	.....		1182	16	.....	.....	.....
Webb	4	26	6	.....		7	.....	28	.....	.....
Wharton	49	114	15	1		75	92	.....	.....	.....
Williamson	193	122	151	1		409	2	57	.....	.....
Wilson	63	55	46	.....		145	8	8	.....	.....
Wise	36	228	24	.....		169	27	.....	.....	.....
Wood	274	307	28	.....		401	219	.....	.....	.....
Young	35	13	12	.....		41	14	.....	.....	.....
Zapata	79	10	.....	.....		.....	.....	89	.....	.....

For Governor, F. R. Lubbock received 21,854 votes, Edward Clark received 21,730 votes, and T. J. Chambers received 13,733 votes. Plurality (majority) for F. R. Lubbock, 124 votes.

For Lieutenant Governor, John M. Crockett received 38,321, and F. F. Foscue received 12,160 votes.

F. R. Lubbock having received the highest vote for Governor and John M. Crockett the highest for Lieutenant Governor they were severally declared by the Speaker duly and constitutionally elected Governor and Lieutenant Governor of the State of Texas for the term of two years from the seventh instant. The Senators then returned to their chamber.

Wednesday, November 6, 1861<sup>3</sup>

An election for Assistant Sergeant-at-Arms was held. On the third ballot Messrs. Manchaca, Mann and Mangum, being in nomination, Mr. Mann was elected, receiving 43 votes.

The use of the hall was granted for a ball for the

<sup>3</sup>Texas State Gazette (Austin), November 9, 1861.

benefit of the Soldiers' Aid Society on to-morrow evening, and this being election day the House adjourned to nine o'clock tomorrow.

Thursday, November 7, 1861<sup>4</sup>

The Joint Committee appointed to make arrangements for the inauguration of the Governor and Lieutenant Governor elect on this the 7th instant beg leave to report the following proceedings:

The inauguration shall take place in the Hall of the House of Representatives at 12 o'clock M. The two branches of the Legislature shall meet in the Representative Hall  $\frac{1}{4}$  before 12 o'clock, the Speaker in the Chair and the President of the Senate on his right. The Chief Justice and Associate Justices of the Supreme Court and Attorney General will occupy seats on the platform before the Speaker's Chair. The heads of Departments and officers of the Republic of Texas will occupy seats on either side of the aisle of the House of Representatives as near as possible to the Speaker's Chair. The ladies will occupy seats within the bar of the House, and citizens will occupy seats without the bar and in the gallery. The retiring Governor, the Governor and Lieutenant Governor with the committee will enter the Hall at 12 o'clock M. and be seated, the retiring Governor and Governor elect on the right of the Speaker's Chair and the Lieutenant Governor on the left. Prayer by the Chaplain. The retiring Governor will deliver his valedictory, and immediately after, the Governor and Lieutenant Governor will have the oath of office administered to them respectively by the Chief Justice of the Supreme Court.

Respectfully submitted,  
N. G. Shelley, Chairman  
[House members unknown]

11:30 A.M.

A message was sent from the House inviting the Senate within the Representative Hall for the purpose of participating in the ceremonies of the inauguration.

### IN JOINT SESSION

Roll called, quorum present. The committee appointed to wait upon the retiring Governor, the Governor and

<sup>4</sup>From the journal of the Senate, November 7, 1861. See Day (ed.), *Senate Journal of the Ninth Legislature, Regular Session*, 11-17.

Lieutenant Governor elect appeared at the bar of the House with the retiring Governor, Edward Clark, and F. R. Lubbock, Governor elect, and John M. Crockett, Lieutenant Governor elect, and having been conducted to the Speaker's stand the ceremonies were opened with prayer by the Rev. M. Thomas. The retiring Governor, Edward Clark, then delivered his valedictory address.

**Gentlemen of the Legislature  
and Ladies and Gentlemen:**<sup>5</sup>

I am here for the purpose of surrendering into the keeping of him whom my fellow-citizens have chosen for the station—the office of the Governor of Texas; and this large concourse of citizens is present from a desire of witnessing the interesting ceremony. So it has ever been on each periodical return of this important occasion. They come not to disturb the quiet and orderly proceedings of the hour but to see, and approve by their presence, the consummation of the people's will in the disposal of the offices of the State. It matters not how they may have differed anterior to the election, and with what zeal and earnestness each may have supported his favorite candidate and own peculiar opinions, whenever the decision is pronounced at the ballot box, not a murmur is heard, but all quietly and readily submit, and look with interest, if not with satisfaction, upon the change of authority from the retiring to the in-coming officer. This is attributable to the influence of our free and liberal institutions which, having their foundation upon the people's will, and securing their safety and happiness, are irradicably implanted in their affections.

Unexpectedly, and I may say unwillingly, I was, in March last, called by your Convention to assume the office of which I have now to yield to another. Whatever opinions may have been formed at the time, or may yet be entertained as to my wishes in the premises, I can say in sincerity that I did much more to avoid than to obtain it. Could I have influenced the opinions and actions of the distinguished individual whom it became my lot to succeed, by inducing him to aid instead of opposing the popular will, he would to-day have occupied the position which I do before you, if, indeed, he may not have been continued in

<sup>5</sup>Texas State Gazette (Austin), November 23, 1861.

the administration of the Government. The dissatisfaction engendered by the manner of my elevation to the position—the condition of the times, and the prospects in the future, combined to indicate very clearly the troubles and opposition to be encountered in my management of the office. The sequel has shown that my apprehensions were well founded. Its labors have been arduous and responsible. As one of the causes which have rendered them so, I may be permitted to say, that at the commencement of the conflict in which we are now engaged, the military power of the State was totally unorganized. Thus it became necessary to promptly combine for the effective protection of the State, as well as to be ready to respond to such calls as might be made for our aid upon other fields. Notwithstanding our defective laws, the want of the means necessary to meet the unavoidable expenses, and many other obstacles which opposed, it may be matter of fact information, at least, to state as the result of what has been attempted, that the number of citizens capable of bearing arms exceeds one hundred thousand, and that there are now more than twenty thousand actually engaged in our just and holy cause.

But I will not detain you with any extended remarks, nor is it appropriate at this time and place that I should review before you what may or may not have been accomplished during my control of the Government. I may have trespassed too long already upon your patience and trenched upon the privileges of others. The ceremonies of this hour pertain more especially to others than to myself. The honors of an Inaugural occasion belong more properly to and are intended for those who are about to assume, than those who are about to yield the reins of power. I should have been wanting, however, in regard for established usages, and in respect for the expectations hanging upon the occurrences of this day, if I had failed to give my humble participation in the scene now transpiring here.

This brief and humble address closes my connexion with the public service, and I ask the privilege of this occasion to return, through you, their representatives, my sincere thanks to my fellow-citizens for the many marks of esteem and confidence they have bestowed upon me. The many stations of public trusts they have confided to me, and the length of time they have kept me in service, exceed by far

my humble merits. In my present position, not indeed received directly from them, as in all others which I have occupied, I have served them faithfully, if not wisely and well.

Hoping that the distinguished gentleman who succeeds me in the Executive chair may escape the perplexing cares and difficulties which I have met; that he may fully meet the expectations of his friends, and that his administration may be distinguished for the accomplishment of great good to our beloved State, I now resign the office into his charge.

The oath of office was then administered by Chief Justice [Royal T.] Wheeler to F. R. Lubbock, Governor, and Lieutenant Governor-elect John M. Crockett when Governor Lubbock delivered his inaugural address.

**Gentlemen of the Senate and House of Representatives,  
Ladies and My Fellow Citizens:**<sup>6</sup>

The time designated by the Constitution, that you, gentlemen of the Senate and House of Representatives, shall meet and enter upon the important duties assigned you, having arrived, permit me to congratulate you that you are here assembled today for that purpose, in a free land, untrammelled and unpawed by the mercenaries of despotism; and let me congratulate you, fellow-citizens, that while some of our sister States have been and are now being invaded, the soil of our beloved State is free from the presence of our enemies, except such as are prisoners in the hands of our brave soldiers.

A generous and confiding people, by their suffrages, have called me to the Executive chair of a great and sovereign State, a member of a proud and powerful Confederacy. I feel deeply conscious of the great responsibilities attaching to the position at this important crisis. Much has already been done by the retiring Executive to place Texas side by side with her sister States in the present struggle; but, gentlemen, it must be borne in mind that we have as yet but seen the beginning, and I am resolved, with your aid and support, so long as I occupy the position confided to me by the people, that her footsteps in the career of honor and patriotism shall be onward, and the precious interest entrusted to my keeping be rendered back at the appointed time uninjured and untarnished.

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<sup>6</sup>The Texas Republican (Marshall, Texas), December 7, 1861.

It is useless at this time, gentlemen, to discuss the causes which led to the present state of affairs. The history of our wrongs is a long and bitter one, and has been so often discussed and reviewed by the great minds of the country, that it has become familiar with you all. You, together with a large majority of our fellow citizens, have long since decided that grievances to such an extent existed as to warrant the necessity of separation from those with whom for so long a period we have been politically connected.

That separation was consummated by us after mature reflection, in view of all the attendant dangers and difficulties.

Many had hoped that we would be permitted to part in peace, and that those with whom we could not live in brotherhood would at least allow us to retire from a co-partnership that had become onerous and oppressive, and take with us our institutions that had become so hateful to them.

This fond hope was not to be realized. Those who had heretofore professed friendship for us, and a willingness to stand by our constitutional guarantees, become our most vindictive foes, vieing with the Abolitionists who should be first in the field for our subjugation.

The war was inaugurated by our enemies, and our once peaceful and happy land is now the scene of this inhuman struggle.

The Lincoln government vainly boasted that the base and hireling soldiery would overrun and subjugate the South in sixty days. Eight months have past away and we find this wicked and boastful government, after warring for that length of time against a power not half their equal in numbers, forced to pursue on every line of military operations, a defensive policy. Their armies defeated on every battlefield, and their hireling soldiers flee panic-stricken before our army of citizens.

In all this, a kind Providence has hovered near our armies, giving us victory after victory over our enemies.

In portions of our country heretofore subject to casualties that have caused the earth to fail in its productions, genial showers have fallen upon the land; abundance has been given to us, our granaries are filled, and plenty prevails in our midst, and the people feel that the great God who presides over the destinies of nations and "sits on the

throne judging right," is on our side, and will bless us in this struggle.

Thus far our efforts have been crowned with success. Let all praises be given to our gallant soldiers who have defended the integrity of our soil.

It has been said, gentlemen, that this is a war for slavery. I tell you it is a war for liberty! Upon the issue of this war must depend on our status in all time to come. We must maintain our liberties by our strong arms and stout hearts, or we must consent to be the most abject slaves of the basest, most corrupt, and vulgar despotism that ever clutched in its unhallowed grips the liberties of a free people.

I know, gentlemen, that in your hearts you have already determined that this war should be carried out with promptness, vigor, and ultimate success.

I call upon you, therefore, in the name of patriotism, honor, and all that you hold most dear, to devise and carry out such wise and efficient measures as will strengthen the arm of the Confederate States, and aid them in speedily achieving for us our independence, pledging to you my most cordial approval and co-operation in every such measure.

I trust you will see that those gallant men, who have served the State well and faithfully, be fully provided for, and that no Texian soldier shall charge his State with ingratitude. They deserve well of their country; they have and will continue to sustain the reputation of their State as the home of a chivalrous and warlike people.

Gentlemen, to the ladies of our country, we owe much; in our trials and troubles, they too have been with us. To prepare comforts for the soldiers, their busy needles have been plied incessantly; their smiles, their tears, and their prayers, accompany the soldiers to the battle-field. They yield up to the cause of their country, right bravely, husbands, brothers, sons, and lovers. They gave up ease, luxury, and elegance, for the soldier's benefit. Can a people thus supported and encouraged, be subdued by the base Hessians of a corrupt and fanatical government: no! never, while one bold heart is left to combat.

Gentlemen, I am pleased to know that at the head of the Government of the Confederate States, we have men of ability, integrity, and patriotism; and while I have every

confidence, and feel satisfied they are doing everything in their power to secure our liberties, and chastise our insolent and remorseless foe, it is nevertheless our duty to see our State is put in an attitude of self defense, from the seaboard to the hills, and our soil defended against the polluted tread of abolition hordes.

Our frontier must also be guarded, at every cost against the ruthless Indian foe; the lives of our men, women and children, preserved from the tomahawk and the scalping knife.

Texas must pay punctually to the Confederate Government her portion of the war tax; and I have no fears but that our people will promptly respond to this sacred call of patriotism; and, in addition, they will cheerfully meet such taxation as may be necessary to carry on our State Government with efficiency.

I trust that every citizen will feel that he must perform his part in the great struggle now going on; that prudence and economy will enter into the administration of every department of Government, and that every servant will look well to the welfare of the country.

Let me say in conclusion, that I am here in accordance with the wishes of the people; that I bring with me to the Capitol the kindest feelings toward all good men, having no prejudices against this party or that party, this man or that man. I come here determined, as far as in my power lies, to see that the laws are enforced impartially, and to carry on the State government for the people with honesty and economy.

I enter upon the discharge of my duties free and untrammelled, bound by no pledges, only to a faithful performance of every trust confided in me.

I trust every citizen in this broad land will see the necessity of lending his aid in sustaining the glorious cause in which we are now engaged, that of securing to millions yet unborn the right of self-government.

Let us all stand upon the Constitution that has been adopted by our own people, presenting one unbroken front to tyranny in every shape it may present itself, with the determination never to place our liberties in the keeping of the dastard foe that now seeks to conquer us.

I hope, gentlemen, that our session will prove harmonious, and that your every act will redound to your

praise, and the good of our country.

For the present, I have done, at a future day I will take pleasure in giving you my views more in detail.

Ladies, for your attention, I thank you, and from my heart say—God bless you.

Lieutenant Governor John M. Crockett then delivered his inaugural address.<sup>7</sup>

The Senate then returned to their chamber.

Friday, November 8, 1861

#### BILL:

Original Bill 80, an Act authorizing County Clerks to issue executions in certain cases for fees. Read first and second times and referred to Judiciary Committee.

#### MESSAGE:

To the Gentlemen of the Senate and House of Representatives.

It is proper that I should make known to you the efforts which have been made to procure arms and ammunition. I have chosen to make them the subject of a special communication considering that course most consistent with our security.

Early in May General E. B. Nichols who was sent abroad to negotiate the loans provided for by the Legislature was authorized to purchase arms and ammunition to the amount of fifty thousand dollars. The amount was subsequently increased to one hundred thousand. In the absence of means or money with which to purchase, he was authorized to pledge the faith of the state for the payment if by so doing he could procure the articles.

He was also appointed agent to collect from the Confederate government if it could be done. The amount due the state for expenses incurred in capturing the property of the United States in Texas and which has been transferred to the Confederacy, and to expend said amount in the purchase of arms and ammunition. He did not collect the claim against the Confederate States and could obtain no arms R [?]. He has subsequently become impowered to purchase guns expected from Belgium and to reach Texas about the last of September past. Since being au-

<sup>7</sup>The inaugural address of Lieutenant Governor John M. Crockett cannot be located. The journal manuscript of the Senate indicates that it was mislaid.

thorized to buy these arms, I have heard nothing from him upon the subject, and therefore conclude that he has failed to get them.

Dispairing of accomplishing anything through the means stated, General H. P. Bee was sent to Matamoros to ascertain what the chances might be to purchase arms in Mexico, or if none could be had, to see if some arrangement could be made by which they might be procured from Europe. He was to pledge the Bonds of the State, or the five percent United State Bonds in the Treasury if a negotiation could be made upon that basis. The amount to be expended not to exceed one hundred thousand dollars. He found only a few arms, but succeeded in making a contract, subject to the ratification of the Executive, with parties in Matamoros for arms to the amount authorized. He has forwarded a copy of said contract which is herewith submitted for consideration.<sup>8</sup> The bonds were not furnished him, nor has the contract been approved. The Executive really had no authority to make his appropriation of these bonds but supposed the necessity of one condition, would justify him in the opinion of your Honorable body in the use of any means that could be made available to provide for the defense of the state. There were other reasons however which interposed to prevent his application of the bonds. One was the near approach of the session of the Honorable Legislature, and another, the fact that the United States had repudiated all of their bonds in our possession at the date of the Secession. The indorsement thus of these bonds by the present Executive would have shown the evidence of their repudiation and would have rendered them valueless. The contract is as favorable a one perhaps as could be made, and presents the readiest means, possibly, of our obtaining arms. The subject together with the contract and General Bee's correspondence is respectfully commended to your especial notice.

Edward Clark

SPECIAL REPORT ON SAN ANTONIO AND  
MEXICAN GULF RAIL ROAD:

Report of Francis Girard on San Antonio and  
Mexican Gulf Rail Road.

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<sup>8</sup>The contract cannot be located. The message is endorsed "Containing letter of H. P. Bee concerning Oetting, Vroedje and Co.," but the letter cannot be found.

To His Excellency—Edward Clark Governor of the State of Texas.

In accordance with the instructions contained in the Commission conferred on me by your Excellency on the 10th day of May 1861, to examine and report upon the construction and character of that portion of the San Antonio and Mexican Gulf Rail Road, extending upwards from the end of the third Section of Five miles already reported upon by the Hon. G. Schleicher, on the 20th of December 1860 as Special Engineer on behalf of the State to the present terminus of the same at the City of Victoria; I have the honor to submit to Your Excellency the following report:

The length of road completed above the stake set at the end of the 15th mile from the Depot at Port LaVaca, terminating at the extremity of the track in the Engine house at Victoria, including burnouts, sidetrack etc, is, according to measurement 12.20 miles.

The rails on this portion of the road, are mostly of the same weight and pattern as those on the second and third sections. Some of them are heavier, say weighing some fifty-seven or fifty-eight pounds to the yard.

A portion of the track is laid with pine sawed cross-ties similar to those used on the lower sections of the road, and the balance with heavy White and Live Oak cross-ties brought from the bottom of the Guadalupe River, which are fully equal, if not superior to the pine ties.

There are on this portion of the road three culverts, solidly built of pine, which are only intended to be temporary, and also one small bridge, across the Panada de la Mula which is also well and solidly constructed. The recent heavy rains which occurred immediately before and during my examination, have shown the necessity of establishing two or three small culverts, which the company intend putting in, as soon as the weather will allow—and also of improving the drainage in the two cuts on the road, all of which I have no doubt will be soon done as the company keeps some six or eight hands constantly employed repairing the track, the condition of which I found to be on the whole satisfactory.

Owing to a deficiency of chains which cannot be procured at present, a small portion of the track is not supplied with chains at the rail-joints, but these are firmly

fastened down with spikes to serve temporarily until chains can be procured.

The Company have erected in Victoria, 1 Freight house—about 100 ft. long by 24 ft. wide, with platforms about 6 feet wide extending the whole length, on both sides 1 Engine house 57 ft. by 24 ft. and also one Superintendent's office and passenger house about 24 ft. square and 2 stories high, with a platform 6 ft. wide around three sides thereof. They have also placed on the track since the last report, 1 locomotive called the Victoria of 23 tons, and 1 fine first class passenger car. These in addition to the rolling stock on hand as per report of G. Schleicher in December 1860, place the company in a condition to carry on any ordinary amount of business without difficulty. A good and convenient water station has been also erected and is in constant use, about 11 miles from Victoria.

All of which is respectfully submitted by Your Excellency's most obedient servant.

(Signed)

F. Girand  
Engineer

Sworn to and subscribed before me this 25th day of September A. D. 1861.

Witness my hand and official seal at San Antonio the day and year last above written.

(Signed)

Julius Hofner  
Notary Public, Bexar County

#### STANDING COMMITTEES APPOINTED BY THE SPEAKER:<sup>9</sup>

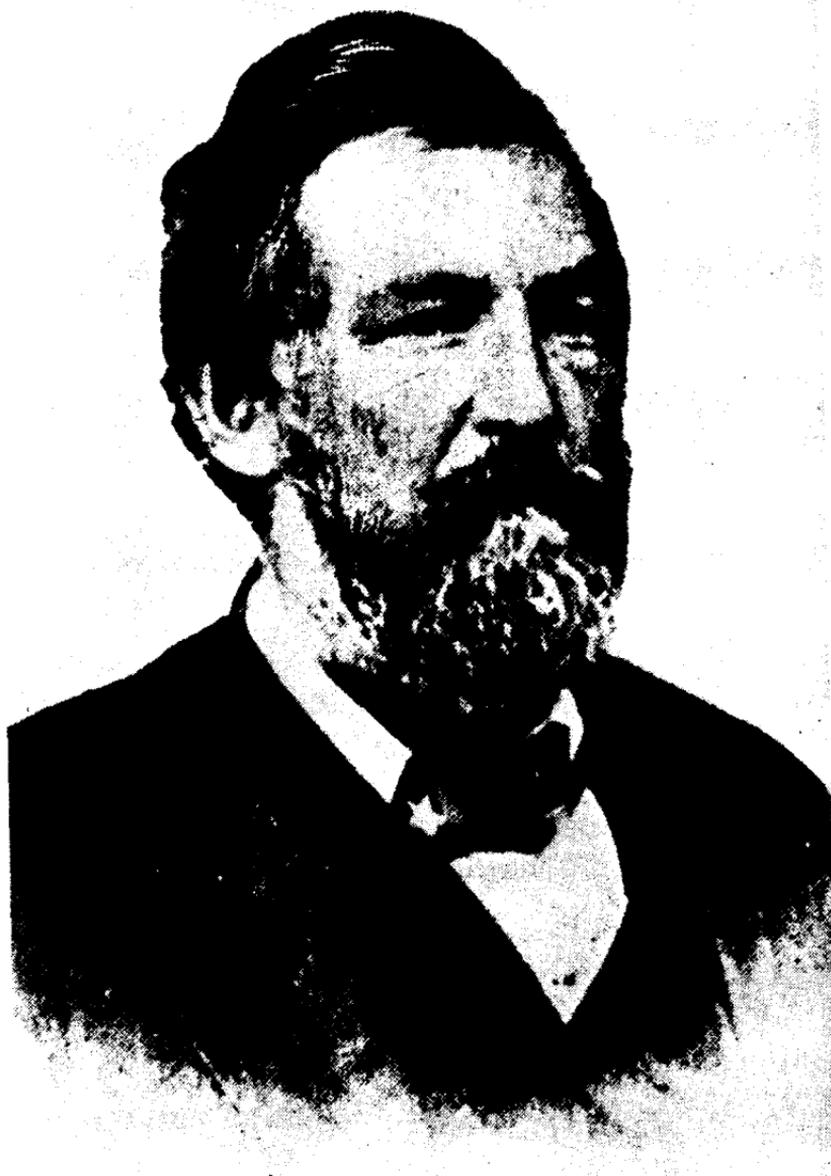
Judiciary Committee—M. M. Potter, Chairman; Bagley, Chalmers, Hunt, Price of Fayette, Norvell, Williams, Hill, and McDonald.

Private Land Claims—Russell, Chairman; Maverick, Bagley, Broaddus, Buckholts, Ewing, Flint, Harrison, and Woods.

Education—Townes, Chairman; Bannerman, Dillahunty, McLean, Staehely, Sedberry, Smith, Cocke and Navarro.

Internal Improvement—Rippetoe, Chairman; Beall,

<sup>9</sup>The appointments were probably made near this date. The listing is from the *Tri-Weekly Telegraph* (Houston), November 15, 1861. The commentary is from the *Texas State Gazette* (Austin), November 16, 1861.



**Henry M. Elmore**

Photograph from  
Dudley G. Wooten,  
**A Comprehensive History of  
Texas** (2 vols.; Dallas: William  
G. Scarff, 1898), II, 633.

Darnell, Foscue, Taylor, Terrell, Slaughter, Walker and Hendricks.

Penitentiary—Elmore, Chairman; Perry, Manion, Hooks, McDonald, Neal, Abney, McDowell and McGill.

Military Affairs—Flewellen, Chairman; Gano, Rusk, Mosely, Lane, Marshall, Shelton and Bragg.

Public Buildings—Parker, Chairman; Price of Anderson and Reid.

Claims and Accounts—Walworth, Chairman; Rhea, Roberts, O'Quinn, Costley, Thomas, Werbiskie, Willis and Harwell.

Confederate Relations—Chalmers, Chairman; Hays, Lindsey, Ward, Raines, Ford and Bean.

Public Lands—Davis, Chairman; Buckholts, Dansby, Daugherty, Foscue, Hardin, Costley, Manion and McDonald.

Printing—Wortham, Chairman; Ford, Abney, Davis and Palmer.

Public Debt—Price of Fayette, Chairman; Perry, Norvell, Neal, Navarro, McDowell, and O'Quinn.

Land Office—Maverick, Chairman; Flint, Goodrich, Hardin and Harwell.

Indian Affairs—Hall, Chairman; Costley, McGill, Lindsey, Navarro, Lane, Ward, Stell and Daugherty.

Counties and County Boundaries—Abney, Chairman; Alford, Flewellen, Hays, Hooks, Marshall and McLean.

Finance—Cone, Chairman; Rippetoe, Elmore, Dansby, Stell, Townes, Maverick, Bragg and Potter.

State Affairs—Hunt, Chairman; Hill, Bagley, Broadus, Ewing, Raines and Rusk.

Engrossed Bills—Hill, Chairman; Stell, Woods, Willis, and Terrell.

Enrolled Bills—Lane, Chairman; Davis, Gano, Bannerman, Russell, and Staehely.

Contingent Expenses—Perry, Chairman; Harrison, Starr, Walker, Taylor, Costley and Rhea.

Roads, Bridges and Ferries—Mosely, Chairman; Parker, Reid, Sedberry, Smith, Rains and Roberts.

Retrenchment and Reform—Goodrich, Chairman; Roberts, Palmer, Shelton, Harrison, Marshall, Taylor and Slaughter.

Slaves and Slavery—Williams, Chairman; Alford, Bagley, Beall, Hendricks, Hunt, Taylor, and Price of Anderson.

Stock and Stockraising—Shelton, Chairman; Starr,

Lane, Thomas, Walworth, Werbiskie and Cocke.

Agricultural Affairs—Bean, Chairman; Bagley, Walker, Thomas and Smith.

To Examine Comptroller and Treasurer's Office—Bagley, Chairman; Cone and Rippetoe.

**COMMENTARY:**

In the House the subject of electing a chaplain was debated with some warmth, and finally negatived by a decided majority.

Saturday, November 9, 1861

**BILLS:**

House Bill 16, an Act defining the pay of State Troops under the command of Jno. S. Ford. Read first and second times and referred to Committee on Military Affairs.

Original Bill 69, an Act supplementary to an act to perfect land titles in Castro's Colony. Read first time and referred to Committee on State Affairs.

Original Bill 71, an Act to regulate the collection of taxes repealing certain laws therein named. Read first and second times and referred to Committee on Finance.

Original Bill 77, an Act to repeal the law appointing cotton weighers. Read first time. Rule suspended, read second time and referred to Committee on Agricultural Affairs.

Original Bill 96, a Bill for the relief of Hannah C. Buckner. Read first time and referred to Judiciary Committee.

**MESSAGE:**

**Gentlemen of the Senate and House of Representatives:<sup>10</sup>**

Your presence at the seat of government is at all times an occasion of great interest and congratulation but at no period within the memory of any member of your Honorable body have the representatives of the people convened under circumstances of so much necessity for their deliberation, or so heavily burdened with the responsibilities of the future as the present. You are direct from the people, and your acts will be the reflections of their will. This fact and your combined intelligence render confident the assurance that your enactments will afford complete justification

<sup>10</sup>See Executive Record Book No, 279, 1860-1861, pp. 351-363 (Texas State Archives, Austin).

of the past, sustenance for the present and security for the future.

It is the constitutional duty of the Executive to communicate to you information of the state of the government and recommend to your consideration those reasons which may be deemed essential to the advancement of the public welfare. In contemplation of the circumstances which surround him, being as he is the creature of the convention and not directly of the people, it will perhaps be sufficient that he should confine himself to those facts which will enable you to arrive at a positive understanding of the actual situation of the State rather than to make suggestions as to the policy you should adopt. This will more appropriately become a matter of subsequent recommendation.

In consideration of our position as an independent state, and at the same time as one mighty element in a young but hopeful nation which is battling for its life, the subject of primary interest is a survey of our military condition. To arrive at an understanding of this subject you will receive a brief recapitulation of the steps which have been taken to secure our military defenses. You will also hear of those things which have been attempted and like wise of the insurmountable difficulties which in this respect have impeded the administration. From these significant facts it will prove no difficult matter for your Honorable body to deduce the results which must be consummated in order that Texas may become proof against peril and strengthened in the power to aid in the establishment of the general government.

Among the first and most important duties devolving upon the Executive was to raise the regiment required by the Ordinance of the Convention to provide in part for the military defense of the state. Enrolling officers were appointed in different sections of the state and the number of companies necessary to make up the force were speedily obtained. The greatest dispatch was required in procuring these troops, it being important to have them in the field by the time the United States forces on our frontier, should be withdrawn, their removal being inevitable in consequence our own withdrawal from the Union. San Antonio was named as the place for the concentration of the regiment and the colonel selected to command it ordered to

repair thither and superintend its organization.

The exigencies of the service however not permitting his absence at the time from his position on the Rio Grande the remaining field officers were required to supply his place in the preparation of the regiment for service.

This is a mounted force, and of all troops the most expensive, and to serve for twelve months from time of enlistment. To save the state the immense cost of its maintenance and combine our military defences in the same hands induced an early effort on the part of the Executive to procure its transfer to the Confederate government. In order to more successfully and immediately carry out this design General James H. Rodgers was about to visit Montgomery, the seat of government—who was entrusted with its accomplishment and furnished with the necessary authority and such instructions as were deemed essential.

By prompt and energetic attention to the subject, and aided by the representations of others of our citizens who happened to be present he succeeded in getting the Honorable Secretary of War to accept the regiment. Of this result due notice was given to the Executive, and upon the organization of the command it was mustered into the Confederate service, the authorities of Texas thereby being relieved of all further connection with it.

It may devolve upon the state to provide for the expenses incurred from the incipency of this regiment up to the date of its transfer, but it is believed that these expenses are covered by a recent law of the general government and that the state will be reimbursed.

War having actually commenced between the United States and the Confederacy, the immense increase of business of a military character arising out of this condition of things rendered it necessary to put into active operation the office of Adjutant General. The labors of this office have been very extensive and beneficial, notwithstanding the fact that they have been performed under lame and inefficient laws. The results may readily be seen in the present organized condition of our military strength. In the present crisis it is a very important branch of the public service, and that you may be better informed as to its past transactions and of its future requirements I respectfully refer you to the very explicit report of the Ad-

jutant General herewith transmitted marked "A".<sup>11</sup>

The encampment of United States forces near Indianola became early in the administration an object of attention. These troops were departing from the state by virtue of an agreement between General Twiggs and the Commissioners of the Convention.

In conformity with these stipulations they were to retain a full complement of arms and ammunition. Thus provided they had collected to the extent of several companies at Green Lake under the pretense of awaiting transportation from our shores. From the threatening aspect which affairs had assumed it was not improbable that the Federal government would order these six or seven hundred well appointed troops to take possession of and hold this seaport to our very serious disadvantage.

Therefore it was deemed a matter of policy, if not of absolute necessity, to require their immediate embarkation in compliance with the terms of the agreement before mentioned.

Accordingly a commission under the immediate control of the Adjutant General was authorized to make this demand, and if it was not complied with to call out a force sufficient to capture and disarm them.

This commission was proceeding rapidly to the discharge of its duty when the opportune arrival of General [Earl] Van Dorn with full authority to effect this same purpose superceded the necessity of further action on its part.

The vulnerability of the sea coast was now an object of earnest solicitude, and it was the duty of the Executive of Texas to urge its defense upon the Confederate Government. This was done, and the President requested to send immediately a competent engineer to make an examination and report upon those fortifications which were necessary.

In the meantime, the precautionary measures were taken of sending several hundred stand of arms from those seized at San Antonio to be used in the defense of Matagorda Bay and Galveston Island.

Steps were taken at the same time to have the heavy guns which had been captured at Fort Clark conveyed to the coast.

<sup>11</sup>None of the reports or documents referred to in this message can be found. They were not included with Governor Clark's message as recorded in the Executive Record Book.

About this time the able Confederate officer who had been designated to command the Military Department arrived. Thus rested an important subject in his appropriate hands and relieved the state of that which she had not the power to accomplish.

As an efficient step to secure the defense of our northern border Colonel William C. Young was authorized to raise a regiment of cavalry. This movement was demanded by the probability of an invasion in this quarter. Difficulties accumulating in the states north of us, it became necessary to increase this force, and accordingly three additional regiments were raised similar to the first.

If an invasion had been projected towards us it seemed to be the policy of Texas to meet it as far as possible from her own limits. With a view to this purpose, Colonel [George M.] Flournoy was sent as a special commissioner to the Governor of Missouri to concert such measures as the ability of Texas and the welfare and safety of both states should justify and demand. This mission although it produced no immediate action on the part of the State was satisfactory in its results. The report of the same is being transmitted to you herewith.

An effort to have these regiments received into the Confederate service succeeded, and they are now employed in that capacity. The expenses however in consequence of their organization and the time they were retained in the field previous to their reception into the Confederate army devolve upon the State and it will remain with your Honorable body to adopt measures to meet them.

It was thought prudent to secure to the State all of the ammunition which could be obtained from merchants at this and other points; therefore it was purchased, a small amount it is true, but it is well that it should be in the possession of the State by which it may be used as emergencies may require. Some flint lock muskets which had for a long time been the property of the State were caused to be altered by contract into percussion muskets and otherwise improved. They are limited in number but are now equal in efficiency to the most improved arms of like character.

An order has been issued to have manufactured several pieces of ordnance at the Galveston foundry, and also a number at La Vaca.

These minute transactions have been mentioned because they were performed without authority from the Legislature. Of their propriety it requires neither explanation nor argument to convince you, and it is only necessary to bring the action respectfully to your attention in order that you may approve and sustain it.

In the deficiency of an adequate supply of state arms, and in view of the fact that if it became necessary to repel an invasion we should be forced to depend upon the private arms in the hands of individuals, it was determined to ascertain as far as practicable the number of these upon which we might rely. A request was issued to the Chief Justice of each county to institute an inquiry for this purpose and the result as far as is known is highly gratifying. Forming an estimate from the returns which have already been received the number of these arms will not fall short of forty thousand. With this fact as a basis, your Honorable body may perhaps think it judicious to provide the means for having these arms put in a condition for service and so situated that they can be made available.

Upon the 7th of April a requisition was made upon the Executive of Texas by the Honorable Secretary of War for three thousand men and upon the 24th of the same month an additional requisition for five thousand was received.

These troops were to be infantry. They were to be organized and drilled and held in a state of perfect readiness but were not to be mustered into service unless it was under a subsequent call. Proclamations were accordingly issued calling upon the people to organize themselves into companies. This was done with great promptitude considering the scattered condition of our population and the natural aversion to infantry service. The first demand, however, for their active services was a requisition from the War Department for twenty companies to go to Virginia. These companies which had been organized in obedience to an order from the Secretary of War for twelve months were now required to be mustered in for the war. This change was productive of some dissatisfaction and occasioned a trivial delay. Not much time had elapsed however before the required number of companies was ready and the Confederate officer to whom the Executive had been authorized to report them was notified of the fact that he could take them under his control. He insisted

upon certain points of rendezvous at which they were concentrated, and mustered into the service of the Confederate States. With this consummation of course all responsibility of the State ceased, and if these patriotic soldiers as has been said suffered any unnecessary inconvenience before leaving the State, it was not the fault of the authorities of Texas.

In conformity with the present Militia law brigadier generals were appointed in the thirty-two districts of the state and they have been required by repeated and explicit orders to organize the militia. This has been done by many of the gentlemen appointed, and to a very commendable extent, but it is with regret that the Executive cannot report a more thorough and complete organization of this force. In addition to this the people have been urged in different proclamations to organize themselves into companies and offer their services to the Confederate States or to the State but through the Adjutant General's office.

Thus we might hope to have soldiers ready for Confederate service whenever that government required them, and a reserve corps of many thousands to preserve the inviolability of our own soil.

In order to facilitate this organization, it was thought advantageous to invite these companies into camps of instruction there to remain long enough to fix their respective organization and acquire at least the elementary principles of drill and discipline.

For this temporary life in camp the soldiers were to receive no pay, and the patriotism of the people which had manifested a strong desire to express itself in this respect would be relied upon to support them.

These camps were successful only to a limited extent. Various causes transpired to prevent, in some instances, their formation, and in others to render them but of short duration.

The movement was an experiment and although it did not meet with that success which would have advanced to a great degree the military condition of the State yet it has been productive of some advantages and has imposed upon the State but a trivial pecuniary obligation.

No practicable means have been left untried to form into military companies all the able bodied men of Texas. The people have been appealed to directly by the Executive,

and by many individuals appointed by him for that purpose, to organize into companies of some character, get the best arms they could obtain and inform the authorities of the State of their localities and condition.

It will readily be understood that efforts of this character must have encountered difficulties numerous, and not insignificant, and have often proved futile as they were informal.

Among the most general of the difficulties was the fact that the troops were to a great extent required to be infantry. The predilection of Texans for cavalry service, founded as it is upon their peerless horsemanship, is so powerful that they are unwilling in many instances to engage in service of any other description, unless required by actual necessity.

This passion for mounted service is manifest in the fact that no call for cavalry has yet been made which has not been complied with almost instantaneously and there are companies of this character now throughout the State which are eager for service.

An additional fact to which the serious attention of the Legislature is especially directed is that military organizations have taken place within the limits of Texas without the authority or knowledge of her Executive. Various gentlemen have been authorized by those at the head of the Confederate government to raise regiments without the intervention or cognizance of state authorities. This action has been emphatically objected to through the Texas delegation at Richmond, but the objection has not been heeded.

Another serious obstacle has been the want of legislative authority and of the material resources for placing volunteers in an organized and effective position.

The present militia law, as all other laws made for similar purposes in times of peace, is impracticable in its character and unwieldy in its operations. The efforts which have been made under its provisions have disclosed the fact that it is ill adapted to the necessities of an actual war.

It will be the duty of your Honorable body to remedy the defects of this law and to render it more useful in accomplishing the object for which it was intended.

The last serious obstacle to the military operations of the State which will be mentioned is the fact that the

previous legislature did not have a full appreciation of the greatness of the conflict—upon the threshold of which we then stood.

We could all see the majestic and triumphant Confederacy of States down the vista of the now distant future, but all did not realize a sense of the trial and struggle through which we were to pass.

Hence it was that the Honorable body to which I allude made no provision for the contest into which we are now plunged, and those things which have been accomplished have been done to a great extent without the sanction of positive legislation, and upon the responsibility of the Executive.

But, not regarding all the difficulties which have impeded the action of the State and looking only to those results which have been attained by the spontaneous action of the people, we have reason for congratulation upon the past and for additional self-reliance in the future.

Twenty thousand Texans are now battling for the rights of our new born but gigantic government. They are waiting to win fresh laurels in heroic old Virginia. They are ready to aid in lifting the yoke from Kentucky's prostrate neck and are marshalled in defence of the sovereignty of Missouri. They have covered with a brilliant glory the plains of New Mexico and are formed in a cordon of safety around the border of our own great State.

If such positive results have sprung from the spontaneous action of the people, what may we not hope will be accomplished when the entire latent forces of the State are shaped into system and efficiency?

The number of able bodied fighting men in the State forming an estimate from all the data which can be commanded is more than one hundred thousand. What then is required is a definite practical legislation that will enable this mass to be commanded, and provide for the formation of such a military system as our necessities require.

For the accomplishment of this object the Executive does not feel authorized to commend to you any particular line of policy. That can be best determined upon by the superior wisdom of your Honorable body.

In February last the Committee on Public Safety acting with full power under an ordinance of the Convention sent some troops to Fort Brown, and other points on the

lower Rio Grande. These companies were mustered into the service of the State for six months. An opportunity was subsequently extended to them of being received into the Confederate army. This they refused to do and were therefore State Troops to the time of the expiration of their term of service. Just before the time of their enlistment was completed Colonel Charles Lovenskiold was sent as a special agent to the Rio Grande to ascertain their condition, investigate the causes of certain disaffection which was said to exist, muster them out of service and have them transported to Victoria. This agent has thus far discharged his duty with signal promptitude and ability. The business however has proved one of such extent that he has not yet completed it to make his final report.

These troops which have undergone many hardships and privations, could not be paid even in Treasury warrants. There was only the power to issue to them certificates of debt, and they payment is a subject to which the early attention of the Legislature is invited.

Some complaints have reached the Executive to the effect that this command has suffered from the negligence of the authorities of the State. These troops had been sent out on a suddenly conceived expedition and without that thorough organization of the Quartermasters and Commissary Departments so essential for a lengthy station in an isolated locality. They were under the management of an accomplished commander who doubtless adopted every possible means to insure their comfort. The reports from this officer indicate occasionally an approaching want of supplies, but in many of them he announces having made temporary arrangements; and upon the 30th of June, he says, "We have supplies enough on hand for two months to come," which time would complete the period for which these troops were enlisted.

These facts in addition to the one that the Legislature had made no provision for the purchase and transportation of supplies to this command will permit nothing reprehensible to attach to the authorities of the State in regard to it.

By act of the last Legislature the Governor was required to negotiate a loan of one million dollars by having the bonds of the State to that amount executed and placed in the hands of an agent to be sold from time to time and

the proceeds of sale deposited in some bank in the City of New Orleans.

It was attempted promptly to carry out this law by the appointment, as agent of the State to negotiate the loan, of General E. B. Nichols of Galveston. He was as will be seen by documents (Doc "B") herewith submitted, properly accredited for the purposes of his mission, and fully instructed as to his powers and duties.

He only partially succeeded. The bonds to be procured have reached this department and are now deposited in the Treasurer's office. He however did not succeed in negotiating the loan or any portion of the same. His report shows the causes consequent upon the financial depression of the country which operated against the accomplishment of the desired end.

The matter is commended to the consideration of your Honorable Body for such action as you may deem necessary. The law is still in force and the authority to the agent unrevoked.

Whether or not the existing state of affairs will justify the continuance of the effort to carry out the intention of the Legislature in this respect is a question which addresses itself forcibly to your determination.

In obedience to this same law there is now being collected the tax imposed for the payment of the interest to accrue upon the bonds which might be negotiated. This tax cannot be diverted to any other purpose from the one for which it was intended by the law. The question then arises, provided the object of the act is not attained, whether or not it is essential to the public interest to enforce its collection.

By an act of the same session, with the one already noticed, you will perceive that for the purpose of securing means for the payment of certain debts created by authority of the Convention the Executive was required to borrow the sum of ninety thousand dollars for twelve months the interest not to exceed twelve per cent. And if necessary he was further authorized to withdraw bonds of the Texas Central Rail Road Company to the amount of \$150,000 and hypothecate them for payment of the principal and interest of the loan.

Documents herewith submitted will show the steps taken to comply with the object of this law. The required

amount of bonds as above specified were delivered to General [Ebenezer B.] Nichols for the object contemplated in the act. They were deposited by him in the Citizens Bank of New Orleans where they still remain. He will when opportunity may offer withdraw the bonds and return them to the proper office at this place, unless otherwise instructed. No portion of this loan has been obtained.

The heads of the different departments of the government have extended to the Executive their constant cooperation and advice and have been to him of very great service for which he acknowledges his deep indebtedness.

Their very able and satisfactory reports are submitted to you with this communication. To them you are referred for specific details and suggestions connected with their respective departments.

You are especially referred to the comprehensive facts and sound suggestions embraced in the report of the Honorable Comptroller.

The question of finance is at all times one of primary importance with a legislative body; but never before in the history of Texas has it possessed such surpassing importance and at the same time been environed by so many difficulties.

By reference to Document "A" of the Comptroller's report it will be seen that the balance on hand in the Treasury on the 31st of August amounted to \$36,866.34 including \$604.01 in ten per cent Treasury warrants.

The taxes of the present year do not become available before June, 1862, and it will be remembered that there is no probability that the State bonds provided for by the last Legislature will to any extent be negotiated. Hence the absolute necessity of your adopting measures to raise a revenue adequate to the wants of the State and to replenish the Treasury.

Again commending to you the report above alluded to (Doc "C"), the Executive leaves the solution of this difficult problem to the combined ability of the Legislature.

The above report discloses the fact that of several railroads which borrowed money from the State, under the law of ..., 1854, at least five have failed to pay the interest due upon their indebtedness. In the occurrence of this failure the duty of the Executive is plainly pointed out by the law. This duty did not escape his attention. The best

course to pursue under the circumstances, and the one which would be productive of the least evil to the State was of difficult determination. Upon consultation with the Comptroller, Treasurer and the Attorney General it was decided most expedient not to enforce the law in this instance. Had it been done by the State, under the existing depression of monetary affairs and by virtue of the law would necessarily have become the purchaser, a result not at all desirable. These roads in consequence of the embarrassed condition of the country would have been more profitless in the possession of the State than in that of the companies.

The damage arising from the failure of these companies to meet their liabilities attached to the school fund the interest arising from this source, constituting a part of the distributable fund for the support of public schools. The sum involved in this instance, when divided among the scholastic population of the State, would be so inconsiderable to each individual as to render it a matter of no material importance.

It has not been the disposition of the Executive to excuse these delinquent companies, but his course has been pursued with the hope of promoting the best interests of the State. No right has been impaired by his failure to advertise and sell the roads and this course it is believed would have inflicted a greater injury upon the public than that which has been occasioned to the school fund.

The Executive concurs in the Comptroller's recommendation that some more effective means be adopted to secure the payment of this interest.

To the report of the Commissioner of Claims (Doc "B") giving an account of the transactions of his office and asking that duplicate issues of lost scrip and a certificate issued by him according to his construction of the law regulating his court, your attention is recommended.

The report of the Committee on Printing announces the fact that there is no public printer, all the bidders for the contract having failed to complete it. To provide for this want is a subject which will doubtless command your early attention.

The different eleemosynary institutions of the State have continued their good work, and have been conducted in all respects in a manner commensurate with the divine

object of their formation. Whether or not this labor of charity should be curtailed or modified in its practical operations and expense by the stern necessities of an actual war is a question that commends itself to your consideration.

The report of the Directors, Superintendent and Financial Agent of the Penitentiary are also transmitted to you. The latter shows a discrepancy of the amount of goods received and the amount accounted for of very great magnitude. This deficiency is said to be the result of errors in posting the books and it is confidently believed that it will be satisfactorily explained. Aside from this the institution has not only been eminently prosperous in its operations but it has also been of great service to the State. The blockade of our ports cutting off all the usual sources of supply of manufactured goods and the increased demand for such fabrics consequent upon retaining a large number of troops in the field directed the attention of the Executive to the manufacturing power of this institution. Its managers were requested to apply the whole of their available force to the fabrication of goods for military purposes. This has been assiduously done.

Would it not be a wise policy for the Legislature to take steps to purchase all goods made at this institution suitable for the use of our troops, or to make an appropriation for its support and take possession of all its fabrics of a required class? By these means the State may be able to a great degree to clothe the soldiers of Texas who may be in the field.

Thus you may be able to comply with the prudent suggestion of the Secretary of War contained in a letter which is submitted to you. This communication advises that this State supply her own troops with clothing and receive for the same the commutation of twenty-five dollars for every six months clothing furnished each soldier. State agency in this respect will prove more efficient than the operations of the general government and the subject is well worthy of your consideration.

By act of Congress all claims incurred by the several states of the Confederacy arising from the circumstances which impelled their action previous and subsequent to their several acts of secession are assumed by the Confederate Government. The act requires the governors of

the several states to forward the claims to the Secretary of the Treasury in order that they may be audited. They will have to be collected and thrown into shape by the several states, and for this purpose some provision having such object in view should commend itself to your consideration.

In compliance with a joint resolution of the Legislature, "providing for the turning over of property now in the possession of the State, lately taken from the U. S. Government to the Confederate States Government," and upon the arrival of the agents of the Confederate States the Ordnance and Inspector General and Quartermaster General designated by the Convention to take control of all such property were ordered to turn it over to the proper agents. This property in charge of the Ordnance and Inspector General was promptly transferred and the required schedule and receipts filed with the Comptroller.

It was impossible that the work of the Quartermaster General should be so rapidly completed. The property under his charge was turned over *en masse* in order to facilitate the operations of the Confederate Government in this Department; but a considerable time has been required "to receive and take receipts for the same accompanied by schedules specifying each item and its condition."

The gentleman upon whom devolved the duties of this office has discharged them faithfully and ably; but the immense amount of property which he was required to transfer and the extent of country over which it was scattered have protracted the operations of his office. His report is herewith submitted (Doc "I").

An ordinance of the Convention appointed Major Ben McCulloch to purchase or otherwise obtain for the State of Texas one thousand Colts revolvers and one thousand Morse rifles or a like number of such other weapons of a similar character as he might approve and obtain. He entered promptly upon his mission but found it impossible to procure the rifles. The pistols however were secured and have been of great service in arming the regiment called out by the Convention. The claim for these arms which is about \$25,000 is due to a citizen of the government with which we are at war and it will devolve upon the Legislature to determine its adjustment.

Some strenuous exertions have been made by the

Executive to procure an additional supply of arms for the State, but this subject is deemed prudent to make the substance of a special report to your Honorable body.

**Gentlemen:** Having fulfilled my constitutional duty, it is now my privilege to commit the government into your hands and into those of the distinguished gentleman whom my fellow citizens have chosen to succeed me, and who will cooperate with you in your future legislation.

In the foregoing communication I have said only those things which the propriety of my situation would permit and which the most important necessities of the government demanded. It was sufficient that I convey to you a succinct statement of the significant transactions which have transpired since the occasion upon which I assumed the responsibility of acting as Chief Magistrate of this State.

There are many more things which I might have said. It was no difficult task to indulge in reflections and to amplify recommendations. But we are in the beginning of an age of action.

What you require are facts. Your wisdom will enable you to mould them into law and your freshness from the great source of all law and sovereignty—the people—will cause you to conform your actions to their will.

The realities of a great war in which we are engaged will require the exercise of all your financial ability, all your military skill and devotion to the public welfare. I am confident that you will display all these qualities at the same time that you will rely unwaveringly upon "Him who doeth all things well." Thus will the fruits of your labors soon be peaceful independence and a prosperous State.

—Edward Clark.

Monday, November 11, 1861

#### BILLS:

House Bill 2, An Act to enable J. H. Saunders, the guardian of John Saunders, Cora Saunders and Claibourn Saunders, to remove property of his wards from the State of Texas. Read first and second times and referred to the Judiciary Committee.

House Bill 8, To amend an act to incorporate the Jefferson Insurance Company. Read first and second times and referred to Committee on Internal Improvements.

House Bill 17, Allowing the laws of the Confederate

States to be received in evidence. Read first time and referred to Judiciary Committee.

House Bill 19, Authorizing the County Court of Nueces County to levy a special tax. Read first and second times and referred to Judiciary Committee.

House Bill 34, To protect the wool growing interests of Texas. Originated in the House.

Original Bill 72, Preventing forced sales and to provide for the creation of judicial mortgages. Read first and second times and referred to Judiciary Committee.

Original Bill 83, To change the name of Mary Ruth Shaphard [Shepard?], and James Shaphard to that of Mary Ruth and James Heard. Read first time and referred to Judiciary Committee.

Tuesday, November 12, 1861

#### BILLS:

House Bill 1, An Act granting leave of absence from the State for three months to Edward H. Vontress, Judge of the Seventeenth Judicial District of Texas. Read first time. Rule suspended, read second time and ordered to be engrossed. Rule further suspended, read third time and passed.

House Bill 2, An Act to enable J. H. Saunders, the guardian of John Saunders, Cora Saunders and Claibourn Saunders to remove the property of his wards from the State of Texas. Read second time and ordered to be engrossed.

House Bill 21, An Act to amend an act supplemental to an act for the relief of Myrum Mudgett, Daniel Kitchings, A. L. Spencer and E. G. Cantwell approved February 8, 1861. Read first time and referred to the Committee on General Land Office.

Original Bill 81, An Act to amend the eighth section of an act regulating fees of office, passed March 20, 1848. Read first and second times and referred to Judiciary Committee.

Original Bill 71, An Act to change the name of Ann Bell Dayol to Ann Bell Dayol Roberts and to permit Phillip W. and Nancy Roberts to adopt her. Read first and second times and referred to Judiciary Committee.

Original Bill 78, An Act to change the line between the counties of Leon and Houston, so as to add the tract of land whereon the homestead of John P. Stell is located

in Houston County. Read first and second times and referred to Committee on Counties and County Boundaries.

Original Bill 75, An Act to amend an act regulating the collection of taxes. Read first and second times and referred to Committee on Finance.

Original Bill 74, A Bill to be entitled "An Act for the relief of Mrs. Ann McKenzie (widow of Lacy McKenzie dead)." Read first and second times and referred to Committee on Private Land Claims.

Original Bill 73, A Bill to be entitled an act amendatory of an act concerning Mechanics Liens. Read first and second times and referred to Judiciary Committee.

Original Bill 88, A Bill to amend an act [Art. 521] to establish a Code of Criminal Procedure for the State of Texas. Read first and second times and referred to Judiciary Committee.

Original Bill 89, An Act entitled "An Act to amend the 2nd, 5th, 8th, and 9th sections of an act to authorize the sale of the Public Domain." Read first and second times and referred to Committee on Public Lands.

Original Bill 103, A Bill to be entitled "An Act amendatory of an act concerning Roads and Highways." Read first and second times and referred to Committee on Roads, Bridges, and Ferries.

Original Bill 150, A Bill for the relief of Q. J. Nichols. Read first and second times and referred to Committee on Claims and Accounts.

#### COMMITTEE REPORTS:

Report on the Petition and Bill to Change the boundaries of Leon and Houston Counties:

To the Honorable C. W. Buckley, Speaker of the House of Representatives of the State of Texas.

Your Committee to whom were referred a bill entitled "An Act to change the line between the Counties of Leon and Houston, so as to add the tract of land whereon the homestead of John D. Stell is located in Houston County," have had the same under consideration and also the accompanying petition;<sup>12</sup> and after due deliberation thereon I am instructed by the majority to return them to the House and recommend their rejection.

A. H. Abney  
Chairman Committee

<sup>12</sup>The petition cannot be located.

Adopted.

To the Speaker of the House of Representatives

The Judiciary Committee have considered a House Bill to be subtitled "An Act to amend the eighth section of an act regulating fees of Office, passed March 20, 1848" and find that the object of the bill is to increase the compensation of sheriffs for summoning jurors, attending County Court and from fifty dollars as now provided by law to one hundred dollars. The Committee do not consider the proposed legislation either necessary or expedient at this time and therefore return the bill to the House and recommend that it do not pass.

M. M. Potter  
Chairman

Adopted.

To the Speaker of the House of Representatives

The Judiciary Committee have considered a bill to be entitled "An Act to change of name of Ann Bell Dayol to Ann Bell Dayol Roberts and to permit Phillip W. or Nancy Roberts to adopt her." The object of the bill is clearly expressed by its title, and by reference to Oldham & White's Digest, page 56, it will be seen that ample provision is made for change of names by application to the District Court; and the act regulating "Adoption." Oldham & White's Digest, page 33, provides an easy mode of attaining the remaining object sought by the bill. The Committee therefore considered the proposed legislation unnecessary and inexpedient and direct me to return the bill to the House and recommend that it do not pass.

M. M. Potter  
Chairman

Adopted.

Wednesday, November 13, 1864

**BILLS:**

House Bill 9, An Act relating to forfeitures in certain cases of bail bonus and recognizances in cases of misdemeanors. Read first time and referred to Judiciary Committee.

House Bill 13, An Act providing for the sale of United States five per cent bonds and coupons. Read first time.

House Bill 24, An Act for the relief of the heirs of Harvey Murphy. Read first time.

Original Bill 76, An Act to amend an act regulating continuances. Read first and second times and referred to Judiciary Committee.

Original Bill 89, An Act to amend Section 5, 8, and 9 of an act to authorize the sale of Public Domain. Read first and second times and referred to Committee on Public Lands.

#### COMMITTEE REPORTS:

Minority Report on the Petition and Bill to change the boundaries of Leon and Houston Counties:

To the Honorable C. W. Buckley Speaker of the House of Representatives:

Your Committee to whom was referred the bill to change the line between the Counties of Leon and Houston so as to add the tract of Land whereon the homestead of John D. Stell is located to Houston.

The undersigned, being a member of said Committee, dissents from the Majority report, and begs to submit the following:

John D. Stell, who petitions the legislature, to be annexed to the County of Houston, it was shown by evidence before the Committee, resides in Leon County, a distance of twenty miles from Centerville which is the County Seat of Said Leon County, and a distance of only 14 miles from Crockett—the County Seat of Houston County. That Said John D. Stell does most of his business and trading at Crockett, that he should be forced in serving on juries, and in discharging other public services, to go so great a distance; to the Court House Town; when by geographical position, and consequently of right he should be attached to the County of Houston, which is in every way more convenient to said Stell.

That if the legislature change the line as provided by said bill, the ease and convience of others will not be interrupted, nor will the revenue of Said Counties be interrupted except to the extent of Said State Taxes. I therefore recommend the passage of said bill.

Respectfully,  
F. M. Hays

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a bill to change the name of Mary Ruth Shaphard [Shepard?] and James Shaphard to Mary Ruth and James Heard. For

reasons assigned in other reports of this Committee on bills and petitions proposing to change the names of persons by Legislative act, the Committee direct me to return the bill to the House and recommend that it do not pass.

M. M. Potter  
Chairman

Adopted.

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a House Bill to be entitled "An Act to authorize Clerks of the County Courts to issue executions in certain cases for fees." And direct me to report the accompanying substitute for the bill and recommend the adoption of the substitute and its passage. The object of the proposed legislation is to provide a remedy whereby Clerks of the County Courts may be enabled to enforce the payment of the fees due them for recording instruments and without being compelled to sue in each case for the small amount to which they are entitled by law for such services. The Committee consider the proposed remedy just and proper.

M. M. Potter

Whole matter laid on table. Reconsidered and indefinitely postponed.

To the Speaker of the House of Representatives:

The Judiciary Committee have considered this petition of John James McDaniel of Fayette County praying that his name be changed by Legislative act to John James Wells. By reference to Oldham & White's Digest, page 56, it will be seen that ample provision is made for all such cases by application to the District Court and the Committee think that where parties can obtain relief for their real or imaginary wants under the provisions of general laws now in force. They should be referred to the ordinary tribunals so provided. The act providing for "change of name" was intended to furnish a convenient mode of accomplishing the object sought by this applicant and also to save time and avoid the expense to the Country attending the action of the Legislature upon such matters. The Committee therefore return the petition to the House and recommend its rejection.

M. M. Potter  
Chairman

Adopted November 13.

To the Speaker of the House of Representatives:

The Judiciary Committee have considered the petition of Massack H. James. The petition states that said James is twenty years of age and is entitled to a considerable amount of property from his father's estate, consisting of Negroes, lands, money and that this property is in the charge of one Moores who is the Guardian of petitioner. That the guardian is a considerable expense to the estate of petitioner yearly in the way of costs and commissions. Whereupon this petitioner asks the passage of an act by the Legislature authorizing him to take charge of his property and control the same as though he was of full age. On this statement of the allegations in the petition the Committee can see no good reason for any legislation on the subject which would not apply with equal force in favour of every youth in the State of the age of twenty years and who is a little impatient of the control of parents or guardian. The law has wisely established twenty-one years as the period of lawful age and the Committee think the rule should not be departed from unless in very strong exceptional cases. The Committee therefore return the petition to the House and recommend its rejection.

M. M. Potter  
Chairman

November 13, Recommitted to Judiciary Committee.

Hon. C. W. Buckley  
Speaker, House of Representatives

The Committee on Private Land Claims to whom was referred the Petition of Ambrose Ripley, have had the same under consideration and have instructed me to report that it appears from the petition Mr. Ripley with his family resided in Red River now Titus County, that sometime during the year 1841, the Indians attacked his home, destroying his property and murdering a portion of his family since which time he has been unable to accumulate sufficient property to support him in his "old age," and in consideration of the above facts, prayed for the passage of an act granting such quantity of land and such relief in money, to be paid annually as the Legislature may deem proper. Your committee while they deeply sympathise with Mr. Ripley, are of the opinion that the reasons set forth in the Petition are not sufficient to authorize this Legislature to grant the

prayer of the Petitioner, and ask to be discharged from the further consideration thereof.

Charles Russell  
Chairman

November 12, 1861

Adopted, November 13.

COMMENTARY:

Internal Improvements by the General Government<sup>13</sup>

The most of Wednesday was spent in the House in discussing a resolution requesting our Congressmen to ask the Congress to consider the propriety of declaring the construction of a railroad to supply the connecting link between Houston and New Orleans a "military necessity."

The debate was warm and able on both sides. On its becoming apparent that a considerable majority of the House was opposed to the resolution, it was, on Thursday morning, withdrawn by the mover, Judge Cone.

Thursday, November 14, 1861

BILLS AND RESOLUTIONS:

House Bill 2, An Act to enable J. H. Saunders the guardian of John Saunders, Cora Saunders and Claibourn Saunders, to remove the property of his wards from the State of Texas. Read third time and passed.

House Bill 16, An Act defining the pay of State Troops under the command of Jno. S. Ford. Read second time and ordered to be engrossed.

House Bill 19, An Act authorizing the County Court of Nueces to levy a special tax. Read second time and ordered to be engrossed.

Original Bill 78, An Act to change the line between the counties of Leon and Houston so as to add the tract of land whereon the homestead of John P. Stell is located to Houston County. Read second time and rejected.

Original Bill 79, An Act to change the name of Ann Bell Dayol to Ann Bell Dayol Roberts and to permit Phillip Roberts and his wife Nancy W. Roberts to adopt her. Read second time and rejected.

Original Bill 80, An Act authorizing County Clerks to issue executions in certain cases for fees. Read second time.

Original Bill 81, An Act to amend Art. 891, Oldham

<sup>13</sup>From the Texas State Gazette, November 16, 1861. Note that the resolution was withdrawn on Thursday, November 14, 1861.

& White's Digest. Read second time and lost.

Original Bill 82, An Act to arrest the Statutes of Limitations in certain cases. Read first and second times and referred to Judiciary Committee.

Original Bill 83, A Bill to change the name of Mary Ruth Shaphard [Shepard?], and James Shaphard to that of Mary Ruth and James Heard. Read second time and rejected.

Original Bill 84, An Act repealing an act authorizing a loan and imposing a special tax to meet principal and interest thereof. Read first and second times and referred to Committee on Finance.

Joint Resolution 3, A Joint Resolution in relation to the suspension of the Custom Houses. Read first and second times and referred to the Committee on Confederate Relations.

Joint Resolution 5, A Joint Resolution proposing an amendment to the State Constitution. Read first and second times and referred to Judiciary Committee.

#### COMMENTARY:

##### CONTESTED SEATS<sup>14</sup>

Two cases of contested seats have arisen and been disposed of in the House. In the first, Mr. Stevens of Erath County, appeared with the proper certificate of election, and took his seat as a member from the district composed of some six counties. Mr. Costley of Bosque, claimed the seat on the ground that the vote of several counties of the district were not included in the count of the officer giving the certificate, not having been received in time, and which, if counted, would elect him—Costley.

It was shown that Indian troubles and the extent of the district had thwarted the arrival of the uncounted returns, and that a full count of the votes legally given in the district gave Costley a majority. Seat awarded to Costley.

In the second case, Mr. Willis appeared with certificate of election from the district of Liberty and Polk. Mr. Davis claimed the seat.

At the August election Mr. Willis was elected, two precincts being ruled out for informality of the returns, the counting of which would have elected Davis. The certificate was awarded to Willis by the officer, who not willing

<sup>14</sup>Ibid. The contested seats probably were discussed near November 14, 1861, although no proof exists that this is the exact date.

to represent a minority of the voters, resigned. At a subsequent election, regularly ordered, Willis was elected without opposition. Davis had given no notice of contest, and claimed by virtue of first election, seat awarded to Willis.

#### HOUSTON AND NEW ORLEANS RAILROAD<sup>15</sup>

A resolution requesting our Congressmen to ask the Congress to consider the propriety of declaring the construction of a railroad to supply the connection link between Houston and New Orleans a "military necessity" was withdrawn by the mover, Judge Cone.

Friday, November 15, 1861

#### COMMITTEE REPORT:

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a House Bill to be entitled "An act to amend an act entitled an Act to establish a Code of Criminal Procedure for the State of Texas." The object of the Bill is to allow the District Attorneys on the part of the State to controvert by counter affidavits the affidavits made in Criminal causes by defendants for continuance. A majority of the Com. are of opinion that the proposed change in criminal proceedings would be unwise and therefore return the Bill to the House and recommend that it do not pass.

M. M. Potter  
Chairman

Adopted.

#### MESSAGE:

#### EXECUTIVE OFFICE<sup>16</sup>

Friday, November 15, 1861

#### Gentlemen of the Senate and House of Representatives:

I have this morning learned for the first time that this day has been set apart by the proclamation of the President of the Confederate States as a day of fasting, humiliation and prayer and by it the clergy and the people of the Confederate States are invited to repair to their usual places of public worship and to implore the blessing of Almighty God upon our arms, that He may give us victory over our enemies, preserve our homes and altars from pol-

<sup>15</sup>Ibid. See proceedings of November 13, 1861.

<sup>16</sup>From the Senate journal of November 15, 1861. See Day (ed.) Senate Journal of the Ninth Legislature, Regular Session, 45-46.

lution and secure to use the restoration of peace and security.

It is to be regretted that this proclamation could not have been more generally distributed throughout our State so that all the citizens of the State could have been aware of the fact.

Under the circumstances I feel that it is only necessary for me to call the attention of your honorable bodies to this proclamation in order that you may take such action as the occasion requires.

Very respectfully,  
F. R. LUBBOCK

Saturday, November 16, 1861

#### BILLS AND RESOLUTIONS:

House Bill 6, An Act to amend the second and third sections of "An Act to incorporate the Southern Cotton Press and Manufacturing Company." Read first and second times and referred to Committee on State Affairs.

House Bill 15, An Act for the relief of the heirs of Elijah Allcorn. Read first and second times and referred to Committee on General Land Office.

House Bill 18, An Act to change the names of the counties of Cass and Buchanan. Read first and second times and referred to Committee on Counties and County Boundaries.

House Bill 20, An Act to amend an act entitled "An Act authorizing C. C. DeWitt of Gonzales County to construct a bridge across the Guadalupe River near the town of Gonzales, passed September 1, 1856. Read first time.

House Bill 60, An Act providing for the payment of the per diem of the members and officers of the Ninth Legislature. Read first time and referred to Committee on Finance.

House Bill 85, An Act requiring the Governor to appoint certain officer or officers. Read first and referred to Committee on State Affairs.

Original Bill 88, An Act to amend an act [Article 957] entitled an act to establish a Code of Criminal Procedure, approved August 26, 1856. Read first and second times and referred to Judiciary Committee.

Original Bill 99, A Bill making an appropriation to pay Attorney General and District Attorneys cases due

them under Article 952, Code of Criminal Procedure. Read first time.<sup>17</sup>

Original Bill 130 (a), An Act to amend an act entitled "An Act authorizing county courts to regulate roads, appoint overseers, etc." Read first and second times and referred to Committee on Roads, Bridges and Ferries.

Joint Resolution 9, A Joint Resolution authorizing the Governor to appoint an agent to take possession of the Salt Lake known as "El Sal Del Rey" and to pay over the revenues arising therefrom to the State. Read first and second times and referred to Committee on State Affairs.

#### IN JOINT SESSION:<sup>18</sup>

Roll called, quorum present. The Speaker announced that the two Houses of the Legislature were convened in joint session for the purpose of electing two Confederate States Senators. Nominations being in order Mr. Guinn on the part of the Senate and Mr. Holland on the part of the House nominated Louis Wigfall.

On the part of the Senate, Mr. Wigfall received 30 votes.

On the part of the House Mr. Wigfall received 82 votes, Mr. Guinn 2 votes, whereupon Mr. Wigfall was declared by the Speaker of the House of Representatives duly and constitutionally elected a Senator in the Congress of the Confederate States.

Nominations for another Senator being in order Mr. Boyd on the part of the Senate and Mr. Broaddus on the part of the House nominated Williamson S. Oldham. Mr. Finlay on the part of the Senate and Mr. Navarro on the part of the House nominated Thomas N. Waul. Mr. Durant on the part of the Senate and Mr. Dillahunt on the part of the House nominated John Hemphill.

On the part of the Senate, Mr. Oldham received 12 votes; Mr. Waul received 5 votes; Mr. Stockdale received 1 vote; and Mr. Hemphill received 13 votes. On the part of the House, Mr. Oldham received 42 votes; Mr. Waul received 22 votes; Mr. Hemphill received 22 votes; Mr. G. W. Kendall received 1 vote. No one candidate having received

<sup>17</sup>The date shown for the introduction of this bill is Sunday, November 16, 1861. Since the House probably did not meet on Sunday, the bill has been moved to this date.

<sup>18</sup>Condensed from the Senate journal of November 16, 1861. See Day (ed.), *Senate Journal of the Ninth Legislature, Regular Session*, 47-59.

a majority of all votes cast, a second count was taken with the following result: On the part of the Senate, Mr. Oldham received 14 votes; Mr. Waul received 5 votes, and Mr. Hemphill received 12 votes. On the part of the House, Mr. Oldham received 44 votes; Mr. Waul received 22 votes. There still being no majority for anyone, another vote was announced as an order, whereupon Mr. Harcourt moved that the Senate retire to their chamber upon which the vote was 14 yeas and 17 nays. The third vote was then called for and taken with the following result: On the part of the Senate, Mr. Oldham received 17 votes; Mr. Waul received 3 votes; and Mr. Hemphill received 14 votes. On the part of the House, Mr. Oldham received 46 votes; Mr. Waul received 18 votes and Mr. Hemphill received 23 votes.

Mr. Oldham having received sixty votes, it being a majority of the number cast, was declared by the Speaker duly and constitutionally elected a Senator in the Confederate States Congress.

The Senate then retired to their chamber.

The message of Governor Lubbock was then read.

#### EXECUTIVE DEPARTMENT<sup>19</sup>

Austin Texas, Nov. 15, 1861.

#### **Gentlemen of the Senate, and House of Representatives:**

You have assembled at the Capitol at a time when it will require all your ability and patriotism to sustain the State in her present proud position—give protection and security to the people—place her financial affairs on a sound and stable basis, and give that strength to the Government of the Confederate States as may reasonably be expected from a State so powerful as Texas.

From the inception of the present troubles to this period, Texas has been keenly alive to her own security, and fully up to the expectations of her sister States, in her efforts for the general welfare. As was natural, the people of this State determined that they would never submit to have their own rights, or the rights of the State government, absorbed by a fanatical Government, fast drifting to centralism, and all the evils incident to a system based on laws higher than the Constitution. So soon as it was ascer-

<sup>19</sup>Governor's Message to the Senators and Representatives of the Ninth Legislature of the State of Texas (Austin: John Marshall and Company, 1861).

tained that our once prosperous country had been placed under the administration of the Black Republican party, it was at once decided, by the almost unanimous voice of the country, that secession from the Government of the United States was not only a right possessed, but a great political necessity.

The separation of the two Governments was effected by the resumption, on the part of Texas, of the powers she had delegated to the Federal Government.

The people of the Northern States, who had time and again asserted that the States of the South could not be driven from the Union, declaring that if they desired to secede they should be permitted to do so; when secession became an established fact, were suddenly seized with the conviction that the Union was a perpetual one: the right of secession was denied, and the policy adopted that the Southern States should be forced to remain and continue to pay tribute to the North, as they had been doing since the formation of the government, or else be subjugated, and governed as conquered Provinces. As a consequence war ensued. The condition of the public mind at the North, as exhibited through the triumph of Black Republicanism, should have been a sufficient warning that we could expect nothing less. Nevertheless, the storm came upon us when we were but illy prepared to meet it, and altho you are here gentlemen in attendance at the Capitol of the State, performing the duties assigned you by the Constitution, without hindrance or molestation; yet we are in the midst of a most unusual war, waged by our most unnatural enemies, and to-day your fellow-citizens, to the number of twenty thousand, are on the tented field. This being but the beginning of the war, we know not how soon we may be called on for twenty thousand more. Our people have nobly responded to the call of their Government, and with eagerness rushed to the field of conflict. I am happy to say that Texas can and will double the number of her men in the field, whenever informed of the necessity.

No Legislature of any State has ever been called upon to act under more embarrassing circumstances than those which surround you. The State heretofore resting in the security which characterize all powerful Governments in times of profound peace, with no prospect of war, had in pursuance of a generous and liberal policy, appropriated

of her large means to purposes of education, internal improvements, and other objects of general usefulness; in consequence of which you find that at this time, when a full Treasury is so much needed, that the State Government is absolutely without a dollar subject to appropriation for the purpose of carrying on the civil affairs, or placing the State in a condition of security against the invasion of the enemy: hence it will require your deepest wisdom, and most patient exertions to sustain your State in the present crisis—because gentlemen it devolves on you not only to provide the means for the support of the Civil Government, and to pay her outstanding military debt, but also to devise and adopt such measures as will enable Texas to perform her duty toward the Government of the Confederate States, and thus to the extent of her ability, enable those in authority to conduct the war with vigor, and prosecute it to a successful termination.

You will appreciate the reasons why I am under the necessity of communicating to you in a crude and hasty manner the present condition of the Government, and the undigested views I may present as to the course of policy to be adopted by you for the advancement of the general interest. There being no Public Printer has thrown into my hands a mass of manuscript, from the heads of the various Departments, which can be mastered only after much labor and consumption of time. Believing that you were desirous of hearing from the Executive at the earliest day practicable, I have prepared this communication with the greatest dispatch in my power. If after I become more familiar with the wants of the Government, by a careful and minute examination of the Reports of the Departments, I deem it necessary to communicate with you again I will take pleasure in laying my views before you, and giving you such information as may have been acquired.

Our Indian troubles should occupy your attention. Since the withdrawal of Texas from the Government of the United States, and the adoption by the Confederate Government of the system of defending the frontier, by regiments of mounted men, comparative peace in that quarter has prevailed. It however is now no unfrequent occurrence to hear of murders being committed and property stolen by our Indian enemies.

It has been my opinion for years past that we will

never have peace with the Indians until they are convinced that we are not alone able but disposed to chastise them when they commit depredations. A civilized Government could not be expected to make treaties with a power with which it is at war, so long as success attended its arms—much less can it be hoped of a savage foe, who believe that they are superior in the mode of warfare pursued. It is my deliberate opinion that we will never have treaties with the Indians on our border, on which we can rely, until they are made to feel the blighting effects of war, visited upon them at their own homes, and around their own firesides.

I am very loathe at this time to express any dissatisfaction at what the Confederate States' Government is attempting in the way of protecting our frontier—knowing as I do, that its every desire is to accomplish good for our entire Confederacy. Yet I must be permitted to say that I have no faith in the policy heretofore pursued with what are called the Reserve Indians. If the Government is settled in its policy to retain those Indians on Reserves for the purpose of protecting, civilizing, and supporting them, they should be confined strictly to the territory for them, and on it clothed, fed, civilized and protected. While they are permitted to leave the boundaries of the Reserves, to engage in hunting, and warring with other tribes, just so long will we hear of depredations, and just so long will they continue to visit our soil, and come in conflict with our citizens. They should not be permitted, under any guise whatever, to visit our State, and I invoke you to declare by positive enactment, that whenever and wherever found on our soil they will be deemed and treated as enemies. They have been the source of so many troubles on our frontier that it will require years for the people to forget their numerous atrocities. It is not hazarding too much to say that the citizens of Texas are better acquainted with the Indian character than those living in the more Eastern States, and are therefore better qualified to suggest an efficient plan of defence against the hostile tribes. In consequence of this fact, I most respectfully suggest that you adopt some system for frontier protection, best suited to our situation and the requirements of the country, and urge its immediate adoption, through our members of Congress, by the Government of the Confederate States.

Under the existing state of the country in case of invasion we must rely almost entirely on the militia of the State. I have no doubt that the great mass of the people would promptly respond to any call made upon them to defend the soil upon which they live. But in order that their patriotism and valor may be efficient, and to successfully defend the state, the men must be disciplined and fitted for actual war. Hence it becomes imperatively necessary that the revising of the militia law should engage your early attention.

It has been clearly demonstrated in the last few months that the existing law does not meet the emergency. It is in many respects unwieldy and defective. A law simple *in form*, and easy of execution, is demanded, under which every able bodied man in the State, liable to do military duty, shall be enrolled, disciplined, and placed under the command of good and efficient officers. To effect this the law must be a stringent one, that will bear heavily on those who fail to discharge their duties—as well officers as privates.

Through the efforts of the late Adjutant General a partial organization of the militia has already been effected, and I would suggest that in framing a new law, or in amending the present one, you would preserve the present organization, as far as is compatible with the public interest. I would also suggest that you subject to militia duty every able bodied man in the State, between the ages of seventeen and fifty.

In connection with the subject of public defence, I deem it my duty to call the attention of your Honorable Bodies to the exposed condition of our Gulf coast, and while I feel every confidence that the Government of the Confederate States will use every exertion for the defence of our coast. Yet it is certain that without the heavy guns, necessary for that object, but comparatively little can be done. The recent experiment made to forward cannon from the State of Louisiana demonstrates that we will have to rely exclusively on such heavy ordnance as may be now in the State, or such as can be made within the limits of the State. We have amongst us many citizens who understand the manufacture of cannon, and of small arms, and we also have quite a number of Foundries in the State. We have in Cass and Bowie counties, and its believed in other localities, iron

of a quality well adapted to the purpose, and steps should be taken for the encouragement of the manufacture of these weapons, indispensable to our defense. Legislation, providing for the manufacture of these arms, is necessary. Contracts might be made for that purpose, or if deemed best a State foundry might be established at some suitable point. The subject is one demanding the serious consideration of the Legislature while we yet have time to act, and I submit it to you, hoping that it will receive that attention which its importance demands.

In consequence of the blockade of our ports the Penitentiary has become very essential in supplying fabrics so much needed for the comfort of our troops. Upon this subject I beg leave to call your attention to the suggestions of my immediate predecessor. I also recommend that the suggestions of the Comptroller, relative to the management of the finances of that institution, be adopted, and that the Receiving and Disbursing officers be required to report and settle their accounts with the Comptroller semi-annually.

I would advise, that in addition to the business at present carried on in the Penitentiary, the Directors be authorized, so soon as practicable, to establish a tannery, shoe factory, and hat manufactory, all of which would prove beneficial to the public service.

I beg leave to call your attention to the very able Report of the late Adjutant General, by which it will be seen that under the order of my immediate predecessor, the office went into active operation on the 1st day of May, 1861. War actually existing, it was deemed necessary that an organization of the Militia should be effected. The duties of Quarter Master General, Commissary General and Ordnance officers were discharged by the Adjutant General. The necessity which called this office into operation still exists. Under the Militia law creating the office of Adjutant General, the salary of that officer is merely nominal, unless he be called into active service. Since the 1st day of May last, the Adjutant General, through the construction placed on the law, has been receiving pay as a Colonel of Infantry, amounting to \$2,120 per annum. Not being satisfied as to the correctness of that construction, I would be pleased, if you deem it proper, to continue the Adjutant General in active service during the war, that

you would fix the amount of pay; and in order to secure the services of an officer competent to discharge the duties of the post, varied and important as they are, I would recommend that the salary be fixed at the sum of \$2,000 per annum.

It will be seen by the report of the Adjutant General that there is in the hands of private parties in different parts of the State, a large number of fire arms, the property of the State. I deem it essential at this time, that you should adopt some rigid measure requiring such parties, under an adequate penalty, to return all such property to the office of the Adjutant General or deposit it in the hands of the Chief Justices of their respective counties, subject to the order of the Adjutant General.

There remains in the hands of the Adjutant General, property of a perishable nature, including principally a number of horses and mules, which are not now, nor are they likely to be of any immediate use to the State. This property, if retained, will become a heavy charge. It would be well that all of said property be sold by the Adjutant General at public sale, the proceeds received in Treasury Warrants and paid into the Treasury.

By an act of the Congress of the Confederate States, that government assumes to pay all the debts incurred by the Several States, incident to their secession from the government of the United States. Texas, as one of the seceding States, will have a large claim against the Confederate government under that law. Prudence demands that you adopt such measures as will speedily collect the testimony necessary to establish our claim—in order that it may be promptly examined, and audited by that government.

You will see by referring to the Report of the Secretary of State, that there remains on deposit in that office, some 1,600 or 1,800 volumes of Oldham & White's Digest, over and above the number requisite to furnish all those entitled to them by law. In view of that fact, that the Constitution requires a new Digest of all the laws, civil and criminal, to be published within three years from the 2nd day of March, 1861, these digests are likely to become valueless to the State. It is, therefore, suggested that the Secretary of State be authorized, after reserving a suffi-

cient number for the use of the State, to sell the remainder at a price not less than cost.

The Committee on Public Printing reports that notwithstanding they complied with the law authorizing the giving of contracts to do the Public Printing, they have been unable to secure the services of a Public Printer, the parties making the bids, failing to execute bond and give security. It will, therefore, devolve on you to take such action in the premises as the public interest requires. Permit me to suggest, that an amendment be made to the law regulating the Public Printing, requiring parties who bid for the contract to do the work, to accompany their bids with approved guarantees, that if their bids are accepted, they will execute the bond as the law requires.

I would call your attention to the Report of the Commissioner of the General Land Office—the condition of the Public Domain, and the suggestions made relative thereto.

The Institutions for the Insane, Blind, and Deaf and Dumb, merit your attention. They have, doubtless, accomplished much good, and if properly managed in the future, will confer great benefits on a large number of our unfortunate people, and reflect great credit on the State. Should any legislation be deemed necessary to place them on a better footing, I will cheerfully co-operate with you, and give any such measure my most cordial approval.

From a failure of the crops for a series of years past, together with the pressure of the money market consequent upon the existing war, the many calls made upon the people for contributions to sustain our men in the field, and the total inability of effecting sales of produce, our citizens have been embarrassed and oppressed to such a degree, that some measure of relief becomes absolutely necessary to protect them from ruinous sacrifices of utter bankruptcy. I do not deem it my duty to do more than to call your attention to a subject of such vital importance.

My immediate predecessor has already invited your attention to the condition of the different Railroad Companies of the State, and I can but again point you to the Report of the Comptroller relative thereto. It is a matter of paramount importance that the School Fund should be secure, and devoted eventually to the sacred purpose for which it was originally designed by the wise foresight of the framers of the Constitution. Yet, owing to the many

disadvantages that would result from the purchase by the State of the property mortgaged by these companies, it would be well for the Legislature to consider the propriety of extending some relief to these companies. Should it be deemed advisable that the time should be extended it will be for the wisdom of your Honorable bodies to devise a mode by which the prior lien of the State on these Roads will not in any way be jeopardised—the School Fund protected, and our system of Internal Improvements perfected. Should such a measure be devised, it would result in great public good, and prevent the consequences which must follow under the law, from the sale contemplated by it.

The Finances of the State is at all times a most important question and becomes more than ordinarily so, in the present crisis. In the condition of the country at this time, and the consequent derangement of all monetary matters, it would be impossible, even were it good policy, for the State to negotiate a loan. Our people well understand this, and are prepared to meet any reasonable demand made upon them by way of taxation.

The very able Report of the Comptroller demands at your hands the most careful consideration. By it, you will see, that the probable receipts for the two fiscal years ending 31st day of August, 1863, exclusive of the ten per cent due to the School Fund, amount of \$976,651.24. The expenditures for the same period of time to support the civil government, amount to \$608,810. In addition to this necessary expenditure, he reports that there will be required to liquidate the estimated indebtedness of the State—1st. for outstanding ten per cent. Treasury Warrants issued up to 1st September, 1861, \$29,903.63.—2nd, Un-audited claims:

Amt. due	Col.	Ford's Command on the Rio Grande .....	\$130 000
"	"	" H. E. McCulloch's on the N. W. Frontier .....	20 000
"	"	" Ford's Regiment raised by the Convention while in State service .....	30 000
"	"	" Dalrymple's Command on N. W. Frontier .....	17,000
"	"	" Minute companies for 1860, 1861 .....	40,000
"	"	" " for other services .....	37,000
"	"	" for obtaining and turning over property captured from the United States .....	100 000
"	"	" for purchase of Colt's Pistols .....	25,000
"	"	" Gregg's Parsons, Locke and Sim's Regi- ments .....	250,000

The audited and unaudited debt, aggregating the sum of \$939,903.63 which added to the sum necessary to the

support of the civil government, makes the sum of \$1,548,713.63, which amount is required for the support of the civil government up to the end of the fiscal year ending 31st August, 1863, and to liquidate the audited and un-audited debt of the State as estimated up to 1st September, 1861.

It will thus be seen that the sums required for the support of the civil government for the two fiscal years ending 31st August, 1863, and for the payment of the present outstanding debt of the State amounts to \$572,062.39, over and above the estimated receipts for the same period of time.

These are demands and expenditures that we now know must be provided for, leaving out of view any additional amounts that Texas may be called on to raise, to aid and assist the Confederate government in prosecuting the war, and which she may find necessary to expend in the protection of her own soil.

In order to meet the deficit manifested in the Report of the Comptroller, he advises an increase of taxation to 25 cents on the \$100 worth of taxable property in the State, and a reduction in the price of the public lands to fifty cents per acre. I here call your special attention to this portion of the Report, and urge upon you to give it mature and deliberate consideration, believing as I do, that the sales of public lands, even at the reduced price proposed, will fall far short of the amount estimated by the Comptroller, and that we must rely almost entirely on taxation.

No one regrets more than I do the necessity of increased taxation at this time of peculiar hardships upon the people, particularly when I am so well aware that for the past eight months our citizens, with rare exceptions, have responded so liberally and generously to the support and comfort of those gallant spirits in the field. But we must bear in mind that we are engaged in a contest for liberty, equality and right of self-government. To secure these, our home and general government must be sustained at every sacrifice.

Under these circumstances, I deem it imperatively necessary that at least, the rate of taxation proposed by the Comptroller, should be levied for the relief of the Treasury during the next two years.

The present tax for county purposes is deemed suffi-

cient, in as much as they are now generally supplied with their Public Buildings, and the contingent expenses of the courts being greatly reduced by their partial suspension. Should, however, any of the counties, from their spirit of liberality in making advances toward the equipment of troops, and otherwise aiding in the struggle, find it necessary to ask permission to levy a further tax than that allowed by law, I would advise a generous consideration of such application.

The Treasury at this time having no gold or silver in its vaults, it becomes necessary for you, by legislation, to provide means for carrying on the civil government until such time as the Treasury shall be in receipt of its usual revenues: for this purpose, from the limited information now in my possession, I can point you to no better mode than the issue of Treasury Warrants, payable at the Treasurer's office out of any monies not otherwise appropriated. I would suggest, however, that hereafter, the warrants should be so issued as to bear no interest.

The Treasury Warrants now outstanding and bearing ten per cent interest, are selling at a most ruinous discount, and I can safely say that the civil government can not be supported by the issue of Treasury Warrants, unless you, by some legislation, shall cause them to appreciate, to at least near their face value. To accomplish so desirable a result, I would suggest to you to take into consideration the propriety of making all the Warrants heretofore issued, as well as those which may be hereafter issued, receivable in payment of taxes and for all other public dues of whatever nature or kind.

Esteeming it as I do, the duty of our State as well as the duty of every citizen to sustain by every means in their power, the credit of the Confederate States, I cannot but recommend that the Treasury notes issued by that government, be, by an act of the Legislature, placed on the same footing as the Warrants issued by our State Treasury, and that they also be made receivable in payment of all public dues.

I am pleased to inform you that it appears from the Record in the Executive Department that the Legislature of the State of Louisiana caused to be placed in good order, and presented to the State of Texas, the two beautiful guns known as the "Twin Sisters," so famous in our history for

services derived from them on the field of San Jacinto. I trust that the Legislature will acknowledge this kind and complimentary act in an appropriate manner.

Gentlemen, the very able manner in which my immediate predecessor has detailed to you the many important matters that have transpired during the late eventful times leave me nothing more to say.

I cannot conclude, however, without expressing the hope that you will, during the present session of the Legislature, confine your action as far as may comport with your ideas of propriety to matters of general interest and those laws of pressing necessity. That every endeavor will be used by you to bear the standard of Texas aloft: that you will struggle by every means in your power to strengthen the arm of the Confederate States, I feel fully satisfied, and permit me, gentlemen, to assure you that you shall have my hearty co-operation in all matters tending toward the general welfare. Let us do our duty, and with the aid of an All Wise and All Seeing Providence our country will emerge from this unholy war, with a fame world wide, and her honor untarnished.

Very respectfully,  
F. R. LUBBOCK.

#### COMMENTARY:<sup>20</sup>

On Saturday morning, both houses met in joint session to proceed to the election of two Confederate States' Senators. The Speaker announced that it required a majority of all the votes cast to elect, and that the vote would be taken separately for each place to be filled.

L. T. Wigfall was nominated on the part of both bodies. No other nominations.

Mr. Wigfall was elected, receiving 114 votes. Messrs. Hooks and Rhea, voting for R. H. Guinn, and Mr. Walker for W. B. Ochiltree.

For the remaining place, T. N. Waul, Jno. Hemphill, and W. S. Oldham, were put in nomination.

On the first vote—Oldham received 54 votes; Hemphill 35; Waul 27.

Sixty Votes were required to elect.

Second vote—Oldham 58; Hemphill 34; Waul 26.

Third vote—Oldham 60; Hemphill 37; Waul 21.

<sup>20</sup>Texas State Gazette (Austin), November 23, 1861.

Whereupon L. T. Wigfall and W. S. Oldham were declared duly elected Confederate States' Senators for the term of six years.

Monday, November 18, 1861

#### BILLS AND RESOLUTIONS:

House Bill 4, An Act to provide for the sale of certain property belonging to the State and for the payment thereof in money or Treasury Warrants. Read first time. Rule suspended, read second time and ordered to be engrossed. Rule further suspended, read third time and passed.

House Bill 16, An Act defining the pay of State Troops under the command of Jno. S. Ford. Read third time and passed.

House Bill 19, An Act authorizing the county court of Nueces County to levy a special tax. Read third time and passed.

House Bill 41, An Act to provide for auditing and settling all claims against the State on account of Volunteer Companies called out by the Governor or Committee on Safety and for the defense of the State and providing payment for the officers and men thereof. Read first time and referred to Committee on Military Affairs.

Senate Bill 2, An Act to be entitled an act supplementary to an act entitled "An Act authorizing the issuing of Duplicate Land Warrants, Discharges, and Duplicates for Headright Claims upon certain conditions." Read first time and referred to Committee on Public Lands.

Senate Bill 4, An Act to amend the first section of an act entitled an act to amend the fourth section of the act of May 12, 1846, entitled an act to regulate the license and practice of attorneys and counsellors at law; And to amend the second section of the act of February 11, 1854 entitled an act to amend the ninth and tenth sections of an act to regulate the license and practice of attorneys and counselors at law. Read first time and referred to Judiciary Committee.

Original Bill 86, An Act to amend an act to organize the Justice's Courts deferring jurisdiction of the same. Read first and second times and referred to Judiciary Committee.

Original Bill 88, A Bill to amend an act [Article 521] to establish a Code of Criminal Procedure for the State of

Texas. Read second time and [not complete].

Original Bill 95, A Bill to provide for recording all land titles and conveyances of land in the county in which such land may be. Read first time and referred to Judiciary Committee.

Original Bill 101, An Act to encourage the increase of population. Read first time and referred to Committee on Stock and Stock Raising.

Joint Resolution 4, A Joint Resolution approving the retaliation plans of President Jefferson Davis. Read first time and referred to Committee on Confederate Relations.

Tuesday, November 19, 1861

#### BILLS AND RESOLUTIONS:

House Bill 7, An Act legalizing the action of various county courts in issuing bonds for military purposes and providing a tax for the redemption of the same. Read first time.

House Bill 8, An Act to amend an act to incorporate the Jefferson Insurance Company. Read second time and ordered engrossed.

House Bill 9, An Act relating to forfeitures in certain cases of bail bonus and recognizances in cases of misdemeanors. Read second time and ordered engrossed.

House Bill 10, An Act making an appropriation to defray the contingent expenses of the Ninth Legislature. Read first time. Rule suspended, read second time and ordered engrossed. Rule further suspended, read third time and passed.

House Bill 11, An Act to incorporate the Rio Grande Female Institute. Read second time and ordered engrossed.

House Bill 14, An Act to prevent the sale of vinous, spiritous or other intoxicating liquor within one mile of the centre of the town of Alto in Cherokee County in the State of Texas. Read first time and referred to Judiciary Committee.

House Bill 17, An Act allowing the laws of the Confederate States to be received in evidence. Read second time and ordered to be engrossed.

House Bill 20, An Act to amend an act entitled "An Act authorizing C. C. DeWitt of Gonzales County to construct a bridge across the Guadalupe River near the town of Gonzales, passed September 1, 1856." Read second time

and ordered engrossed.

House Bill 23, An Act for the relief of Peter Norton. Read first time.

House Bill 35, An Act authorizing the county courts of the several counties in this State to levy and collect a special tax for war purposes on all property subject to taxation by the State. Read first time and referred to Judiciary Committee.

House Bill 45, An Act supplemental to "An Act to amend the act supplemental to an act to regulate Estrays," approved April 6, 1861. Read first time and referred to Committee on Stock and Stock Raising.

Senate Bill 1, An Act to amend Article 284 of the Penal Code. Read first time.

Original Bill 73, An Act amendatory of an act concerning Mechanic's Liens. Read second time and rejected.

Original Bill 89, An Act to amend an act entitled "An Act to amend the second, fifth, eighth, and ninth sections of an act to authorize the sale of the Public Domain." Made special order for Friday next [November 22] at 11 o'clock.

Original Bill 89(a), An Act to amend sections five, eight and nine of an act to authorize the sale of Public Domain. Made special order for Friday [November 22] at 11 o'clock.

Original Bill 90, An Act to repeal Articles 610 and 611 of the Penal Code. Read first time and referred to Judiciary Committee.

Original Bill 115, An Act to amend an act entitled the Penal Code. Read first time and referred to a Select Committee of Three (Mosely, McDonald, and Simpson).

Joint Resolution 3, A Joint Resolution in relation to the suspension of the Custom Houses. Read second time and ordered engrossed.

Joint Resolution 5, A Joint Resolution proposing an amendment to the State Constitution. Read second time and ordered to be engrossed.

#### COMMITTEE REPORTS:

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a Bill to be entitled "An act to amend an act entitled an act to establish a Code of Criminal Procedure. Approved August 26, 1856." and report, that in the opinion of the Committee the material objects sought to be attained by the Bill are

provided for in an Act of the Eighth Legislature entitled, An Act supplemental to and amendatory of an act entitled An Act to establish a Code of Criminal Procedure for the State of Texas—Acts Eighth Legislature, page 94. The Committee therefore return the Bill to the House and recommend that it do not pass.

M. M. Potter  
Chairman

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a House Bill to be entitled "An act to provide for recording all land titles and all conveyances of land in the county in which such land may lie." The object of the Bill is expressed in its title and to comply with its provisions would cause much trouble and expense to the citizens of the State at a time when they are illy able to bear it—in addition to which many land owners who would be effected by the provisions of the Bill are now in the army enlisted for the war and more than probably would not hear of the act before the time limited for recording would expire. The Committee therefore direct me to return the Bill to the House and recommend that it do not pass.

M. M. Potter  
Chairman

To the Speaker of the House of Representatives

The Judiciary Committee have considered a Bill to be entitled "An Act amendatory of an act amending Mechanics Leins." The Com. do not think the proposed legislation necessary or expedient at this time, therefore return the Bill to the House and recommend that it do not pass.

M. M. Potter  
Chairman

Adopted November 19.

Wednesday, November 20, 1861

#### BILLS:

House Bill 7, An Act legalizing the action of various county courts in issuing bonds for military purposes and providing a tax for the redemption of same. Read second time and ordered engrossed.

House Bill 18, An Act to change the names of the counties of Cass and Buchanan. Read second time and ordered engrossed.

House Bill 22, An Act to amend the second section of an act to regulate interest. Read first time and referred to Judiciary Committee.

House Bill 60, An Act providing for the payment of the per diem of the members and officers of the Ninth Legislature. Read second time and ordered to be engrossed. Rule suspended, read third time and passed.

House Bill 68, An Act supplemental and amendatory to an act prescribing the manner of authenticating instruments for record. Read first time and referred to Judiciary Committee.

Senate Bill 1, An Act to amend Article 284 of the Penal Code. Second reading and passed.

Original Bill 91, An Act exempting peddlers of religious books from the payment of a License Tax in every county in the state. Read first time and referred to Committee on Finance.

Original Bill 92, An Act for the relief of Lorenze Castro. Read first time and referred to Committee on Finance.

Original Bill 93, An Act to amend the third section of the act to amend the fourth section of the seventh, eighth, fifteenth, eighteenth and thirty-fourth sections of the act to provide for the assessment and collection of taxes, approved February 11, 1861. Read first time and referred to Committee on Finance.

#### COMMITTEE REPORT:

To C. W. Buckley, Speaker of the House of Representatives:

The Judiciary Committee to whom was referred a resolution requesting the Committee to inquire into the "expediency and propriety of more effectually protecting the rights of married women," respectfully report that they have had same under consideration and a majority of said Committee instruct me to say that as the law now is, a married woman is not entitled to the increase of any of her separate personal property except the increase of slaves.

A majority of said Committee are unable to see any justice in the law now in force. We believe that all property should be placed upon the same footing and is entitled to equal protection. And therefore a majority of said Com-

mittee herewith report an amendment to the second section of the Act of 18th March 1848 entitled "An act better defending the marital rights of parties." which said amendment is intended to better protect the rights and recommend the passage of the bill herewith reported.

J. G. McDonald

for Majority of said Committee

Laid on table.

Thursday, November 21, 1861

#### BILLS AND RESOLUTIONS:

House Bill 3, An Act for the relief of Noah Cox. Read first time.

House Bill 26, An Act for the relief of the heirs of Isaac Pierson. Read first time.

House Bill 27, An Act to incorporate the Dallas Powder Company. Read first time and referred to Committee on State Affairs.

Senate Bill 1, An Act to amend Article 284 of the Penal Code. Read third time and passed.

Senate Bill 2, An Act to be entitled an act supplementary to an act entitled "An Act authorizing the issuing of Duplicate Land Warrants, Discharges, and duplicates for Headright Claims upon certain conditions." Read second time and passed to a third reading.

Senate Bill 4, A Bill to license the practice the attorneys-at-law. Read second time and passed to third reading.

Original Bill 88, An Act to amend an act [Article 951] entitled an act to establish a Code of Criminal Procedure approved August 26, 1856. Read second time and rejected.

Original Bill 94, A Bill for the relief of Milton McQueen. Read first time and referred to Committee on Public Land Claims.

Original Bill 95, A Bill to provide for recording all land titles and all conveyances of land in the county in which such land may lie. Read second time and laid on table.

Original Bill 110, A Bill to be entitled "An Act to suppress the evil practice of target shooting, or of shooting off firearms on or near public highways of this state." Read first time.

Original Bill 118, A Bill to be entitled "An Act to encourage the pursuit of agriculture by exempting certain property from force sale." Read first time and referred to Committee on State Affairs.

Original Bill 114, A Bill providing for proper distribution of the journals of the House of Representatives. Read first time and referred to Committee on State Affairs.

Original Bill 130 (a), An Act to amend an act entitled "An Act authorizing county courts to regulate roads, appoint overseers, etc." Read second time.

Joint Resolution 1, A Joint Resolution authorizing the Governor to appoint agents to receive and forward clothing, blankets, and other necessaries contributed by our citizens for the Soldiers of Texas, and to prescribe their duties. Read first time. Rule suspended, read second time and passed to third reading. Rule further suspended, read third time and passed.

Joint Resolution 15, A Joint Resolution to amend Section 2, Article 4 of the Constitution. Read first time and referred to Judiciary Committee.

#### COMMITTEE REPORTS:

To the Hon. C. W. Buckley Speaker of H.R.

The Committee on Roads, Bridges and Ferries to whom was referred an act to amend an act entitled an act authorizing County Courts to regulate roads approaches, overseers, etc have had the same under consideration and they have instructed me to report favorable and recommend its passage with the amendment

J. W. Mosely

To Speaker House Representatives

The Committee on Private Land Claims, to whom the bills were referred for the relief of Milton McQueen and John Lambert, herewith return said Bills by request, and ask leave that said bills be withdrawn by the gentleman [John Bean] who introduced them.

Wm. M. Ewing

One of the committee

Adopted

Friday, November 22, 1861

#### BILLS AND RESOLUTIONS:

Senate Bill 2, An Act to be entitled an act supplementary to an act entitled "An Act authorizing the issuing of Duplicate Land Warrants, Discharges, and Duplicates for headright claims upon certain conditions. Read third time and passed.

Original Bill 89, An Act to amend section five, eight

and nine of an act to authorize the sale of the Public Domain / An act to amend an act entitled "An Act to amend the second, fifth, eighth, and ninth sections of an act to authorize the sale of the Public Domain." Special order at 11 o'clock [action not given].

Original Bill 96, A Bill for the relief of Hannah C. Buckner. Read second time and ordered to be engrossed. Adopted.

Joint Resolution 5, A Joint Resolution proposing an amendment to the State Constitution. Read third time and passed by 2/3's vote.

#### COMMITTEE REPORTS:

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a House Bill to be entitled "An act to amend the third section of an act entitled, An Act to organize the District Courts, and to define their powers and jurisdiction, approved May 11th, 1846." The Committee do not think the proposed legislation necessary and therefore return the same to the House and recommend that it do not pass.

(Signed)

M. M. Potter  
Chairman

To Hon C. W. Buckley, Speaker of the House of Representatives

The Judiciary Committee to whom were referred several bills relative to suspending certain laws for the collection of debts have had the same under consideration for some time and a majority of the committee have directed me to report the accompanying bill for the consideration of the House.

Z. Hunt

on part of the Committee

Read November 22, 1861, 10 o'clock P.M.

Saturday, November 23, 1861

#### BILLS:

House Bill 25, An Act to incorporate the Marcelina Bridge and Manufacturing Company. Read first time.

Original Bill 97, A Bill to be entitled an act to regulate Factors and Warehousemen. Read first time and 100 copies ordered to be printed.

Original Bill 98, An Act for the relief of Thomas

Smith. Read first time and referred to Committee on Finance.

Original Bill 99, A Bill making an appropriation to pay Attorney General and District Attorneys cases due them under Article 952, Code of Criminal Procedure. Read second time and ordered to be engrossed.

Original Bill 100, A Bill for the relief of John M. Choate. Read first time and referred to the Committee on Public Lands.

Original Bill 128, A Bill to be entitled "An Act to amend an act entitled an act to adopt and establish a Penal Code for the State of Texas. approved August 26, 1856." Read first time and referred to Committee on Penitentiary.<sup>21</sup>

Monday, November 25, 1861

#### BILLS AND RESOLUTIONS:

House Bill 5, An Act to promote the construction of an efficient War Marine by the Confederate Government. Read first time. Rule suspended, read second time and ordered engrossed. Rule further suspended, read third time and passed by 2/3's vote.

House Bill 7, An Act legalizing the action of various county courts in issuing bonds for military purposes and providing a tax for the redemption of same. Read third time and passed.

House Bill 8, An Act to amend an act to incorporate the Jefferson Insurance Company. Read third time and passed by 2/3's vote.

House Bill 9, An Act relating to forfeitures in certain cases of bail bonds and recognizances in cases of misdemeanors. Read third time and passed.

House Bill 11, An Act to incorporate the Rio Grande Female Institute. Read third time and passed by 2/3's vote.

House Bill 18, An Act to change the names of the counties of Cass and Buchanan. Read third time and passed.

House Bill 20, An Act to amend an act entitled "An Act authorizing C. C. DeWitt of Gonzales County to construct a bridge across the Guadalupe River, near the town of Gonzales, passed September 1, 1856." Read third time and passed by a 2/3's vote.

<sup>21</sup>The date shown for the introduction of this bill is Sunday, November 24, 1861. Since the House probably did not meet on Sunday, the bill has been moved to this date.

House Bill 34, An Act to protect the wool growing interests of Texas. Passed.

Senate Bill 4, A Bill to license the practice of attorneys-at-law. Read third time and passed.

Original Bill 101, An Act to encourage the increase of population. Read second time and laid on table.

Original Bill 102, A Bill for the relief of Helen White. Read first time.

Original Bill 133, A Bill to encourage the establishment of manufactories in the State of Texas. Read first time and referred to Committee on State Affairs.

Joint Resolution 3, A Joint Resolution in relation to the suspension of the Custom Houses. Read third time and passed.

#### COMMENTARY:

In the House a resolution was adopted instructing the Sergeant-at-Arms to remove the beak of the gilt eagle over the Speaker's Chair, the U.S. motto **E Pluribus Unum**. We notice since, that the obnoxious motto is absent.<sup>22</sup>

#### COMMITTEE REPORTS AND CORRESPONDENCE:

F. M. Hays for the Joint Committee made the following report:

Hon. C. W. Buckley, Speaker of the House of Representatives

The Committee to whom was referred the Joint Resolution asking a reasonable delay in the collection of the Confederate War Tax, have had the same under consideration, and after mature deliberation and in view of the great financial pressure throughout the entire Cotton growing region of our State and elsewhere, consequent upon the suspension of our commercial intercourse; return the same to the House and ask that it do not pass.

F. M. Hays for Com.

Inquiry by R. T. Flewellen of Committee on Military Affairs dated November 22, 1861 and reply from J. Y. Dashiell, Adjutant General, dated November 25, 1861.

Adj. Gen

J. Y. Dashiell

Sir

In compliance with the following, demand, viz:

You will please furnish me with the extent of the or-

<sup>22</sup>Texas State Gazette (Austin), November 30, 1861.

ganization of the State Militia, under an Act 14th Feb. 1860 and what Brigades, if any are under complete organization

R. T. Flewellen

House Com, Military Affairs

Adjutant General's Office

Austin, Texas Novr. 25th 1861

To Hon R. T. Flewellen, Chairman Com. Military Affairs  
House of Representatives

I would respectfully submit the following tabular statement as embodying all the information on file in this office. [The tabular statement cannot be located].

Very Respectfully

Your obt Servt.

J. Y. Dashiell

Adjt. General

Tuesday, November 26, 1861

#### BILLS AND RESOLUTIONS:

House Bill 6, An Act to amend the second and third sections of "An Act to incorporate the Southern Cotton Press and Manufacturing Company. Read second time and ordered engrossed.

Senate Bill 3, An Act to be entitled "An Act for the benefit of irrigable property. Read first time and referred to Committee on Internal Improvements.

Senate Bill 8, An Act to amend the third section of an act to incorporate the Dallas Bridge Company. Read first time and referred to Committee on Roads, Bridges, and Ferries.

Senate Bill 18, A Bill for the relief of the Honorable A. W. O. Hicks. Read first time and referred to Judiciary Committee.

Original Bill 103, A Bill to be entitled "An Act amendatory of an act concerning roads and highways." Read second time and rejected.

Original Bill 104, A Bill for an act to amend the first section of an act entitled "An Act to restore land sold for taxes to the former owners on certain conditions." Read first and second times and referred to Committee on Finance.

Original Bill 115, An Act to amend an act entitled the Penal Code. Read second time and lost.

Joint Resolution 8, A Joint Resolution requesting our Senators and Representatives in Congress to procure the passage of an act to pay deputy marshals the balance due them for taking the census. Read first time and referred to Committee on Confederate Relations.

Joint Resolution 14, A Joint Resolution legalizing the acts of certain officers in Newton County. Read first time and referred to the Judiciary Committee.

Wednesday, November 27, 1861

#### **BILLS:**

House Bill 41, An Act to provide for auditing and settling all claims against the State on account of Volunteer Companies called out by the Governor or Committee of Safety, and for the defense of the State and providing payment for the officers and men thereof. Rule suspended, read and passed.

Original Bill 105, A Bill for the relief of C. G. Keenan. Read first time and referred to the Judiciary Committee.

Original Bill 115, An Act to amend an act entitled the Penal Code. Reconsidered.

#### **MESSAGES:**

##### **EXECUTIVE DEPARTMENT<sup>23</sup>**

Austin, November 22, 1861

#### **Gentlemen of the Senate and House of Representatives:**

On the 11th day of the present month Mr. Robert Creuzbaur placed before the Executive a memorial requesting the appointment of a committee to investigate the practicality and usefulness of an invention invented by him styled the "Sea King." On the same day a like memorial was placed before your honorable bodies. You were pleased to appoint a committee the applicant required. In order to comply with the request of Mr. Creuzbaur and if possible to have a thorough investigation of the matter, the Executive also requested Mr. William Von Rosenberg, Mr. James Brown, and Dr. J. M. Steiner to act as a committee in conjunction with the committee appointed by you.

A detailed and thorough investigation of the invention has been made. Messrs. Rosenberg and Brown make sep-

<sup>23</sup>Executive Record Book No. 81, 1861-1863, pp. 21-22 (Texas State Archives, Austin); Senate journal of November 27, 1861. See Day (ed.). *Senate Journal of the Ninth Legislature, Regular Session, 272-274, 82-88.*

arate reports which are herewith transmitted to you. After having the matter in charge since the 13th day of November they handed in their reports on yesterday showing that their conclusions were arrived at after mature reflection as well as after tedious labor. Mr. Rosenberg concludes his report by saying that it is his conviction that one such vessel constructed on the plan proposed will more effectually raise the blockade than a small fleet which could have no advantage over the enemy.

Mr. Brown in his report remarks that he believes that one such vessel carefully constructed could annihilate the fleet of the enemy in a short time.

These reports are fully concurred in by Dr. J. M. Steiner, the third member of the committee who is well known as a gentleman of scientific attainments.

It is very evident that the North is now relying on the superiority of its navy to subdue the South; we must therefore take some steps to combat the enemy on the ocean.

Such being my belief I feel a deep solicitude in the matter under consideration and would suggest if you are favorably impressed with the invention of Mr. Creuzbaur that you give him the aid he requires with the least possible delay. If it is a practical invention the result of its use will tend greatly to protect our coast and consequently have a corresponding influence in bringing the war to a close.

Very respectfully,  
F. R. Lubbock

#### REPORT OF JOINT COMMITTEE ON MEMORIAL OF ROBERT CREUZBAUR

The undersigned Joint Committee on the part of the Senate and House of Representatives to whom was referred the memorial of Robert Creuzbaur have had the same under consideration and respectfully report as follows:

Your committee made a cursory examination of the plan proposed by the memorialists and find that with the exception of one of the modes of attack proposed, which is novel but not necessary for the success of the balance of the plan, the project does not consist of any startling novelty nor in any combination of abstruse difficult theories or anything of the kind. It is simply an ingenious and happy combination of known facts and results which any man of intelligence familiar with such matters can com-

prehend, and we think form a correct judgment thereof.

Not having, however, sufficient time at our command to give it as thorough an investigation as we desired to do, we requested two gentlemen of the board appointed by His Excellency the Governor, Mr. Von Rosenberg and Mr. Brown, gentlemen of science who kindly consented to make the examination for us, to test whether the project is based upon sound principles and by calculation to try its proportions and necessary strength, capacities, &c.

We beg leave, therefore, to make the reports of these two gentlemen part of this report. In our opinion and guided by the reports referred to we submit that the project of the memorialist is practicable. We believe that its success would be of such momentous importance to the whole country that its execution should be undertaken with the least possible delay. Should it fail in accomplishing **all** that it proposes, we still believe it will be a most formidable and unequalled gunboat. We therefore came to the conclusion that the small amount asked for will be well applied if only the latter result is accomplished. Your committee therefore submit the accompanying bill and recommend its passage.

Respectfully submitted,

R. T. Flewellen, Committee on part of the House

N. G. Shelley, Committee on part of the Senate

Austin, November 20, A. D. 1861.

**To His Excellency F. R. Lubbock,  
Governor of the State of Texas:**

According to Your Excellency's desire as expressed per letter of date November 12, 1861, the undersigned has made a thorough examination of R. Creuzbaur's invention styled the "Sea King" and begs leave to report as follows:

The object of the plan is to make harmless or to destroy vessels of war with certainty. The chief idea to accomplish this lays in the construction of a vessel of such a plan, that without danger to itself it can approach the enemy and deliver its fire at close quarters, so that every shot becomes necessarily one of destruction.

To accomplish such a construction the following requirements present themselves as necessary conditions:

1st. The vessel should present to the enemy as small

a target as possible; and when hit it should be able to withstand the heaviest shot.

2nd. It should have superior speed as to be able to force the enemy to a contest whenever desired; and in addition to that speed it should be able to turn in every direction with facility.

3rd. It should be provided with ordnance of great power.

Now, to test this project by these conditions:

1st. The body of the vessel presents but a small surface above the waterline; and its superstructure is of small dimensions; therefore a corresponding small surface only is exposed to the enemy's fire. In addition the shape of these exposed parts is such that the enemy's shot must strike the steel plates covering these parts at a sharp angle and most invariably at a small, sharp angle and therefore glance off harmlessly.

The question arises whether the shape adopted for this vessel is favorable to its seagoing qualities and to quick motion. Comparing it with Winans' "cigar-steamer" the qualities of which are known by experience it differs therefrom in three particulars. It deviates in shape, in as much as a cross section of the Winans steamer is a circle while a cross section of this vessel is an ellipse. This shape adds to its carrying capacity with an equal propelling power; and this shape, in connection with the keel, which forms the second deviation from the Winans ship, the better resists the tendency to roll and gives the vessel greater steadiness, which is an important object to facilitate correct firing.

The third deviation is the different position of the propelling power, which in the Winans lays central and in this vessel is situated at the end. Before the Winans steamer was tested it was predicted that it would bury itself in the waves in a direction inclining downwards. This objection proved to be unfounded; yet it may be proper in this connection to consider what influence the position of the propelling power may have in regard to this supposed downward tendency. A little reflection on this point will bring to the conclusion that to avoid a downward tendency to the point of the vessel a line drawn through the propeller at the center of action and parallel to its direction must pass **under** the point of the vessel. And is the direction of the propelling power a **horizontal one**, the center of action

must lay below a horizontal line passing through the point of the vessel. The resistance of the water will then have a tendency to elevate the front part of the vessel; this upward tendency has to be stronger than the pressure of the water which has to be displaced by the submerged upper front part. Should however this not be the case or should the center of action lay higher than the point of the vessel, it would only be necessary to deviate the direction of the propeller from the horizontal line to one slightly inclined downward. A tendency of going head foremost down being unavoidable by construction which I believe to be considered in the vessel under consideration, there can be no disadvantage in this respect as compared to Winans' steamer.

In regard to the carrying capacity and draft of this vessel, they are arrived at with precision by calculation based upon known rules, and its dimensions can be regulated to correspond. Its construction also for solidity, stiffness, and for capacity for resistance can be determined by **calculation** based on formula tested by experience. The shape presented in this plan according to general rules in regard to power of resistance is of the most favorable.

In view of these facilities in changing the size and strength of the vessel proposed a minute detailed investigation of its carrying capacity and strength is thought unnecessary; particularly as it is proposed to construct one of small dimensions for our most urgent necessities in coast defence.

A rough calculation however of its capacities seems to indicate that it is properly proportioned to carry all necessary articles for attack and sea service; and steam power sufficient to propel it at the rate of 18 miles per hour as a common duty of the engines, which in a case of necessity as with other steam engines can be considerably increased without injury. This speed has been surpassed by the Winans ship (see p. 412, Scientific American, Vol. I, 1859). The thickness of its material seems to be sufficient to withstand heavy shot as explained above.

Taking into account the experiments made with the Winans steamer, I hold the general principles of this proposed plan to be correct, and its execution practicable.

In regard to the arrangement of the machinery I do not feel competent to give an opinion. It seems to me however clearly evident that any competent marine engine

manufacturer and engineer could introduce and arrange his machinery to suit the vessel the space being ample.

2nd. As to the velocity of the vessel, I would remark that the same propelling power, which would be applied to an ordinary vessel of the same draft and weight would give this vessel a greatly superior speed, on account of its fine taper and great length.

Aside from the superior velocity due to its shape this vessel has a most decided advantage in its capacity to change its direction with speed whether standing still or under headway by means of the two small side propellers placed near the front end of the vessel. It is evident that these propellers placed in the rear part of the vessel would answer the same purpose and could be brought to action by the pilot.

The second requirement therefore of high speed and facility of changing direction seems to me perfectly fulfilled.

3rd. In regard to ordnance, the plan proposes to use one breech loading cannon in a forward direction. At all events the power of attack of this craft which might be placed in a position between several hostile vessels would be much increased by adding another such cannon to operate in the opposite direction, which is evidently easily accomplished.

Now as this vessel owing to its peculiar construction can closely approach an enemy's vessel without incurring danger its explosive shells fired with consequent precision would be extraordinarily destructive and the direction of the gun parallel to the axes of the vessel together with the steadiness due to the whole construction would greatly facilitate accurate firing.

The proposed submarine cannon might under peculiar circumstances become dangerous to the vessel itself, and should for safety be separated from the balance of the ship by a watertight compartment.

Without however depending on this yet untried mode of attack, nor on the third mode of destruction (prudence forbids to mention it in a written communication) which apparently can be successfully applied, the results of the use of a gunboat constructed on the leading principles proposed would be of such importance particularly in raising the blockade of our ports that a further investigation

by competent judges and a speedy execution of the plan is most desirable.

W. Von Rosenberg

I have examined and concur in the above.

J. M. Steiner

Austin, November 21, 1861

I have examined Mr. Creuzbaur's plans and calculations of a vessel called the "Sea King" to be used as a ship of war. I find it to be a modification of a vessel designed by the Messrs. Winans of Baltimore for the form of which they obtained from the United States government a patent in October, 1858.

The modifications are these: Winans' vessel has the propelling power at the center, Creuzbaur's has it at the stern. Winans' ship is entirely of iron, Creuzbaur's partly of wood and partly of iron. The cross sections are also different. Those of Winans' are circles and those of Creuzbaur's are ellipses, the longer axis being horizontal.

The changes proposed by Mr. Creuzbaur in my opinion add greatly to the efficiency and safety of the vessel with the exception of the use of wood instead of iron. Wood presents greater mechanical difficulties in the construction of the class of vessels under construction than iron does, besides the greater strength of the latter material ought to be considered in connection with the service for which the vessel is designed.

Mr. Creuzbaur's calculations of the strength, buoyancy, and stability of his vessel I find to be based on correct principles and are in the main correct.

In the armament of the vessel I believe the submarine gun ought to be dispensed with and two guns instead of one placed on the vessel as indicated in the drawing.

Mr. Creuzbaur proposes to use a caloric or hot air engine instead of a steam engine. As far as I have been able to ascertain the former class of engines are but little used, and then only when a small amount of power is required. There is one instance however which I am aware that a hot air engine of 37 horse power has been successfully used. The advantages of this class of engines consist in the economy of space and working expenses and above all the avoidance of the explosions of steam boilers which have so often been the cause of great loss of life and property. A power of 400 horses would be required to

propel Mr. Creuzbaur's vessel 18 miles an hour. He has evinced much ingenuity in adapting the hot air engine so as to give the required propelling power to his vessel but in cases of this nature results cannot be obtained in advance of actual trial of the success of which in this instance, I could not hazard an opinion.

The "third mode of attack" I believe to [be] very formidable when used from such a vessel as that proposed, by brave men and skillful men. The vessels of war "La Gloire" and "Warrior," the one French and the other English have iron plates  $4\frac{1}{2}$  inches thick on the exterior surface which it is supposed render them proof against shot impinging at right angles to the surface. If this be true then a less thickness would protect the "Sea King" because if hit at all it would necessarily be at a small angle and shot striking at an angle of  $45^\circ$  loses about half of its effective penetrating power.

A ship carefully constructed on the plan of the "Sea King" and sufficiently strong to resist the force of shot would with even the small armament proposed destroy in a short time the whole naval power of our enemies.

James Brown, Civil Engineer

I concur in the above.

J. M. Steiner

Friday, November 29, 1861

#### BILLS AND RESOLUTIONS:

House Bill 3, A Bill for the relief of Noah Cox. Read second time and ordered engrossed.

House Bill 14, An Act to prevent the sale of vinous, spiritous or other intoxicating liquors within one mile of the centre of the town of Alto in Cherokee County in the State of Texas. Read second time and ordered engrossed.

House Bill 21, An Act to amend an act supplemental to an act for the relief of Myrum Mudget, Daniel Kitchings, A. L. Spencer and E. G. Cantwell, approved February 8, 1861. Read second time and ordered engrossed.

House Bill 24, A Bill for the relief of the heirs of Harvey Murphy. Read second time and ordered engrossed.

House Bill 26, A Bill for the relief of the heirs of Isaac Pierson. Read second time and ordered to be engrossed.

House Bill 48, An Act regulating the fees for swimming

cattle at ferries. Read first time and referred to Committee on Roads, Bridges and Ferries.

Original Bill 106, An Act for the relief of H. C. Loy-enby. Read first time.

Original Bill 107, A Bill to be entitled "An Act to add certain territory to Bastrop County." Read first time and referred to Committee on Counties and County Boundaries.

Original Bill 108, A Bill for the relief of Louisa Merry, a free person of color. Read first time and referred to the Judiciary Committee.

Original Bill 110, A Bill to be entitled "An Act to suppress the evil practice of target shooting, or of shooting off firearms on or near public highways of this state." Read second time and laid on table.

Joint Resolution 4, A Joint Resolution approving the retaliation plans of President Jefferson Davis. Read second time and ordered engrossed.

#### COMMITTEE REPORTS:

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a House Bill for the relief of C. G. Keenan. The object of the bill is to provide for the payment to Dr. Keenan of the sum of \$500 which he paid to an Attorney-at-Law for defending the suit of Perry vs The Comptroller, Treasurer & Keenan. The object of which suit was to test the right of said Keenan to the Office of Superintendent of which he was discharging the duties at the time of the commencement of said suit under appointment from the then Governor of the State. Under the circumstances a majority of the Committee would consider the claim of Dr. Keenan a just charge against the State but for the fact that there was no pre-existing law providing for the matter out of which the claim accrued, and a clause of the 7th Section of the 7th Article of the Constitution of the State provides that the Legislature shall not "grant by appropriation or otherwise any amount of money out of the Treasury of the State, to any individual on a claim real or pretended, where the source shall not have been provided for by pre-existing law." A majority of the Committee therefore direct me to return the same to the House and recommend that it do not pass.

Z. Hunt

One of Committee

To the Honorable N. H. Darnell<sup>24</sup>

Speaker House Representatives

The Committee on Private Land Claims have had under consideration the petition of Johnathan Riley, and have instructed me to report that the evidence is not in the opinion of the committee sufficient to entitle the petitioner to relief and recommend its rejection.

Charles Russell, Chairman

The Committee on Indian Affairs made the following report:

The joint committee from both Houses on Indian Affairs have had under consideration a bill originating in the House, for the protection of the frontier and have duly examined the subject of our frontier defences and find that the Confederate troops on our frontier are stationed at a considerable distance beyond the limits of the frontier settlements and the stations too far apart; the troops are at times employed in offensive operations against the Indians while at other times they are forced to remain in considerable bodies at their stations to recruit their horses, when often the forage is inconvenient and has to be forwarded a considerable distance from the settlements. This force is well calculated to keep off large bodies of the enemy and protect the country from more formidable invasion. But the savage steal slyly in very small parties around these posts and penetrate far into the interior, favored by the nature of the country, where they watch for their prey in the vicinity of the settlements, and when a chance offers commit depredations and flee with such rapidity that it seldom is possible for the white man to overtake them having generally such a number of horses as to be able to change as often as one gets tired out, killing those run down to prevent their recapture from being any benefit to their pursuers. An efficient force immediately on the borders of the settlements has been urged by every Legislature. For this purpose smaller parties are more efficient and the present minute system was inaugurated, the last extra session, as a temporary remedy expecting that time would not admit to mature a proper plan. The minute system has proved unavailable from the fact

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<sup>24</sup>The evidence points to the fact that N. H. Darnell did not become Speaker until December 7, 1861. See *Tri-Weekly Telegraph* (Houston), December 11, 1861.

that no cooperation is provided for between the different companies and the operations are left too much to the pleasure of the men, who often only turn out when it suits their convenience.

The committee are satisfied that nothing short of a plan similar to the one now proposed will ever afford protection and security to the frontier settlers and their property especially during the present war with the Federal government. Troops should be stationed on the outskirts of the settlements at points so near each other that the distance between any two stations could be traversed every day, if only by small parties and prevent at once the ingress of the savages or if they should pass the line to be in readiness for pursuit as they attempt to escape, which position will enable the citizens to cooperate with the troops and to give information.

Believing this plan to be more satisfactory to the frontier settlers and the cheapest to the government, the committee has framed the accompanying bill and directed us to report the same to our respective Houses and to recommend its passage.

Saturday, November 30, 1861

#### BILLS AND RESOLUTIONS:

House Bill 6, An Act to amend the second and third sections of "An Act to incorporate the Southern Cotton Press and Manufacturing Company." Read third time and passed by 2/3's vote.

House Bill 15, A Bill for the relief of the heirs of Elijah Allcorn. Read second time and ordered engrossed.

House Bill 30, An Act to repeal an act supplemental to an act to amend an act supplemental to an act to regulate Estrays approved February 5, 1861, approved 6th April 1861, and to revive an act to regulate Estrays approved February 5, 1850 and an act approved December 17, 1857 in certain counties herein after named" Read first time

Original Bill 110, A Bill to be entitled "An Act to suppress the evil practice of target shooting or of shooting off fire arms on or near public highways of this state." Re-admitted to Committee on State Affairs.

Joint Resolution 9, A Joint Resolution authorizing the Governor to appoint an agent to take possession of the Salt

Lake known as "El Sal Del Rey" and to pay over the revenues arising therefrom to the State. Read second time and ordered to be engrossed.

Joint Resolution 14, A Joint Resolution legalizing the acts of certain officers in Newton County. Read second time and substitute adopted. Rule suspended, read third time and passed.

Monday, December 2, 1861

#### BILLS:

Original Bill 111, An Act regulating the salary of public officers. Read first time and referred to Judiciary Committee.

Original Bill 112, An Act for the relief of W. J. Langham. Read first time and referred to Committee on Public Land Claims.

Original Bill 148, An Act providing for the trial and punishment of slaves. Read first time and referred to Committee on Slaves and Slavery.

#### COMMITTEE REPORT:

To the Speaker of the House of Representatives:

The Judiciary Committee have considered a House Bill to be entitled "An Act for the relief of Louisa Merry, a free person of color" and herewith return the same to the House and recommend that it do not pass. The object of the bill is to authorize the free person of color to remain in this State, which is in violation of the established policy of the State.

M. M. Potter  
Chairman

Tuesday, December 3, 1861

#### BILLS AND RESOLUTIONS:

House Bill 3, For the relief of Noah Cox. Read third time and passed.

House Bill 12, To amend the Fourth Section of "An Act to incorporate the Houston, Trinity, and Tyler Railroad Company." Read first time and referred to the Committee on Internal Improvements.

House Bill 13, Providing for the sale of United States 5 per cent bonds and coupons. Read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 14, An Act to prevent the sale of vinous, spiritous or other intoxicating liquor within one mile of the centre of the town of Alto, in Cherokee County. Read third time and passed.

House Bill 21, To amend an act supplementary to "An Act for the relief of Myrum Mudget, Daniel Kitchings, A. L. Spencer, and E. G. Cantwell." Read third time and passed.

House Bill 22, To amend the Second Section of an act to regulate interest. Read second time and ordered engrossed.

House Bill 23, For the relief of Peter Horton. Read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 24, For the relief of the heirs of Harvey Murphy. Read third time and passed.

House Bill 26, For the relief of the heirs of Isaac Pier-son. Read third time and passed.

House Bill 27, To incorporate the Dallas Powder Com-pany. Read second time and ordered engrossed.

House Bill 35, An Act authorizing the county courts of the several counties in this state to levy and collect a spe-cial tax for war purposes on all property subject to taxation by the state. Read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 42, An Act supplemental to, and amendatory of, an act to provide for the appointment of patrols and to prescribe their duties and powers. Read first time and referred to the Committee on Slaves and Slavery.

House Bill 50, An Act to amend the first section of an act entitled "An Act to authorize the withdrawal from the General Land Office of deeds issued on paper of the second seal" of February 11, 1850. Read first time and referred to Judiciary Committee.

House Bill 68, Supplemental and amendatory of an act prescribing the manner of authenticating instruments for record. Read second time and ordered engrossed.

Senate Bill 7, For the relief of Samuel Everett. Read first time and referred to the Judiciary Committee.

Senate Bill 10, To incorporate the Austin Hook and Ladder Company. Read first time and referred to the Committee on State Affairs.

Senate Bill 16, To amend the charter of the Waco

Classical School. Read first time and referred to the Committee on Education.

Original Bill 113, A Bill to be entitled "An Act for the relief of Jesus Jimenes." Read first time and referred to Committee on Public Land.

Original Bill 114, A Bill providing for proper distribution of the journals of the House of Representatives. Read second time and rejected.

Original Bill 115, An Act to amend an act entitled the Penal Code. Indefinitely postponed.

Joint Resolution 4, A Joint Resolution approving the retaliation plans of President Jefferson Davis. Read third time and passed.

Wednesday, December 4, 1861

#### BILLS AND RESOLUTIONS:

House Bill 15, For the relief of the heirs of Elijah Allcorn. Read third time and passed.

House Bill 17, Allowing the laws of the Confederate States to be received in evidence. Read third time and passed.

House Bill 22, To amend the second section of an act to regulate interest. Read third time and passed.

House Bill 32, To prohibit the sale of intoxicating liquors within four and a half miles of the courthouse in Fort Worth, Tarrant County. Read first time.

Senate Bill 5, To amend the 16th Section of an act regulating elections. Read first time and referred to the Committee on Privileges and Elections.

Senate Bill 6, An Act suspending all laws for the collection of debts and liabilities on bonds, promissory notes, bills of exchange, and contracts for the payment of money, until the first day of January 1864, or until six months after the close of the present war should it terminate before the date named, or until otherwise provided by law. Read first time.

Original Bill 117, An Act for the relief of the heirs of Isaac Aldrich. Read first time.

Joint Resolution 9, A Joint Resolution authorizing the Governor to appoint an agent to take possession of the Salt Lake known as "El Sal del Rey" and to pay over the revenues arising therefrom to the state. Read third time and passed.

## MESSAGE:

EXECUTIVE DEPARTMENT<sup>25</sup>

Austin, Texas, December 4, 1861

**Gentlemen of the Senate  
and House of Representatives:**

I have the honor to transmit to you the accompanying communication from the Judges of the Supreme Court.

The necessity of taking some action in the premises will at once suggest itself to you.

Very respectfully,  
F. R. Lubbock

Thursday, December 5, 1861

## BILLS AND RESOLUTIONS:

House Bill 46, To protect public buildings. Read first time and referred to the Judiciary Committee.

Senate Bill 6, An Act suspending all laws for the collection of debts and liabilities on bonds, promissory notes, bills of exchange, and contracts for the payment of money, until the first day of January 1864, or until six months after the close of the present war should it terminate before the date named, or until otherwise provided by law. Rule suspended and taken up and made special order for 11 o'clock tomorrow.

Original Bill 116, Authorizing William Perry and his associates to open and clear out the Bayou known as Big Cypress from the town of Jefferson in Marion County to Gardner's Crossing on said stream. Read first time.

Original Bill 118, A Bill to be entitled "An Act to encourage the pursuit of agriculture by exempting certain property from force sale." Read second time and rejected.

Original Bill 154, An Act supplementary to an act passed February 3, 1854 for the cancellation of patents. Read first time and referred to the Judiciary Committee.

Original Bill 154 (a), An Act to amend an act entitled "An Act supplementary to an act authorizing the Commissioner of the General Land Office to issue patents on certificates issued by the Board of Land Commissioners of Robertson County under certain instructions approved August 26, 1856." Read first time and referred to Judiciary Committee.

Joint Resolution 10, A Joint Resolution providing for

<sup>25</sup>Executive Record Book No. 81, 1861-1863, p. 31 (Texas State Archives, Austin).

the sale of Oldham and White's Digest. Read first time and referred to Judiciary Committee.

STATEMENT:

The following statement was delivered by James C. Walker:

Bill for the Cancellation of Titles

It cannot be denied by the Legislature that the Headrights of the Colonists are the most meritorious titles in the State. Many of them are found to be in conflict with other and with each other and with older titles, in precisely the same conditions as patents. Now there is no justice in allowing patents to be cancelled and not extending the same privilege to Headright titles. And there is every reason and justice in favor of allowing both to be cancelled on the same terms. This is but sheer justice to the Colonists, while it will do much towards quieting titles and stopping litigation. In my practice heretofore I have known of many cases where suits never would have been brought—and I am now employed in eight or ten cases, which in all probability would be compromised and settled—if the same privileges should be extended towards Headrights, that are now by Law extended towards patents. And I doubt not such is more or less, the experience of every Lawyer. And thus a large amount of litigation would be stopped and land titles would be quieted to the same extent. A large amount of immigration has been stopped or turned away from Texas in consequence of the uncertainty of Land-Titles in the settled portion of Texas. Then one great object of the Legislature should be to place in the hands of the citizens every reasonable facility for the settlement of their Titles. If the right of the Colonist be admitted, then this Bill is **reasonable**. And if such a Bill would tend to quiet-titles and stop litigation—this should claim the early attention and highest consideration of the Legislature.

Jas C. Walker

Statement

Bill to enable Commissioner to issue patents on unconditional Certificates issued by Board L Commissioners of Robertson County. By reference to the Preamble of the Act of 1850 Hart Dig. Art. 2267 it will be seen the County Clerk of Robertson County was grossly remiss in his duty, to obviate which the Act of February 5th 1850 was passed,

but it did not apply to those certificates issued anterior to August 1st 1842—see Proviso of said act.

There is certainly no reason for excluding provisions of that Law certificates issued anterior to that date.

In part to remedy this defect or objection, the act of 1852 (O&W 1285) was passed. Which required the County Clerk of Robertson County to transmit to the Commissioner of the General Land Office all the original affidavits, oaths, records etc. etc. and requiring the County Court to “examine, compare and certify to the correctness of the Transcript” etc. etc. Although this Law in effect repeals the limitations of the above as to the date of the issuance of the certificate, yet it remains a dead letter on the statute book, because of the failure or inability of the Clerk and County Court to perform the duties required of them. Very probably long before the passage of this law, “all of the original affidavits, oaths, records” etc. etc. had been torn up, thrown aside as waste paper among the rubbish of the office; so that it was impossible for the Clerk and County Court to comply with the laws. Now at this day to require the owners of certificates to produce record evidence of the actions of that Board or to grant them a remedy based upon requiring the present clerk to send up such report or to transmit such documents to the Commissioner General Land Office is equivalent denial or repudiation of the certificates. The law of the 26th August 1856 (Laws 6th Leg. p. 59, chapter 31) restricts the action of the Commissioner to unconditional certificates and retains “the same restrictions and conditions” of the law of 1850. One of which restrictions as we have already seen is—the exclusion of certificates anterior to the 1st Aug. 1842.

Whereby many genuine certificates issued anterior to that date are without remedy, and are worse than worthless because of the expense of location survey etc. incurred by the owners. The Government granted to these individuals unconditional certificates—afterwards the Government required these individuals to appear before the “Travelling Board” and reprove their right to their certificates—and the Government required the County Clerk to make out and transmit to the Commissioner General Land Office a Report of all certificates passed upon by the Board. The citizen has twice established his right, while the Clerk, an officer of the Government and over whom the citizens had

no control, has failed to do his duty. Now in justice and good faith shall the citizen be deprived of his right because of the negligence, carelessness or malfeasance of the clerk? It may be said that the party should have gone before the Court of Claims and established his certificate.—By reference to the records of his office it will be seen many of these certificates presented to the Court of Claims and were “suspended not being reported” by the Clerk of Robertson County. Now all we ask of the Legislature by the proposed amendment is to be allowed to come before the Commissioner of the General Land Office and prove up for a third time our right to the same certificates not to obtain new ones and thus obtain patents on them.

Jas C. Walker

Friday, December 6, 1861

#### BILLS AND RESOLUTIONS:

House Bill 49, An Act to provide for the sale and settlement of the vacant and unappropriated alternate sections of land in Fisher’s and Miller’s Colony. Read first time and referred to the Committee on Public Lands.

House Bill 52, An Act to amend “An Act amendatory of the laws to raise revenue by taxation approved February 16th, 1858,” and to amend an act entitled “An Act to amend an act amendatory of the laws to raise revenue by taxation, approved February 16th, 1858.” Approved April 8th 1861. Read first time.

House Bill 56, An Act to amend an act entitled an act prescribing the mode of establishing the liabilities of drawers [and] endorsers of bills of exchange and promissory notes. Read first time and referred to the Judiciary Committee.

House Bill 61, To furnish speculation[s] in certain cases. Read first time and referred to the Judiciary Committee.

Senate Bill 6, An Act suspending all laws for the collection of debts and liabilities on bonds, promissory notes, bills of exchange, and contracts for the payment of money, until the first day of January 1864, or until six months after the close of the present war should it terminate before the date named, or until otherwise provided by law. Read second time and passed to a third reading. Rule suspended, read third time, and passed.

Original Bill 118[a], A Bill to be entitled “An Act to

regulate the toll charged by millers." Read first time.

Original Bill 118[b], A Bill for an act to amend Article 161 of Oldham and White's Digest. Read first time and referred to the Committee on Education.

Original Bill 119, A Bill to be entitled "An Act to define and punish treason and treasonable conduct." Read first time and referred to the Judiciary Committee.

Original Bill 120, An act relating to the sale of real estate and slaves during the existence of stay laws. Read first time and referred to the Judiciary Committee.

Joint Resolution 2, A Joint Resolution making an appropriation for the mileage and per diem pay of the Presidential Electors for 1861. Read first time. Rule suspended. Read second time and passed to third reading. Rule suspended. Read third time and passed.

#### COMMITTEE REPORT:

Hon. C. W. Buckley, Speaker of the House of Representatives

The Committee on Claims & Accounts to whom was referred the petition of Eli Kirk, have had the same under consideration and instruct their Chairman to report the petition back to the House, and ask to be discharged from the further consideration of the same.

It appears that in August 1852 petitioner was appointed by His Excellency P. H. Bell (then Governor of the State of Texas) to go to the Northern Cities to purchase furniture for the New Capitol and that he was to receive \$1000 for his services, \$500 of it he received at the time he left on his mission to the North. It appears that petitioner selected Philadelphia as the most suitable place to procure the articles necessary to furnish the Capitol, and it appears that he did there expend in the first cost of the different articles of furniture and transporting the same to the Port of Lavaca Texas \$24,764.23. The Vouchers are supported by affidavits of the parties of whom the articles were purchased.

It appears that from the time the furniture arrived in Lavaca he had no further charge of it until it arrived in Austin.

On the 12th of November 1853 he is again placed in charge by Governor Bell with authority to superintend generally the arrangement of the furniture in the Capitol,

petitioner claims for this service \$738.95 being for storage, drayage, placing the furniture in the Capitol and digging flues for furnaces. The whole amount of his charges against the State is \$26,503.18 and the amount he has received is \$22,150 leaving a balance due of \$4,353.18 at the time the furniture was received in the Capitol. At the time petitioner left for the North, Governor Bell furnished him with a letter of credit addressed to Messrs. Clement and Hayden of the City of New York in which he states that petitioner "is authorized to purchase furniture on account of the State to the amount of \$24,000, which amount is to include transportation to this city." (Austin). It appears from the Comptroller's account that the first appropriation of \$25,000 in United States Bonds with premium and interest included amounted to \$26,807.63. Also an additional appropriation on the 11th of February 1854 of \$1,637.74 which last sum was paid to sundry persons, being balances due on hauling the furniture from Lavaca to Austin. Total amount appropriated and paid out is \$28,445.37.

The above Statement is all the information the Committee has been able to obtain in relation to the claim of petitioner: all of which they submit to the House for their consideration.

Jas. Walworth  
Chairman

Saturday, December 7, 1861

#### BILLS:

House Bill 12, To amend the fourth section of "An Act to incorporate the Houston, Trinity, and Tyler Railroad Company." Read second time and ordered engrossed. Rule suspended, read third time, and passed by Constitutional vote.

House Bill 43, Providing for summary proceedings against Justices of the Peace in certain cases. Read first time and referred to Judiciary Committee.

House Bill 64, To amend the Act of March 18, 1848 of decents and distributions. Read first time and referred to the Judiciary Committee.

Senate Bill 27, To create the county of Kendall. Read first time and referred to the Committee on Counties and County Boundaries.

Senate Bill 28, To change the boundary lines of Blanco

and Kerr Counties. Read first time and referred to the Committee on Counties and County Boundaries.

Original Bill 122, A Bill for the relief of Eli Kirk. Read first time and referred to the Committee on Claims and Accounts.

Original Bill 124, A Bill to be entitled "An Act supplemental to an act to regulate the public printing. Approved November 22, 1859." Read first time and referred to Committee on Printing.

Original Bill 125, A Bill to be entitled "An Act to ascertain the legal claims for land against the state." Read first time and referred to the Judiciary Committee.

Original Bill 126, A Bill for the relief of Jessie Simmons or their assignees.<sup>26</sup> Read first time and referred to the Committee on Public Land Claims.

Original Bill 127, A Bill to incorporate Karnes County College.<sup>27</sup> Read first time and referred to the Committee on Education.

Original Bill 128, A Bill to be entitled "An Act to amend an act to adopt and establish a penal code for the state of Texas. Approved August 26, 1856."<sup>28</sup> Read second time.

#### COMMENTARY:

Austin, December 7, 1861<sup>29</sup>

Buckley has just resigned the Speakership, and Darnell, of Dallas, has been elected. Potter and Cone refusing a nomination, because they might be called home.

Monday, December 9, 1861

#### BILLS:

House Bill 25, To incorporate the Marcelena Bridge and Manufacturing Company. Read second time and ordered engrossed. Rule suspended, read third time, and passed by 2/3's vote.

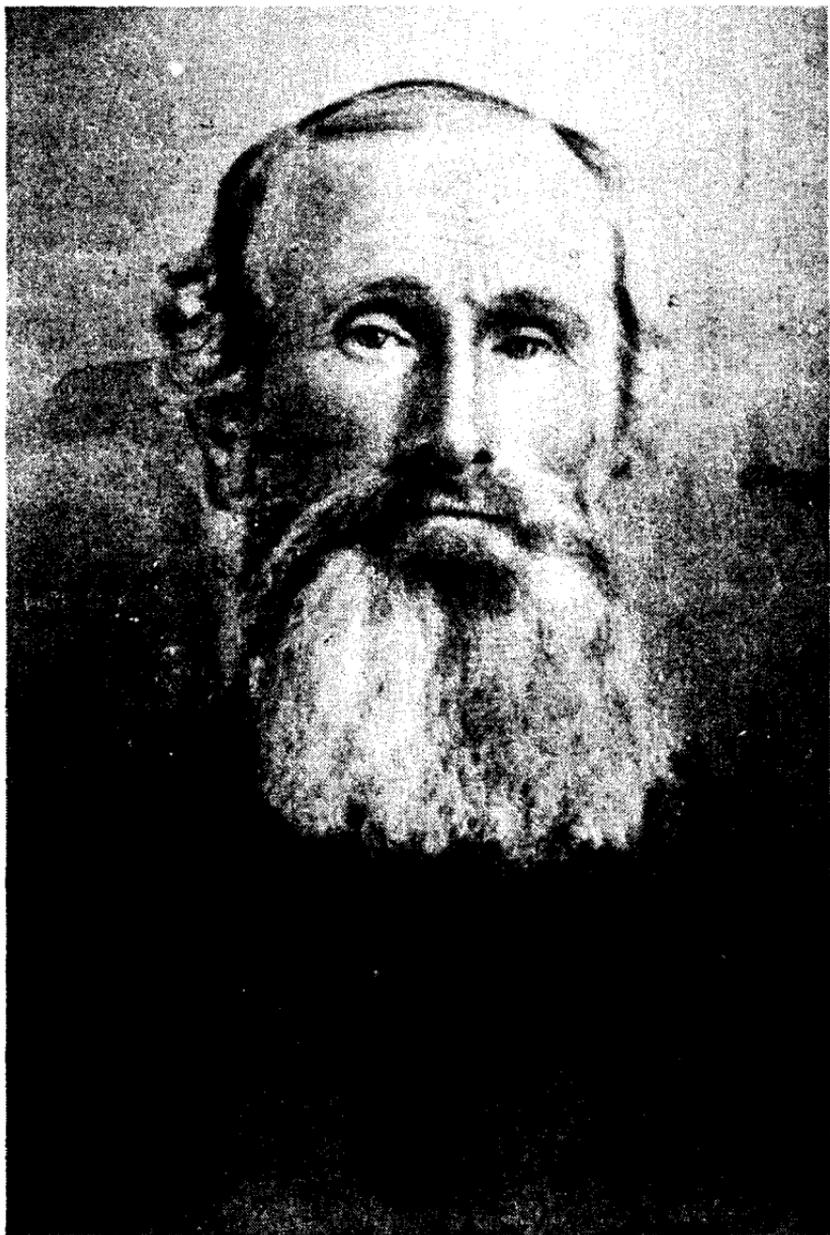
House Bill 28, An Act to repeal section two and section five of an act entitled "An Act to incorporate all military uniformed companies now organized, or to be organized in the state." Approved February 15th 1858. Read

<sup>26</sup>The date shown for the introduction of this bill is Sunday, December 8, 1861. Since the House probably did not meet on Sunday, the bill has been moved to this date.

<sup>27</sup>*Ibid.*

<sup>28</sup>*Ibid.*

<sup>29</sup>*Tri-Weekly Telegraph* (Houston), December 11, 1861.



**Nicholas H. Darnell**

Photograph from  
Archives Division,  
Texas State Library  
(gift of Mrs. Maude Rocken-  
baugh, Arlington, Texas)

first time and referred to the Committee on Military Affairs.

House Bill 30, An Act to repeal "An Act supplemental to an act to regulate estrays," approved February 5th 1861 and "An Act to amend an act supplemental to an act to regulate estrays approved February 5th 1861," approved 6th April 1861, and to revive "An Act to regulate estrays, approved February 5th 1850," and "An Act approved December 17th 1851, in certain counties herein after named." Read second time and ordered engrossed.

House Bill 32, To prohibit the sale of intoxicating liquors within four and a half miles of the courthouse in Fort Worth, Tarrant County. Read second time and ordered engrossed.

Senate Bill 18, For the relief of the Honorable A. W. O. Hicks. Read second time and passed to third reading.

Original Bill 121, An Act to prevent the fraudulent transfer of real estate and slaves. Read first time and referred to the Judiciary Committee.

Original Bill 128(a), An Act declaring the object and intention of an act passed August 26th 1856 entitled "An Act to adopt and establish a penal code for the state of Texas." Read first time and referred to the Judiciary Committee.

Original Bill 129, A Bill to be entitled "An Act to require the fire arms in the state to be reported to the Adjutant General and providing for their use in defence of the state." Read first time and referred to the Judiciary Committee.

Original Bill 130(a), An Act to amend an act entitled "An Act authorizing county courts to regulate roads, appoint overseers, etc." Read and indefinitely postponed.

Original Bill 131, An Act to authorize the patenting of land therein described. Read first time and referred to the Committee on Public Lands.

Original Bill 132, An Act to relieve Moses Guess from the disabilities of minority. Read first time and referred to the Committee on State Affairs.

#### COMMITTEE REPORTS:

Honorable N. H. Darnell, Speaker

The Committee on Counties and County Boundaries have had under consideration a petition referred to them, emanating from sundry soldiers in the Confederate service

who are citizens of the counties of Dallas, Kaufman and Collin, asking for the establishment of a new county to be composed of portions of the counties aforesaid as per plat accompanying petition,<sup>30</sup> and after proper examination I am instructed to report as follows: There is not, in the opinion of the Committee, a sufficient amount of territory within the limits of the proposed new County to constitute a county of constitutional limits; nor is there sufficient evidence before the Committee to justify them in recommending to the House further action on the subject. Hence, with due deference to petitioners, I am instructed to report the foregoing, and ask to be discharged from its further consideration.

A. H. Abney  
Chairman, Committee

To the Hon. N. H. Darnell, Speaker of the House of Representatives of the State of Texas:

Your Committee upon Private Land Claims report that they have had the petition of Thomas F. Smith for relief under consideration and have instructed me to report the same back to the House and recommend the passage of the accompanying bill.

Jas. Buckholts  
One of Committee

Tuesday, December 10, 1861

#### BILLS AND RESOLUTIONS:

House Bill 30, An Act to repeal "An Act supplemental to an act to regulate estrays," approved, February 5th 1861 and "An Act to amend an act supplemental to an act to regulate estrays approved February 5th 1861," approved 6th April 1861, and to revive "An Act to regulate estrays, approved February 5th 1850," and "An Act approved December 17th 1851, in certain counties herein after named." Rule suspended, read third time and passed.

House Bill 32, To prohibit the sale of intoxicating liquors within four and a half miles of the court house in Fort Worth, Tarrant County. Rule suspended, read third time and passed.

House Bill 45, An Act supplemental to an act to amend the act supplemental to "An Act to regulate estrays," ap-

<sup>30</sup>The petition cannot be located.

proved April 6th 1861. Rule suspended, read third time and passed.

Senate Bill 7, For the relief of Samuel Everett. Read second time and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 8, To amend the third section of an act to incorporate the Dallas Bridge Company. Read second time and passed to third reading. Rule suspended, read third time passed by 2/3's vote.

Original Bill 122, A Bill for the relief of Eli Kirk. Read second time and the House refused to engross the bill.

Original Bill 133, A Bill to encourage the establishment of manufactories in the state of Texas. Read second time and indefinitely postponed.

Joint Resolution 13, A Joint Resolution defining the position occupied by Texas in regard to the unfortunate difficulty at Harper's Ferry in the state of Virginia. Read first time and referred to the Committee on Confederate Relations.

#### COMMITTEE REPORTS:

Honorable N. H. Darnell, Speaker

Your committee to whom were referred the petition of various citizens of Bureson, Williamson, Milam and Bastrop counties asking for the addition of certain territory therein named to Bastrop County, have examined the merits of the same and a majority instruct me to return it with the accompanying bill and recommend its passage.

A. H. Abney  
Chairman Committee  
[Committee on Counties  
and County Boundaries]

Hon. C. W. Buckley, Speaker of the  
House of Representatives

The Committee on State Affairs have had under consideration "An Act to encourage the establishment of manufactories in the State of Texas."

The Committee have directed me to report a substitute for the bill and recommend its adoption and passage.

Z. Hunt  
Chairman

Indefinitely postponed  
December 10, 1861

To Honorable N. H. Darnell, Speaker of the House of Representatives:

The Judiciary Committee have had under consideration two bills one entitled 'An Act relating to the sale of real estate and slaves during the existence of the Stay Law—the other "An Act to prevent the fraudulent transfer of real estate and slaves, both seeming to have the same object in view."

While the proposed legislation might possibly in some cases be beneficial to the creditor, it would doubtless work a great hardship upon the debtor.

A man might owe a debt in a remote part of the State or in Virginia or some of the Confederate States, or to a man in the Army whose whereabouts could not be easily or speedily ascertained. It might in the meantime become absolutely necessary for him to dispose of land or slaves for the purpose of providing for his family.

Should either of the bills become a law, the vendor would have to hunt up all his creditors wherever they might be and satisfy or secure their debts in some way before he could make a title.

Laws in restraint of trade have ever been considered impolitic.

The committee have directed me to return the bills to the House and recommend that they do not pass.

Z. Hunt  
Chairman

Laid on the table.

Wednesday, December 11, 1861

**BILLS:**

House Bill 27, To incorporate the Dallas Powder Company. Read third time and passed by 2/3's vote.

Senate Bill 9, To amend the twelfth section of an act to incorporate the town of Mount Vernon, in Titus County, Texas. Read first time. Rule suspended, read second time, and passed to a third reading. Rule further suspended, read third time, and passed by a 2/3's vote.

Senate Bill 18, For the relief of the Honorable A. W. O. Hicks. Read third time and passed.

Original Bill 134, A Bill to be entitled "An Act to amend an act supplementary and amendatory of an act concerning public schools, passed February 5, 1858." Read

first time and referred to the Committee on Education.

Friday, December 13, 1861

**BILLS:**

House Bill 38, An Act to require the financial agent of the penitentiary to settle his accounts quarterly with the State Comptroller. Bill read first time.

House Bill 52, An Act to amend "An Act amendatory of the laws to raise revenue by taxation approved February 16th 1858," and to amend an act entitled "An Act to amend an act amendatory of the laws to raise revenue by taxation, approved February 16th 1858." Approved April 8th 1861. Read second time.

Senate Bill 10, To incorporate the Austin Hook and Ladder Company. Read second time and passed to third reading. Rule suspended, read third time and passed by 2/3's vote.

Original Bill 158, A Bill for the relief of Malcolm Lafayette Stewart. Read first time and referred to the Judiciary Committee.

**COMMITTEE REPORT:**

Report of the Finance Committee<sup>31</sup>

The Committee on Finance, to whom was referred sundry bills and resolutions, herewith returned to the House, have for some weeks had under consideration the financial condition of the State, and in connection therewith, the various suggestions and matters of policy contained in those bills and resolutions.

The committee have labored under many difficulties since their appointment, aside from those naturally arising out of the indebtedness of the State, and the necessity of creating a revenue to carry on the Government, and liquidate the outstanding liabilities.

The reports and accompanying documents from the various departments of the State have not been printed, owing to the inability of the printer to obtain the necessary paper, and the manuscript has for some weeks been in the hands of the compositors, who have been engaged in putting it in type. These considerations, taken in connection with the fact that the committee have been compelled to

<sup>31</sup>The exact date of this report is not known. It was printed in the *Tri-Weekly Telegraph* (Houston), December 16, 1861, and is inserted here, on December 13, as an estimated date.

attend to their legislative duties during the sessions of each day, will be sufficient to exculpate them from any charge of tardiness which might be brought against them by those who have been impatiently waiting for this report.

For many years Texas has been in a prosperous condition. With a vast public domain, which has, and will continue to be a basis of credit and a source of revenue, and with a Treasury heretofore sufficient for the necessary demands made against it, our State has been pre-eminently blest in a financial point of view.

It is not in the provision of this committee to discuss in their report the want of foresight in the preceding Legislature, in having failed to provide for what were the inevitable necessities of the State, with a war staring us in the face, a probability of our ports being blockaded, and every avenue to monetary negotiations being rapidly closed up. It will be sufficient for them, simply to express the opinion, that had the Legislature, at its last session, provided a sufficient tax our pecuniary condition would not have been in the deplorable situation in which we now find it, nor would the necessity have been so imperative as it now is, to tax the people heavily when they have so little ability to pay.

The State has necessarily incurred a heavy debt. Our hitherto overflowing Treasury is empty. Our resources are almost entirely cut off. The money markets of the world are closed against us, and there is no extricating ourselves from the Financial dilemma in which we are plunged, unless we determine to throw ourselves upon our credit at home, and sustain that credit by cheerfully contributing to the present support of the Government, and the payment of her liabilities, by submitting to increased taxation.

The Comptroller in his report suggests the fact, that Texas has hitherto paid but one-half the amount of taxes to which other States in the Confederacy are subjected; and though the present is an inauspicious moment to levy an increased taxation on the people, nevertheless the exigencies of the times require it should be done, and the committee are satisfied that the patriotism of the people of Texas, together with their State pride, will induce them to submit without a murmur to the increase of taxation, which is found to be the only means by which the Government can be supported, and her liabilities discharged.

The committee have thoroughly discussed the policy of funding the present debt of the State, and have seriously considered the possible results which may accrue from carrying out the proposed plan, of making her entire indebtedness receivable for taxes and all public dues.

The outstanding liabilities of the Government audited and unaudited, do not exceed the sum of one million two hundred thousand dollars, (\$1,200,000) an amount, if not insignificant under ordinary circumstances, and in prosperous times, at most, not so huge in its proportions as seriously to disturb the financial resources of so great a State as our own. Under present circumstances however, it is a debt of such dimensions as seriously to inconvenience the State to pay, and provide at the same time for the expenses of the civil Government, and the exigencies which may arise during the next two years, owing to the war.

To guard the credit of the State—to preserve her integrity and honor, and to avoid the slightest suspicion of unfaithfulness on her part towards those who have become her creditors, by taking up arms in her defence, or furnishing the necessaries of life to soldiers in her service, has been a subject of mature deliberations and thought; and while perhaps, the State by funding her debt, might be able to struggle through the present perilous times with less difficulty, yet in consideration of the obligation which rests upon her to pay promptly above all others her soldiers, the committee have thought it best for the credit of the State, apart from all other considerations, to make the debt thus incurred receivable for taxes and public dues, as the only means of making the certificate of indebtedness approximate silver and gold; and thus, in the absence of money, to do all in her power to remunerate those brave men, who in view of the perils and hardships which are incident to a soldier's life, are but poorly paid at best, save in the gratitude which every good citizen yields them as their just due.

To fund the debt, and issue bonds therefor, of a denomination not less than one hundred dollars, (100) drawing 8 per cent, interest, payable semi-annually, and due in ten, fifteen, or twenty years, has been a proposition frequently made, and by many seriously considered.

The objections to this policy are many in the opinion of the committee, the most important one of which has already been alluded to. The present and future credit of

our State must be carefully guarded, and the committee believe that it would be most materially affected, if she should, under the plea of necessity, postpone or defer her debt without an effort to pay it, save by funding and the issuance of bonds. Under this plan an amount of injustice would be perpetrated, which the committee cannot consent to. The debt has been contracted under peculiar circumstances, and nothing should be left undone upon the part of the State to discharge it immediately. If the debt was funded the holders of smaller amounts than one hundred dollars would be at the mercy of the capitalist, who might, or might not desire to fund; and he who held an amount of two or three hundred dollars would be compelled to sell at any rate capitalists or speculators might establish, or receive if he funded, sixteen or twenty-four dollars, as the case might be, each year, semi-annually, as the interest on his claim against the State; an amount so small as scarcely to be considered by those who are now, or are to be the holders of the warrants.

It is no argument, in the opinion of the committee, in favor of funding this debt, that a considerable amount of the three hundred thousand dollars in Treasury warrants, which have been issued on audited claims, is in the hands of speculators. It is to be regretted, that the condition of our Treasury has been such as to force those holding claims against the State, to dispose of these claims at ruinous rates. Nevertheless, it is not in the line of our duty to enquire who has made a good trade upon his capital, any more than to enquire into or regulate those who have been generally prosperous or unfortunate in their business transactions. A purchase of claims against the State at their market value is as legitimate a transaction as the purchase of any other description of claims, and while we are at liberty to loath the man who by his capital has the power, and uses it, to oppress his fellows and prey upon the necessities or misfortunes of others, we should be careful to commit no legislative wrong to reach this class of individuals.

From information received of the Comptroller of the State, and from other sources, the committee are satisfied that a large proportion of the debt still remains in the hands of the original holders, who have been waiting patiently for the Legislature to appreciate their claims, and the

committee are satisfied that imperative duty requires the State of Texas at least to make an effort, to raise her certificates of indebtedness from their present depreciated value to par, or as near it as is possible under the circumstances, and they know of no means by which this may be done except by the plan indicated—to make the debt receivable for the taxes and all other public dues.

The committee have, after a careful examination of the tax lists, satisfied themselves that the value of the taxable property in the State in ordinary times would be two hundred and fifty-seven thousand four hundred and thirty-two dollars, and allowing a depreciation of sixty-eight millions four hundred and fourteen thousand three hundred and fifty-eight dollars, being one fourth of the estimate value, in consideration of the condition of the country, we have as the present value of taxable property in the State two hundred and five million two hundred and forty-three thousand and seventy-four dollars.

The proposed rate of taxation is one-fourth of one per cent, or twenty-five cents on the one hundred dollars, and the revenue derived from it will be five hundred and thirteen thousand one hundred and seven dollars and sixty-eight cents per annum. The number of persons liable to poll tax in the State, is set down by the Comptroller at fifty-five thousand. If a deduction of twenty thousand is made from this estimate for soldiers in the service, and the poll tax is raised from fifty cents to one dollar, we have from this source thirty-five thousand dollars. The occupation tax has been considerably increased by the committee, and from this source, should the increase be endorsed by the Legislature, at least eighty thousand dollars will be derived. There is due on the assessment of 1860 about fifty thousand dollars, and the office fees for each year, at a moderate estimate, will be seventeen thousand dollars per annum. The revenue from these sources amounts to nearly seven hundred thousand dollars per annum, and in this estimate no reference is made to the sale of lands within the next two years, which may be fairly presumed will amount to between fifty and one hundred thousand dollars.

It will be seen that if the value of the taxable property has been correctly estimated, and a sufficient deduction has been made for its depreciation on account of the war, that we may safely calculate on a revenue of seven hundred

thousand dollars per annum, which will absorb the debt and interest, besides allowing for the 10 per cent, which under the Constitution must be collected in cash, and which is set apart for the School fund.

The certificates of indebtedness to be issued in future; the committee agree should draw no interest, being made receivable for taxes and public dues, and those holding the 10 per cent warrants already issued should be compelled to return them to the Comptroller's office, that the interest may be computed, and the warrants bearing no interest be given in lieu of them, otherwise they shall not be received for taxes or public dues. The funding system should be continued, making it optional with the holders of warrants or those having claims against the State to fund their debt.

The taxes thus being received precludes the idea of any considerable amount of gold and silver being paid into the Treasury, and as the debt amounts to nearly as much as the income to be derived from taxation, the inquiry arises, what shall be done for money to carry on and support the Civil Government, and to provide for emergencies which may arise within the next two years?

To support the civil list it has cost the State heretofore over three hundred and fifty thousand dollars a year. Reductions can, and must be made. Retrenchment must enter into every department, and as by the war and the stringency of the times, business is decreased, so must the State decrease and limit her expenditures. The Committee are satisfied from their investigations that the expense of the civil list need not be over five hundred thousand dollars in the next two years, and our public officers, hard as it will be upon them, must be content to receive their salaries in the same certificates of indebtedness with which the creditors to the State are proposed to be paid off. The committee do not propose a reduction in the pay of necessary officers, but they are satisfied that many may be discharged now, who hitherto may have been necessary, and they are assured that the public offices may be kept open and all legitimate business transacted for a much less sum than has been hitherto required.

With the amount to be paid in cash, under the Constitution, out of the taxes, together with what is now in the Treasury, there will in the next two years be at least two hundred thousand dollars in money, to meet such exigen-

cies as may require actual cash, and the Committee believe that if this amount, together with the Railroad securities, can be Constitutionally placed at the disposal of the Executive, a sufficient guarantee will be given to the State that a war fund may be readily acquired, if the necessities of the Government demand it. If the 10 per cent, belonging to the School fund, should be borrowed and placed at the disposal of the Governor, Treasury warrants to the same amount should be substituted in its place, and in lieu of the Railroad bonds, should it become necessary to use them, State bonds should be substituted, drawing the same rate of interest. It is but just that the Executive should be untrammelled in this respect, after the Legislature shall have adjourned. Having been called to the high position which he occupies by the people, the Governor should have extended to him the unlimited confidence of the people and their representatives; and in these perilous times it is a necessity, in the opinion of the Committee must be obvious to all.

Some suggestions have been made to the committee relative to the debt due the State of Texas by the Confederate Government, and the necessity of securing it at an early day has been recommended. While the committee feel the absolute necessity of money to carry on the State Government, and expect that by some action of the Legislature our claims against the Confederate Government may at least be speedily recognized and audited, they do not deem this a proper time to urge the payment of that debt. They believe it is incumbent upon the State to contribute her support to the General Government by receiving the Confederate Treasury notes in like manner with her own warrants—in payment of taxes and all public dues. Ours is a new Government surrounded with difficulties, engaged in repelling a powerful, unscrupulous and vindictive foe. Its resources are dependent upon the patriotism of the citizens and the self-sacrificing spirit which has already been displayed on their part. With that Government we must sink or swim, survive or perish, and it behooves us from these considerations, as well as the motives which should animate the bosom of every patriot, to stand by, sustain, and uphold it in every manner possible. The endorsement which may thus be given to the Confederate money by the State of Texas, will have a tendency to place it upon a par value with silver and gold among our citizens, and the committee

believe that the people will hail with pleasure the inauguration of this policy by their State.

Should the plan recommended by the committee be adopted by the Legislature, and prove as successful as the committee hope it may, the State will have but a small outstanding debt at the next regular meeting of the Legislature, which will remain to be discharged, unless the present war should continue, and necessity require the contracting of new liabilities on the part of the Government, which it might not be able to meet immediately.

To make provisions for the present and the future has been a task the committee have attempted to perform, and if they have failed in doing so to the satisfaction of the Representatives of the people, they have at least performed the duty assigned them to the best of their ability.

The bills and resolutions which are herewith returned to the House have been carefully considered, and the subject matter of most of them being contained in the bills prepared by the committee for the consideration of the House, they respectfully ask to be discharged from their further consideration.

HORACE CONE,

Ch'n Finance Com., H. of R.

#### COMMENTARY:

##### MILITIA BILL

The military committee have reported a carefully digested bill for the organization of the militia, which is under consideration before the House.

It provides for thirty-three brigade districts corresponding with the senatorial districts, and a thorough and effective organization of the entire military strength of the State.

It is long and elicits much discussion in the House. We propose giving the bill entire when it passes. [Source: *Texas State Gazette* (Austin), December 14, 1861].

Saturday, December 14, 1861

#### BILLS:

Original Bill 157, A Bill to be entitled "An Act amending Article 694 of the Code of Criminal Procedure." Read first time and referred to the Judiciary Committee.

Original Bill 162, An Act to suspend the laws for selling estray stock until the first of January 1864 or until six months after the war. Read first time.

Monday, December 16, 1861

**BILLS:**

House Bill 29, An Act to incorporate the Texas Manufacturing Company. Read first time. Rule suspended, read second time, and ordered engrossed. Rule further suspended, read third time and passed by 2/3's vote.

House Bill 52, An Act to amend "An Act amendatory of the laws to raise revenue by taxation approved February 16th, 1858," and to amend an act entitled "An Act to amend an act amendatory of the laws to raise revenue by taxation, approved February 16th 1858." Approved April 8th 1861. Read and ordered engrossed.

Original Bill 136, A Bill to incorporate Ellis County Agricultural and Mechanical Association. Read first time and referred to the Committee on Agriculture.

Original Bill 137, A Bill to be entitled "An Act to make an appropriation for furnishing the governor's mansion." Read first time. Rule suspended and bill read second time and ordered to be engrossed. Rule suspended, read third time and passed.

Original Bill 138, A Bill entitled "An Act for the relief of Martha Brennan." Read first time and referred to the Committee on Public Land.

Original Bill 139, A Bill entitled "An Act to facilitate the growth and prosperity of agriculture and stock raising in the counties of Cameron, Hidalgo, and Nueces." Read first time and rejected.

Original Bill 155, An Act repealing Section 10, Article 1703, Oldham and White's Digest. Read first time and referred to the Judiciary Committee.

Tuesday, December 17, 1861

**BILLS:**

House Bill 31, An Act amendatory of and supplemental to an act to incorporate the city of Marshall, passed January 30, 1856. Read first time. Rule suspended, read second time and ordered engrossed.

House Bill 52, An Act to amend "An Act amendatory of the laws to raise Revenue by Taxation, approved February 16, 1858" and to amend an act entitled "An Act to amend an act amendatory of the laws to raise Revenue by Taxation approved February 16, 1858." Approved April 8, 1861. Read third time and lost.

Senate Bill 11, A Bill for the relief of R. A. Henson. Read first time. Rule suspended, read second time and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 13, A Bill for the relief of the heirs of Sanford Holman, dec'd. Read first time and referred to Committee on Private Land Claims.

Senate Bill 14, A Bill for the relief of Garnett F. Lankford. Read first time and referred to Select Committee of Three.

Senate Bill 19, An Act to authorize the Governor to appoint Commissioners of deeds, etc. in the Choctaw, Chickasaw, Cherokee and Creek Nations of Indians on the Northern border of Texas. Read first time and referred to Judiciary Committee.

Senate Bill 55, An Act for the relief of A. H. Cook. Read first time and referred to Committee on Claims and Accounts.

Original Bill 123, A Bill amendatory of and supplementary to an act "To reorganize the Court of Claims and to extend the time for the presentation of claims for land against the Republic of Texas," approved February 7, 1860. Read first time.

Original Bill 139, A Bill entitled "An Act to facilitate the growth and prosperity of Agriculture and stock raising in the counties of Cameron, Hidalgo, and Nueces." Reconsidered and rejected.

Wednesday, December 18, 1861

#### BILLS:

House Bill 49, An Act to provide for the sale and settlement of the vacant and unappropriated alternate sections of land in Fisher's and Miller's Colony. Read second time and ordered engrossed.

House Bill 50, An Act to amend the first section of an act entitled "An Act to authorize the withdrawal from the General Land Office of deeds issued on paper of the Second Seal" of February 11, 1850. Read second time and ordered to be engrossed.

House Bill 68, An Act supplemental and amendatory of an act prescribing the manner of authenticating instruments for record. Read third time and passed.

Senate Bill 3, An Act to be entitled "An Act for the

benefit of irrigable property.” Read second time and passed to a third reading. Rule suspended, read third time and passed.

Senate Bill 12, An Act to amend the first section of an act prescribing the order of determining cases in the Supreme Court. Read and adopted.

Senate Bill 13, An Act for the relief of the heirs of Sanford Holman, dec'd. Read second time and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 14, A Bill for the relief of Garnett F. Lankford. Read second time and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 21, An Act making an appropriation for the mileage and per diem pay of the members and officers of the Ninth Legislature. Read first time. Rule suspended, read second time and ordered engrossed.

Senate Bill 38, An Act to provide arms and ammunition for military defense of the State of Texas. Read first time and referred to Committee on Military Affairs.

Original Bill 140, An Act providing for the settlement of accounts between the State of Texas and the Confederate States. Read first time and referred to Committee on State Affairs.

Thursday, December 19, 1861

#### BILLS:

House Bill 31, An Act amendatory of and supplemental to an act to incorporate the city of Marshall, passed January 30, 1856. Rule further suspended, read third time and passed.

House Bill 49, An Act to provide for the sale and settlement of the vacant and unappropriated alternate sections of land in Fisher's and Miller's Colony. Rule suspended, read third time and passed.

House Bill 50, An Act to amend the first section of an act entitled “An Act to authorize the withdrawal from the General Land Office of deeds issued on paper of the Second Seal” of February 11, 1850. Rule suspended, read third time and passed.

Senate Bill 21, An Act making an appropriation for the mileage and per diem pay of the members and officers of the Ninth Legislature. Rule further suspended, read third time and passed.

Original Bill 162 (d), A Bill to be entitled “An Act

to incorporate the Live Oak Female Seminary." Read first time and referred to Committee on Education.

Friday, December 20, 1861

**BILLS:**

House Bill 52, An Act to amend, "An Act amendatory of the laws to raise Revenue by Taxation approved February 16, 1858," and to amend an act entitled "An Act to amend an act amendatory of the laws to raise Revenue by taxation approved February 16, 1858." Approved April 8, 1861. Reconsidered and passed.

House Bill 58, An Act providing for the recovery of State Arms. Read first time and referred to Committee on Military Affairs.

Original Bill 141, A Bill to amend the fifth section of an act to authorize L. S. Owings and his associates or assigns to make and maintain a toll bridge across the San Antonio River. Read first time and referred to Committee on Roads, Bridges and Ferries.

Saturday, December 21, 1861

**BILLS:**

House Bill 58, An Act providing for the recovery of State Arms. Read second time and ordered engrossed. Rule suspended, read third time and passed.

Original Bill 130, An Act to amend 15th, 16th, 22nd, 23rd, 27th sections of an act of July 8, 1858, regulating roads and road overseers. Read first time and referred to Committee on Roads, Bridges and Ferries.

Original Bill 160, A Bill to be entitled "An Act for the relief of the assignees of David Anderson." Read first time and referred to Committee on Public Land Claims.

**COMMITTEE REPORT:**

The Hon. N. H. Darnell, Speaker of H. R.

The Committee on Roads, Bridges & Ferries to whom was referred An act to amend an act entitled an act to regulate overseers of public roads in this state approved February 8th 1858 the Committee has had the same under consideration and they have instructed me to report the same back and recommend its passage.

James W. Mosely  
Chairman

Monday, December 23, 1851

**BILLS:**

House Bill 33, A Bill for the relief of the heirs of James McCown, assignee of Geo. S. Jones. Read first time. Rule suspended, read second time and passed to third reading. Rule further suspended, read third time and passed.

House Bill 38, An Act to require the Financial Agent of the State Penitentiary to settle his accounts quarterly with the State Comptroller. Read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 42, An Act supplemental to and amendatory of an act to provide for the appointment of patrols and to prescribe their duties and powers, approved May 9, 1846 and to repeal section ten of said act. Read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 47, An Act to amend Section Five of an act relating to organization of the Lunatic Asylum. Read first time and referred to the Judiciary Committee.

House Bill 48, An Act regulating the fees for swimming cattle at ferries. Read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 56, An Act to amend an act entitled "An Act prescribing the mode of establishing the liabilities of drawers and endorsers of bills of exchange and promissory notes, approved 20th March 1848." Read second time and ordered engrossed. Rule suspended, read third time and passed.

Senate Bill 16, An Act to amend the charter of the Waco Classical School. Read second time and passed to third reading. Rule suspended, read third time and passed by 2/3's vote.

Senate Bill 17, An Act to amend the first and fifth sections of an act to incorporate the East Fork Bridge Company. Read first time. Rule suspended, read second time and passed to third reading. Rule suspended, read third time and passed by a 2/3's vote.

Tuesday, December 24, 1861

**BILLS:**

House Bill 37. An Act to amend the first and eleventh sections of an act to authorize the sale of the public domain. Read first time.

House Bill 43, An Act providing for Summary Proceed-

ings against Justices of the Peace in certain cases. Read second time and ordered engrossed. Rule suspended, read third time and passed.

Senate Bill 15, An Act to authorize the Supreme Court to hold its sessions during the present war. Read and adopted.

Original Bill 151, An Act for the relief of the heirs of James Holland. Read first time and referred to Committee on Public Lands.

Thursday, December 26, 1861

#### BILLS AND RESOLUTIONS:

Original Bill 153, A Bill to incorporate the Texas Mining and Manufacturing Company. Read first time and referred to Committee on State Affairs.

Resolutions offered by Mr. McDonald, in the House of Representatives, and unanimously adopted as a token of respect, on the announcement of the death of Colonel B. F. Terry.<sup>32</sup>

**Resolved**, That we have heard this morning with the deepest sorrow, the sad intelligence of the death of our brave and distinguished fellow citizen, Colonel B. F. Terry, who was killed on the 17th inst. in a skirmish with the enemy near Bowling Green, Kentucky.

**Resolved**, That in the death of Colonel Terry, the State of Texas mourns the loss of one of her noblest patriots and bravest and best citizens, and that we deeply and sincerely deplore the untimely event which has thus deprived the State of a good citizen and our Confederacy of a noble and brave defender.

**Resolved**, That these resolutions be adopted and spread upon the Journals, and that the Clerk be requested to furnish a copy of them to the family of the deceased, and also to the brothers of Colonel Terry, and as a token of respect that the House stand adjourned until tomorrow morning at 10 o'clock, A.M.

#### COMMITTEE REPORT:

To the Speaker of the House of Representatives:

The Judiciary Committee have considered the House Bill, entitled "An Act to prevent certain deeds therein named from being done on Sunday," together with the amendments thereto, all of which were recommitted to

<sup>32</sup>Texas State Gazette (Austin), December 28, 1861.

them and have, upon consultation, agreed to strike out the word "pursuit" in the first section and to add the words, "nor to wagons traveling on the road," to second section of the bill as originally reported by the Committee and have instructed me to report to the House the accompanying substitute for the bill and amendments and recommend the adoption of the substitute and the passage of the bill. With the exceptions of the words above stated, the substitute is in the words substantially of the bill first reported by the Committee.

Frank Williams  
for the Committee

Friday, December 27, 1861

#### BILLS AND RESOLUTIONS:

House Bill 37, An Act to amend the first and eleventh sections of an act to authorize the sale of the public domain. Read second time and ordered engrossed.

House Bill 62, An Act to fix the salaries of officers and clerks therein named. Read first time and referred to Joint Committee on Retrenchment.

Senate Bill 26, An Act to make an appropriation for the payment of Commissioners sent by the Convention to the Choctaws, Cherokees and other friendly tribes of Indians and to Arizona and New Mexico. Read first time and referred to Committee on Military Affairs.

Senate Bill 36, An Act for the relief of certain railroad companies of the State of Texas. Read first time and referred to Committee on Internal Improvements.

Original Bill 142, An Act to authorize the Commissioner of the General Land Office to issue land scrip to Wise, Jack, Young, Montague, Clay, Archer, and Throckmorton counties. Read first time and referred to Committee on Public Lands.

Original Bill 152, A Bill to establish a factory for the manufacturing of rifles and other arms for the purpose of arming the state. Read first time and referred to Select Committee of Five.

Joint Resolution 10, A Joint Resolution providing for the sale of Oldham and White's Digest. Read second time and ordered engrossed. Rule suspended, read third time and passed.

Saturday, December 28, 1861

**BILLS:**

House Bill 37, An Act to amend the first and eleventh sections of an act to authorize the sale of the public domain. Read third time and passed.

House Bill 61, An Act to furnish speculation in certain cases. Read second time and ordered to be engrossed. Rule suspended, read third time and passed.

Senate Bill 19, An Act to authorize the Governor to appoint Commissioners of Deeds, etc., in the Choctaw, Chickasaw, Cherokee, and Creek Nations of Indians on the Northern border of Texas. Read second time and passed to a third reading. Rule suspended, read third time and passed.

Original Bill 143, A Bill to be entitled "An Act conveying to the persons therein named, the right to use and occupy a piece of land herein named for a Church House and Grave Yard [Methodist Episcopal Church, South, near Gatesville, Coryell County]." Read first time.

Original Bill 144, An Act for the relief of the heirs of Denning Thompson. Read first time.

Original Bill 145, An Act to provide books, stationery, and furniture for the offices of District and County Clerks and District Surveyor.<sup>33</sup> Read first and second times and referred to Committee on Finance.

Original Bill 146, A Bill to be entitled "An Act to prevent seditious speeches or writings and prevent their circulation."<sup>34</sup> Read first time and referred to Judiciary Committee.

Original Bill 150, A Bill for the relief of Q. J. Nichols. Read second time and laid on table.

**COMMITTEE REPORT:**

Hon. C. W. Buckley, Speaker of the House of Representatives:

The Committee on Claims and Accounts, to whom was referred, a bill for the relief of Q. J. Nichols, have had the same under consideration, and after a careful investigation do not find sufficient evidence to sustain his claim for extra work done on the new Land Office, and as he

<sup>33</sup>The date shown for the introduction of this bill is Sunday, December 29, 1861. Since the House probably did not meet on Sunday, the bill has been moved to this date.

<sup>34</sup>*Ibid.*

alleges, done under the sanction of the Commissioner having the Control of the building.

It appears that on the 28th of July 1856, Mr. Nichols entered into a contract with E. M. Pease, S. Crosby and James H. Raymond, Commissioner appointed by "An Act to provide for the erection of a fire proof building to be used as a General Land Office for the State of Texas." Approved Feby 2, 1856. The plan and specifications explanatory to the plan including the Cistern, fence and out buildings were advertised:—the contract was awarded to Nichols at \$39,780.

The plan was made a part of the contract by reference, signed by him, and the specifications, which were not altered after signing were annexed to the same, the whole to be completed on the 28th of January 1858.

The total amount of Mr. Nichols claim for extra work, is \$11,300.—the first item of which is \$1,400.—claimed in consequence of the building being placed on a hill side, this charge cannot be sustained, as Captain Crosby, one of the Commissioners says that it was understood that the building was to be placed there before the contract was signed. Another item of \$1,000 for extra work on window shutters, fastenings, etc. The window shutters was to have been made of  $\frac{1}{4}$  inch Boiler Iron, for which was substituted a lighter and much less costly shutter, and of the other items of extra work said to have been done, the Committee are of the opinion that there is no evidence that he has any claim against the State, as the changes made in several instances was in the contractor's favor.

The majority of the Committee instruct me to report the bill back to the House for its action, and ask to be relieved from any further consideration.

Respectfully Submitted  
Jas Walworth  
Chairman

December 28  
Laid on table

Monday, December 30, 1861

#### BILLS AND RESOLUTIONS:

Senate Bill 23, An Act for the relief of companies incorporated for purposes of internal improvement, by allowing them further time for performance, on account of

the pending war. Read first time and referred to Committee on Internal Improvements.

Original Bill 147, A Bill to be entitled "An Act to provide for applying the taxes of Galveston County to the payment of certain monies which have been advanced for public purposes." Read first time and referred to Committee on Finance.

Original Bill 148, An Act to provide for the trial and punishment of slaves. Committee on Slaves and Slavery reported [contents of report unknown].

Joint Resolution 11, A Joint Resolution concerning Confederate State Affairs. Read first time and referred to Committee on Confederate Relations.

**MESSAGE:**

**EXECUTIVE DEPARTMENT<sup>35</sup>**

Austin, December 30, 1861

**Gentlemen of the Senate  
and House of Representatives:**

I have the honor to transmit herewith to your honorable bodies a copy of a joint resolution "to take steps to open the ports of the South to the commerce of the world," adopted by the General Assembly of the State of Tennessee on the 30th day of November, 1861, and enclosed to this department by the Governor of said state in a communication under date of the 10th instant.

The joint resolution presents for the consideration of the people of the cotton growing states questions of supreme magnitude in which Texas, as one of the cotton states, is deeply interested.

Whilst it is not believed that the action you may take in reference to the matters passed on by the joint resolution will be absolutely controlling, yet it would be very persuasive and in all probability sufficiently so, to induce the people to follow the policy which may be indicated.

The interest to be effected is that of the planter, the basis of all the wealth and prosperity of a state. There is no doubt but what action should be taken in order that concert and harmony should exist among the planters. But while it is essential that you act upon the subject it is much more essential that you be deliberate and mature in any measure you may adopt.

<sup>35</sup>Executive Record Book No. 81, 1861-1863, pp. 69-71 (Texas State Archives, Austin).

In immediate connection with this subject I will state that on the 29th [of] November, 1861, the Executive received a communication from the Honorable Thomas J. Hudson, President of the "Planter's Convention of the South," giving information to the Governor of the State of Texas that said Convention would convene in the City of Memphis in the State of Tennessee on the 16th day of December, 1861, and advising the appointment of delegates on the part of this state to meet delegates from the other Southern states, to take into consideration matters of vital import to the great planting interest of the South. The time of the notification of the convening of said Convention was given so short a time before its anticipated assembling that there was no time left me to submit the selection of delegates to the Legislature if it was expected that they should arrive in time to participate in the proceedings of the Convention in consequence of the injury that might result from delay. I assumed the responsibility of selecting and appointing four delegates to said Convention, viz., Judge James M. Maxey, Dr. James E. Scott, Honorable H. R. Runnels, and Honorable Guy M. Bryan, of whom the three last named declined to accept, and the first being only temporarily able to represent the State, thus leaving Texas wholly unrepresented in the Convention, which adjourned without action to meet again in the same city on the 3rd Monday in February, 1862, a circular announcing which fact has been distributed by order of the Convention, a copy of which I herewith transmit to you.

In view of the great importance of the questions which will evidently come before the Convention for discussion and decision, I deem it my duty to lay the matter before you for such action as you in your wisdom may think appropriate. Texas, in my opinion, ought to be represented.

Respectfully,  
F. R. Lubbock

Tuesday, December 31, 1861

#### **BILLS:**

House Bill 55, An Act to amend the second and third sections of an act entitled "An Act authorizing a loan and imposing a specific tax to meet the principal and interest thereof, under the provisions of the 3rd section of the

7th Article of the Constitution of the State." Approved April 8, 1861 and supplementary to said act. Read first time.

House Bill 57, An Act to provide for taking testimony by deposition during the continuance in force of an act entitled "An Act suspending all laws for the collection of debts and liabilities on bonds, promissory notes, bills of exchange and contracts for the payment of money until the 1st day of January 1864 or until six months after the close of the present war should it terminate before the date named or until otherwise provided by law." Approved December 7, 1861. Read first time and referred to Judiciary Committee.

Senate Bill 26, An Act to make an appropriation for the payment of Commissioners sent by the Convention to the Choctaws, Cherokees and other friendly tribes of Indians and to Arizona and New Mexico. Read second time and amended. Rule suspended, bill passed to third reading.

Senate Bill 39, An Act to amend the fourth section and to repeal the sixth section of an act to regulate public printing. Read first time and referred to Committee on Printing.

Original Bill 149, A Bill to be entitled "An Act for the relief of N. M. Burford." Read first time and referred to Committee on Finance.

Original Bill 159, A Bill to amend the fifteenth section of an act to regulate proceedings in the County Court. Read first time and referred to Judiciary Committee.

#### MESSAGE:

Executive Department  
Austin Dec. 31, 1861

Gentlemen of the House of Representatives:

I herewith return to you an Act originating in your Honorable Body, entitled "An Act making an appropriation for the mileage and per diem pay of the members and officers of the Ninth Legislature."

I am constrained to withhold my assent to this Act.

The first section appropriates the sum of \$80,000 for the purposes stated in the caption of the Act and provides that for the sum so appropriated, the Comptroller is authorized to draw his warrant on the State Treasury upon the Certificate of the Secretary of the Senate, and the

Chief Clerk of the House of Representatives.

The second section provides that for the payment of the members of the Legislature and the officers of both Houses, the Treasurer may use any funds in the Treasury belonging either to the proceeds of the sales of the University Lands, the settlement of the successions of deceased persons, escheated property and the Sinking Fund on Rail Road bonds; providing however that when any of such funds shall be used, the Treasurer shall replace the amount so used with bonds of the State for a like amount and providing further that each member and officer shall receive his fair proportionable share of such funds.

The third section provides that when the proceeds of the sales of the University Lands, and all monies arising from the settlement of successions and escheated property and Sinking fund, shall have been exhausted in making the payments contemplated, then the members and officers of the Legislature shall at their option be furnished by the Comptroller with an order or draft on the Assessor and Collector of the county in which he may reside, for any balance of money, that may be still due to him. But in case, any members or officer, should prefer it, the Comptroller is authorized for such balance due to draw his warrant or warrants, which shall be countersigned by the Governor and endorsed by the Treasurer and shall be receivable in payment for Taxes and all public dues: one tenth of said sum so due to such member or officer may at their request be issued by the Comptroller in one dollar warrants and for the remaining nine tenths of said balance due, no warrant shall be drawn for a less sum than five dollars.

My objections to this Act are confined to the 2nd & 3rd sections of it. The funds appropriated by the 2nd section of the Act. I am informed by the Treasurer (a copy of whose statement I herewith submit) constitute the only amounts now remaining in the Treasury, except the sum of \$43,810. 67/100 belonging to the School Fund account and the Special Deposits to the credit of Counties and assessors over which I presume no control will be sought to be exercised.

If then this Act should become a law, all the present available funds in the State Treasury of every description whatever will at once pass from the vaults of the Treasury

in the hands of the beneficiaries under this Act.

While I believe that the State should pay to the utmost of its abilities, all its officials, both civil and military, yet under the present critical condition of our beloved state and Confederacy, I confess I would witness with feelings of the deepest sorrow the last dollar drawn from the Treasury unless it were to furnish arms, ammunition and clothing to her gallant sons who are now so proudly vindicating the old fame of the Texian soldier.

The monies arising from the sales of the University Lands were intended for a wise and beneficent object and I greatly doubt the wisdom of disposing of them for the purpose indicated in the Act, under consideration or for any like purpose. The funds arising from the settlement of successions of deceased persons, and escheated property belong in all probability to minors and orphans who have no legal protection or guardian, to demand these sums in their names. I am further informed by the Treasurer in the Statement herewith submitted that he has unofficial information that a large portion if not all, of the last named funds will probably be shortly demanded by their rightful owners.

There is still more grave and serious objection to the proposed appropriation of the Sinking Fund on Rail Road Bonds.

By the "Sinking Fund" referred to in the 2nd Section of the Act, the Legislature doubtless meant the Fund provided for in the 7th Section of An Act to provide for the investment of the Special School Fund in the bonds of Rail Road Companies, incorporated by the State, passed 13th Day of August 1856. No constitutional objection could be urged against the appropriation of that fund had the legislature which created it remained undisturbed: for it could not have been regarded as a part of the School Fund until applied to Loans, to Railroad Companies at their maturity. But your Honorable Body will perceive that the first section of An Act providing for the investment of the Sinking Fund approved 13th February 1860 makes provision that the same shall be entered as a credit on the bond, on bonds, of the Company paying the same into the Treasury as an extinguishment of so much of said bond, or bonds: provided the Company shall assent thereto. What was before the Sinking Fund is no longer subject to rein-

vestment for the benefit of the Companies paying the same, but when paid into the Treasury becomes a part and parcel of the School Fund and is as sacred, as any other part of the same Fund. I refer your Honorable Body to the accompanying communication from the Comptroller, which exhibits the fact that a large number of the Rail Road Companies to which portions of the School Fund have been loaned, have filed their assent to this practical abolition of the Sinking Fund.

At a time when every energy of the State should be husbanded for defense we should carefully guard against draining the Treasury to meet the ordinary expenses of legislation, of Special funds protected by Constitutional provision or held in trust subject to the use of others. The time may speedily come when self preservation shall demand that every resource of the State be put in requisition for the defence of our liberties, and be [overthrown?]. No one can tell how soon, stern necessity in our demand of those with the entrusted, with the conduct of public affairs that any and every fund shall be used for the public defence: but surely the appropriation of these funds, can be justified only by the grave necessity of employing them in defending and preserving the lives and liberties of the people. Furthermore, the Proviso to the second section which was no doubt intended to furnish a substitute for the funds, so withdrawn, appears to be wholly inadequate to attain the object desired. It provides that the funds so withdrawn shall be replaced by the Treasurer with State Bonds for a like amount. From whom are these State Bonds to be obtained? By whom, and when and how issued? How signed and countersigned? When and to whom payable? What rate of interest, if any, are they to be? And how is such interest to be paid? On all these points the Act is silent. It would be well before disturbing these funds to provide in the clearest and most unmistakable terms, for their return to the Treasury, within a short and given period of time.

The third section of the act, under review, provides that the warrant or warrants drawn by the Comptroller shall be at the option of the members or officers issued, one portion in sums of one dollar and the balance in sums of not less than five dollars, and makes the same receivable

for Taxes and all public dues. This seems to me also liable to objection.

In the absence of any general Law on the subject, it places the members and officers of the Legislature on a footing more favorable than all other holders of these warrants in the State. This I feel sure is not the wish or purpose of your Honorable Body; yet, such is the effect of this Act.

There are other serious objections which might be raised to this Act, but enough has been said to direct your attention more closely to the subject and I am satisfied that upon more mature consideration, you will see and appreciate the propriety of the course I have felt compelled by a strong sense of duty to take with reference to this measure.

I observe that the Act passed your Honorable Body under a suspension of the rules and without reference, so far as I can learn, to a Committee. Under these circumstances I have less hesitation than I would otherwise feel in asking its careful reconsideration at your hands.

Very respectfully,  
F. R. Lubbock

Wednesday, January 1, 1862

**BILL:**

House Bill 46, An Act to protect Public Buildings. Read second time and ordered engrossed. Rule suspended, read third time and passed.

**MESSAGE:**

**EXECUTIVE DEPARTMENT<sup>36</sup>**

Austin, January 1, 1862

**Gentlemen of the Senate  
and House of Representatives:**

I respectfully call your attention to the present condition of the Asylum for the Blind.

Immediately after I entered upon my duties as the Executive of the State, my attention was called by several members of the Legislature to unfavorable and prejudicial reports in circulation in regard to the management of said institution. Other parties were also making charges as to improper conduct in the asylum. Under this state of cases I deemed it due to the State, to the institution, to those

<sup>36</sup>*Ibid.*, 76-77.

controlling it, and to myself to notify the trustees of such reports that they might take such action as justice demanded.

The trustees, as was right and proper, instituted an examination as to the truth of the reports and charges: after hearing all the testimony adduced, the trustees, all of whom are respectable and reputable citizens of the City of Austin, decided that the charges preferred against the superintendent were not sustained and that he was a suitable person to have charge of such an institution. They further decided, however, unanimously, that in consequence of the various rumors, reports, &c., which have gained general notoriety, it was not to the interest of the institution for said superintendent to remain in charge of it and that the office of superintendent be declared vacant on the first day of January, 1862.

Within the past few days all but one of the trustees have resigned.

The superintendent on last evening surrendered the keys of the institution. Upon the [sic] visiting the asylum I found but two students remaining: one old man apparently over fifty years old, who was received from Comal County some three weeks since, with little hope of educating him, but with the prospect of benefiting him by attaching him to the mechanical department; the other, a young lady supposed to be from Calhoun County, aged about fifteen years and represented by the superintendent as positively idiotic, and as having learned as much perhaps as she can be taught.

I am unable to say what influences have operated to induce this truly unfortunate class of beings to voluntarily abandon an institution founded by the wisdom of the State for their exclusive benefit. The circumstances are before you. I can only say that it has not been done by any action or design of mine, and that I exceedingly regret that an institution calculated to do so much good could have been thus far of so little benefit to those for whose benefit it was established.

For some time past I believe fifteen or sixteen scholars have been the maximum of students: only ten students have been in the asylum for the past two or three months.

None of the students who have abandoned the institution are of very tender age, and I trust they will not suffer

any great injury by the course they have seen proper to pursue.

I am informed that the unfortunate girl, Amelia Bailey, who remained at the asylum has no relative and is in a destitute condition.

I have thus given you the facts in relation to the institution. Should you deem it advisable to continue the asylum, I will most cheerfully do all in my power to aid in making it useful and the happy home of the unfortunate blind who may seek its protection and benefits.

It is your province to decide upon and do what may seem best under existing circumstances.

Very respectfully.

F. R. Lubbock

Thursday, January 2, 1862

**BILLS:**

House Bill 39, A Bill to define the boundaries of Live Oak County. Read and adopted.

House Bill 40, A Bill to define the boundaries and provide for the organization of McMullen County. Read and adopted.

Original Bill 161, A Bill making further appropriation for contingent expenses for the Ninth Legislature. Read first and second times and referred to Committee on Finance.

**COMMITTEE REPORT:**

To the Speaker of the House:

The Judiciary Committee have considered a House Bill to be entitled "An Act to amend the fiftieth section of an act entitled an act to regulate proceedings in the County Courts pertaining to estates of deceased persons." Approved March 20, 1848 and herewith return the same to the House and recommend its passage.

M. M. Potter

Chairman

Friday, January 3, 1862

**BILLS AND RESOLUTIONS:**

House Bill 55, An Act to amend the second and third sections of an act entitled "An Act authorizing a loan and imposing a specific tax to meet the principal and interest thereof, under the provisions of the third section of the

seventh article of the Constitution of the State" Approved April 8, 1861 and supplementary to said act. Read second time and ordered to be engrossed. Rule suspended, read third time and passed.

House Bill 63, An Act to define and punish sedition and to prevent the dangers which may arise from persons disaffected to the State. Read first time and referred to Judiciary Committee.

Senate Bill 30, An Act prescribing what kind of funds may be received for certain public dues. Read and House refused to adopt.

Senate Bill 35, An Act to regulate the issuing of Treasury Warrants. Read and the House refused to adopt.

Senate Bill 38, An Act to provide arms and ammunition for military defense of the State of Texas. Read second time and passed to third reading. Rule suspended, read third time and passed.

Joint Resolution 7, A Joint Resolution to authorize and require the Adjutant General to collect the necessary information to make a register of the State Troops and have printed 500 copies of the same. Read first time. Amended and passed to third reading. Rule suspended, read third time and passed.

#### COMMENTARY:

10 o'clock Friday—The House has just passed the mileage and per diem bill, over the Governor's veto, on reconsideration, by a vote of 24 to 52. [Source: *Texas State Gazette* (Austin), January 4, 1862.]

Saturday, January 4, 1862

#### BILLS:

House Bill 44, An Act appropriating money for the purpose of transporting clothing to the volunteers. Read first time and referred to Committee on Military. Rule suspended, read second time and ordered engrossed. Rule further suspended, read third time and passed.

Senate Bill 22, An Act to define and establish permanently the northern boundary of Wood County. Read first time and referred to Committee on Counties and County Boundaries.

## MESSAGE:

EXECUTIVE DEPARTMENT<sup>37</sup>

Austin, January 4, 1862.

**Gentlemen of the Senate and  
House of Representatives:**

I am this morning in receipt of a communication from five of our members in the Provisional Congress of the Confederate States informing me "that large quantities of the clothing and supplies furnished by the patriotic citizens of our State to the Texas volunteers in the army on the Potomac are now lying scattered at various stations between Niblett's Bluff and Richmond and unless cared for by some suitable person will be lost and destroyed." They call upon the Executive to appoint an agent "to proceed at once to be responsible for searching out these packages and providing for their certain transmission to their points of destination.

I appreciate fully the importance of the suggestions made by our members of Congress and believe that under the 3rd section of a joint resolution passed by your honorable body and approved on 23rd November, 1861, I have the power to appoint an agent to carry out the object sought to be accomplished, yet no appropriation is made to carry out its provisions. I can but say that I am in daily receipt of petitions and letters calling my attention to the destitute condition of our soldiers in the field, that they are most certainly in a deplorable condition brought on from various causes but attributable in a great measure to a scarcity of good bedding and clothing. Something should be done and done promptly to relieve the wants and distresses of those brave spirits in the field, and I do hope and trust that the Legislature will at once make an appropriation of such sum as they may deem advisable for this patriotic purpose and to meet such appropriation subject [to] the specie funds now in the Treasury. I am, gentlemen,

Very respectfully,  
Your obedient servant,  
F. R. Lubbock

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<sup>37</sup>From the Senate journal of January 4, 1862. See Day (ed.), *Senate Journal of the Ninth Legislature, Regular Session*, 201.

Monday, January 6, 1862

**BILLS:**

House Bill 44, An Act supplemental to and amendatory of an act entitled "An Act to provide for the transportation of clothes and other contributions to the Texas Volunteers in the Confederate Army, passed January 4, 1862." Read first time and referred to Select Committee. Read second time and ordered to be engrossed. Rule suspended, read third time and passed.

Senate Bill 23, An Act for the relief of companies incorporated for purposes of internal improvement by allowing them further time for performance on account of the pending war. Read second time. Amended and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 55, A Bill for the relief of A. H. Cook. Read second time and passed to third reading. Rule suspended, read third time and passed.

Tuesday, January 7, 1862

**BILLS:**

House Bill 54, An Act supplementary to an act making an appropriation for the contingent expenses of the Ninth Legislature. Read first time. Rule suspended, read second time and ordered engrossed.

House Bill 57, An Act to provide for taking testimony by deposition during the continuance in force of an act entitled "An Act suspending all laws for the collection of debts and liabilities on bonds, promissory notes, bills of exchange and contracts, for the payment of money until the 1st day of January 1864 or until six months after the close of the present war, should it terminate before the date named or until otherwise provided by law." Approved December 7, 1861. Read second time and ordered to be engrossed. Rule further suspended, read third time and passed.

Senate Bill 25, An Act to authorize the county courts to make entry of unconditional headrights which have been passed upon by the courts, and the clerk thereof having failed to enter the same, upon such proofs as the law requires for their original issuance. Read first time. Rule suspended, read second time and passed to third reading. Rule further suspended, read third time and passed.

Senate Bill 26, An Act to make an appropriation for the payment of Commissioners sent by the Convention to

the Choctaws, Cherokees and other friendly tribes of Indians and to Arizona and New Mexico. Read third time and passed.

Original Bill 162 (c), A Bill to be entitled "An Act making appropriation for the mileage and per diem pay of the members and the per diem pay of the Officers of the Ninth Legislature." Read first time.

Wednesday, January 8, 1862

#### BILLS AND RESOLUTIONS:

House Bill 14, An Act supplementary to an act making an appropriation for the contingent expenses of the Ninth Legislature. Read third time and passed.

Senate Bill 27, A Bill to create the County of Kendall. Read second time. Amended and passed to third reading. Rule suspended, read third time and passed by 2/3's vote.

Senate Bill 33, A Bill for the relief of railroad companies. Read first time. Rule suspended, read second time and passed to third reading. Rule further suspended, read third time and passed.

Senate Bill 36, A Bill for the relief of certain railroad companies of the State of Texas. Read second time and passed to a third reading. Rule suspended, read third time and passed.

Original Bill 87, An Act to be entitled an act to amend the 16th Section of an act to provide for the assessment and collection of Taxes approved February 11, 1850. Read first time.

Original Bill 162 (b), A Bill to be entitled "An Act supplemental to an act suspending all laws for the collection of debts and liabilities on bonds, promissory notes, bills of exchange and contracts, for the payment of money until the 1st day of January, 1864, or until six months after the close of the present war should it terminate before the date named or until otherwise provided by law, approved December 7, 1861" Read and adopted.

Original Bill 162 (c), A Bill to be entitled "An Act making appropriation for the mileage and per diem pay of the members and the per diem pay of the officers of the Ninth Legislature." Read second time and postponed until Friday next at 10 o'clock.

Joint Resolution 8, A Joint Resolution requesting our Senators and Representatives in Congress to procure the

passage of an act to pay deputy marshals the balance due them for taking the census. Read second time and passed to third reading. Rule suspended, read third time and passed.

Thursday, January 9, 1862

#### BILLS AND RESOLUTIONS:

House Bill 53, An Act requiring the Comptroller to rent out certain public buildings in the City of Austin. Read first time. Rule suspended, read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 62, An Act to fix the salaries of officers and clerks therein named. Read second time and ordered to be engrossed. Rule suspended, read third time and passed.

Senate Bill 28, A Bill to change the boundary lines of Blanco and Kerr Counties. Read second time and amended. Passed to third reading. Rule suspended, read third time and passed.

Senate Bill 29, An Act for the relief of pre-emption settlers and to extend the time for the return of field notes and to extend the time for the payment of all dues by settlers, under the acts authorizing the sale of the public domain. Read first time. Rule suspended, bill read second time and passed to a third reading. Rule further suspended, bill read third time and passed.

Senate Bill 31, An Act concerning the disposal of certain funds therein named. Read first time. Read second time and amended, and passed to a third reading. Rule further suspended, bill passed.

Senate Bill 32, An Act to amend Article 721 of the Code of Criminal Procedure. Bill read first time and passed to a second reading. Read second time and amended. Rule suspended, bill read third time and passed.

Senate Bill 34, An Act to suspend the Statute of Limitations until sixty days after the declaration of peace between the United States and Confederate States of America. Bill read first time and passed to a second reading and bill amended.

Senate Bill 35, An Act to regulate the issuing of Treasury Warrants. Report of Committee of Conference adopted by the House.

Senate Bill 41, An Act to provide for the payment of Captain Good's Company of Light Artillery. Read first time. Rule suspended, bill read second time and referred to Committee on Military Affairs.

Original Bill 87, An Act to be entitled an act to amend the 16th section of an act to provide for the assessment and collection of taxes approved February 11, 1850. Read second time and ordered engrossed. Rule suspended, read third time and passed.

Joint Resolution 11, A Joint Resolution concerning Confederate States Affairs. Read second time and ordered to be engrossed. Rule suspended, read third time and passed.

#### COMMITTEE REPORT:

Report of the Minority Committee on Governor's Veto Message, the committee made the following report:

January 9, 1862

To the Hon. John M. Crockett President of the Senate and the Hon. N. H. Darnell Speaker of the House of Representatives:

By a resolution adopted at the present Session, a joint Committee of the Senate and House of Representatives was appointed to consider of and report the facts in relation to the veto by his Excellency, Gov. Lubbock, of the bill to pay the members and officers of the Legislature, the mileage and per diem.

The undersigned minority of such committee respectfully protest against the action of the Legislature in the premises believing it unnecessary and uncalled for and contrary to the genius and policy of our republican government. The action of the Governor has undergone the investigation prescribed by the Constitution—his veto has been considered by the two Houses—their voice united with his in opposing the measure, and thus it was defeated in the very mode prescribed by the *Magna Charta* of our liberties. And we should say, with all due deference to the voice of the Majority, that the whole subject so far as the bill and veto are concerned ought to have considered the subject of the resolution, and exceedingly regret that we are called upon to differ with the majority of the committee composed of gentlemen of equally honest motives, and of superior ability to ourselves. Had the committee simply in-

quired into and reported the facts, as we think was evidently the intent and purpose of the resolution, and not endeavored to support the result of this investigation by an elaborate argument, we doubt not that the committee could have entirely agreed. And we hope it will not be considered out of place for us here to state that the undersigned were willing to this course and proposed to report the facts as they actually existed without note or comment. If the Message did the Legislature injustice by incorrect statements we are sure its authors would cheerfully acquiesce in the correction. And while we accord to the majority the right to differ with us, as to the proper course to be pursued, and agree that the facts stated by the majority are in the main correct, yet, the statement is accompanied with such arguments and couched in such language that we feel constrained to withhold our endorsement of this report. What harm could possibly result to the Legislature by a simple statement of facts? Truth is generally the most readily seen, and most highly appreciated, when presented in simple garb; and the effort to support it by skillful and ingenious arguments leads us to suspect that those presenting the arguments are not entirely satisfied with their position, or else that they believe others have not the capacity to appreciate the truth without the foreign aid of argument. It is admitted by the entire committee that his Excellency did not intend to do injustice to the Legislature, and if his language was calculated to do what was not intended, certainly a statement of facts was all that was necessary. If the Governor used expressions or arguments in his messages, in which we could not concur, it was certainly his prerogative to do so. The Constitution makes it the duty of the Governor to veto measures under certain circumstances, and to return the message vetoed, together with his reasons therefor, to the House in which they originated.

Shall the Legislature dictate to the Executive what reasons he shall assign, or, what words he shall use in exercising the powers conferred upon him? The two branches of the Legislature, in the discussion of subjects, use such weapons in advocating or opposing them as seems best, and certainly we do not dictate to each other herein. The Executive is a co-ordinate department and a part of the Legislative powers; and if he withheld from our acts, his

sanction, necessary to give them validity is he not allowed to present in respectful terms his reasons for dissenting.

The arguments by the majority of the committee are such as were used in opposition to the veto message and some at least of the reasons given in the veto are those used by the opponents of the bill. Since we trust we will be pardoned if we state the facts and circumstances of the matter.

The act says that \$80,000 or as much thereof as may be necessary shall be appropriated to the payment of the officers and members of the 9th Legislature. The majority complain that the message did not quote the words "or as much thereof as may be necessary" and that without the use of those words, the public would infer that we would use the entire sum. Have the majority concluded that the common people have no sense and that they are unable to comprehend the idea that although we might appropriate that sum we could not use it unless our dues amounted to it? The Executive doubtless gave the people credit for their comprehension and hence did not think it necessary to quote the precise words of that part of the act to which he made no objection.

What sort of funds does the act appropriate to ourselves?

*First* we lay hold upon moneys derived from the sale of University lands, funds provided by the Legislature, for the free education of the children of the country.

*Secondly*, the act takes money from the estates of decedents when these funds are liable to be called for at any minute. Judgements are now in force against the State Treasurer for a portion of these very funds, and we are informed by that official that there are about six applications annually by those entitled to the same, and are of course, liable to be made at any time. Escheated property is much in the same condition, and this and the last named belongs doubtless in many cases to minors and orphans. We know that the law sets apart these two funds, and provides the method for the claimants to reach them, and being advised that applications have in the past been made, and that there are judgements now against those funds, are we not safe in saying that a portion of them at least may soon be claimed? But the majority say that the act provides for supplying the funds so drawn and that the

Governor ought not to intimate that the state paper so supplied is of less value than the cash. Suppose that the State paper is not equal to such, does not this act take one currency and supply its place with another that is depreciated? But waiving the question as to the value of State paper, we would ask the majority of the committee, why do they propose to take cash that belongs to others and supply its place with State bonds if the latter are equal to cash?

Why don't we take the bonds at once and save the circulation? The reason is obvious.—

As to the sinking funds we would say that by act of January 31, 1854 two millions of dollars of the three per cent United States Bonds are set apart as a special School Fund and the interest thereon was to be appropriated to common schools. By the act of 13 August 1856 this special Fund was to be loaned to railroad companies and two per cent interest thereon to be paid annually, and this interest constituted the Sinking Fund to be applied towards the payment of the loan at its maturity, so constituting the Sinking Fund were to be credited to the roads. Then by act of Feb. 13, 1860 this Sinking Fund so paid by the roads was by their consent to be entered as credits on their bonds and to go in extinguishment of so much of the bonds and the interest of two per cent and its accumulations were to be placed as credit to the special School Fund. The Roads have many of them given their consent and thus this Sinking Fund has become part and parcel of the special School Fund and by act of August 29, 1856, this special School Fund and the General Fund derived from one tenth of the annual taxes are declared to be one.

Then by Section 2 Article 10 of the Constitution it is provided that this General Fund shall be appropriated to the support of five public schools and no law shall ever be made diverting said fund to any other use. If the General Fund is thus sacred and the Sinking Fund which is the Special School Fund is made the same as the General Fund—the twain made one is not the Sinking Fund become "*Sacred*" as the General School Fund is? But the per diem bill provides that we may take drafts on the Assessors and Collectors of the various counties. It is known that by this we could give gold and silver possibly for our pay. Then if we are allowed to seize the funds designated constituting

the whole of the special except the General School Fund now in the Treasury, after having already drawn \$8695 each to take drafts on assessors and Collectors, which are or possibly soon would be equivalent to cash would we not be taking from the vaults of the Treasury every dollar (Save the General School Fund) now there as well as stop some in the hands of Assessors and Collectors.

And this, too, at a time when no munitions of war can be had except for specie. Our brave soldiers must be fed and clothed and paid in paper currency while we take gold and silver. Does not sound policy dictate that some money should be left in the Treasury to meet emergencies in this dark and perilous hour of our country's history. Should we take treasury warrants for pay and make them receivable for taxes and other state dues there is no law giving others the privilege, is it not placing ourselves in a more favorable position than other holders of these claims? But the majority say that a bill had already passed the House making these warrants in the hands of others so receivable.

This is true, but are we to say that because a measure passes the House it must *ex necessitate* become a law. This measure has been hanging in very great doubt for a long time and never met the concurrence of both Houses until the last day or two. What would be our condition or that of the State, if the Executive shaped his course unvariably by the action of the House of Representatives without knowing the determination of the Senate. The effect though not intended was to favor ourselves, and the message expressly declares that our intention was good though the consequence was bad. Was our action hasty? On this point the facts are that on the 18th Dec. a bill was introduced on the subject by the gentleman from Burleson (Mr. Broadus). From an examination of the House Journal, as well as from the recollection of members, this took place just before adjournment for dinner, read first time, rule, suspended, read second time. The gentleman from Smith (Mr. Hays) offered a substitute and moved that the bill and substitute be referred to Finance Committee — Lost. Mr. Bragg moved to amend by providing that no portion of the funds known as the School funds (including the Sinking Fund) shall be paid out, under the provisions of this act. It was then moved that the bill and amendments be referred to a select committee — adopted. Immediately

after dinner, the committee report — rule was suspended, the bill read third time and passed. The Executive was doubtless misled by the engrossed bill in the State Department to which he would not usually go, knowing that it was usual to endorse on the bill the steps taken in its passage. The engrossed bill through inadvertance does not show that the bill ever went to a committee.

The Executive addresses the House and says that so far as he could learn it was passed through that body under the suspension of the rules without reference to a committee. While he was mistaken as to one fact, he was correct in the general declaration that the bill was passed hastily. There being no money in the Treasury, except the General School Fund and the sums appropriated by this bill is it not clear from the foregoing statements and facts that the effect of our action was to exhaust the Treasury, and favor ourselves by making our warrants receivable for taxes when there was no law giving the like privilege to others! But the majority say that we have the former Legislature for a precedent.

This is true, but admitting for argument that that Legislature acted rightly, what is expedient at one time is not necessarily so at another. We were not then as now surrounded and threatened on every hand by a relentless foe, "who knows no sweeter music than a dying groan, nor lovelier object than a gasping babe." We knew not then that we would need every dollar to purchase munitions of war to repel our enemies. But that is no apology. The question is, was it right and expedient for us to take these funds under the circumstances? If the former Legislature did a wrong act, if wrong it was, we must not resort to that as a subtrifuge and attempt to sanctify a wrong by the action of a grave and responsible body of Legislators. We come not here to vindicate the Executive, he needs no vindication at our hand. But we feel that we who voted against the bill should be heard in reply to the ingenuous arguments of the majority. We regret that any action has been had upon this matter. Two departments of government have been brought into conflict, each has acted up to the time of the final action upon the veto within the bounds prescribed by the constitution. Each has doubtless acted from conscientious motives and with a hope of promoting the best interests of our beloved country. If the Executive thought

the bill wrong and detrimental to the interest of the people, it was his right and duty to exercise the powers given him.

If two thirds of both houses thought his action wrong, it was in their power to pass the bill; but if the constitutional minority thought the bill wrong, they had the power to prevent the bill from passing. Thus we are all guarded. The veto power was wisely given to the Executive by our fathers, in order that unwise and hasty legislation might be checked. It is a power that has been exercised by our wisest statesmen. We must expect diversity of sentiment in a country like ours. President Jackson in his veto upon the Maysville Road Bill says that "diversity of sentiment among public functionaries actuated by the same general motives on the character and tendency of particular measures, is an incident common to all governments and the more to be expected in one, which like ours owes its existence to the freedom of opinion, and must be upheld by the same influence.

Controlled as we thus are by our higher tribunal before which our respective acts will be canvassed with the indulgence due to the imperfections of our nature, and with the intelligence and unbiassed judgement which are the true correctives of error, all that our responsibility demands is that the public good should be the measure of our views dictating alike their frank expression and honest maintenance."

Mr. Tyler in his second basic veto, says that the "qualified veto with which the chief magistrate was invested, should be regarded and was intended by the wise men who made it a part of the constitution, as a great conservative principal in our system, without the exercise of which on important occasions, a mere representative majority might urge the government in its legislation beyond the limits fixed by the powers, or might exert its just powers too hastily or oppressively."

We trust that all parties will let this subject rest. It is one on which we might very reasonably and honestly differ. If the Executive has unintentionally wronged us, we are satisfied that he will gladly have the correction made.

And if we are conscious of having done our duty faithfully, we need not [doubt] that an honest and intelligent people will sustain us. We care not what disposition is

made of these two reports but ask the two houses, that if one by this action, is made a record, the other may receive like treatment. Justice to all parties demand that both sides be heard.

George B. Erath  
 One of the Committee on the part  
 of the Senate  
 George D. Manion  
 Frank E. Williams  
 On the part of H. of R.

MESSAGE:

EXECUTIVE DEPARTMENT<sup>38</sup>

Austin, January 9, 1862.

**Gentlemen of the Senate and  
 House of Representatives:**

I am this moment in receipt of important intelligence of great interest to the State of Texas, as well as to the Confederate States, and forthwith lay it before you for your consideration, knowing your patriotism will move you to wise conclusions.

I herewith enclose to you a copy of a letter received by me this morning from the Honorable J. P. Benjamin, Secretary of War of the Confederate States,<sup>39</sup> by which it will be seen that he proposed "That for any amount of the United States 5 per cent bonds in possession of the State of Texas which can be used in the purchase of arms and ammunition, will be replaced in our Treasury with Confederate States bonds bearing 8 per cent interest."

I am also in receipt of letters from our members in the Provisional Congress, L. T. Wigfall, John Hemphill, and T. W. Waul, which letters I herewith transmit to you, all urging upon me the acceptance of the proposition made by the Secretary of War.

It appears to me that the arrangement proposed would be a most advantageous one for the State and the parties directly interested in the United States bonds now in the Treasury greatly benefited by the exchange. The best we can hope for would be the assumption of the payment of the United States bonds by the Confederate States at

<sup>38</sup>Executive Record Book No. 81, 1861-1863, pp. 93-94 (Texas State Archives, Austin).

<sup>39</sup>None of the letters mentioned in this message are recorded in the Executive Record Book.

a very remote period after the present war terminates. Should the United States after the declaration of peace agree to pay her bonds now in the Treasury of this State, at what time can or will it be done? My own opinion is that that government will be so totally and wholly bankrupted by the present war that she will never be in a condition to pay these bonds no matter how great her willingness may be.

Therefore, in a financial point of view, it is very clear to my mind that the interest of the State—the school fund—and the parties who expect to be benefited by the use of these bonds would all be greatly advanced by the proposed exchange.

Other considerations of a patriotic character rise higher than all pecuniary interests which appeal loudly and strongly for the State of Texas to take some action in the direction indicated.

Our country is engaged, as I have oftentimes repeated, in a just, holy, and important struggle. What we most require in order to enable us to bring this war to a speedy and successful termination is the proper arming of our people and obtaining the necessary munitions of war.

We now have an opportunity of contributing largely to that end without injury to ourselves and without the creation of any additional State debt, and I trust, Gentlemen, you will meet the crisis—come to the support of the Confederate government and by your action on this subject inflict a heavy blow upon our enemies and sustain the patriotism and devotion of the State of Texas to the great cause in which we are all embarked.

Respectfully,

F. R. Lubbock

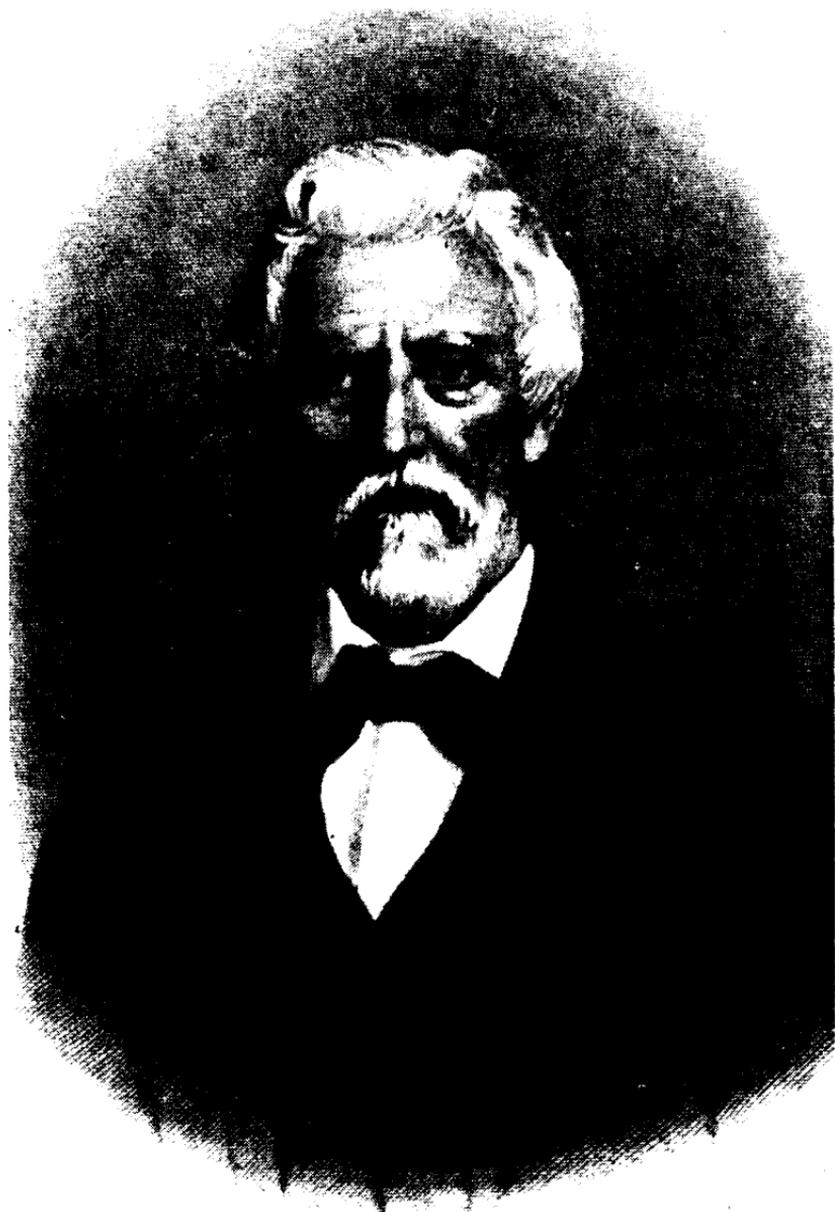
**(Postscript)**—I also transmit a letter on some subjects from Honorable J. H. Reagan.

Friday, January 10, 1862

**BILLS:**

House Bill 59, An Act to provide funds for military purposes. Read first time. Rule suspended, read second time and ordered engrossed. Rule suspended, read third time and passed.

Senate Bill 24, An Act supplementary to an act to create a hospital fund to be expended for the benefit of



**Samuel A. Maverick**

Photograph from  
Archives Division,  
Texas State Library

the sick and wounded soldiers of the State of Texas in the Confederate Army. Read first time. Rule suspended, read second time. Amended and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 37, An Act prohibiting owners or employers of slaves from placing them in charge of farms or stock ranches, detached or removed from the home or place of residence of the owner or employer. Read first time. Rule suspended, bill read second time and passed to a third reading. Rule further suspended, bill read third time and passed.

Senate Bill 39, An Act to regulate the public printing, approved November 22, 1859. Read second time and passed to third reading. Rule suspended, read third time and passed.

The following is the vote in the House on Mr. Chalmers motion to lay the amendment excluding the *Gazette* from competition for the public printing on the table.<sup>40</sup>

YEAS—Speaker, Alford, Chalmers, Cocke, Dansby, Flewelling [Flewellen], Goodrich, Hays, Hall, Magill, Manion, Maverick, McDonald, McDowell, Mosely, Perry, Pickett, Rippetoe, Roberts, Sedberry, Shelton, Slaughter, Stiff, Thomas, Townes, Werviski [Werbiskie], Williams, Willis.

NAYS—Abney, Bannerman, Beall, Bean, Broaddus, Buckholts, Daugherty, Elmore, Ewing, Flint, Ford, Hardin, Harwell, Hendricks, Hunt, Lindsay, McLain [McLean], Neel [Neal], Norvell, O'Quinn, Parker, Potter, Price of Anderson, Price of Fayette, Rains, Reid, Rhea, Rusk, Smith, Starr, Terrell, Ward, Woods, Wortham.

Senate Bill 40, An Act to repeal an act herein specified. Read first time and rule suspended. Read second time and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 41, An Act to provide for the payment of Captain Good's Company of Light Artillery. Read second time and the House refused to pass to third reading.

Original Bill 162 (c), A Bill to be entitled "An Act making appropriation for the mileage and per diem pay of the members and the per diem pay of the officers of the Ninth Legislature." Read and passed to third reading. Rule suspended, read third time and passed.

<sup>40</sup>Texas State Gazette (Austin), January 11, 1862.

Saturday, January 11, 1862

**BILLS:**

House Bill 63, An Act to define and punish sedition and to prevent the dangers which may arise from persons disaffected to the State. Read second time and ordered engrossed. Rule suspended, bill read third time and passed.

House Bill 65, An Act supplemental to and amendatory of an act making appropriation for the support of the State government. Read first time. Rule suspended, read second time and ordered engrossed. Rule suspended, read third time and passed.

House Bill 67, An Act making appropriations for the use and support of the State Government for the years 1862 and 1863. Read first time. Rule suspended, read second time and ordered engrossed. Rule further suspended, read third time and passed.

Senate Bill 43, An Act to authorize the Confederate States of America to become a party to any suit now pending in any of the courts of this State in the place and stead of parties to such suits who are alien enemies. Read first time. Rule suspended, read second time and passed to third reading. Rule further suspended, read third time and passed.

Senate Bill 44, An Act to suspend the Statute of Limitations on Bills, bonds, promissory notes and all contracts for the payment of money until the first day of January, 1864, or until six months after the close of the present war. Read first time and rule suspended. Read second time and passed to a third reading. Rule further suspended, read third time and passed.

Senate Bill 45, An Act to authorize and regulate funding in loan bonds. Read first time. Rule suspended, bill read second time and passed to a third reading. Rule suspended, bill read third time and passed.

Senate Bill 46, An Act to provide for the perpetuation of testimony during the time limited in an act entitled, "An Act suspending all laws for the collection of debts and liabilities on bonds, promissory notes, bills of exchange and contracts for the payment of money until the first day of January 1864 or until six months after the close of the present war should it terminate before the date named, or until otherwise provided by law." Approved 7th December

1861. Read first time. Rule suspended, bill read second time and passed to a third reading. Rule further suspended, bill read third time and passed.

Senate Bill 47, An Act to prescribe the duties of the Commissioner of the General Land Office in certain cases. Read first time. Rule suspended, bill read second time and passed to a third reading. Rule further suspended, bill read third time and passed.

Senate Bill 48, An Act to repeal an act to provide for the funding of the debt contracted for the protection of the frontier. Read first time. Rule suspended, read second time and passed to third reading. Rule suspended, read third time and passed.

Senate Bill 49, An Act authorizing the Chief Clerk of the Treasurer's Office to sign the name of the Treasurer in certain cases. Bill read first time. Rule suspended, bill read second time and passed to a third reading. Rule further suspended, bill read third time and passed.

Senate Bill 50, An Act to repeal a certain act specified in this act. Read first time. Rule suspended, read second time and passed to third reading. Read third time and passed.

Senate Bill 51, An Act to change the time of holding the district courts of the Ninth Judicial District. Read first time. Rule suspended, bill read second time and passed to third reading. Rule further suspended, bill read third time and passed.

#### COMMITTEE REPORT:

To the Speaker of the House of Representatives and the President of the Senate:

The Joint Committee appointed by the two Houses have had under consideration the "facts and circumstances" concerned in, and connected with the late Veto Message of the Governor, and beg leave to Report—That certain statements in said Veto Message are in the opinion of the Committee very well calculated to make improper impressions on the public mind, and place the Legislature in a wrong position—The Bill which the Governor saw proper to veto, in its first section appropriates the sum of Eighty thousand dollars, **or so much thereof as may be necessary**, to the payment of the members and officers of the 9th Legislature. Yet the Governor in his message so states the

matter as to make the impression that the Legislature had made an absolute appropriation of Eighty thousand dollars for the purpose stated. The Governor certainly well knew that it was impossible for the Legislature to know exactly what sum it would require to pay the members and officers, and that the clerks of each House could alone know after the Legislature had adjourned by counting the number of days which each member had served, and the number of miles traveled by each in coming to, and returning from the seat of Government, and that being true, the appropriation had to be made in the form in which it was made, and it depended altogether upon how long the Legislature might remain in session, whether it would require one fourth, one half, or the whole of said sum, and yet in the Veto Message it is so stated as to leave the impression that the said sum would be taken any-how. Again it seems to your committee that the impression which would naturally be made upon reading the said message, would be that this Ninth Legislature had so far as certain funds are concerned, acted not only without [illegible] but actuated by supreme selfishness, had trampled upon the rights of unprotected minors and orphans. Your Committee find that the 8th Legislature did in the month of January last, by an act approved by the then Governor, appropriate the sum of nine thousand seven hundred and sixty eight dollars and 62 cents, it being the proceeds after sale of University lands then in the Treasury and also the sum of Seventeen Thousand three hundred and thirteen dollars and 30 cents it being the fund accumulated from the Estates of deceased persons then in the Treasury, to the payment of mileage and per diem of the members of said Legislature. These two large amounts were then, and thus appropriated, upwards of nine thousand from one and over Seventeen Thousand from the other fund, and that, as recently as last January, while the Governor might have known and perhaps did know from information given him by the Treasurer that the fund appropriated by the Bill which he vetoed, from the sale of the University lands was only One Thousand five hundred and twenty dollars, and the amount arising from the Estates of deceased persons was only One hundred and fifty nine dollars and 84 cents, rather **small** gains your Committee thinks to call forth such heavy a discharge of artillery.

And as to outraging the rights of unprotected orphans and minors, your Committee would say that the fund arising from the Estates of deceased persons can only reach the State Treasury, on a considerable lapse of time after the death of the owner. After a proper qualification on such Estate and after advertising in the newspapers calling upon all persons or heirs to come forward and claim such Estate, and when after the proper time has transpired and no one comes to claim said Estate, then, and not til then can it be paid into the Treasury, and when so paid in, it becomes subject to appropriation by the Legislature. The State it is true, still holding itself bound to account to the heirs, who may by suit in the proper court in the county where said administration was opened prove themselves the rightful heirs to such Estate but such judgment can as well be paid out of any other funds in the Treasury not otherwise appropriated as out of the funds arising from said Estate—And so far as the fund arising from the sale of the University Land is concerned, your Committee would state, the funds thus accruing have been before and may be again appropriated to ordinary purposes of Legislation. But to avoid all difficulty on the subject, the Bill which the Governor vetoed required the Treasurer of the State to place in the room and stead of the fund so applied, the Bonds of the State for a like amount, thus making the State a debtor to these very funds for the identical sums. Now if the Governor regards the State of Texas as honest and solvent, then these funds were made perfectly safe, but if the State be dishonest and insolvent, then they were irretrevably lost.

School funds much more sacred really guarded by provisions of the Constitution have been lent to Rail Road Companies and why might not the State borrow the money lying idle in the Treasury, so that it might be put in circulation amongst the people, but then the Governor asked in his Message who is to draw these bonds? To whom are they to be made payable? How much interest, if any, are they to bear? The answer to all these questions is The Bill provides that the State Treasurer is to make the Bonds, The Bonds were to be made payable to the same parties to whom the funds withdrawn were payable, and as to interest, the Governor surely knows that money lying idle in the Treasury does not bear interest, neither should the

State Bonds given therefore bear interest.

But again, as the Rail Road sinking fund which has been not by the Constitution but by act of the Legislature appropriated to school purposes. Now if by an act of the Legislature it was thus appropriated it will be at once seen that by another act it might be otherwise applied, and it should be remembered that the same act which appropriates the fund forbids it to be distributed amongst the counties and requires it to remain in the Treasury for investment, not owing a part of the school fund guarded by the Constitution it is misnamed by the Governor when he speaks of it as the **sacred** fund. Again it sounds from the message that the Governor had learned from some unofficial source that the Bill was hastily passed through the Legislature without being referred to committee. If his Excellency will in **official** documents make statements drawn from **Unofficial** sources, he shall at least try to get the information from truthful and well informed sources. The Journals of the House show that the whole subject of Mileage and **per diem** was referred to Select Committee of the House of which L. F. Price was chairman, to be considered of, and reported upon, and that the Bill vetoed by the Governor was proposed by the Committee and reported to the House, and the Journals of the Senate show that the Bill when it was received by the Senate was referred to the Finance Committee of which Pryor Lea was chairman, and of the Standing Committees of that body, by them acted upon reported back to the Senate and Passed. **These being the facts**, it will be clearly seen that the information which the Governor based the charge of hasty legislation was either not truthful or not well informed. The House had before passing this Bill passed one making all Treasury Warrants receivable for Taxes and all state dues—and the provisions of the Bill which was vetoed was in exactly the same language of the Bill already passed. How then could the Governor say that the members of the Legislature had provided to pay themselves in better state paper than others were to be paid in? It may be answered that this Bill making all State warrants receivable for Taxes or had not reached the hands of the Governor, and that he could not therefore know of its existence, but then it seems from the message that the Governor not only has **unofficial** information of what the Legislature is doing, but bases in

part his action upon such information—though this same source be right, and ought to have learned that the House had passed a Bill putting all upon the same footing and thus have saved the Legislature from the cutting and unwarranted imputation.

The Bill which the Governor vetoed would if it had become a law have given the members and officers some forty or fifty dollars a piece in money and the balance in state Treasure Warrants or drafts on the Assessors and Collectors of their respective counties. The bond and necessary expenses of the most economical members would have been much more than the amount of money thus received including the \$80 dollars already received. The whole amount of money which would have been appropriated by the Bill was Eight Thousand four hundred and two dollars and 95 cents—and not Eighty Thousand as might be thought from the veto—As to drafts on the assessors and collectors of the different counties, the Governor had already sanctioned that plan by approving a Bill paying the Presidential Electors who came to Austin to cast the vote of the State, and to which the Governor in the message does not object.

The committee are unwilling to believe that the Governor intended to place the Legislature in a wrong position or false light, but they think that such will be the effect of the Veto Message which is now published to the world and, therefore, recommend that this report be entered upon the Journals of each house and that the Houston Telegraph, Galveston, The Civilian Gazette and other papers in this State be requested to publish it.

All which is respectfully submitted

L. F. Price,  
Chairman House Committee  
Z. Hunt  
I. Dansby  
J. W. Stell  
A. S. Broadus  
J. W. Durant  
Chairman Senate Committee  
J. H. Parsons

Adopted January 11, 1862

## MESSAGE:

**Gentlemen of the Senate and  
House of Representatives:**<sup>41</sup>

I am again called upon to convey to you the melancholy intelligence of the death of another distinguished citizen of the State of Texas.

The Honorable John Hemphill, one of our members to the Provisional Congress of the Confederate States, is dead. He departed this life on the 4th day of the present month at the city of Richmond, where he was engaged in the active discharge of his duties.

The deceased was one of our most distinguished and worthy citizens—an incorruptible judge, a wise statesman, and as such was honored and trusted with the dearest and most vital interests of the State.

The loss of his wise and mature counsel in these peculiar troublous times will be severely felt when we so much need the entire wisdom and patriotism of the land to successfully carry our country through her present difficulties.

John Hemphill was a patriot. Like the Roman sentinel, he died at his post. The country mourns his untimely death and her great loss.

I am gentlemen,  
Very respectfully,  
F. R. Lubbock

## COMMENTARY:

The Vetoed Mileage and per diem Bill.<sup>42</sup>

**“And for his Vesture they cast lots”**

The subject of the mileage and per diem bill, which was brought to the knowledge of our readers last week by the publication of the Bill and veto message, calls upon us for further notice, inasmuch as the positions we took have been assailed with great bitterness by some of the members.

We shall discuss this matter calmly, without allowing ourselves to be influenced by the excitement which has carried so many of the advocates of the bill astray from the part of propriety and reason, nor will we be provoked nor goaded into a use of language disrespectful towards gentlemen who may honestly differ with us. And just here

<sup>41</sup>From the Senate journal of January 11, 1862. See Day (ed.), *Senate Journal of the Ninth Legislature, Regular Session*, 256-266.

<sup>42</sup>*Texas State Gazette* (Austin), January 11, 1862.

we will say we have been greatly surprised at the assertions made by many members touching our last week's remarks, that we had "Slandered the Legislature" "used disrespectful language" and "epethets." Such persons surely either did not read our remarks, or are ignorant of the meaning of plain English, or are blinded by prejudice or passion. For many of the members of the legislature we have the highest respect, and if for others we have the most sovereign contempt, we shall never, we hope, in arguing a State policy, obtrude our own private feelings upon our readers. Such as they are, they arise from no personal considerations, but from a close observance of the characters of the parties as exhibited in their public acts.

The specie sought to be used by the legislature (by legislature we mean, those who passed the bill, and thus made it the act of the legislature, and not those who opposed it) were as follows:

Escheated property fund .....	\$2,183 01
From settlement of Estates .....	159 54
University Fund .....	1,517 90
Railroad sinking fund being a part of the Common School fund .....	4,520 00
	<hr/>
In all .....	\$8,380 45

Whether these funds or any part of them are properly subject to be legislated out of the channels in which the wisdom of the past has placed them, except under the pressure of an urgent necessity, we will not stop to enquire; as the determination of it either way would not determine the question which comes directly home to the supporters of this bill, and is the great question on which they must stand or fall before an impartial people; which is, **did you attempt to pay yourselves in a currency different, and more valuable than it was possible to pay to any other officer or employee of the government?** We propose to give some reasons which induced us to say that you did; and unless you can convert it then, your charge of slander against us and against the Governor must fall; for if you are slandered, it is by this charge.

You know that you had, early in the session appropriated all the coin in the Treasury subject to the payment of the ordinary expenses of the government except about

\$4000 which has since been spent, towards your pay, and had drawn the specie to the amount of \$80 apiece.

You knew the only money remaining in the vaults, (for you had sent your committees over to count it for you.) was, this that your bill appropriates, the undistributed school fund belonging to the counties, already apportioned to them amounting to \$43,810 67. The taxes due counties \$12,144 80, and fees due assessors \$1,093 34, all of which were liable to be demanded any day by their proper owners.

The appropriation of these latter amounts, although probably not more sacred than the others would have brought the question directly home to the people in such a shape as that all could have understood it at once and felt it; as the money is for immediate distribution in the counties. And with the exception of these, your bill appropriates every dollar in the Treasury to your own pockets. What are the means, then, by which the Treasury can be replenished so as to enable it to pay other officers of the government? The taxes, alone. What taxes are due, and when will they come in?

There is due from defaulting assessors and collectors, on the assessment of 1860, an amount which, if paid immediately, would place at the disposal of the Treasurer on State revenue account, a sum less than \$30,000. But when will this be paid? Some of the assessors probably have a part of the money now, while much of it will not be paid in many years. But your bill provides that you may take drafts on this very money for the balance of your pay, and by this means, the money which may be in this fund goes also into your pockets.

The assessment of 1861; when will it come in? It will begin to come in about the 1st of June; five months hence; and if received in money, would probably come in fast enough to pay the current expenses of the government for the last seven months of the year, leaving the first five entirely unprovided for. But it will not come in, in money; for you, yourselves have provided, (properly we think,) that the State indebtedness should be receivable for these taxes; and no one will contend that when the State indebtedness is four times the amount of the taxes to be paid in, and in the almost entire absence of money, that money will be paid in for taxes during the present year. Then where is the money to come from to place other officers on

an equal footing with yourselves? Answer that question, and acquit yourselves of the charge which you are pleased to call slander; fail to answer it and you must stand convicted in the eyes of an impartial community.

Bluster will not answer the question nor side issues, divert the public attention. Neither can the press be silenced, nor the veil of secrecy be thrown over your public acts. If you were honestly mistaken, as we think many were, we would suggest that "honest confession is good for the soul;" if not, meet the issues, and show to the people where the money is to come from to relieve you from our "slanders."

If you find the money to place other branches of the government on an equality with yourselves, on the basis of your bill, it will delight the officers of the State government about the Capitol, from the Governor down to the lowest clerk; it will delight twenty-one District and three Supreme Judges; and the people will be delighted to know that the poor unfortunate lunatics, blind, and deaf and dumb, now inmates of the three noble institutions but just in their infancy, instituted by the humane liberality of the State, at a cost of thousands, and entirely dependent on the State for support, will not be left to starve or be thrown upon outside charity; for if you cannot support yourselves in Austin except with hard cash, how do you expect these helpless ones to be fed with treasury warrants?

It would send a thrill of hope to the suffering Texas soldiers in the hospitals of Virginia, Kentucky, and Missouri, to learn that there was money in the State treasury at Austin. It would infuse confidence into the heart of the ranger who is defending you from savage incursions, to know that Texas was still paying cash, and it would inspire your humble commentator with an idea of your legislative and financial ability, which could only be increased by a knowledge of a Fortunatus' purse or the Philosopher's stone.

Monday, January 13, 1862

#### BILLS:

Senate Bill 52, An Act supplemental to "An Act to provide for auditing and settling all claims against the State on account of Volunteer Companies called out by the Governor or Committee of Safety and for the defense of the

State, and providing payment for the officers and men thereof." Approved January 4, 1862. Bill read first time. Rule suspended, Bill read second time and passed to a third reading. Rule suspended, bill read third time and passed.

Senate Bill 53, An Act for the relief of pre-emption settlers. Bill read first time. Rule suspended, bill read second time. Rule placed on third reading. Rule further suspended, bill read third time and passed.

Senate Bill 54, An Act to provide for the contingent services in the Comptroller's Office. Read first time. Rule suspended, bill read second time and placed on its third reading. Rule suspended, bill read third time.

Tuesday, January 14, 1862

The House adjourned *sine die*.



**John T. Smith**

Photograph from  
A. A. Aldrich, *The History  
of Houston County, Texas*  
(San Antonio: Naylor, 1943),  
pp. 160-161.



**George F. Alford**

Photograph from  
Memorial and Biographical  
History of Dallas County,  
Texas (Chicago: Lewis  
Publishing Company, 1892),  
opposite p. 749.

## APPENDIX I

### MEMBERS AND OFFICERS OF THE HOUSE OF REPRESENTATIVES OF THE NINTH LEGISLATURE, REGULAR SESSION

Name	District	Resident County	Post Office	Counties Represented
Pickett, E. B.	1	Liberty	Liberty	Jefferson, Chambers, Liberty, Orange
Willis, D.	2	Polk	Livingston	Liberty, Polk
Bean, John T.	3	Tyler	Woodville	Tyler, Hardin
Norvell, Lipscomb	4	Jasper	Jasper	Jasper, Newton
Slaughter, R. F.	5	San Augustine	San Augustine	San Augustine, Sabine
Roberts, Franklin F.	6	Shelby	Buena Vista	Shelby
Hardeman, Black	7	Nacogdoches	Melrose	Nacogdoches
Rusk, John C.	8	Nacogdoches	Nacogdoches	Nacogdoches, Angelina
Smith, J. T.	9	Houston	Crockett	Houston
Price, C. L.	10	Anderson	Palestine	Anderson
Alford, G. F.	11	Trinity	Newport	Trinity, Houston, Anderson
Harrison, S. T.	12	Cherokee	Alto	Cherokee
Williams, F. E.	12	Cherokee	Rusk	Cherokee
Bagley, N. G.	13	Rusk	Henderson	Rusk
Dansby, Isaac	13	Rusk	Henderson	Rusk
Holland, Spearman	14	Panola	Carthage	Panola
Parker, A.	15	Harrison	Marshall	Harrison
Hendricks, S. B.	16	Harrison	Elysian Fields	Harrison, Panola
Hays, Franklin M.	17	Smith	Troupe	Smith
Hardin, James A.	17	Smith		Smith
Foscue, B. D.	18	Marion	Jefferson	Cass
Dillahunty, H.	19	Titus	Mount Pleasant	Titus
Hooks, R. D.	20	Bowie	Boston	Cass, Titus, Bowie
Rhea, John C.	20	Cass	Courtland	Cass, Titus, Bowie

Name	District	Resident County	Post Office	Counties Represented
Abney, A. H.	21	Upshur	Pittsburg	Upshur
Beall, W. P.	21	Upshur	Coffeeville	Upshur
Bagby, G. H.	22	Red River	Clarksville	Red River
Mosely, James W.	23	Lamar		Lamar
Ewing, William M.	24	Hopkins	Tarrant	Hopkins
Wortham, W. A.	25	Hopkins	Bright Starr	Lamar, Hopkins
Rains, J. D.	26	Wood	Quitman	Wood
Manion, G. D.	27	Henderson	Athens	Van Zandt, Kaufman, Henderson
O'Quinn, J. J.	27	Van Zandt		Van Zandt, Kaufman, Henderson
Starr, Louis	28	Hunt	Greenville	Hunt
Reid, James M.	29	Fannin		Fannin
Marshall, John W.	30	Hunt	Greenville	Fannin, Hunt
Woods, James D.	31	Grayson	Sherman	Grayson
Stiff, David	32	Collin		Collin
Head, James T. <sup>43</sup>	33			Collin, Grayson
Potter, M. M.	34	Galveston	Galveston	Galveston
Hill, Thomas E.	35	Brazoria	Columbia	Galveston, Brazoria
Walker, J. C. <sup>44</sup>	36	Harris	Houston	Harris
Cone, Horace	36	Harris	Houston	Harris
Palmer, R. J.	37	Montgomery	Montgomery	Montgomery, Grimes, Brazos
McDonald, J. G.	37	Grimes		Montgomery, Grimes, Brazos
Elmore, H. M.	38	Walker		Walker
Bannerman, C. F.	39	Leon	Navarro	Leon, Madison
Bragg, Dunbar	40	Freestone	Fairfield	Freestone, Limestone, Falls
Perry, A.	40	Limestone	Springfield	Freestone, Limestone, Falls
Shelton, Pines H.	41	Hall	Towash	Navarro, Hill
Neal, T. C.	42	Ellis	Wilton	Ellis, Johnson, Parker
Ward, Joseph	42	Tarrant	Fort Worth	Tarrant
Gano, R. M.	43	Dallas	Dallas	Dallas

<sup>43</sup>James T. Head died in Hillsboro while on his way to Austin to attend the session. At an election held on December 6, 1861, George W. Mathews became his successor. See *Texas State Gazette* (Austin), November 16, 1861; and *Election Returns for Collin County, 1861* (Election Returns, Texas State Archives, Austin).

<sup>44</sup>J. C. Walker died on December 18, 1861. See *Tri-Weekly Telegraph* (Houston), December 21, 1861.

Name	District	Resident County	Post Office	Counties Represented
Darnell, Nicholas H. <sup>45</sup>	44	Parker	Veal's Station	Ellis, Johnson, Parker
Thomas, James	44	Dallas	Dallas	Dallas
Daugherty, T. W.	45	Denton	Denton	Denton
Lindsey, J. M.	46	Cooke	Gainesville	Cooke, Montague, Wise, Jack, Young, Clay, Wichita, Archer, Wilbarger, Baylor, Throckmorton, Hardeman, Knox, Haskell
Buckley, C. W. <sup>46</sup>	47	Fort Bend	Richmond	Matagorda, Wharton, Fort Bend
Hunt, Zimri	48	Austin		Austin
Terrell, C. M.	49	Colorado	Columbus	Colorado
Price, Larkin F.	50	Fayette	La Grange	Fayette
Rippetoe, A. H.	51	Washington	Brenham	Washington
Flewellen, R. T.	52	Washington	Washington	Washington, Fayette
Broaddus, A. S.	53	Burleson	Caldwell	Burleson, Robertson
Davis, B. H.	54	Bastrop		Bastrop
Townes, E. D.	55	Travis	Austin	Travis
Chalmers, A. H.	56	Williamson	Georgetown	Travis, Williamson
Buckholts, John A.	57	Milam		Williamson, Milam
McDowell, Sam P.	58	Caldwell	Lockhart	Caldwell, Hays, Blanco
Flint, J. T.	59	Bell	Belton	Bell, Lampasas
Sedberry, W. R.	60	Bosque	Clifton	McLennan, Bosque
Costley, J. M.	61	Coryell	Gatesville	Coryell, Hamilton, Comanche, Erath, Brown, Palo Pinto, Buchanan, Eastland, Shackelford, Callahan, Coleman, Jones, Taylor, Runnels
Taylor, F. M.	62	De Witt	Concrete	Calhoun, Victoria, Jackson, De Witt
McLean, W. P.	62	Victoria	Victoria	Calhoun, Victoria, Jackson, De Witt
Harwell, J. E.	63	Lavaca	Moulton	Lavaca
Stell, J. W.	64	Gonzales	Gonzales	Gonzales
Goodrich, W. E.	65	Guadalupe	Seguin	Guadalupe
Staehely, J. A.	66	Comal	New Braunfels	Comal

<sup>45</sup>Nicholas H. Darnell was elected Speaker on December 7, 1861, succeeding C. W. Buckley, resigned. See *ibid.*, December 11, 1861.

<sup>46</sup>C. W. Buckley was elected Speaker at the beginning of the session. He resigned on December 7, 1861. See *ibid.*

Name	District	Resident County	Post Office	Counties Represented
Lane, E. D.	67	Gillespie	San Antonio	Gillespie, Kerr, Bandera, Mason, Menard, Kimble, Edwards
Magill, J. P.	68	Burnet	Burnet	Burnet, Llano, San Saba, McCulloch, Concho
Hobby, A. M.	69	Refugio	St. Mary's	Goliad, Refugio, San Patricio
Cocke, F. B. S.	70	Karnes	Helena	Karnes, Bee, Live Oak, Atascosa, McMullen, Frio, La Salle, Zavala, Dimmit
Navarro, Angel	71	Bexar	San Antonio	Bexar
Simpson, L. P.	71	Bexar	San Antonio	Bexar
Maverick, S. A.	72	Bexar	San Antonio	Bexar, Medina, Uvalde, Dawson, Kinney, Maverick
Walworth, James	73	Cameron	Brownsville	Cameron
Werbiskie, A.	74	Hidalgo	Brownsville	Cameron, Hidalgo
Ford, John P.	75	Starr	Roma	Starr, Zapata
Russell, Charles	76	Nueces	Casa Blanca	Webb, Nueces, Duval, Encinal
Hall, Jeff W.	77	El Paso	El Paso	El Paso, Presidio

### OFFICERS

Chalmers, W. L.	Chief Clerk
Walton, W. M.	First Assistant Clerk
Bacon, E. M.	Enrolling Clerk
Garrison, J. L.	Engrossing Clerk
Hardeman, William	Sergeant-at-Arms
Lovejoy, J. L.	Doorkeeper

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