

JOURNALS
of the
TENTH LEGISLATURE
FIRST CALLED SESSION



SENATE *and* HOUSE
JOURNALS
of the
TENTH LEGISLATURE
FIRST CALLED SESSION
of the
STATE OF TEXAS

May 9, 1864 - May 28, 1864

Compiled and Edited from the Manuscripts in the
Texas State Archives

by

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with an Introduction by

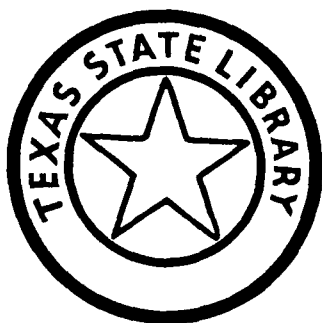
Neveille Colson and Walter E. Long

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INTRODUCTION

If you are not interested in this book, do not read this introduction.

Three years of hard bitter fighting had passed when Governor Pendleton Murrah summoned the Tenth Texas Legislature to convene in "extraordinary" session. Murrah issued his proclamation on April 9, 1864, calling for the legislators to meet one month later. As he did this, the governor must have had some doubts as to the ultimate victory of the Confederacy over the United States. In the five months Murrah had been governor, he had seen some Confederate successes such as the one Nathan Bedford Forest achieved at Paducah, Kentucky, on March 25, 1864, but for the most part the Confederate cause was not encouraging. United States General William T. Sherman had success in severing the Trans-Mississippi Department from the remainder of the Confederacy, and Texas was feeling the pressure. General Nathaniel Banks was organizing his federal forces for what has come to be known as the Red River Campaign. Both men and supplies were hard to come by for the Confederates, but they were not yet ready to give up.

Governor Murrah perhaps typified the courageous Confederate spirit when he proudly said, "I am today more sanguine of our ultimate and complete success than I have been since the war began." While speaking, he encouraged the legislators to be inspired by those heroes who had fought and died for the Confederate cause.

After uttering such cheerful thoughts, Murrah spent some time in detailing "plainly the condition of the State."

The first and most important problem to solve was that of the currency. Money had depreciated to a new low in value; past legislators had not solved anything; and he now called upon the Legislature to establish a solid base. Another important area calling for attention had to do with a conflict between Texas and the Confederate army officers over the control and use of state troops. There appears to have been some real dispute between the two on whether Texas militia men could be forcibly discharged from state service and placed in the Confederate army. Even after an agreement to accomplish the transfer was worked out, other technicalities arose on how the transfer was to be made, so jamming the works that Murrah thought additional legislation necessary.

Those were the two largest problems but not by any means the only ones. Defense of the frontier, the status of the state penitentiary, the care of soldiers' families, morale, the Military Board, and the purchase and sale of cotton all needed to be considered and regulated. Manpower in the South was so short that the Confederate government was attempting to conscript some state officials. This Murrah thought was wrong and he urged a stand by the Legislature on the matter.

The pressing urgencies of war were such that little difference of opinion existed on what was to be done even though much divergence was found as to how to accomplish the goals. The two houses failed to agree satisfactorily on the currency problem, but on other matters there was complete harmony. One such item called for the return of the First, Fourth, and Fifth Texas Regiments to Texas. When Generals Tom Green, William R. Scurry, and Horace Randal were killed in battle, the legislators passed laudatory resolutions in appreciation of the dead.

The Senate proceedings were not without their bit of

humor. When many citizens of Leon County presented a petition to change the type of tax on the sale of liquor, the Senate Committee on Finance headed by Pryor Lea had a ready answer. When several citizens of Fayette County petitioned for restrictions on sheepherding, the Senate Committee on State Affairs presented a biting bit of satire on the living habits of sheep, horses, cows, and humans. One doubts that Lydia Davis found any humor in the report denying her petition for divorce.

In the House two of Texas' better known men met in dispute over a seat. O. T. Tyler of Coryell County was elected as representative for the Sixty-first District, serving in the regular session of the Tenth Legislature. When he moved his family to Bell County, his right to hold the seat was contested by the frontiersman, J. M. Norris. The committee investigating the matter decided that no evidence was available to show that Tyler moved from his elective district, and that, even if he had, the Texas Constitution of 1861 did not require him to reside in the district after election. Tyler kept the seat, but the Constitution of 1876 had a provision which required residence in the representative district.

Other events of interest in the House included an inquiry as to whether the office of Attorney General was vacant, and a resolution concerning the governor's authority to convene the Legislature at a place other than Austin in case of emergency. Representative F. W. McGuire of Washington County recommended Allen in Denton County as the place where the Legislature would meet, but his proposal was refused, and there was no necessity for the Legislature to convene at a place outside Austin.

The only fundamental teacher is history. Present times necessitate full knowledge of many facets of history if we are to survive. We are supposedly an intelligent people,

but self and science can quickly dissipate us unless we learn
self control from history.

Neveille Colson
Walter E. Long

PREFACE

The decision to combine the Senate and House Journals of the Tenth Legislature, First Called Session, within the covers of one book was made only after several problems were considered. One difficulty had to do with clearly separating the journals so that the researcher could with some ease open either to the Senate or House Journal or to the index. Colored paper has been selected and inserted to solve this problem. Indexing presented still another dilemma. Separate indexing for each journal had to be considered, but such was abandoned in favor of a combined index. Then the problem arose as to how the Senate listings would be separately designated from those of the House. The decision was made to make no distinction in the listings themselves, but rather to make mention here and insert a note at the beginning of the index to alert the user that the House Journal begins on page 128, and all numbers above that page refer to the journal of the House of Representatives. Since the appendixes pertain primarily to one chamber, either the Senate or the House, they are included at the end of each journal; however, in order to avoid confusion they are numbered consecutively.

Evidence in the Archives shows that the Journals have been slated for publication on two previous occasions. The first effort was made by E. W. Winkler when he was in the State Library and that was followed by Miss Harriet Smithers' attempt some twenty years ago. The fragmentary typescripts of those efforts have been located, but, because of their incompleteness, they were found to be of little value. Both efforts failed, no doubt, because of the shortage of staff and funds.

In compiling and editing this journal every effort has

been made to keep the original "flavor" of the 1860's and at the same time make it an accurate, readable journal. The editor has aimed at standardizing the spelling of such items as names and places, and has attempted to locate the omissions and place them in context. When this has been accomplished, the inserted material is noted in [] brackets or in a footnote. Efforts were made to locate all speeches, committee reports, and other pertinent material, but this sometimes met with no success. When that is the case, it is so noted.

The appendixes are intended to give a better picture of the proceedings of the legislature. They include a complete roster of members, a report of the Texas Military Board, and messages of the Governor to both houses. Illustrations include a drawing of the "Colonial Capitol" where the proceedings were held, a portrait of Governor Pendleton Murrah who called the legislature into special session, and pictures of several Senators and Representatives.

A note of appreciation goes to Texas Library and Historical Commission for supporting this publication and to Senator Neveille Colson and Walter E. Long for writing the Introduction and for encouraging the entire publications project. Mention must also be made of Floree Haire, Newton Mitchell, Linda Evans, and Marilyn von Kohl, who kept pace with the Archives reference work and allowed the time necessary for completing this work.

James M. Day
Director of State Archives



Pendleton Murrah
Governor of Texas, 1863-1865

Source: Picture file (Archives Division,
Texas State Library).

JOURNAL OF THE SENATE OF THE TENTH LEGISLATURE FIRST CALLED SESSION

The State of Texas
Proclamation by the Governor*

Whereas the condition of Public Affairs renders it necessary that the Legislature should be convened in Extraordinary Session.

Now therefore I, Pendleton Murrah, Governor of the State of Texas, do issue this, my proclamation, ordering the Legislature of the State of Texas to convene in Extraordinary Session at the Capitol, in the City of Austin on Monday the 9th day of May A. D. 1864 and whereas it is believed that vacancies exist in several of the Senatorial and Representative Districts of this State.

Now, therefore, I do require the Chief Justices of the several Counties composing such Districts (or two County Commissioners, if necessary) upon the receipt of this Proclamation, to proceed to have elections held in their respective Counties to fill said vacancies; after having given not more than ten, nor less than five days notice of such election, and make returns thereof to the Secretary of State as the Law directs.

(SEAL)

In Testimony Whereof, I have hereunto Signed my name and caused the Great Seal of the State to be affixed.

Done at the City of Austin, this 9th day of April A. D. 1864 and in the year of Texian Independence the Twenty Ninth.

By the Governor

P. Murrah

R. J. Townes, Secretary of State

May 9, 1864

11 o'clock A.M.

This being the day for the meeting of the 10th Legislature of the State of Texas in extraordinary session according to the Proclamation of His Excellency P. Murrah, Governor, the Senate was called to order by the President, whereupon the session was opened by prayer by the Chap-

*Executive Record Book No. 280, 1863-1865 (Archives Division, Texas State Library), 65.

lain, Reverend Mr. Langford. The roll of Senators was then called and there being no quorum, on motion of the Senate adjourned until 4 o'clock P.M.

4 o'clock P.M.

Senate met. Mr. Magoffin, Senator-elect from the 33rd Senatorial District, and Mr. Knox, Senator-elect from the 30th District, took the oath of office and their seats. The roll was then called and there being no quorum the Senate adjourned until 9 o'clock A.M. tomorrow.

Tuesday, May 10, 1864

9 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, no quorum; then the Senate adjourned until 3 o'clock P.M.

3 o'clock P.M.

Senate met, roll called, no quorum, whereupon an adjournment was moved until 9 o'clock A.M. tomorrow and carried.

Wednesday, May 11, 1864

9 o'clock A.M.

Senate met. Prayer by the Chaplain. Roll called. Quorum present. The Journals of the two preceding days were read and adopted.

On Mr. Dickson's motion a committee was appointed to act in conjunction with a committee of the House of Representatives to inform the governor that the Legislature was organized and ready to receive any communication from him, and also to inform the House of the organization of the Senate. Messrs. Dickson, Guinn, and Moore of Bastrop were appointed the committee.

Mr. Knox was added to committees on Finance and State Affairs and Military Affairs.

Mr. Guinn offered the following resolution: *Resolved, the House concurring, That the Committees on Finance act jointly on the matters that may come before them the present session. Laid over for one day.*

Mr. Ford offered the following: *Resolved, That the Secretary of State be requested to furnish for the use of the Senate and each Senator a copy of Oldham and White's Digest, the acts of the last regular session, and the Constitution and Ordinances of the Convention. Adopted.*

A committee from the House announced the organization of that body, and that they would also act in conjunction with a committee of the Senate to wait on His Excellency the Governor.

The joint committee to wait on the Governor reported duty performed and that His Excellency the Governor will deliver his message to the two Houses this evening at 3 o'clock. Mr. Guinn introduced a bill to incorporate the Cherokee Furnace Company. Read 1st and 2nd times and referred to Committee on State Affairs.

Mr. Hord introduced a joint resolution relative to impressments. Read 1st and 2nd times and referred to Judiciary Committee.

The memorial of Judge Irwin relative to amendment of the law concerning divorce and alimony was presented and referred to Judiciary Committee.

Mr. Ford presented a memorial of citizens of Caldwell County relative to levying a specific tax which was referred to Judiciary Committee.

On motion the Senate adjourned until 3 o'clock P.M.

3 o'clock P.M.

Senate met, roll called, quorum present. Mr. Harcourt introduced a bill to define the boundary of the headright league of land granted to James McNair and A. W. McLain of Colorado County. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Hord from the Committee on State Affairs reported a bill to incorporate the Cherokee Furnace Company, with the following amendment: In Section 5, 6th line from bottom, insert "or may at their option locate the same with certificates."

On motion of Mr. Dickson the Senate took a recess of 15 minutes preparatory to hearing the Governor's message read.

The recess having expired the Senate was called to order, and having received an invitation from the House to meet them in their hall, they repaired thereto.

In Joint Session

Roll called, quorum present. The message was then read and is as follows.

Executive Department
Austin May 11th, 1864

Senators and Representatives:

I greet you again in the Capitol of the State, a co-ordinate branch of the government, and call for your counsels in these times of trouble and of danger. I return you my thanks for the kindness and courtesy extended to me during your last session, and for the zeal and devotion exhibited by your legislation to the cause of justice and of liberty. I have convened you in extraordinary session with reference alone to the interests [sic] and rely with confidence upon your advice and aid. I called you together in no gloomy mood. I am today more sanguine of our ultimate and complete success than I have been since the war began. The prospects to me are more bright and cheering and betoken an early dawn to our hopes. Our arms are triumphant east and west of the Mississippi River; and our gratitude cannot be too deep to the officers and soldiers who periled their lives and achieved these triumphs. Many were gathered to their fathers from these victorious fields, and we are still left to mourn the loss, to honor their names, and to counsel and legislate for the cause in which they perished. But one sentiment can animate our bosoms—patriotism and devotion to the alters upon which they sacrificed their lives.

If the respite and safety secured to us for a time by these successes are properly improved by the people and authorities, State and Confederate, the Trans-Mississippi Department may in a few months be placed in a stronger and better condition than it has been since the contest began.

I shall detail to you plainly the condition of the State, and call your attention to such matters of public interest as I consider require your serious and patient consideration.

The Currency

Congress owned the fact that the Confederate currency was almost worthless and provided for its withdrawal from circulation. The act was bold, if not approved by wisdom and good faith. It was an act of financial destruction, if not of financial skill. They created. They destroyed. I have no comments to make. I shall deal with the legislation of Congress as it effects the finances of the State.

In regular session last winter, in a spirit of patriotism and for the purpose of sustaining the Confederate currency, you made all the appropriations in it. You authorized the taxes to be collected in it, and the obligations of the State to be paid from it. You believed that Congress would provide, in some way, to sustain the currency. After the first of July, if the currency is paid out at all from the Treasury, it must be at a discount of $33\frac{1}{3}$ per cent on the dollar, and on the one hundred dollar notes at a still greater sacrifice. One tenth of the annual taxes making the Common School Fund shares the same destiny. This heavy discount is upon a currency rating from twenty to thirty to one in value, in comparison with specie. What proportion of the taxes has already been collected and what proportion is yet to be collected, I am not informed. But it is beyond controversy that this accumulation in the Treasury is almost worthless and that measures must be speedily adopted to relieve the State from this embarrassing position. Whether the collection of taxes in the present currency should not be at once arrested, and the disposition of what is already collected, and what may yet be collected, is for your consideration. I believe that it should be exchanged for the new issue. The State cannot afford to hold it and fund in bonds. This would at once deprive her of the means provided by law to meet her pecuniary obligations. When this exchange can be effected I am not informed, but that it should be speedily done is evident. The State, so soon as the necessary measures can be put in operation, should cease to pay out this currency. After the first of July, if it can be avoided, no payments should be made with it. Whether the old can be exchanged for the new issue and taxes gathered in the new with sufficient expedition to meet the wants of the government, is a matter for your immediate enquiry.

It is necessary to look beyond a few months or mere temporary arrangements in reference to the financial policy of this state.

The issue of Treasury Warrants was very properly arrested to prevent them from being paid out in connection with Confederate Notes and at the same depreciated rates.

The question is now distinctly propounded to you, and must be answered by your legislation, whether you will continue the same financial system, depend entirely upon

Confederate Notes in all their fluctuations and rapid changes as to value and form, or adopt a different system. This system has been fully tried, and the results to the State are fully before you. The new currency will doubtless be better than the present, and may continue so for some time, but how long, none can tell. What value will be placed upon the new issue is for the future to determine. But the habit is established by the people in the use of Confederate money, of receiving and paying it out at its market value. The Confederate Government has not only proclaimed the present currency depreciated, but it long since taxed gold in proportion to its superior value over Confederate Notes.

It is certain that a revolution has taken place in the minds of the people and the general government on the subject of currency. A more firm basis is being looked for, and specie is being recognized as the standard by which to determine the value of paper currency. It is useless to deny the fact or attempt to conceal it. Everyday transactions from Richmond to San Antonio prove it. The currency is treated as depreciated, and is so estimated in buying and selling. The habit being so generally established will certainly continue until the currency ceases to be depreciated and is regarded as sound. I do not believe, however, that the State and the people should forget the obligation to sustain it as far as possible by making all the sacrifices that can be expected. The question, however, is presented whether or not the State *alone* shall continue to conduct her operations and discharge her pecuniary obligations.

If however, the policy is to be continued of relying alone upon the Confederate currency, the issue of Treasury Warrants should be avoided, if possible, for the reasons heretofore given.

If a different financial system is to be adopted, what shall it be?

I confess that the pressure of engagements have prevented me this far from giving that full attention to the subject which its great importance demands and which is necessary to the formation of views which could be recommended as decided convictions.

But the interest of the State requires that the subject should be thoroughly canvassed, and it might be considered

whether the assessment of 1860 or 1861 might not be taken as a basis of values—taxes collected in State Treasury Warrants, coupons of State Bonds at par specie, and the Confederate currency at its value in the market. Treasury Warrants could be substituted for the coupons as they were paid into the treasury, and a provision made for funding the Warrants in six per cent bonds, whenever too many of them were found in circulation. The fact that the coupons were received in payment of taxes would increase, in all probability, the value of the bonds and at the same time diminish the amount of specie necessary to redeem the coupons. It might not be necessary to fund any of the Treasury Warrants for some time to come, perhaps not until the war shall end, as they would become a circulating medium and be sought for by the tax-payer. Under such a system, the taxes might be greatly diminished, and yet be a greater value. It is not my purpose to elaborate, but merely to call your attention to this subject.

I am aware that it would require time to depart from the present system and to put into operation such a one as is indicated above. There would be difficulties to overcome. It would practically be found difficult to determine the value of Confederate Notes in a manner satisfactory and just to all portions of the State. The Government would have to be provided for until taxes could be collected under such a system; and how far the present currency and the new issue will meet the want, and in what manner it should for the purpose, would be for your consideration. The taxes that may be remaining in the treasury on the first of July will be diminished in amount one-third by operation of the law of Congress, unless funded the six per cent Confederate Bonds.

It is at all times important to sustain the credit of the State, and now that we are so isolated from the government at Richmond, it is even more so. Her credit in the progress of this struggle may not only be essential to the safety of the State, but important to the whole Trans-Mississippi Department. It should therefore be guarded and cherished with great care. The resources and position of the State will enable her to carry a very large debt, should it become necessary, and it is for you to determine whether the interest on the Bonds outstanding shall be regularly paid or not. It is important that it should be done, and it

can be, provided the State is unembarrassed in a judicious plan of purchasing and disposing of cotton.

State Troops

At your regular session last winter, you provided for an organization of a state military force to continue during the present war, embracing all capable of bearing arms between the ages of eighteen and forty-five years. This organization was intended to be a reserve corps to be employed in the defense of the State, and in cooperation with Confederate troops, and under Confederate authority, whenever the necessity should exist. The organization was calculated to do much good, and completed and employed as designed by the law, was well suited not only to the wants of the State, but also to its defense. The organization was never thoroughly completed as provided for. I was defeated by the operation of various unexpected and unforeseen causes and difficulties. It is for the present as a State force, gone; and as you left this force to some extent under my control and in my charge, the explanation is due to you and to the country from me why the organization was never completed and why it is gone, and it shall be frankly and concisely given. When the Legislature adjourned in December last, the enemy were in considerable numbers threatening the State from the coast and also from Louisiana, and you had by law contemplated that a reorganization of them might take place in the field. I determined that it was not only necessary that the troops should continue in service, but that the reorganization should take place on the coast, where the troops were under the command of Major General Magruder; and, on the 6th of January I not only caused the necessary orders to be issued to the officers to hasten to the coast to the State Troops not then in service to participate in the reorganization, but I issued also an address, urging upon them the necessity of a prompt and cheerful obedience to the law, and soon many began to move to the post of duty to which they had been called.

The troops in service were still under the command of the major general commanding the District of Texas, New Mexico, and Arizona for the period of time for which they were drafted and volunteered had not then expired, and as they had been received into Confederate service at different

dates, their time of service expired—some early in February, some later in that month, and some even late in the month of March.

It became necessary, therefore, to fix a day intermediate between the period of the expiration of the service of the first companies, battalions and regiments who had entered the field and the last, and the 20th day of February was mutually agreed upon between Major General Magruder and myself as the proper time.

On the 23rd day of January, I issued a formal order continuing the troops in service, and at the same time announced to them the 20th day of February as the day agreed upon for the reorganization, and notified them that after reorganization they would be continued under the command of Major General Magruder.

Late in January I learned that great discontent prevailed amongst this body of troops and that many of them were leaving their posts and going home—and that a different day had been fixed by the Major General for the reorganization—and I also learned that various orders had been issued from his headquarters effecting the reorganization and certainly calculated, though not designed, to delay and to defeat for a time anything like a complete state organization. Amongst others, General Orders Numbers 7 and 14 were issued on the 12th and 20th of January, respectively, which show that an effort was made to enroll and conscribe those between the ages of eighteen and forty-five years before the term of service of the State Troops of which they were a part had expired and that, too, after an order issued by me prolonging the service of these troops I found when I came into office, that a large number of those embraced by the State Troops were under forty-five years of age. You so left this organization when you adjourned last winter. I had no impression from my correspondence with General Magruder during the session of the Legislature and for some time after its adjournment but that it was his desire and expectation that this element should be continued with the state force; that while fronting the enemy upon the coast it was no time for separating them from those between the ages of forty-five and fifty years, and that you, judging from the law enacted, expected these two classes to remain in conjunction, forming one organization for six months to meet the crisis then threaten-

ing the State from the coast. I acted upon these impressions in arranging the plan for the reorganization of the troops in the field. I was not apprised of any other impression or intention on the part of the major general commanding the district until some time after the issuance of General Orders Number 14, already referred to, and until I heard of the dissatisfaction prevailing amongst the troops.

It is due, however, to General Magruder to state that he claimed to have a different impression as to the organization and disposition of those between the ages of eighteen and forty-five, and that in endeavoring to enroll and place them into regiments separate from the State Troops, he was acting under the orders of General [E. Kirby] Smith. It is also proper here to state that General Smith, in the conference hereafter alluded to, said that it was understood between him and ex-Governor Lubbock when this class of men were organized with the State Troops, that they were at the end of six months to be liable to conscription and be continued in Confederate service. The statement of General Smith was fully corroborated by Governor Lubbock. Still, this understanding was not made known to the men, and they were under the orders referred to, deprived of a privilege granted under the law, conscribing them of selecting their commands and virtually arbitrarily assigned to service.

With as little loss of time as possible after receiving this intelligence, I met Generals Smith and Magruder by invitation in Houston about the 3rd of February in consultation upon this subject, and after a full and free conference, the following order was announced:

Headquarters Texas, New Mexico and Arizona,
Houston February 4th, 1864

Special Orders Number 35

After a conference between His Excellency the Governor of Texas and the Commanding General of the Department and District, the following is announced to the State Troops as a decision ultimately arrived at, and by which all concerned will be governed:

All members of the State Troops under forty-five years of age are permitted at their own option to form new organizations of companies in the Confederate States' service, to serve for the war and to elect their officers, or may join

existing organizations in the Confederate service, and all who do not join either will be reorganized on the 20th instant with the State Troops under the late state law.

On the reorganization of the State Troops, all men now liable to conscription will be enrolled and will be allowed to remain in the State Troops for the period of six months, at the expiration of which time they will be transferred in accordance with the conscript law to the Confederate service.

By command of

Major General J. Bankhead Magruder
W. A. Alston, A. A. General

On the fifth of February after still further considering the condition of the troops—the fact that so many of them had left the field and the smallness of the number left—General Orders Number 13 were issued, with my full consent, as follows:

Headquarters State Troops
District of Texas, New Mexico and Arizona
Houston February 5th, 1864

General Orders Number 13

In order to enable the State Troops now in the field to reorganize within their brigade limits so as to permit those about to enter the service under the recent act of the Legislature to participate in the reorganization, as well as to afford the men entitled to furlough the means of reaching their homes, the Major General commanding directs:

I. That on the 15th day of February, the regiments and battalions of State Troops (excepting those persons who have volunteered under General Orders Number 16) under the command of their officers, shall be marched to their original battalion encampments where they shall be furloughed until the 15th of March next. Commanders of companies of State Troops, on arriving within their brigade districts, will immediately report by letter to the acting brigadier general of the district, with the muster rolls of their companies as they stand, stating the names and residences of their officers and men.

II. Quartermasters of each regiment and battalion of State Troops will furnish such transportation and subsistence as is absolutely necessary (not exceeding one wagon

to every one hundred and fifty men including field, staff and company officers) to enable them to reach their battalion camps. All other public property will be turned over by the Quartermaster for the use of the companies organized under General Orders Number 16.

A commissioned officer will be assigned to act as Quartermaster for detached companies of the State Troops, to procure supplies on the march.

Leaves of absence may be granted to the officers and furloughs to the men from the 15th of February to the 15th of March next, but those receiving furloughs will not be furnished with transportation or subsistence.

III. Upon the 15th day of March next, the companies of State Troops, including those enrolled under the last act of the Legislature, will assemble at the original battalion camps. All those residing in the brigade district as originally formed, rendezvousing at the battalion camp of that district, when they will be within five days thereafter reorganized into companies in conformity with the state law.

The senior commissioned officer now serving with the State Troops and present at the reorganization will act as mustering officer and will make returns of the muster rolls, one copy of which shall be sent to the Adjutant and Inspector General of the State at Austin, to the brigadier general commanding the district, and to these headquarters.

These companies forming the regiments and battalions will be brought together under orders of the state brigadier generals when the regiments and battalions will be reorganized.

IV. Upon the reorganization of the regiments and battalions in conformity with the State law as provided in the preceding paragraph, the non-commissioned officers and privates shall each be divided into three classes to be called the 1st, 2nd, and 3rd class. The third class shall be composed of those not now in the field, those now in the field shall be divided by lot into two classes in accordance with the provisions of the law, and those of the first shall be furloughed for three months.

The classification as above made shall be noted on the muster roll.

V. All commissioned, regimental, and company officers will retain their respective positions until the reorganization is completed, in accordance with these orders. The

AQM's of each regiment and battalion will provide forage and subsistence for the men while on the march and in camps and will remain on duty with the same after the reorganization until further orders. In the meantime they will settle up their outstanding accounts.

VI. The commander of each regiment or battalion will hold himself subject to the orders of the brigadiers of the militia, appointed by the Governor, in order to aid in the execution of the militia law of the State.

He will also take the necessary steps for the arrest of deserters from the present commands.

VII. The major general commanding announces that a paymaster will be sent to each camp to pay the State Troops before they leave their present encampments.

VIII. All persons who have volunteered from the State Troops into new companies or old organizations on or before the 15th instant in compliance with General Orders Number 16, or who shall do so before the 15th instant, shall be immediately granted a furlough by their company commanders for thirty days. Those residing in the northern sub-district shall receive a furlough for forty days.

The troops are reminded that those who present themselves properly armed, mounted, and equipped will be received as cavalry.

By Command of

Major General J. Bankhead Magruder

John Sayles, A. A. General

In conformity with these orders, the companies reported themselves at the time and at the places designated therein and were reorganized, but as to the number who reported, I am not informed. In obedience to orders which I caused to be issued from the office of the Adjutant and Inspector General, four of the brigadier generals who had been appointed by me under the authority of the law passed by the last Legislature, designated places in their respective brigade districts for the assembling of the companies to be organized into battalions and regiments in conformity with Orders Number 13 and the laws of the State, soon after the reorganization of the companies, Brigadier Generals McAdoo, Barnes, Throckmorton, and Griffith acted with great promptness, energy, and zeal in laboring to assemble the companies and organize the battalions and regiments,

and their conduct entitles them to my thanks and commends them to the country. Brigadier General John S. Ford was in active service in the field and was therefore unable to give his personal attention to the orders issued on this subject. The companies, however, in his district were reorganized, and it is but just to say in reference to the people of that brigade district that so many of them were already in service that but comparatively few remained to be organized as contemplated.

In Brigade District Number 4 embracing many of the eastern counties and for duty in which Colonel R. H. Cumby was appointed to brigadier general by me, no place was designated for organizing the battalions and regiments in consequence of his failure to act and obey instructions issued after accepting the appointment tendered him.

From these facts it will be seen that I lost no time and spared no labor to have the troops reorganized in conformity with the law of the State and Order Number 13. I was watching the movements of the enemy and was anxious to have the troops ready to be transferred to the field.

In the mean time another difficulty arose of much greater magnitude and which finally resulted in defeating and destroying the State organization.

Major General Magruder, as soon as the recent act of conscription passed by Congress was published in the Trans-Mississippi Department, declined receiving the State Troops as State Troops in any form of organization, although tendered to him, and expressed his determination to rely alone upon the law of Congress for Troops. This law was published in Houston according to my recollection about the 20th of March, and the Troops in the four districts already named were assembling in their brigade encampments to be organized as the law of the State required and in conformity with General Order Number 13 issued by himself with my consent after they had been continued in service as State Troops, by my orders already referred to. The position assumed by General Magruder virtually involved the assumption that the law of Congress annulled the laws the Legislature enacted, and that the Confederate military officers were thereby authorized to break up a military organization formed under the authority of the State as a reserve auxiliary corps, embracing men never before embraced by any legislation of the Confederate government

and designed to perform merely the same service as to accomplish the same ends as those proposed by the laws of Congress. Of course I need not state that my opinions did not at all accord with his on this subject, and that I so represented to him I preferred the State organization should be completed and that the Troops should go into the field as State Troops, at least until the Legislature should meet and dispose of the embarrassing question by transferring them regularly to the Confederate service in a body, or to be organized in conformity with and for the purposes indicated by the Conscript Act, and by adjusting the Legislation of the State to that of Congress if that body should deem it proper so to do. I insisted upon this as the only proper and legitimate course to be pursued, but General Magruder did not accede to my views. I believed that in this way a larger number of these troops could be more readily thrown into the field than in any other way, to meet the emergency then threatening the State. The position of the Major General necessitated the disbanding or furloughing the State Troops for the State was not prepared to arm, equip and subsist them in the field. The enemy in large numbers were moving up Red River through Louisiana. Steele was moving with a large force from Arkadelphia towards northeastern Texas; the enemy, in force, were threatening northern Texas from the direction of Fort Smith; our forces were called from the coast to meet the foe in Louisiana, and that portion of the State left with few defenders; the enemy were in sufficient force on the Rio Grande to require all our force in the West to hold them in check. The least appearance of differences and conflict between the State and Confederate authorities was to be avoided, and when the enemy were approaching from so many directions and the State and Trans-Mississippi Department thus so seriously threatened, time was important, action necessary, and a mere negative course neither accorded with my duties or met the emergency. I pursued the course which I deemed best under all the circumstances. I called upon the State Troops and to those liable to conscription under the act of Congress by proclamation issued the 12th day of April, to volunteer and organize in conformity with the Confederate law. I could not order them to do so; I had no authority for this.

In view of all the questions and interests involved in

the subject, and affecting personally those who were embraced in the State organization, General Orders Number 1 and General Orders Number 15 issued from Houston and Austin on the 11th day of April were mutually agreed on between General Magruder and myself, and to these orders and the proclamation mentioned above, you are respectfully referred for the details involved in the disposition of this embarrassing question on my part. The importance of this subject causes me to place the facts connected with it so fully before you. The State and Confederate laws both [are] unrepealed. They embrace, in the main, the same class of men and are designed to accomplish nearly the same objectives.

The act of Congress, if executed as it was intended to be by its framers, and the organization embraced under it held as a reserved corps strictly and employed as such and kept in service only when actually needed in the defense of the State, will accomplish nearly the same ends intended by your legislation as an auxiliary force, but in other respects I seriously apprehend it is not so well adapted to the varied wants of the country. Such a corps, thoroughly organized under the authority of the State, would not only have been an auxiliary force to cooperate with the Confederate Army whenever an emergency should have presented itself, but a *reserve* corps of laborers, sowing planting and reaping for the support of those in regular service and interrupted in their domestic vocations as little as the exigencies of the country, would have permitted. I may be mistaken in my calculations, but I am of the opinion that the men between the ages eighteen and forty-five years, if well equipped, sustained and armed, would furnish a sufficient force in the Trans-Mississippi Department, to be continually in the field and would be much more formidable than greater numbers not so well armed and provided for. The whole subject is before you and is worthy of a full consideration in all its bearings.

The State is now without any military force whatsoever. She has not even a sufficient police under her control in any county. My views have not changed since my last message to the Legislature as to the necessity of providing for this want. Those between the ages of fifty and sixty years and those exempt from military service under the laws of Congress should be organized into minute companies

in their respective counties under the authority of the State, and their muster rolls forwarded to the office of the Adjutant and Inspector General. Thus organized, they would aid in the execution of the laws, civil and military; they would form an efficient police force to watch over and control the slave population and prevent them from being tampered with; they would arrest deserters and break up their haunts and root out disaffection, disloyalty and treason to our cause; they would aid in protecting the community from violence and from horrid murders, robberies, and other outrages which are daily being committed in many sections of the State. They would uphold and sustain the laws, assist in their execution, and make the wicked offender everywhere feel that the way of the transgressor is hard, and thus strengthen the local organization for the protection and defense of the State. These duties are all consistent with giving their time and attention mainly to domestic interests.

Frontier Organization

The military organization in the frontier counties, provided for by an act of the 10th Legislature, was completed so soon as practicable after the passage of the law. The Frontier Regiment was transferred to Confederate service on the 1st day of March last. I appointed William Quayle Commanding Officer of the 1st District, George Erath of the 2nd, and James M. Hunter of the 3rd, each with the rank of major of calvary, as provided by law; and it affords me great pleasure to bear evidence to the zeal, energy, and intelligence with which they have thus far discharged the arduous duties imposed upon them. The indications so far are that the organization is based upon proper conception of the wants of that exposed section of the State, and that when thoroughly completed and placed in working condition, it will afford the protection and accomplish the good anticipated from it by the framers of the law. If thoroughly systematized and faithfully executed, it promises better protection against the peculiar warfare waged upon the frontier by the Indians than any plan heretofore adopted. It seems to harmonize well with the habits, the peculiar interests and pursuits of the people of those counties. *Bona fide* residents are employed in this service who have families and property to protect from roving bands of savages,

prowling about to murder and pillage, and thus the protection of home is blended with that of the public.

So far as reports which have reached me, the disposition of the organization to discharge its duties according to the requirements of the law, as a general thing is gratifying, and good service has already been rendered by it to the State and to the Confederacy, which time will fully develop. Deserters from the Army have been promptly arrested and returned to the post of duty, and orders issued from the office of the Adjutant and Inspector General of the State—to sustain, encourage and aid the civil authorities in the discharge of their duties, investigating violations of the law, and in bringing punishment to offenders, to arrest and transfer to Confederate service those who failed to do their duty as soldiers in this service, to inquire into all combinations against the State and the Confederacy, and to arrest for punishment and hold in custody all connected with such combination—have been promptly obeyed by the commanding officers of the districts. The services rendered by Major General Quayle in his district in detecting and arresting and investigating the facts connected with a band of conspirators against the government, are very important. Major Hunter, though laboring the midst of great difficulties, deserves great credit for the energy and address exhibited by him in prosecuting an inquiry into the facts connected with the horrid murders and robberies committed in Gillespie County. I respectfully refer you to the office of the Adjutant and Inspector General for full information upon these subjects.

The number of men embraced in this organization is greater than was anticipated by you when in session last winter; the appropriation made for its pay and support is far short of what will be required. With the number of men now reported on the muster rolls, if one-fourth only is kept in service at a time, the expenses will amount to about eight hundred thousand (800,000) dollars, from the best estimates I can make.

If the Frontier Regiment is to be permanently withdrawn from service on that border, and its defense left to this organization alone, there may be a necessity for putting a larger proportion of the force in active service, and then the expense will be increased in proportion to the additional numbers employed. This Regiment was about

the 9th of April ordered from the frontier, and the condition of affairs in the district commanded by Major Quayle caused him to call to his assistance a large proportion of the force at his disposal.

How it is that the numbers in this organization have swelled up so much beyond the calculations made by the 10th Legislature is a matter for your inquiry. I am not informed of the rule adopted to determine the "*Bona fide* citizen under the law." Instructions have been issued from the office of the Adjutant and Inspector General that the term excluded deserters, and those who had left other sections to avoid military service, and that it only embraced those who were there, in good faith, before the passage of the law, with their families and property and who did not come there to shirk duty elsewhere. No man should be permitted to remain in that service who does not fully discharge his duties as a soldier and a citizen. Every man who is not true to the country should be expelled from the organization and placed in service under Confederate authority, and when found guilty of conspiracy and treason, punished as the law demands. The citizens of the border counties were placed in that service to protect their homes, to protect the frontier, to uphold the laws, and to do their duty to the State and the Confederacy. The organization, thus purged, and composed only of *Bona fide* citizens and good and true men—as already stated—will do much good. Such an organization, freed from demoralizing elements, in conjunction with a reliable battalion or regiment to cooperate on the outside of the border counties will, it is conceived, give better protection to that exposed portion of the State than has been afforded for years and seems really necessary to break up and guard against the dangerous combinations and elements collecting far beyond and threatening it seriously.

If the same views are entertained by the Confederate authorities as to this mode of its defense to the frontier, why may not arrangements be made by which the means of sustaining this organization may be furnished to the State from the Confederate Treasury?

The Penitentiary

You adjourned your regular session last winter without providing, by law, for the distribution of the products of

the penitentiary You left this important matter to the discretion of the financial agent and the directors of that institution, and imposed the responsibilities upon them. I respectfully submit that the disposition of these products, their price, and to whom they should go, are peculiarly in your province and should be fixed by law. The people expect this of their Senators and Representatives, and coming as they do from all portions of the State they are best calculated to judge of and regulate this matter, and the interest of the State requires it. Whether the price should be fixed at the market value or some other, it is for you to determine, and also in what proportion they are to be distributed to the Army, the families of soldiers, and the community. The subject—left without regulation by law—it becomes a question whether in a legal point of view the financial agent is not bound to sell these products at their market value. He is but an agent entrusted with the sale of the property of his principal, and the principal has failed to fix the price or regulate the disposition of the property, and left the agent under heavy bonds to hunt out his legal obligations through precedent and authority. In ordinary times, the position would not be so embarrassing, for the products would not be in such demand and sales at the market value would dispose of the difficulty. But now, when the families of soldiers require the fabrics, the army needs them, and the community clamor for them, your legislation should fix the rules for the guidance of the agent. His difficulties are increased by the constant and rapid depreciation of the Confederate currency which he is bound to receive in payment for the products. This depreciation devolves upon the financial agent, and upon the directory the necessity of increasing the price of the goods from time to time—otherwise the institution would either stop or become an expense to the State—and yet the increased prices intended to meet and that only to a very limited extent—the depreciation of the currency causes dissatisfaction and complaint in the community which would not be the case if the whole matter were regulated by law.

The Institutions for the Blind, the Deaf and Dumb, and the Lunatic Asylum should be furnished with such products as they may need from the penitentiary, at the prices that may be fixed. It is certainly very poor economy and very

lame financing for the State to appropriate money from her treasury to support these charitable institutions and have a large portion of it expended in the purchase of fabrics at fifteen and twenty dollars per year, not worth intrinsically so much as the products of the penitentiary, sold from three to five dollars per year in the same currency.

The financial agent and director represent the necessity of purchasing many articles in Mexico which cannot be procured in the country and yet are absolutely necessary to the machinery and to the institution. These articles can of course be purchased only with cotton or specie and they should be authorized to purchase and export under such regulations as you may deem proper such amounts of cotton as will be necessary for these purposes. I have to some extent responded to the necessity as represented to me by authorizing the purchase and export of some cotton, but authority for this should be directly given by law.

Cotton for Soldiers' Families, Medicines

I am advised through frequent communications addressed to me that many of the families of soldiers in some portions of the State cannot procure cotton to make clothing when they have the spinning wheels and looms and are willing to perform the labor. The attention of the county courts should be called to this, and this want in some way supplied.

I am also informed that there is a great scarcity of medicines throughout the State, and great suffering prevailing in consequence of this. Applications are numerous from physicians, sustained by the people, for the privilege of exporting small amounts of cotton to supply this want. I call the facts to your attention that you may provide a remedy for this evil, if practicable.

Demoralization

Imperative duty requires of me to call your attention to the fearful demoralization and crimes prevailing throughout the State. In some sections society is almost disorganized—the voice of the law is hushed and its authority seldom asserted. It is a dead letter—an unhonored thing upon the unread pages of the statutes. Murder, robbery, theft, outrages of every kind against property, against human life—against every thing sacred to a civilized people—are frequent and general. While communities are under

a reign of terror they utter their dreadful apprehensions and their agonizing cries of distress are in vain. The rule of the mob—the bandit—of unbridled passions—rides over the solemn ordinances of the government. Foul crime is committed, and the criminal, steeped in guilt and branded by his own dark deeds with eternal infamy, goes unwhipped of justice. Not even a warrant is issued for him, no effort is made by the sworn officers of the law or by the community to bring him to punishment. Too often the deed is excused—the community is divided in opinion as to the guilt, and the criminal is screened from justice, unless his offending chances to touch some peculiar influence or prevailing notions and then without trial and without the forms of law, he is hung by a mob. The law is not at fault. It has denounced its fearful penalties against transgressors of all kinds. It has provided all the necessary officers to expound and enforce its provisions. They are solemnly sworn to faithfully discharge their duties. They are armed with the authority to employ the power of the country, when necessary, to execute the law. They are paid from the treasury of the State, and from the taxes of the people. They are set apart for the time being through the organism of government to this solemn work. Every county and every judicial district has the legal and moral power—where the officers and the people earnestly and cordially cooperate to root out these evils, arrest these crimes, punish the offenders, and to restore the law to vigor and to regular operation. Thus the law would again become the harmony of society and secure it against this fearful confusion and these fearful dangers.

In view of these facts, the judiciary and all other officers should be at their posts and fearlessly and faithfully discharging their duties. The people should encourage and sustain them, and hold them to a strict accountability for their short comings in office. Sacrifices must be made and moral courage displayed by the civil as well as the military officers. These qualities are as essential in the one as in the other, and as important to society. The severest penalties should be provided for civil officers who fail to discharge the obligations pertaining to their position. They should not be permitted to eat bread in idleness, and in neglect of their sworn duties. The law must triumph or tyranny and unbridled passions will reign. Order must

prevail or anarchy and the reign of terror ensue. Let the solemn warning from the pages of history instruct us, and let us be wise in time.

Purchase of Cotton with State Bonds

Diligent and as full inquiry as I was able to make, satisfied me that the bonds of the State, pledging payment in cotton, could not be sold except at most ruinous rates. I fully believe that to have pursued literally the act of the Legislature on the subject of the disposition of these bonds would have cost the State perhaps from three to five millions of dollars to have realized one million. This could only have sunk the credit of the State still lower and was therefore, if possible, to be avoided. And besides it was very necessary to adopt some plan upon which the State could speedily realize upon the pledges her credit, and as a matter of course it was necessary to conform the plan to some extent to the most singular condition of affairs existing in the State in order to make it effective.

I found the condition of things, with reference to cotton, about this: Congress had then laid on restriction whatever upon its free exportation, and the only restrictions imposed upon it were by military authority, claimed to be exercised under the impressment law. The manner in which this authority had been exercised—the confusion and the dissatisfaction that reigned upon the subject—the poor returns to the public benefit from thousands of bales that had been exported—are well known to you and to the country. Contracts of the most extravagant character were in existence, for the introduction of goods and Army supplies—absorbing vast amounts of cotton of the best grades—some of which, it is gratifying to learn, have been since annulled.

A cotton bureau was about being organized at Houston by the authority and under the direction of General Smith, intended to control cotton for purchase of supplies for the Army. This bureau was organized and commenced its operations and gave something like system to the military control over cotton. The plan of the bureau was about this: They gave to the vendor what are properly called *Specie Certificates* for one half of his cotton, at prices varying, as I am informed, according to the quality, from ten to fifteen cents per pound, and exempted from impressment the other

half, or furnished him a permit to export the same amount. This system proceeded upon the calculation that the vendor could not afford to spare to the government more than half of his cotton, and that his own necessities required him to retain the other half.

Transportation was scarce, and difficult to procure. The men, generally of the State, up to fifty years of age, were in the Army and the transportation controlled by the military authorities. It was generally conceded that the cost of transportation of cotton from any distance in the interior to the Rio Grande was equal to one-half of its value—risks, losses, and wastage considered.

The producer could not afford to sell all his cotton for State Bonds, however willing he might be to divide with the State for the public necessities. If he took the Bonds of the State for one half, he must retain the other for his own use and be protected in its control so that he could realize from it—the protection thus extended being the main inducement to sell. A system of permits authorizing the vendor to export the same amount of cotton for himself which he had sold to the State was susceptible of great abuses, and besides did not secure other objects necessary and constantly kept in view. It was necessary that the cotton should be taken care of—that some one would be responsible for it, from the purchase to the sale, and that expedition and energy should hasten it to market. The teams and slaves of the planter necessary for the interests of the military service would only admit of details, and I believed as the military authorities stated to a limited extent, that planter and vendor must therefore be interested. Had it been practicable without extending any privileges to the producer to purchase cotton for State Bonds, as it was not, for the reasons already given, save at enormous and ruinous prices—it could not have been transported to the Rio Grande by persons and agents hired for that purpose, having no interest in its for less than half of its value, when the wastage, carelessness, charges and losses in various ways, usually attending public property were considered. It would then have required as much cotton to have realized to the State a given sum of money by buying the cotton entire—even if it could have been purchased at the same price—as it will to realize to her treasury the same amount upon the plan adopted. And besides, the

Confederate currency had sunk so low in value that had the State undertaken, through agents and employees to export cotton entirely upon her own account, it would have been necessary to provide, in advance, specie for paying freights and charges, or to have interested parties able to control the necessary transportation in cotton itself. And again, permits, as they are termed, claimed to have been extended by Confederate authority to export cotton, were, as I am informed, afloat, and are still in numbers, and could be bought from four to six cents per pound of the cotton authorized to be exported by virtue of them, and besides, specie to some extent had to be competed with in purchasing.

Again, the two acts passed by the Legislature—the one contemplating the sale of the six per cent bonds for specie or arms or munitions of war and machinery, cotton being pledged on their face for their redemption, the other contemplating the issuance of seven per cent bonds redeemable two years after the war should end and to be used in the purchase of cotton—were passed at the same session, embraced the same subject matter, and were designed to accomplish one result and might therefore justly and legitimately be construed together as one act of legislation. Such a construction would not only be sustained by legal rules of interpretation but would secure practical and beneficial results to the State and prevent the sacrifice of thousands of dollars, perhaps millions, to mere technicalities. Why should both classes of bonds be used when only one answered a better purpose?

In view of these facts and considerations, I adopted a plan for the purchase of cotton with the seven per cent bonds which I believe just to the planter and to the vendor, true to the public interests, to the State and to the Confederacy, and which, I believe, will realize to the State her bonds at par, so far as they may be sold, as I anticipated when it was adopted.

The main features of the plan are these: the vendor transfers his cotton to the State, and under the authority of the State, transports it to the Rio Grande at his own expense and risk. He retains one half of the cotton for his own use—he receives State Bonds for the other half at its specie value at that point, less the actual cost of transportation—the transportation west of the Trinity not to cost

over one-fourth of the value of the cotton in that market. Where the vendor cannot export the cotton, the State pays him for it in State Bond at its value where purchased—generally from nine to eleven cents per pound according to quality—he exporting a like amount, under the protection of the State for himself. One contract, according to its terms, pays the State fifty dollars in specie for each bale exported. The departures from this plan, so far as my information goes, are to a limited extent and admitted only for the purpose of securing necessary transportation and proper compensation who were laboring and expending their money in the purchase and exportation of cotton the purchase of rope and bagging, etc., for the benefit of the state. The departures have been indulged only for these reasons, and then limited in extent, so as not to defeat the realization to the State of her bonds at par in specie or its equivalent, and all that was promised for the cotton when purchased.

There is no illegal force, no illegal and oppressive exactions made of the producer; there is but little risk incurred by the State, no chance for fraud, as the State only pays for what she actually receives. It is a direct appeal to his patriotism, his liberality, and to his interest, private and public, and his energies and capital—united in the promotion of the two interests. The tithe—the only tax imposed upon cotton by Congress except the export duty—is paid, and if the owner and producer realizes something out of the remainder, it is but due him for the property is his own hard earnings.

The producer of all classes of men should be encouraged, and one design of this system was to give him encouragement to arouse his energies and cause him to feel that he had some interest in his own productions.

To prevent cotton from being exported in the name of the State not embraced under the plan proposed, and to secure to her treasury all that is promised from it, this plan was thus systematized. The cotton is reported at and recorded in the offices at Houston, San Antonio, and Eagle Pass, and from those offices to me, at this place, and by me the reports are referred to the Military Board to be preserved and recorded, and on the arrival of the cotton on the Rio Grande, it is to be disposed of in accordance with the agreements under the plan.

Colonel E. B. Nichols of Galveston, a merchant of long standing and well known for his success and ability as a business man, was selected as the agent or commissioner of the State to dispose of the Bonds and purchase and dispose of cotton. The appeal was made to the citizens and they cheerfully responded to the call, and in a few weeks a large amount of cotton was conveyed to the State under this plan, and much of it is now being transported to the Rio Grande and a part has been sold; and more is directed to be forwarded to Houston to pay for arms already imported from abroad and to be purchased at that point, as much of the cotton as can be used to advantage in the purchase of arms and munitions of war. If the State is freed from embarrassment in the execution of this plan, she will, in a short time, be enabled to pay for several thousand stand of arms, all the munitions of war necessary to frontier protection, and perhaps much more, and have quite a surplus left to sustain her or to be expended in the purchase and in the introduction of machinery, and she can procure these supplies no other way. All the arms of the State, including the eight hundred and sixty Enfield Rifles recently purchased, have been placed at the disposal of the Confederate authorities and are in their possession.

The State, in the execution of this policy, is exerting the means and the energy not yet placed under the absolute control of the Confederacy, together with her credit to strengthen herself, to strengthen the Confederacy, and to give additional aid to the cause in which we are engaged. Notwithstanding all this, it is my duty to inform the Senators and Representatives of the people that the most serious obstacles and embarrassments have been thrown in the way of the State, and that she is not yet freed from them.

Subordinate officers on the Rio Grande, claiming to act under instructions from officers higher in rank in the Confederate States' service, have interfered with cotton transported under the authority of the State and have delayed and prevented its exportation. I am informed by Colonel E. B. Nichols, agent of the State, that they have prevented cotton belonging to the Military Board from being exported and have claimed half of it for the Confederacy. I am as yet not informed what particular cotton this is, but it is either cotton or cotton exported under contract for the purchase and introduction of machinery. They have thus

interposed themselves between the State and the execution of her laws, the providing of means for her defense, and to clothe her people.

I have borne these embarrassments with patience, and have faithfully—and am still laboring—to secure an understanding—to have harmony and concert of action between the State and Confederate authorities. I am now in correspondence with General Smith on this subject, and I do not despair of a complete success. The liberal views manifested by him in reference to the civil authorities of the State and her rights, the disposition, and even deep interest manifested by him in reference to the introduction of machinery afford me strong assurance that, when this subject is fully understood, all embarrassments will be removed, and complete harmony and concert of action secured. The same liberal sentiments have been expressed by Major General Magruder and by Lieutenant Colonel W. J. Hutchins, Chief of the Cotton Bureau at Houston, in their correspondence with me, and I am therefore led to the belief that the difficulties referred to have grown out of a want of mutual understanding.

This whole cotton business, once systematized and controlled in a manner consistent with the rights of the citizen and what is due to the public necessities, the State and Confederate authorities exerting themselves in concerted effort, the most gratifying results may be anticipated.

Much of the cotton of the State is in the seed, wasting in pens and houses, bagging and rope must be introduced from abroad, and it requires a system combining energy and liberality to place the cotton in a condition for market. About the day of April I directed the agent of the State to arrest the purchase of cotton for the reason that the procurement of cotton by the Confederate authorities to be used in the purchase of supplies for the Army.

The correspondence with the military authorities on the subject of cotton so far as it has progressed, you will find in the office of the Military Board, together with the reports of the amounts purchased under the plan alluded to. I hope to be enabled in a few days to place before you the final conclusion of the military authorities as to the purchase and exportation of cotton by the State, under the system proposed. It is, in my opinion, absolutely essential to the public interest of the State that she should

be fully sustained in her policy propounded for the purchase and transportation of cotton, for the accomplishment of the ends proposed by your legislation.

From the facts and considerations already stated, it is believed that this is the only plan that will speedily and at a reasonable cost to the State secure to the State the result desired, and so essential to the public welfare.

Necessity of Correspondence With the Headquarters of the Trans-Mississippi Department

As we are almost cut off from the government at Richmond, and as General E. Kirby Smith is vested with so much power, it is very necessary that a correspondence should be constantly up with his headquarters, and that the executive should have a more reliable means of correspondence than the slow and uncertain correspondence by letter through the mail. The necessities for this have been several times felt by me since my induction into office, and are likely to continue so long as the enemy controls the Mississippi River and its valley to the extent he now does, and a full and complete understanding as to matters affecting the interest of the State, her condition and wants should at all times be had between the executive and the general commanding the department. His mind should not be left to impressions obtained through any indirect ways as to the interest, the policy, and the condition of the State. I record with pleasure my confidence in the integrity and uprightness of General Smith, and his disposition to accord to the State what is due when he has full information.

My experience in office and the condition of affairs in the Trans-Mississippi Department only add strength to my convictions that the State government should be preserved intact, and in as full vigor as compatible with our surroundings. Texas is the only civil power left intact west of the Mississippi River, and she should profit by her good fortune and give the benefit of it, by her vigor, her energy, and her achievements to her less fortunate sister states. Missouri is overrun by the enemy; Arkansas and Louisiana have, for a time, lost the possession of a large portion of their territory, and they are therefore shorn of their completeness as a sovereign state and deprived of the ability to have any thing like a regular and systematic civil policy. She should, as she has heretofore done, yield cheerfully

and readily whatever may be legitimately required for the common cause and common defense, and her remaining energies and powers would be wisely and systematically employed in preparing for a still more evil day, and in gathering still greater strength for a still more desperate struggle in the contest for justice and independence. If it should become necessary in the progress of this fearful struggle for her even to sacrifice principle, which in times less pregnant with danger she would not sacrifice, let her make the sacrifice in that noble spirit of patriotism so characteristic of her people; but let her at the same time mark well the latitudes and longitudes of the departures, and return to them with a firm determination when the storm and hour of gloom have passed with the conflict of arms. May she be the last state to give up the cause of her bleeding and suffering sisters, and may she be the last to bow her discrowned head, and own that she is no longer a sovereign power, erect and free.

Spirit of Public Enterprise

The spirit of public enterprise now manifested by individuals, associations of men, and by chartered companies in employing capital and labor for the manufacture of iron and various other articles necessary to the people and the army, the purchase and introduction of machinery for the manufacture of cotton and woolen goods—is not only gratifying but a source of hope and congratulation to the whole State. With proper protection and encouragement extended to those who are engaged in the prosecution of these enterprises, in a few months large amounts of iron and other necessary articles will be daily manufactured and very considerable amounts of machinery of a varied character introduced and put into operation, notwithstanding the great risks and expenditures incurred in prosecuting such undertakings in these times of peril and confusion. The capital of every kind—the laborers, the agents, mechanics, superintendents, directors, etc., employed, should be protected by law against interference or interruption from any and every source. You will be enabled to see something of the amount of capital already devoted to these objects—the spirit and energy exhibited by those engaged in their prosecution—by the report of the Military Board, and from the papers in that office. I have missed no opportunity of

encouraging, sustaining, and protecting in every way within by power and within the sphere of my influence those devoting their capital, labor and time to the prosecution of these and all other enterprises calculated to benefit the people and the Army, and as I think, essential to our success in a long-continued struggle.

I have considered it the best policy as well as the only one calculated to ensure speedy and certain success, to encourage individual enterprise rather than attempt the accomplishment of these varied, necessary and numerous objects alone through the Capital, agents, employees and management of the State. This policy not only ensures better success but it more readily adapts itself to the wants of the country and diffuses its beneficial results more generally.

In my efforts to execute and make this policy efficient, I have endeavored to place under the protection of the State and the Military Board those engaged in it, and proposing to engage in such enterprises, together with the Capital and laborers thus employed, making such regulations as I thought best calculated to ensure good faith and success. While the State Troops were under my command, I made such details as I thought reasonable and necessary for the accomplishment of these ends. In order to insure the introduction of machinery from abroad and the appliances essential to its operation when so introduced, the exportation of cotton is necessary, and for these purposes the exportation of it in such quantities as were deemed proper has been authorized under the authority of the State, and under such regulations as were considered sufficient to secure good faith in the parties exporting said cotton without crippling their energies or embarrassing them in the accomplishment of the objects proposed. You are respectfully referred to the office of the Military Board—the agreements there on file, and to their report for full information on this subject.

In view of the great interests involved in this whole subject, I earnestly recommend that you authorize the Military Board and the executive to make such arrangements and contracts with individuals, associations and chartered companies who are possessed of the capital and powers necessary to introduce and operate machinery or to manufacture any necessary articles for the people and the Army as will ensure them the protection of the laws of the

State in the devotion of their capital, labor, and energies to the accomplishment of their objects. This done by you and one other and secured—the cordial cooperation of the Confederate authorities with those of the State is systematically sustaining and encouraging this policy protecting those engaged in such enterprises, granting the necessary details, mechanics, laborers, agents, etc.—the most gratifying results may be anticipated by the public in a few months. So many of our people are now drawn into Confederate service and are under the military authority that the cooperation mentioned is essential to relieve those thus employing their capital and their time, and incurring the incidental risks from apprehensions of being interrupted in the midst of their labors and plans to enable them to make reliable calculations and to ensure them the necessary laborers and mechanics. Such a cooperation as this will result equally to the benefit of the State and the Confederacy—to the people and the Army, and to the families of soldiers—and would seem natural and easily obtained and I most sincerely hope as I invite your attention to its importance, you will lay the foundation for insuring it.

The State is also under her own authority and by means of her own capital prosecuting public works, in some of which she has large amounts of capital involved, and they result equally to the benefit of the Confederacy and to the State. She is through contracts manufacturing on a small scale small arms, powder, and laying the foundation for an increased manufacture of powder necessary to the frontier and to the various counties. She is also manufacturing ordnance and beginning the manufacture of spinning jennies to facilitate the manufacture of cotton cloth—and the same remarks as to enterprises prosecuted under her authority as to the cooperation of Confederate authorities—the detail of the necessary mechanics and laborers—apply with equal force to the works directly prosecuted by the State. I take pleasure in stating to you that in my conversation and correspondence with Generals Smith and Magruder on these subjects, they have manifested a full appreciation of their importance and a most liberal disposition to foster and protect such enterprises and give all the facilities consistent with the military service. I am encouraged by the belief that a systematic and thorough cooperation between the State and Confederate authorities

can be secured in the prosecution of these enterprises when the objects had in view by all are fully understood.

Certificates as to Officers

The recent act of conscription passed by Congress exempts from military duty "the Vice President of the Confederate States, the members and officers of Congress, of the several Legislatures, and such other Confederate and State officers as the President or executives of the respective states may certify to be necessary for the proper administration of the Confederate and state governments as the case may be. Has Congress the power to invest by law the President of the Confederate States with authority to strip the general government of these States of the officers provided for its administration by the Constitution and laws? Has the Confederate government power to vest the executive of a sovereign state or any other officer with authority to displace the officers, provided for its administration by the Constitution and laws of that State?

I will not argue these questions and thereby leave the implication of doubt on my mind as to them. There can be but one answer given to them—that answer must be in the negative.

The Constitution and laws of Texas have not only provided but have determined the officers necessary to the administration of the government, and they are in their respective offices discharging the duties imposed upon them by the authority referred to.

It is the duty of the executive of the State to respect and execute its laws, and to see that its Constitution is not violated. These obligations are imposed on him by a solemn oath. He is nowhere empowered to veto or nullify laws already in force, nor to set aside provisions of the Constitution.

The Confederate government did not create the state government, nor did it establish its various officers and provide for officials to fill them. It certainly, then, cannot judge of the officers necessary to its proper administration or take them from their places of trust. If that government cannot do so directly, it certainly cannot do so indirectly by vesting the power in any other officer or person. So far as placing officers of the government into military service is concerned, it is a matter addressed to the legis-

lative and not to the executive discretion, and that discretion is then restrained and restricted by the Constitution. The Legislature, so far as it is not controlled by the Constitution, may dispense with such offices and officers as, in their wisdom, may be deemed proper in view of the difficulties and dangers threatening the country. The executive can dispense with none, civil or military. Were I, as executive of the State, to certify that any or all of the State officers were not necessary for its proper administration, the certificate would be that of an unauthorized license given to the military authorities to deprive the State of the officers, provided for its administration, thereby utterly to prostrate and bring into contempt the State government.

Where should I begin with the exercise of the power? Where should I end with it? How am I to determine the officers necessary—they all have their duties assigned to them by law. Shall I commence with the judiciary? Shall I deprive the courts of their magistrates, judges, clerks, sheriffs, and other officers? Shall I deprive the State of a comptroller and treasurer, of an adjutant general, of a secretary of state? Shall I break up the county courts? The attempt, therefore, to exercise such a power would not only be dangerous but utterly unauthorized—and my respect for the whole framework of our government and for my oath of office as executive forbids me to attempt the exercise. The exercise can do no good. It can give no appreciable strength to the Army or our cause, and no such excuse in my opinion can be offered for it. It may be that the law of Congress was not intended to apply to the officers already provided for in the Constitution and laws, and who are actually employed in the administration of the government, but to such only as might be hereafter found from time to time to be necessary to assist in the administration of, and in conducting the business of, the state government. But it is not so construed by the Conscript Bureau in the Trans-Mississippi Department.

It is for you to determine whether the exigencies of the country require the abolishment of any of the offices established by the laws of the State and of the function of their officers, and if so to make such regulations as you may deem proper and necessary. I cannot, however, be true to my convictions and forbear the expression of the opinion that the officers of the State in view of the existing laws—

the duties imposed by them—and the general condition of the community—should be kept in their position and held to a rigid and strict discharge of their duties. Those, however, who fail to discharge their duties faithfully should be placed in military service. No office, civil or military, should be placed in military service. No office, civil or military, should be a meer sinecure in this hour of trial and peril to the country.

Writ of Habeas Corpus

There can be no doubt that Congress is vested with power under the Confederate Constitution to suspend “the privilege of the writ of habeas corpus when, in cases of invasion or rebellion, the public safety may require it.” Congress must of course judge at their peril of the existing necessity and define the class of offenders from whom the privilege shall, from the time specified, be withheld. They were in a position to know the condition of many portions of the Confederacy about which we know but little as to current events; and they perhaps judged wisely as to the necessity. The objects, however, to be attained by the suspension of the privilege of this writ must be clear to every thinking and well informed man who has given close attention to the subject, is well illustrated from the legislation and jurisprudence of England. It is to deprive of a speedy, public trial, to prevent the release from legal custody of those who may be found plotting treason and conspiring against the government and the life of the community, until such time as they may be released or tried consistently with the public safety. This object should be the guide to all the regulations attending the suspension of the privilege of the writ and no departure from principle, or the safeguards thrown around the liberty of the citizen in the Constitution of the State or Confederacy, is necessary to the accomplishment of this end. The departure from principle, the danger, does not lie in the mere suspension of the writ, for this is provided for where the public safety requires it, but in the manner in which the suspension may be regulated and carried out. It seems consistent with the objects to be attained by the suspension of this writ that an information or affidavit of the facts against the accused should be fixed, and that the warrant of arrest should be issued by some officer legally authorized

to issue such warrants. If a party is guilty of any of the offenses named in the act of Congress, some person or persons must know the facts, and the information can be given and the affidavit filed. It is not deemed necessary to discuss the question whether Congress possessed the power under the Constitution to authorize the president, the secretary of war, and the general officer commanding the Trans-Mississippi Departments under his authority and control to order the arrest and to hold in custody citizens not in the military service charged with any of the offenses specified. It would be difficult to demonstrate the existence of such power, and the exercise of such power is not essential to the accomplishment of the end proposed by the law. Unless this power is construed into an unlimited license, given to the president to employ the military through the officers named under his orders as commander in chief of the Army, and to judge of the offenses and to make arrests, it can have but a very limited operation if this be the construction and operation of the law. The military authorities are made judges of offenses and crimes properly cognizable by the judicial tribunals, and the liberty of the citizens is in their hands at least so far as arrest and detention, for a time is concerned. Why the courts of the country, which have been so ready to sustain the legislation of Congress in this struggle should be ignored and officers appointed by the president to investigate the cases of those arrested by military authorities, I am unable to perceive. There are courts in almost every county and district in every state of the Confederacy and they could not only issue warrants and cause arrests to be made in the instances defined by the act of Congress, but they could investigate all the facts and report them to the president under proper regulations. Such a course as this, it is believed, is much more consistent with the whole framework of our government than the one adopted by Congress. If the law was intended to prevent any citizen from an appeal to the established judicial tribunals to determine whether or not it was in accordance with the Constitution of the Confederate States, it is a precedent most dangerous, in practice most alarming, and utterly without Constitutional warrant.

Practically, I fear that this act of Congress adds no strength to our cause. It divided public opinion as to its

propriety. It produces alarm and dissatisfaction. Every offense defined in the law is provided for in the laws of Texas, and, I believe, in the laws of the Confederate States, and are properly cognizable by the judicial tribunals; and were these judicial tribunals faithfully to discharge their duties, they would much more effectually punish the offenders classified under this law than can be done under the regulations made by it.

I do not believe that the president will abuse the powers conferred upon him. I have too much confidence in his patriotism—but whether he can prevent abuses or not is more than doubtful. It is a question, however, above the mere disposition and character of the president and the patriotic intentions of Congress. It is a question of safe precedent in law and wise and judicious legislation. It is the precedent of the Confederate Congress in the suspension of the writ of habeas corpus and in all of its bearings, merits full considerations and an unequivocal expression of your views in regard to it. My convictions are that the law should be repealed or entirely changed in its regulations.

The laws of Congress in relation to currency, the writ of habeas corpus, conscription, the attempt to vest the president of the Confederacy and the executives of the States with the authority to deprive the governments over which they respectively preside, of the officers constituted by the Constitution and the laws, are certainly extraordinary and unprecedented acts of legislation, and when taken together, most significant. It required unusual nerve to adopt them, and if they are justified at all, they must be justified by the unusual crisis and as a means to save the life of the nation.

Let us all stand firm in our allotted places and discharge fearlessly and faithfully the duties devolved upon us, and the God of Hosts who has crowned with success our armies, elate with victory over so many fields of blood will vouch safe to our country independence and a proud place in the family of nations.

P. Murrah

The Senate on motion retired to their chamber when an adjournment was moved until 9 o'clock A.M. tomorrow and carried.

Thursday, May 12, 1864
9 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt introduced a bill punishing offenses against foreign commerce. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. White introduced a bill to protect the rights of the people of Texas. Read 1st and 2nd times and referred to Committee on State Affairs.

Mr. Jowers offered the following: *Resolved*, That this body will not entertain any business of a private or local character during its present session. The resolution was taken up for action. Mr. Harcourt moved to indefinitely postpone—lost.

Mr. Lea then moved to amend by inserting the word “merely” before “private;” lost. The resolution was adopted. Mr. Harcourt introduced a bill to punish persons who may act as agent for persons disaffected to the State. Read 1st and 2nd times and referred to Judiciary Committee.

On Mr. Lea's motion that portion of the Governor's message relative to currency was referred to Committee on Finance. On Mr. Selman's motion that portion relative to Penitentiary was referred to Committee on Penitentiary; that relative to military affairs was referred to Committee on Military Affairs; and those portions relative to the Military Board and the action of the Confederate Congress were proposed by Mr. Dickson to be referred respectively to Committee on State Affairs and Confederate Relations with instructions to the several committees to act jointly by their committees on the several matters referred, Mr. Harcourt offered the following: *Resolved*, That in response to the invitation of the House that the Committees of the two Houses should act in conjunction upon the Governor's message, the Senate respectfully suggests the impropriety of their joint action in Committees but will very cordially hold informal conference with the House committees. Adopted.

Mr. Ford introduced a bill to provide for a commercial agent and to prescribe his duties. Read 1st and 2nd times and referred to Committee on State Affairs.

The resolution relative to joint action of Committees on Finance in the Senate and House was laid on table.

A bill to incorporate the Cherokee Furnace Company having been announced was declared out of order under the resolution relative to private business.

Mr. Wootten moved to reconsider the vote adopting the resolution relative to private business. Lost.

Mr. Magoffin and Mr. Quayle were added to Committee on Military Affairs and Mr. Hord on Committee on Judiciary.

Mr. Wootten offered a resolution authorizing the Committee on Printing to contract for the printing of 2000 copies of the Governor's message. Postponed until tomorrow.

On motion the Senate adjourned until 9 o'clock A.M. tomorrow.

Friday, May 13, 1864

9 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

The Judiciary Committee through their Chairman Mr. Harcourt made the following reports:

The Judiciary Committee has duly considered a bill to be entitled an act amending the law concerning divorce and instruct me to report the same back to the Senate and recommend that it do not pass.

The amendment proposed is to authorize a divorce in favor of the wife, where the husband has gone to [sic] and joined the public enemy.

The Committee are of opinion that the terms "cruel treatment and outrages" employed in the statutes, fully embrace the grounds presented by the amendment, as it has been held by the Supreme Court, that any acts which affect the mental feelings and are inconsistent with the matrimonial relation: its duties, obligations, and affections, enter into the definition of legal cruelty.

If the wife does not sanction and approve the desertion of country and family by the husband, her mental sufferings would entitle her to a decision of separation, and no court or jury would hesitate to pronounce it.

Another amendment proposed by the bill is to authorize a divorce in favor of the wife when the husband has been convicted of a felony punishable by confinement in the penitentiary.

We cannot give our sanction to this amendment.

The wife should not be permitted to spread upon the [records?] of the county the charge of felony against the guilty yet affectionate husband and the father of her child.

In the language of Judge Lipscomb, "If he has erred, and committed crime, she should endeavor to win him back to virtue and be the very last person on earth to proclaim his vices to the world. The husband may be a felon, and may have outraged laws of God and man, yet be personally kind to his wife: tenderness for her may be one redeeming trait in his vicious character—one virtue linked with a thousand crimes."

John T. Harcourt, Chairman

The Committee on the Judiciary had duly considered a bill to be entitled an act to define and punish the unlawful interference with the exportation and transportation of cotton or other articles, and instruct me to report the same back to the Senate and recommend its passage.

The bill does not propose to interfere with any regulations that may be imposed by Congress upon the exportation of cotton, but its object is to arrest the unlawful and arbitrary restrictions that have been or may hereafter be placed upon the transportation of cotton either by unauthorized military orders, or by any self-constituted bureau or mercantile combination.

John T. Harcourt, Chairman

Mr. White offered the following. "*Resolved*, That the Committee on Military Affairs be instructed to inquire into the laws and ascertain if there is any proviso to pay the brigadier generals appointed under the act of December 1 for their service and to reimburse them the money actually paid out in necessary expense and if not to report by bill or otherwise." Adopted.

Mr. White introduced a bill to amend the 8th, 9th, and 20th acts of the Penal Code. Read 1st and 2nd times and referred to State Affairs Committee.

Mr. Hord introduced a bill to define and punish an offense therein described. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Durant presented petition of Citizens of Leon Coun-

ty asking the repeal of the Liquor Law. Referred to Committee on Finance.

The resolution relative to printing 2000 copies of Governor's message was read and adopted.

The Senate then adjourned until 9 o'clock A.M. tomorrow.

Saturday, May 14, 1864

9 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt, Chairman of the Judiciary Committee, reported a bill to define and punish offenses committed within the State by persons under the protection or authority of the public enemy, and recommended its passage.

Mr. White introduced a bill for the subsistence of soldiers' families. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Guinn offered the following resolution: *Resolved*, That the Adjutant and Inspector General be requested to furnish the Senate with the following information:

1st—How many persons have been detailed from the military force of the State.

2nd—For what objects said details have severally been made and upon whose application.

3rd—Whether there is any record in his office showing the number, and who has been detailed, for transportation agents [or] teamsters, and in connection with the purchase of cotton and the amount of transportation certified or stated to be furnished by each one—if so a separate list containing the details granted and the information asked for in connection will be furnished. Adopted. Mr. Guinn also offered the following: *Resolved*, That the Military Board be requested to furnish the Senate the following information:

How much cotton has the state purchased? From whom? The price paid? How paid? Through whom paid? The amount paid or agreed to be paid for transportation? If any sold, what has been realized in return? The number of purchasing agents in their employ and their names and residence. Laid over 1 day.

The Committee on Printing, Mr. Ford, Chairman, reported a contract with the *State Gazette* office for printing

2000 copies of the Governor's message at four dollars per page which may be discharged in Confederate Treasury notes at 20 for 1.

Mr. Throckmorton introduced a bill to provide for a revision of the laws. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Jordan introduced a bill to amend Article 527 of the Code of Criminal Procedure. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Durant introduced a bill to amend the stay laws. Read 1st and 2nd times and referred to Judiciary Committee. Mr. Davis introduced a bill to amend Articles 743 and 744, Chapter 8, Title 1 of the Penal Code. Read 1st and 2nd times and referred to Judiciary Committee.

The bill amending the laws concerning divorce and alimony with reports of Judiciary Committee adversely to its passage was read 2nd time and Mr. White moved to lay the report upon the table. The yeas and nays being called stood:

Yeas—Messrs. Dickson, Durant, Ford, Guinn, Hartley, Jordan, Kinsey, Knox, Magoffin, Moore of Davis, Quayle, and White—12.

Nays—Messrs. Beasley, Burney, Charlton, Cooley, Davis, Harcourt, Moore of Bastrop, Selman, Throckmorton, and Weatherford—10.

Mr. Dickson then moved to amend the bill by striking out that portion relative to felony—carried.

Mr. Hartley moved to amend by striking out, "and shall fail for 30 days after the passage of this act to return to his allegiance to this state." The further consideration of the bill was then postponed until Monday.

A bill to define and punish the unlawful interference with the exportation and transportation of cotton or other articles. Read 2nd time and ordered to be engrossed. Upon a motion to suspend the rule the yeas and nays stood:

Yeas—Messrs. Beasley, Charlton, Davis, Dickson, Durant, Harcourt, Jordan, Jowers, Magoffin, Moore of Davis, Moore of Bastrop, Montague, Quayle, Throckmorton, Weatherford, Wootten, and White—17.

Nays—Messrs. Burney, Cooley, Ford, Hartley, Kinsey, Knox, Lea, and Selman—8.

Mr. Knox offered the following which was unanimously adopted: *Resolved, by the Senate of the State of Texas, That*

we have heard, with profound sorrow the announcement of the death of N. A. Mitchell, the representative in this body of the 30th Senatorial District. In him the State has lost a valuable public servant, his constituents an able representation, the country a tried patriot and soldier, and we a colleague whose amiable character has endeared him to us all.

2nd *Resolved*, That to his bereaved family, in this their great affliction, we tender our heart felt sympathies; and that the Secretary of the Senate be instructed to forward to them a copy of these resolutions.

3rd *Resolved*, That in honor of the memory of the deceased, that we wear the usual badge of mourning for the balance of the session; and that we do now adjourn until 9 o'clock Monday morning next.

Monday, May 16th 1864
9 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt, Chairman of the Judiciary Committee, made the following report:

Committee Room, 16 May

The Judiciary Committee has considered a bill to amend Articles 743 and 744 of the Penal Code, and a majority of the Committee direct me to report the same back to the Senate and recommend its passage. The amendment proposed is to authorize the infliction of capital punishment in cases of robbery.

It was [presented?] before the Committee that in some portions of the State, lawless bands of men were marauding over the country, and by force and violence robbing peaceable citizens of their property. That such offenders were not deterred by the fear of the Penitentiary, and the people believing that punishment was not adequate or certain, were inclined to administer summary punishment by hanging.

The amendment deserves serious consideration.

John T. Harcourt, Chairman

Also reported the following bills and recommended their passage:

A bill to amend Article 527 of the Code of Criminal Procedure—and a bill to provide for the revision of the laws.

The Committee on Engrossed Bills reported a bill to define and punish the unlawful interference with the exportation and transportation of cotton or other articles. Correctly engrossed.

Mr. Throckmorton, Chairman of Committee on Military Affairs, made the following report:

May 16, 1864

To the Honorable President of the Senate:

The Committee on Military Affairs to whom was referred that portion of the Governor's message relating to the frontier, have considered the same, and as a part of their deliberations present the accompanying joint resolutions for adoption.

From all the information obtained by the Committee, it is believed that the organization provided for the defense of the frontier by the last Legislature will be as effective as any system that can be devised—and your committee deem it of the first importance to the State that this organization should not be interfered with by the Confederate Military authorities.

J. W. Throckmorton, Chairman

On motion the rule was suspended and the resolution taken up for consideration. After some discussion it was passed informally for further action.

Mr. Guinn moved to reconsider the vote adopting the resolution calling on the Adjutant and Inspector General for certain information. Carried. The resolution was then amended by striking out "Adjutant and Inspector General" and inserting "Governor." It was then adopted.

Mr. White introduced a bill to regulate the state finances. Read 1st and 2nd times and referred to Committee on Finance.

Mr. Durant introduced a joint resolution in relation to Lieutenant General E. Kirby Smith and the Army. Read 1st and 2nd times and referred to Committee on Military Affairs.

The bill amendatory of the law relative to divorce was read 2nd time. Mr. Hartley moved to strike out "30" and

insert "60." Mr. Harcourt moved to indefinitely postpone. Carried.

The resolution relative to the Military Board being under consideration, Mr. Guinn offered a substitute. Adopted as a substitute. The resolution was then slightly amended and adopted.

A bill to punish offenses committed within this state by persons under the authority of the public enemy. Read 2nd time and made special order for tomorrow at 11 o'clock A.M.

A bill to define and punish the unlawful interference with the exportation and transportation of cotton or other articles was read 3rd time and made the special order for tomorrow 10 o'clock A.M.

A message from the House announced the passage of the following bills.

A bill to amend the 1st and 2nd sections of an act to incorporate the Rusk County Iron Company.

A bill to amend the 2nd and 3rd sections of an act to reorganize the 16th Judicial District and to define the times of holding courts therein. Read 1st and 2nd times and referred to Judiciary Committee.

A bill to allow the use of the Penitentiary for the confinement of deserters from the Army of the Confederate States duly sentenced by court martial. Read 1st and 2nd times and referred to State Affairs Committee.

A bill to incorporate Henderson Female Institute.

A bill to reorganize the 17th Judicial District and prescribe the time for holding courts therein. Read 1st and 2nd times and referred to Judiciary Committee.

A bill to amend an act to organize County Courts. Read 1st and 2nd times and referred to Judiciary Committee.

A bill making an appropriation to defray the contingent expenses of the Extra Session of the 10th Legislature. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A bill to incorporate the Beaver Iron Manufacturing Company.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Tuesday, May 17th 1864
8 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. William M. Peck, Senator-elect from the 19th Senatorial District, came forward, took the oath of office, and his seat. Mr. Hord from the Committee on State Affairs on behalf of said committee recommended the indefinite postponement of a bill to allow the use of the Penitentiary for the confinement of deserters from the Army of the Confederate States duly sentenced by court martial. Also a bill to amend the 819th and 820th Articles of the Penal Code with the following amendments: Strike out the 1st, 2nd, and 3rd sections embracing all of the bill down to the words "free white persons" in 5th line from bottom of 1st page. Amend last clause by striking out "five" and inserting "six."

Mr. Harcourt, Chairman of the Judiciary Committee, reported the following bills and recommended their passage:

A bill to amend the second and third sections of an act to reorganize the 16th Judicial District and to define the time of holding courts therein.

A bill to reorganize the 17th Judicial District and prescribe the time for holding courts therein.

A bill to amend the act to organize County Courts. Mr. Selman offered the following:

Resolved, That the Committee on the Judiciary be and is hereby instructed to inquire into and report upon the constitutionality of the law authorizing the issuance of State Treasury warrants, such for instance as those issued under and by virtue of the 3rd section of an act approved January 15, 1862, to the end that the Senate may have the benefit of the opinion of said committee as to the constitutionality or unconstitutionality of such issues. Adopted.

Mr. Dickson moved the reconsideration of the vote passing the bill making an appropriation to pay the contingent expenses of the Extra Session of the 10th Legislature. Carried. The bill was then referred to Finance Committee.

Joint resolution in relation to the frontier was read 2nd time. Mr. Throckmorton moved to amend by striking out the proviso in 2nd section. Carried. Mr. Throckmorton offered for the 5th section the following substitute: "That the Governor make such arrangements with General Smith

as he may be able to do for the payment of subsistence and of the frontier organization provided the forces so organized are not to be withdrawn from the control of the governor and officers appointed by him." Adopted. Amend by striking out 1st section giving appropriate members to the other sections. Carried. The resolution was then ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill to define and punish offenses committed within this state by persons under the protection of the public enemy. Read 2nd time. Mr. Hord moved to lay on table, lost. The bill was then ordered to be engrossed.

A bill to define and punish the unlawful interference with the transportation and exportation of cotton or other articles. Read 3rd time. Mr. Dickson offered the following amendment: Provided that parties who have in good faith purchased exemptions for the transportation of cotton and turned over to the military authorities of the Trans-Mississippi Department a portion of their cotton to secure the same, where the same has been done previous to the passage of this act, shall not be held liable to the pains and penalties herein contained for the use of the said permits in conformity with the contract under which they were granted. Mr. Dickson then moved to postpone further consideration until Thursday next at 10 o'clock A.M.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Wednesday, May 18, 1864

8 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt, Chairman of the Judiciary Committee, made a report on the bill providing subsistence for families of soldiers, recommending its reference to the Committee on State Affairs.

The Committee on Engrossed Bills reported the following correctly engrossed:

Joint resolution in regard to frontier organization and a bill to define and punish offenses committed within this state by persons under the protection of the public enemy.

The Committee on Military Affairs, Mr. Throckmorton, Chairman, reported a bill supplementary to an act to pro-

vide for the protection of the frontier and turning over the frontier regiment to Confederate States service appointed December 15, 1863. Read 1st time.

The following reports were presented by the Committee on State Affairs:

Committee Room, May 16, 1864

To the Honorable F. S. Stockdale, President of the Senate:

A majority of the Committee on State Affairs to whom was referred "a bill to protect the rights of the citizens of this state" have instructed me to report the same back and to recommend that it be indefinitely postponed.

Respectfully,

E. R. Hord

One of the Committee

Minority Report

Honorable F. S. Stockdale, President of the Senate:

Your minority of your Committee on State Affairs on the consideration of the bill to be entitled an act to protect the rights of the people of Texas, have been unable to agree in the report of the majority in this that they think the report should have recommended the passage of the bill for the reason first, that as a measure of policy it is bad because experience shows that the tender age of boys 17 and 18 is not sufficient to stand the hardships of camp life and camp diseases, and to place them there by conscription is to victimize the helpless, who are [not] capable of aiding in our struggle. It would thin the ranks of our army when in their turn they should take the field.

It is bad policy because it subtracts that force from the producing department which is already below the means of a sufficient subsistence. Boys of that age have generally fathers and brothers in the field, and are needed at home for the support of their mothers and younger members of the family to renew the means of paying their fathers' tax, and the means of his living in camp.

Secondly, it is an act of the Confederate government unauthorized by the Constitution and a violation of the authority of the state, reserved in the 10th amendment, and in violation of the rights of the citizen secured by the 5th amendment.

The minority of your committee are of the opinion that

these open and unequivocal violations of the rights of the citizen and the State should be promptly met by this Legislature and repulsed and if unpleasant it will avoid an aggravation of the complaints which will inevitably result in a greater calamity.

For these reasons, this minority believe the majority report should be laid on the table and bill passed. All of which is respectfully submitted.

S. A. White

J. G. Davis

Mr. Peck was added to Committee on Finance and Committee on Engrossed Bills.

Mr. Davis from Committee on Military Affairs reported the joint resolution complimentary to Lieutenant General Smith and recommended its passage.

Mr. Wootten introduced a bill to regulate the election of Chief Justice and Associate Justices of Supreme Court. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Guinn offered the following. *Resolved*, That the resolution adopted by the Senate excluding private or local business be rescinded. Laid over 1 day.

A bill to punish unlawful interferences with the exportation or transportation of cotton or other articles. Read 2nd time. Mr. Dickson withdrew his motion to postpone to a certain day whereupon the question arose upon the adoption of the amendment offered by him. The yeas and nays stood thus:

Yeas—Messrs. Beasley, Burney, Charlton, Davis, Dickson, Durant, Ford, Guinn, Haskell, Hord, Jordan, Jowers, Kinsey, Lea, Magoffin, Moore of Davis, Moore of Bastrop, Peck, Quayle, Throckmorton, Weatherford, and Wootten—23.

Nays—Messrs. Cooley, Harcourt, Hartley, Knox, Parsons, Selman, and White—7.

Mr. Selman then offered the following amendment: Sec. 2. If any person or persons not authorized by law shall impress or attempt to impress any species of property within the State of Texas for any purpose whatever or having impressed the same shall not have done so in strict accordance with existing laws and legal regulations as to the manner of impressments and compensation allowed shall

be deemed guilty of the offense defined in the 1st section of this act and on conviction thereof in the District Court shall be fined or punished accordingly. The Senate then adjourned until 3 o'clock P.M.

3 o'clock P.M.

Senate met, roll called, quorum present.

Mr. Selman by leave withdrew his amendment and offered the following:

Section 2. If any person or persons shall in any manner not sanctioned by law impress or attempt to impress any property within the State of Texas for any purpose whatever, or shall aid, assist, encourage, order, or abet any person or persons so to do, or having impressed any property shall fail or refuse to pay a just compensation for the same or give such evidence of the impressment as required by law such person or persons shall be deemed guilty of an offense and on conviction thereof shall be punished by fine not exceeding double the value of the property and by confinement in the county jail for a period not exceeding one year at the discretion of the jury. Adopted by the following vote:

Yeas—Messrs. Beasley, Burney, Cooley, Davis, Dickson, Durant, Ford, Guinn, Harcourt, Hartley, Haskell, Hord, Jowers, Kinsey, Knox, Lea, Magoffin, Moore of Davis, Montague, Peck, Quayle, Selman, Throckmorton, Weatherford, Wootten, and White—26.

Nays—Mr. Parsons—1.

Mr. Hartley then moved to strike out 1st section. Mr. Harcourt moved to lay the motion on the table. Carried by the following vote:

Yeas—Messrs. Beasley, Burney, Cooley, Dickson, Durant, Harcourt, Haskell, Hord, Magoffin, Moore of Bastrop, Montague, Peck, Quayle, Selman, Throckmorton, Weatherford, Wootten, and White—18.

Nays—Messrs. Hartley, Lea, and Parsons—3.

The bill was then passed by the following vote:

Yeas—Messrs. Beasley, Burney, Cooley, Dickson, Durant, Harcourt, Hartley, Haskell, Hord, Jordan, Moore of Bastrop, Montague, Peck, Quayle, Selman, Throckmorton, Weatherford, Wootten, and White—19.

Nays—Messrs. Charlton, Davis, Ford, Guinn, Jowers,

Kinsey, Knox, Lea, Magoffin, Moore of Davis, and Parsons—11.

Mr. Dickson then moved to reconsider the vote just taken and to lay that motion on the table. Whereupon Mr. Guinn moved a call of the Senate which was sustained, the Senate being full, the yeas and nays were called on the motion to lay on table. Motion to reconsider stood thus:

Yeas—Messrs. Beasley, Burney, Cooley, Dickson, Durant, Ford, Harcourt, Haskell, Hord, Jordan, Jowers, Magoffin, Moore of Davis, Moore of Bastrop, Montague, Peck, Quayle, Selman, Throckmorton, Weatherford, Wootten, and White—22.

Nays—Messrs. Charlton, Davis, Guinn, Hartley, Kinsey, Knox, Lea, and Parsons—8.

Mr. Hartley by leave changed his vote on the final passage of the bill.

The following communications from His Excellency the Governor.¹ Here insert "AX," "BX," "CX." The first was referred to Committee on Finance, the second to Committee on Military Affairs, and the third to Committee on Military Affairs.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Thursday, May 19, 1864

8 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Quayle presented petition of citizens of Tarrant County relative to subsistence of soldiers' families. Referred to Finance Committee.

The Finance Committee, Mr. Lea, Chairman, made the following report:

The Committee on Finance, to which was referred so much of the Governor's first message of this session as relates to the currency, has considered the subject, and now reports in part thereon by presenting herewith a bill to be entitled an act to regulate the reception and disposal of certain funds therein described.

Considering the reasons for promptly adopting some such measure is too manifest to need exposition, the Committee recommends the speedy passage of the bill.

Pryor Lea, Chairman

¹These reports cannot be located in the Archives.

The bill was read 1st time . Said committee also recommended the passage of the bill making appropriation to defray the contingent expenses of the Extra Session of the 10th Legislature, without amendment.

The following majority and minority reports were made from the Committee on Military Affairs:

F. S. Stockdale, President of the Senate:

A majority of the Committee on Military Affairs to whom was referred the resolution of the Senate on the subject of reimbursing brigadier generals appointed under the act of 1861 the actual expenses incurred in the discharge of their duties, report the accompanying bill and recommend its passage.

W. B. Knox,

One of the Committee

Minority Report:

The undersigned, a minority of the Committee on Military Affairs to whom was referred a resolution of the Senate instructing them to report by bill or otherwise for “reimbursing brigadier generals appointed under the act of 1861 the actual expenses incurred in the discharge of their duties,” have examined the subject with due care and with conclusions adverse to the directions of the resolution.

The law of 1861 creating these officers did not provide for remuneration and with that knowledge we apprehend these officers accepted their commissions.

It would be an anomaly to put militia officers on pay whose functions are simply to *organize* without any contemplation of *command* in the field; and it might well be asked, why make remuneration to the generals and leave the colonels and the captains in the vocative? It is believed by the undersigned that any remunerations now would be violative of the intention of the framers of the law, and more an uncollected gratuity than a measure of justice rewarded by these officers themselves. For these reasons the minority do not think the bill should pass and offer this report as a substitute.

Wootten,

One of the Committee

The following report was also received from the Military Committee:

To F. S. Stockdale, President of the Senate:

The Committee on Military Affairs to whom was referred the special message of the Governor, the report of the Military Board, with their several exhibits and accompanying documents have examined the same with due care. We find that these papers are respectfully and full descriptive to the matters embraced in the Senate's resolutions, and as such are entirely satisfactory.

The Committee instruct me to report back the papers and to ask to be relieved from their further consideration.

Wootten,

One of the Committee

Mr. Throckmorton introduced the following bill: a bill to repeal the 1st section of an act to suspend the location and sale of the public domain in certain cases, approved December 14, 1862, and to provide for the sale of lands, land scrip, and location of the same. Read 1st time and referred to Committee on Public Lands.

A message from the House announced the passage of the following bills:

A bill to amend the 13th section of an act regulating estrays in certain counties.

A bill to suspend the levy and collection of a special tax by Comal County Court until one year after the close of the war.

A joint resolution in relation to the manufacture of salt.

A bill to incorporate the Dallas Manufacturing Company.

A bill to incorporate the Cherokee Furnace Company.

A bill to incorporate the Trinity Mills Manufacturing Company.

A bill to amend the 1st section of an act regulating prices applied to May, 1846.

A joint resolution requesting the return of the 1st, 4th, and 5th Texas Regiments.

A bill to incorporate the Falls of Brazos Manufacturing Company.

Mr. Harcourt introduced a bill to repeal an act prohibiting owners of slaves from placing them in charge of farms or stock ranches detached from the home of the

owner. Read 1st and 2nd times and referred to Committee on State Affairs.

Mr. Guinn introduced a bill to authorize administrators and guardians to find or exchange the Confederate money on hand. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Harcourt introduced a joint resolution in regard to the present war. Read 1st and 2nd times and referred to Committee on Confederate Relations.

Mr. Durant introduced a joint resolution relating to conduct of Army officers which was read 1st and 2nd times and referred to Committee on Military Affairs.

Mr. Dickson moved to suspend the rule so as to take up and consider a bill reported this morning by Finance Committee to provide for the disposal of certain funds therein named. Lost.

The resolution relative to rescinding the rule in relation to local or private business being read, Mr. Wootten moved the following amendment: Insert "so far as to allow legislation incorporating manufacturing companies." Laid on table. Mr. Dickson then offered the following amendment: "Provided that business of a general character shall in all cases then take precedence of bills of a local or private nature." Adopted. The resolution was then adopted.

Joint resolution in relation to the manufacture of salt was then taken up. Read 1st time. Rule suspended. Read 2nd time. Mr. Lea moved to strike out "The manufacture at Corpus Christi." Adopted. Mr. Hartley moved to refer to Committee on State Affairs. Lost. Mr. Davis moved to strike out "Lake Risteno." Mr. Hord moved an amendment to strike out the 2nd preamble. The amendments being withdrawn, Mr. Lea moved to strike out all of the preamble except that which relates to the action of the Conscript Bureau. Mr. Hartley offered a substitute for Mr. Lea's amendment as follows: "To detail such number of men as may be necessary for the manufacture of salt for the use of the people, no more than one man for a manufacturing making 20 bushels per day." Lost. The amendment was then adopted, and the resolution passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A bill to define and punish offenses committed within the State by persons under the protection or authority of the public enemy. Read 3rd time and passed.

A bill to amend Articles 743 and 744 of the Penal Code. Read 2nd time. Suspended. Read 3rd time and passed.

A bill to provide for a revision of the laws. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

House joint resolutions requesting the return of the 1st, 4th, and 5th Texas Regiments. Read 1st time. Rule suspended. Read 2nd time and referred to Committee on Military Affairs.

A bill for the subsistence of soldiers' families. Read 2nd time and referred to Committee on State Affairs.

Mr. Beasley introduced a bill to provide for redressing grievances of the citizens of the State of Texas suffered at the hand of officers and soldiers of the Confederate States. Read 1st and 2nd times and referred to Military Affairs.

The Committee on Military Affairs reported recommending the passage of joint resolution relating to conduct of Army officers.

A bill to amend an act to organize County Courts appointed February 16, 1852. Read 2nd time and passed to 3rd reading. Rule suspended and read 3rd time and passed.

A bill amendatory of an act to reorganize the 16th Judicial District and to provide for the time of holding courts therein. Read 2nd time and Mr. Selman moved to amend by inserting "11th Monday," instead of "8th Monday" for the terms of the Court in Van Zandt County. Laid on table. Bill passed to 3rd reading. Rule suspended and read 3rd time and passed.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Friday, May 20, 1864
8 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt presented the memorial of citizens of Fayette County in relation to sheep raising. Referred to Committee on State Affairs.

Mr. Harcourt, Chairman of the Judiciary Committee reported a substitute for a bill to regulate the election of Chief Justice and Associate Justice of Supreme Court. Also recommended the passage of the bill to define the boun-

dary of the headright league of land granted to James W. McNair and A. W. McLain and recommended that a bill to amend 1st section of the act to suspend all laws for the collection of debt do not pass.

Mr. Davis, one of Committee on Military Affairs, made the following report:

The Committee on Military Affairs, to whom was referred joint resolutions requesting the return of the 1st, 4th, and 5th Regiments of Texas troops, report the same back to the Senate, and recommend that the resolutions be indefinitely postponed for the reason following, to wit: As highly as the services of said regiments are appreciated by your committees, yet they are of the opinion that any distinction made in reference to the service of the gallant men of Texas and all the states who have so heroically battled for our rights, would at this time be unnecessary and unwise.

Davis

One of the Committee

Mr. Hord, one of the Judiciary Committee, reported on their behalf and recommended the passage of the joint resolution relative to impressments.

The Committee on State Affairs recommended the indefinite postponement of a bill to provide an act prohibiting owners or employees 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.

Mr. Beasley offered the following. "*Resolved*, That the Committee on State Affairs be instructed to inquire into that part of the governor's message relative to the necessary events of soldiers' families in cotton and medicines and report by bill or otherwise. Adopted.

. . . "in consideration of being exempted from conscription and in case they will not serve without pay they shall be turned over to the proper military authorities of the Confederate government." Mr. Wootten moved to lay on table. Carried by the following vote:

Yeas—Messrs. Beasley, Burney, Cooley, Davis, Durant, Haskell, Hord, Jowers, Knox, Magoffin, Montague, Quayle,

²A portion of the Journal is missing for this date. The missing part appears to be one page of the manuscript.

Throckmorton, Weatherford, Wootten, and White—16.

Nays—Messrs. Charlton, Dickson, Ford, Guinn, Hartley, Kinsey, Lea, Parsons, and Peck—9.

Mr. Lea then moved to strike out "except clothing which shall not be furnished." Carried. The bill was then ordered to be engrossed. Rule suspended and passed by following vote:

Yeas—Messrs. Beasley, Burney, Cooley, Davis, Durant, Hartley, Haskell, Hord, Jowers, Knox, Lea, Magoffin, Moore of Bastrop, Montague, Parsons, Peck, Quayle, Throckmorton, Weatherford, Wootten, and White—21.

Nays—Messrs. Charlton, Dickson, Ford, Guinn, and Kinsey—5.

A bill to amend Articles 819 and 820 of the Penal Code with report of Judiciary Committee recommending amendments. Read 2nd time. 1st amendment adopted, 2nd amendment lost. Mr. Guinn then moved the indefinite postponement of the bill. Lost. The bill was then laid on table for the present.

A bill to regulate the reception and disposal of certain funds therein described. Read 2nd time. Mr. Lea moved to strike out "Treasurer" and insert "Comptroller." Carried.

Mr. Kinsey offered the following: insert after "act" in 9th line from top of 3rd Section "except for the ad valorem tax on the assessment of property for year 1863 which ad valorem tax was paid in Confederate Treasury Notes of the old issue at their face value." Mr. Hartley moved to substitute the amendment by striking out "25 days" and inserting "30th day of June" as the limit for receiving old notes under \$100 at their face value. Carried. Amendment was then put and lost by the following vote:

Yeas—Messrs. Charlton, Davis, Hartley, Kinsey, Magoffin, and Weatherford—6.

Nays—Messrs. Beasley, Burney, Dickson, Ford, Guinn, Jowers, Knox, Lea, Moore of Davis, Moore of Bastrop, Montague, Parsons, Quayle, Peck, Wootten, and White—16.

Mr. Dickson offered the following amendments: After the words "shall be exchanged for Confederate Treasury notes of the new issue" and before the words "according to the law for such exchange" insert "or paid out on drafts of the Comptroller." Lost. Bill ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill to allow the use of the Penitentiary for the con-

finement of deserters from the Confederate States Army with report of Committee recommending its indefinite postponement. Read 2nd time and report adopted.

A bill to amend 1st and 2nd sections of an act to incorporate Rusk Iron Company. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed on call of yeas and nays by constitutional majority, Mr. Peck voting nay.

A bill to incorporate the Cherokee Furnace Company. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed by constitutional majority, Mr. Cooley voting nay.

Mr. Burney offered the following resolution: *Resolved*, That the Committee on State Affairs be requested to take into consideration the necessity of so altering or increasing the appropriations made for the support of the Deaf and Dumb, Blind, and Lunatic Asylums as to insure their maintenance until the next meeting of the Legislature and report by bill or otherwise. Adopted.

Mr. Dickson offered the following: *Resolved*, That the Committee on State Affairs inquire as to the necessity of continuing the Military Board and report by bill or otherwise. Adopted.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Saturday, May 21, 1864

8 o'clock A.M.

Senate met. Prayer by the Chaplain. Roll called, quorum present. The Journal of the preceding day was read and adopted.

Mr. Guinn presented the petition of Lydia Davis for divorce. Referred to Judiciary Committee.

Mr. Lea, Chairman of Finance Committee, made the following report:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a petition of Honorable S. Terry, Chief Justice of Tarrant County, has considered the subject, and now reports the petition with a request to be discharged from its further consideration.

The petition suggests, in substance, that the State should give its treasury warrants for Confederate money

in the hands of counties. The Committee might state several objections to the proposed policy; but, its inequality of application to the various circumstances of different counties present a sufficient reason, in the Committee's opinion, for not adopting the policy.

Pryor Lea, Chairman

To the Honorable President of the Senate:

The Committee on Public Lands, to whom was referred a bill to be entitled an act to repeal the first section of an act to suspend the location and sale of the public domain except in certain cases approved December 14th, 1863, have considered the same and a majority of the Committee instruct me to report to the Senate that the act which the bill before us seeks to repeal was passed for the benefit and protection of the soldiers in the Army who are now fighting our battles, and while at least three-fourths of our able-bodied men are thus deprived of an opportunity of selecting a home upon the public domain, to open it again to location and sale, to the speculator, would, in the opinion of the Committee, be a great injustice. Therefore, we deem it unwise and unjust to repeal the law, and report the bill before us back to the Senate and recommend that it be indefinitely postponed.

H. M. Kinsey

One of the Committee

The Committee on Engrossed Bills reported correctly engrossed a bill supplementary to an act to provide for the protection of the frontier and turning over the Frontier Regiment approved December 15, 1863.

Mr. Harcourt introduced a bill for the relief of Robert Robson. Read 1st time.

Mr. Hord introduced joint resolutions on the act of Congress suspending the privilege of the writ of habeas corpus. Read 1st and 2nd times and referred to Judiciary Committee.

A bill to reorganize the 17th Judicial District and to prescribe the time of holding courts therein. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A message was received from the House announcing the passage of the following bills:

A bill to provide for regulating the finances of the State

A bill to prevent slaves from exercising ownership over property.

A bill to supply the deficiency in the State Treasury.

Joint resolutions complimentary to Lieutenant General E. Kirby Smith read 2nd time and ordered to be engrossed Rule suspended. Read 3rd time and passed.

Mr. Lea moved to reconsider the vote which passed a bill to regulate the reception and disposition of certain funds therein described. Carried. The caption was then amended by striking out after the word "disposal" and inserting "Confederate notes and bonds now or hereafter in the Treasury exclusive of new issues" and bills passed.

Joint resolution relating to conduct of Army officers. Read 2nd time. Mr. Harcourt offered the following as a substitute for the 1st resolution. "That approving as we do the legislation of Congress tending to strengthen the effective force of the Army by requiring all clerks and employees who are able to perform active military duty to be placed in the ranks and their places supplied by crippled soldiers or persons unfit for active duty in the field and through various military orders have been issued to enforce the law of Congress upon the subject we find the orders are disregarded." Adopted.

Mr. Hartley moved to strike out that portion requiring a copy to be sent to our delegation in Congress. Lost.

Mr. White moved to strike out "events" and insert "proceedings." Carried.

Mr. Lea moved to amend by striking out the words "controlling the same" and the words "enforce the law as it is and." Carried. The resolutions were then ordered to be engrossed. Rule suspended. Read 3rd time and passed.

Mr. Selman introduced a bill to reattach Van Zandt County to the 9th Judicial District and to fix the time of holding District Courts therein. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. Moore of Bastrop was excused from attendance upon the Senate until Wednesday morning next.

A bill to audit and pay certain expenses of militia officers in this state. Read 2nd time. Mr. Dickson moved to lay on table the further consideration of the whole subject. Carried by the following vote:

Yeas—Messrs. Beasley, Charlton, Davis, Dickson, Du-

rant, Ford, Guinn, Haskell, Jowers, Moore of Bastrop, Montague, Parsons, Peck, Selman, Weatherford, and Wootten—16.

Nays—Messrs. Cooley, Harcourt, Hartley, Hord, Jordan, Kinsey, Knox, Lea, Magoffin, Throckmorton, and White—11.

A bill appropriating money to pay the contingent expenses of this Extra Session of the 10th Legislature. Read 2nd time. Mr. Ford moved to insert "in Confederate money." Carried. The bill then passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A House bill to provide for the liquidation of claims against the State when there is a deficiency of funds in the Treasury was read 1st time. Rule suspended. Read 2nd time. Mr. Throckmorton offered a substitute. Mr. Guinn moved to amend the substitute by striking out all of 3rd section after the words "new issue." On Mr. Dickson's motion the Senate resolved itself into Committee of the Whole, Mr. Jowers in the chair. After some time spent therein the Committee rose and reported the substitute recommending its adoption and asked to be discharged. The report was adopted and thereupon the bill and substitute were referred to Finance Committee with instructions to report on Monday morning next, also to frame a bill if in their judgment they had the power to originate such a measure in the Senate, providing for the issuance of the bonds contemplated by the subject matter referred.

Mr. Moore of Davis moved to reconsider a vote adopting the report of the Committee on State Affairs indefinitely postponing a bill to protect the rights of the people of Texas.

The Senate then adjourned until 8 o'clock A.M. Monday next.

Monday, May 23, 1864

8 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of Saturday was read and adopted.

Mr. Harcourt, Chairman of Judiciary Committee, made the following report:

The Judiciary Committee have duly considered the petition of Lydia Davis of Angelina County asking to be divorced by legislative enactment from her husband, Westly

Davis. It is urged by Petitioner that her husband is a very brutal and bad man, and that she has been separated from him for four years, but she complains that she cannot obtain a divorce in the District Court, because of the unsettled condition of the country, and the [complete?] suspension of all legal proceedings in said courts.

However much we may feel disposed to sympathize with the hard lot of Petitioner, we must remind her that there is an prohibition in the 18th section of Article 7 of the State Constitution against the relief sought.

I am directed by the Committee to return the petition to the Senate and ask to be discharged from its further consideration.

John T. Harcourt, Chairman³

[Harcourt] also reported that the proposed legislation in a bill to authorize administrators and guardians to fund or exchange the Confederate money in their hands is unnecessary and inexpedient and recommending its indefinite postponement.

Joint resolution relative to the conduct of Army officers was reported as correctly engrossed.

A bill to amend Article 527 of the Code of Criminal Procedure. Read 2nd time. Mr. Hartley moved to strike from 1st Section "Judicial District" and insert "County." Adopted. Mr. Hartley then moved to strike out 3rd clause. Adopted. Mr. Hartley then moved to insert after "defen-

³The petition of Lydia Davis is as follows:

To the Honorable Senate and House of Representatives in general assembly convened at the City of Austin, Texas:

The petition of Lydia Davis, a citizen of Angelina County in said State of Texas, would with respect represent unto your Honorable Body, that in 1859 she was lawfully married to one Westly Davis then of said county of Angelina, and continued to live with him as his wife for about four months, when his **brutal, ungentlemanly, and dissipated conduct** compelled her in self defense to finally separate herself from him forever.

And she the said Lydia now requests that she and the said Westly Davis has been separate for about four years; and cannot ever again live together as man and wife; and she the said petitioner would further represent that the unsettled condition of the country and the uncertain sittings of our courts, has up to this time prevented her being able to obtain a final **divorce** from the said Davis. Petitioner asks that her marriage with said Davis was a youthful indiscretion, being one persuaded by pretended friends; and that your Honorable Body on due consideration of the premises will award petitioner a final divorce from said Davis, and as in duty bound petitioner will ever pray.

Lydia Davis

dant" the word "District Attorney." Adopted and bill ordered to be engrossed.

The Committee on Enrolled Bills made the following report:

Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and find correctly enrolled the following bills, viz,

An act to reorganize the 17th Judicial District and to prescribe the time for holding courts therein;

An act to amend an act entitled an act to amend an act entitled an act to organize county courts approved February 16th, 1862;

An act to amend the 1st and 2nd sections of an act to incorporate the Rusk County Iron Company, approved December 15, 1863;

An act to incorporate the Cherokee Furnace Company.

The same being signed by the Speaker of the House of Representatives and President of the Senate were this day presented to the Governor for his approval.

D. C. Dickson, Chairman

Mr. Kinsey from Committee on State Affairs made the following report:

Committee Room, State Affairs
May 21st, 1864

To His Excellency F. S. Stockdale, President of the Senate:

The Committee to whom was referred a bill entitled an act to provide for the support of families of soldiers by a tax in kind and an income tax, beg leave to report that they have carefully examined the same and find in it much merit. But in their judgment [it is] too complicated for successful, practical operation. The subject however in their judgment is second in importance to no one of the absorbing questions which now engross the attention of this honorable body, they therefore beg leave to report a substitute simple in its provisions, and referring the whole matter to the County Courts where it properly belongs, with ample powers to enable them to put it into successful execution. The families of our soldiers must be supported and the plan suggested in the substitute the Committee

thinks the surest and most effectual mode of doing it. They therefore recommend its speedy passage.

H. M. Kinsey

One of the Committee

A message from the House announced the passage of the following bills:

A Senate Joint resolution relative to frontier protection. Joint resolution in regard to conscription.

A bill to provide for the distribution of cloth made at the Texas State Penitentiary.

A bill amending an act authorizing the Comptroller to receive from railroad companies the interest due and to become due on their bonds.

A bill to provide for the probate of wills in certain cases.

A bill for the relief of Robert Pulsford.

A bill to authorize the County Court of Hunt County to examine and if necessary correct the assessment rolls for 1864.

Senate joint resolution in relation to the conduct of Army officers, with amendments, was concurred in.

A bill to amend Articles 819 and 820 of the Penal Code. Read 2nd time and ordered to be engrossed.

Mr. Lea, Chairman of the Committee on Finance, made the following report:

May 23, 1863

To the Honorable F. S. Stockdale, President of the Senate:*

The Committee on Finance, to which was referred a House bill to be entitled an act to provide for the liquidation of claims against the State when there is a deficiency of funds in the Treasury, and a substitute therefore as adopted by the Senate, with instructions to report thereon this morning by proper drafts for bills, has considered the

*The following report was found filed with the report of the Finance Committee. Since no logical place for it has been found in the Journal, it is inserted here:

Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and find correctly enrolled the following bill, viz., an act making an appropriation to defray the contingent expenses of the Extra Session of the 10th Legislature. The same being signed by the Speaker of the House of Representatives and President of the Senate was this day presented to the Governor for his approval.

D. C. Dickson

subjects and now reports the House bill and the adopted substitute, with such drafts for bills as the Committee considers to be conformable to the instructions, and with drafts for other bills, respectfully submitted for consideration in connection with the general subject. The limited time allowed to the Committee precludes it from presenting a written exposition of its views of the subjects, except as indicated by the drafts herewith reported. For any further exhibition of the views of the Committee it must necessarily rely on oral explanations.

Respectfully submitted,
Pryor Lea, Chairman⁵

A bill to regulate the names of liquidating claims for payment under appropriations made by the Legislature.

A bill to suspend the collection of part of the ad valorem tax.

A bill to regulate the disposal of unappropriated specie.

A bill to fix the rate of ad valorem taxation.

A bill to provide for a loan with specific tax.

These bills were severally read and on Mr. Dickson's motion were taken up for consideration and severally read 1st time. The first named bill having been reported as a substitute for the bill referred on Saturday, the question occurred on its adoption which was put and carried. Mr. Hartley offered the following amendment: strike out "new issue" and insert "in such Confederate States notes as the government of the Confederate States recognizes as its currency and received for public dues at its face value." Laid on table.

Mr. Ford moved to strike out in proviso of second section the words "or bank bills at par." After some discussion the amendment was withdrawn.

Mr. Hartley then proposed to amend as follows: after "America" 10th line insert "and as a hospital fund for the soldiers of Texas in the armies of the Confederate States of America." Lost.

Mr. Selman then moved to strike all that part of the bill which provides for funding the Treasury warrant. The yeas and nays being called on its adoption stood,

Yeas—Messrs. Beasley, Hartley, Haskell, Parsons, Peck,

⁵Some of the Journal appears to be missing at this point as the material following does not connect with this report.

Selman, and Weatherford—7.

Nays—Messrs. Burney, Charlton, Cooley, Davis, Dickson, Durant, Ford, Guinn, Harcourt, Jordan, Jowers, Kinsey, Knox, Lea, Magoffin, Montague, Quayle, and Throckmorton—18.

Mr. Parsons then offered the following amendment: in 2nd section strike out the words “Those specified in the 1st section and.” The yeas and nays stood:

Yeas—Messrs. Beasley, Selman, Parsons, and Weatherford.

Nays—Messrs. Burney, Charlton, Cooley, Davis, Dickson, Durant, Ford, Guinn, Harcourt, Hartley, Haskell, Hord, Jordan, Jowers, Kinsey, Knox, Lea, Magoffin, Moore of Davis, Montague, Throckmorton, and White—24.

The yeas and nays were then called on the final passage of the bill and stood thus:

Yeas—Messrs. Charlton, Cooley, Davis, Durant, Ford, Guinn, Haskell, Hord, Jordan, Jowers, Knox, Lea, Magoffin, Montague, and Throckmorton—15.

Nays—Messrs. Beasley, Burney, Harcourt, Hartley, Kinsey, Moore of Davis, Parsons, Peck, Selman, Weatherford, and White—11.

A bill to suspend the collection of part of the ad valorem tax. A bill to fix the rate of ad valorem taxation and a bill to provide a loan with specific tax were by leave withdrawn by the Chairman of Finance Committee.

A bill to regulate the disposal of unappropriated specie. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill to repeal the 1st section of an act to provide for the sale of the public domain with report of Committee on Public Lands recommending its indefinite postponement. Read 2nd time. The report was laid on table. Mr. Harcourt then moved to lay the bill on the table. Carried.

A bill to provide for regulating the finances of the State. Read 1st time. Rule suspended. Read 2nd time and referred to Committee on Finance.

Mr. Hartley introduced a bill setting apart the possessors of land scrip received by Committee of General Land Office during the present war for the benefit of citizens of this state who have participated in the war. Read 1st and 2nd times and referred on Mr. Throckmorton's motion to Mr. Hartley as a select Committee of One.

Mr. White introduced a bill to incorporate the Guadalupe Manufacturing Company. Read 1st and 2nd times and referred to Committee on State Affairs.

Joint Resolution in relation to impressments read 2nd time. The substitute of Committee on State Affairs was adopted.

The Senate then adjourned until half past 3 o'clock P.M.

$\frac{1}{3}$ past 3 o'clock P.M.

Senate met, roll called, quorum present.

The joint resolution in relation to impressments being before the Senate, Mr. Hord moved to strike out 6th resolution. Carried.

Mr. Parsons offered the following amendment:

Resolved, That it is not the intention of this Legislature by the passage of these resolutions, to object to the impressment of provisions and property for the benefit and support of the Army of the Confederate States, when such impressment is made by some officer or person having authority to make such impressment. Our intention in the passage of the same is to impress upon the Confederate authorities the necessity of providing for the punishment of persons impressing property without proper orders authorizing them so to do. Laid on the table.

Mr. Lea moved to strike out so much of the 7th resolution as authorizes the Governor to do what he thinks proper to remedy the injustice set forth in the resolutions. Carried.

Mr. Harcourt offered the following amendment to come in as the 6th resolution: "That in some sections of our country there is a great scarcity of breadstuffs and other family necessaries and where efforts have been made to transport such articles to supply such needful wants of our people the teams and supplies have been unwarrantably impressed. This practice should be forbidden by positive law or an imperative order from officers having the authority to correct the evil." Adopted. The resolutions were then ordered to be engrossed. Rule suspended. Read 3rd time and passed.

Joint resolution requesting the return of the 1st, 4th, and 5th Texas Regiments with report of Committee recommending indefinite postponement. Read 2nd time. Report laid on table.

Mr. Durant offered the following amendment: In the

preamble add "and the old Terry regiment and all other Texas regiments." In the third resolution add the names of General M. D. Ector and General L. S. Ross and Colonel Thomas Harrison after General John Gregg." Mr. Selman moved as an amendment to add Captain Douglas' Battery after Terry's Regiment. Mr. Burney moved to add "General H. B. Granbury." Amendment accepted by Mr. Durrant and his amendment adopted. Referred to Committee on Military Affairs.

The report of Finance Committee adversely to the petition of the Chief Justice of Tarrant County was adopted.

Mr. Hord introduced Joint Resolution of thanks to Colonel Santos Benavides. Read 1st time. [Read 2nd time.] Rule suspended. Read 3rd time and passed.

The report of Finance Committee on a bill to regulate State finances asking to be discharged was read. The report and bill was laid on table for the present.

A bill to repeal 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, with report of Committee on State Affairs recommending indefinite postponement. Read 2nd time. Report laid on table and bill ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill to prevent slaves from exercising ownership over property. Read 1st and 2nd times and referred to Committee on State Affairs.

A bill to amend the law suspending the laws for the collection of debts with report of Judiciary Committee recommending that it do not pass. Read 2nd time. The Senate then adjourned until 8 o'clock A.M. tomorrow.

Tuesday, May 24, 1864

Senate met, prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt, Chairman of the Judiciary Committee, recommended on behalf of the majority the passage of a bill to reattach Van Zandt County to the 9th Judicial District and to fix the time of holding courts therein.

Mr. Davis from Committee on State Affairs reported a substitute for a bill to incorporate the Guadalupe Manufacturing Company. .



James Wiley Magoffin
Senator from El Paso

Source: Tomesa Casarey, "Magoffin,
Founder of El Paso." *Junior His-
torian*, XIII, No. 5 (March, 1953), 17.

The following bills were reported correctly engrossed. Bill to amend Article 527 of the Code of Criminal Procedure.

Bill to amend Article 820 of the Penal Code.

Joint resolution relative to impressments.

The Committee on State Affairs, Mr. Hord, Chairman, recommended the indefinite postponement of a bill to prevent slaves from exercising pretended ownership over property. Also the following report:⁶

Mr. Parsons offered the following resolution: *Resolved*, That the Committee on Finance be requested to take into consideration the propriety of using a portion of the funds appropriated for hospital purposes for the purpose of aiding such of our soldiers as have been permanently disabled in the late battles in Louisiana and Arkansas in returning to their homes and if in the opinion of said Committee such use of said funds be expedient and necessary that they report a bill making such disposition of said funds or if in their opinion it be necessary to appropriate any other funds for that purpose that they report a bill making such appropriation. Adopted.

Mr. Durant introduced a joint resolution relative to the disposition of cotton cards. Read 1st time. Rule suspended. Read 2nd time and ordered to be engrossed.

A message from the House announced that that body had refused to adopt Senate's substitute for their bill to supply deficiency in State Treasury. The Senate adhered.

The question being taken on the adoption of the report of Judiciary Committee amending the law suspending the laws for collection of debts and resulted as follows:

Yeas—Messrs. Burney, Charlton, Davis, Dickson, Ford, Guinn, Jordan, Jowers, Moore of Davis, Montague, Parsons, Throckmorton, and Weatherford—13.

Nays—Messrs. Beasley, Cooley, Durant, Harcourt, Haskell, Hord, Kinsey, Knox, Magoffin, Moore of Bastrop, Peck, Quayle, and White—13.

The President voted nay.

The bill was then considered. Mr. Ford moved to strike out of proviso all from word "enemy's" to "on" and insert "or persons who abandon the country." Adopted. The bill was then engrossed by the following vote:

⁶This report cannot be located.

Yeas—Messrs. Beasley, Cooley, Davis, Durant, Harcourt, Haskell, Hord, Kinsey, Knox, Lea, Magoffin, Moore of Bastrop, Peck, Quayle, Selman, Throckmorton, and White—17..

Nays—Messrs. Burney, Charlton, Dickson, Ford, Guinn, Jordan, Jowers, Moore of Davis, Montague, Parsons, and Weatherford—11.

The Committee on Enrolled Bills reported as follows: Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills have examined and find correctly enrolled a joint resolution in reference to the frontier organization. The same being signed by the Speaker of the House of Representatives and President of the Senate was this day presented to his Excellency the Governor for his approval.

D. C. Dickson
Chairman

The report of the Judiciary Committee on the petition of Lydia Davis was adopted.

A bill to incorporate the Beaver Iron Manufacturing Company was read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule further suspended. Read 3rd time and passed by constitutional majority, Mr. Peck voting nay.

A bill to amend the estray laws read 1st time. Rule suspended, read 2nd time. Mr. Quayle moved to strike out the counties named so as to make the bill general in its operation. Mr. Burney moved to refer to State Affairs. Lost. Mr. Quayle's motion was then put and lost. Mr. Jordan moved to add Fort Bend, Brazoria, Matagorda, Wharton. Carried. Mr. Burney moved to add McLennan and Bosque Counties. Carried. Mr. Harcourt moved to insert Colorado and Fayette. Carried. Mr. Moore of Bastrop to insert Travis, Hays, and Bastrop. Carried. Mr. Magoffin moved to insert El Paso. Carried, and bill passed to 3rd reading.

A bill to regulate the election of Chief Justice and Associate Justices of Supreme Court was read 2nd time. Substitute reported to Judiciary Committee. Adopted. The bill was laid on table. A bill to authorize administrators and guardians to fund or exchange Confederate money on hand.

Read 2nd time. Report of Judiciary Committee recommending indefinite postponement of the bill adopted.

The resolution on adjournment laid on table for the present.

Joint resolution relative to conscription was read 1st time and referred to State Affairs.

A bill to provide for the distribution of the cloth manufactured at the State Penitentiary was read 1st time and referred to Finance Committee.

A message from House announced the passage of the following bills:

Senate's joint resolutions of thanks to Col. Santos Benavides and joint resolution of thanks to General Smith and the Army.

A bill for relief of the indigent families of Calhoun County.

A joint resolution in relation to the sick and wounded soldiery in Louisiana and Arkansas.

A bill to amend Article 965 of Code of Criminal Procedure.

And refused to recede from their position on a bill to supply deficiency in the State Treasury and ask for Committee of Conference.

Have passed Senate bill to provide for a revision of the laws and refused to adopt Senate's substitute for a bill to provide for regulating the finances of the State. And have passed a bill to prohibit the sale of ardent spirits within 5 miles of Waxahachie.

A bill amending an act authorizing the Comptroller to receive from railroad companies the interest due on their bonds. Read 1st time and referred to Finance Committee.

A bill to provide for the probate of wills in certain cases. Read 1st time. Referred to Judiciary Committee.

A bill to amend Article 820 of Criminal Code. Read 3rd time. Laid on table for the present.

A bill amending Article 527 of the Code of Criminal Procedure read 3rd time and rejected.

Mr. Beasley introduced joint resolution in relation to ordnance stores. Read 1st time.

A bill to incorporate the Henderson Masonic Female Institute. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed by unanimous vote.

A bill to suspend the levy and collection of special tax by County Court of Comal County. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A bill to incorporate the Dallas Manufacturing Company. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed by constitutional majority, Messrs. Peck, Quayle, and Selman voting nay. A bill to incorporate the Falls of Brazos Manufacturing Company. Read 1st time. Rule suspended. Read 2nd time and referred to Committee on State Affairs.

A bill to amend 1st section of an act regulating juries. Read 1st and 2nd times and referred to Judiciary Committee.

A bill to incorporate the Trinity Mills Manufacturing Company. Read 1st time and referred to Committee on State Affairs.

A bill to authorize the County Clerk of Hunt County to to revise and correct assessment rolls. Read 1st time. Rule suspended. Read 2nd time. Mr. Quayle moved to amend so as to make the provisions of the bill applicable to Tarrant County. Carried and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

Messrs. Lea, Throckmorton, and Guinn were appointed Committee of Conference on the disagreement of the two Houses on the bill to supply a deficiency in the State Treasury.

Mr. Lea, Chairman of the Finance Committee, made the following report:

Substitute reported by the Committee adopted and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

Mr. Dickson moved to reconsider the vote laying on the table, a bill to repeal 1st section of an act to suspend the location and survey of the public land. Carried. Bill read 2nd time. Mr. Hartley offered a substitute. Lost. Mr. Hartley then offered the following amendment: "Strike out the 2nd section and insert: Section 2. That the Commissioner of the General Land Office is authorized to issue land scrip in certificates of not less than one hundred and sixty acres (except in the case provided for in the 4th section of an act entitled an act to authorize the sale of the Public

Domain, approved February 11th, 1858) which certificates may be sold at the price of two dollars per acre, shall issue in the name of the purchaser, and may be located upon any vacant unappropriated public domain, not being set apart, held in reservation, or the location of which is prohibited by law." Lost.

Mr. Throckmorton offered a substitute for the 3rd section. Adopted.

Mr. Knox then offered the following: "Provided that no certificate for less than 160 acres shall be located on any water course, spring, or permanent water hole, except when entirely surrounded by previous survey." Adopted.

Mr. Weatherford offered to amend by reducing the price of land as determined by the bill just $\frac{1}{2}$. Lost.

Mr. Throckmorton moved to amend as follows: Add to 4th section: "and the alternate sections belonging to the state surveyed by internal improvement companies may be sold at the same price." Adopted.

Mr. Guinn offered the following: "Provided persons may have fractions of land surveyed less than 160 acres where the same is surrounded by previous surveys at 50 cents per acre.

Mr. Hartley moved to substitute the amendment as follows: "Provided that no certificate shall be issued and located on less than 160 acres unless the public domain on which it is located shall be completely surrounded by previous surveys."

The Senate then adjourned until $\frac{1}{2}$ past 3 o'clock P.M.

3 $\frac{1}{2}$ o'clock P.M.

Senate met, roll called, quorum present.

The question before the Senate being the adoption of Mr. Hartley's substitute for Mr. Guinn's amendment, the consideration of the subject was on suggestion passed informally for the present.

Joint resolution relative to the sick and wounded soldiers of Texas in Louisiana and Arkansas. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A bill to amend Article 965 of the Code of Criminal Procedure. Read 1st time. Referred to Judiciary Committee.

A bill to define the boundary of the headright league of land granted to James McNair and A. W. McLain of

Colorado County. Read 2nd time and lost on engrossment.

The Senate adhered to its substitute for House bill to provide for regulating the finances of the State.

The substitute of Mr. Hartley to Mr. Guinn's amendment before the Senate at its adjournment this morning was considered and the yeas and nays on its adoption stood:

Yeas—Messrs. Davis, Hartley, Harcourt, Haskell, Jordan, Jowers, Kinsey, Lea, Moore of Bastrop, Peck, and Selman—11.

Nays—Messrs. Beasley, Burney, Charlton, Durant, Ford, Guinn, Hord, Knox, Magoffin, Moore of Davis, Montague, Parsons, Quayle, Throckmorton, Weatherford, and White—16.

Mr. Guinn's amendment was then put and lost

Mr. Guinn then moved to strike out 50 and 75 cents wherever they occur and insert \$1. Adopted. Mr. Guinn then offered a substitute for the 3rd section: except the proviso "That when persons desire to purchase land scrip in quantities not to exceed 40 acres the same shall be sold at \$1.50 per acre and for scrip for more than 40 acres and not to exceed 80 acres at \$1.25 per acre and for all scrip in quantities of 120 acres and over the price shall be \$1 per acre." Adopted.

A message from House informed the Senate of the adherence of that body to their position on a bill to provide for regulating state finances and had appointed a committee of conference thereon. Whereupon the Senate appointed Messrs. Lea, Dickson, and Moore of Davis a like committee.

Mr. Hartley then moved to amend the bill under consideration as follows: "All surveys made under the provisions of this act, provisions surveys permitting, shall be made in a square except on navigable water courses and upon them they shall not front exceeding $\frac{1}{2}$ the square of the survey." Lost.

The yeas and nays on the engrossment of the bill stood:

Yeas—Messrs. Burney, Cooley, Dickson, Durant, Ford, Guinn, Haskell, Hord, Knox, Lea, Magoffin, Moore of Bastrop, Montague, Parsons, Peck, Quayle, and Throckmorton—17.

Nays—Messrs. Beasley, Charlton, Davis, Harcourt,

Hartley, Jordan, Jowers, Kinsey, Moore of Davis, Selman, Weatherford, and White—12.

A bill for relief of Robert Robson. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill for relief of Robert Pulsford. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Wednesday, May 25, 1864
8 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt, Chairman of the Judiciary Committee, made the following reports.

May 25, 1864

The Judiciary Committee has duly considered a House bill to be entitled an act to amend the 1st section of an act regulating juries, approved May 4, 1846. The object of the amendment is to subject persons over the age of sixty years and physicians and surgeons to jury service.

The bill also contains a *Proviso* which in effect defeats the object intended to be accomplished by requiring the jury list to be passed by selecting jurors of good moral character.

The committee think each one of the proposed changes to be unnecessary and inexpedient, and direct me to report the bill back to the Senate and recommend its rejection.

John T. Harcourt, Chairman

The Judiciary Committee has considered the joint resolutions of the act of Congress suspending the privilege of the writ of habeas corpus.

The Committee differ in opinion as to the correctness of such expressions, and some principles enunciated in the resolutions, but agree unanimously in condemning the action of Congress in the regulations they adopted for the execution of the law.

I am directed by a majority of the Committee to recommend the adoption of the resolutions.

John T. Harcourt, Chairman

The following bills were reported correctly engrossed:
A bill to amend the stay law.

A bill to repeal 1st section of an act to suspend the location and survey of the public domain except in certain cases.

A joint resolution in relation to the sale of cards.

A bill to provide for the support of the Lunatic, Deaf and Dumb, and the Blind Asylums. Read 2nd time. Mr. Hartley moved to amend by striking out "45," and inserting "65,000" as the supply of the Lunatic Asylum. Bill laid on table for the present.

Mr. Ford from Judiciary Committee reported a bill to authorize the County Clerk of Caldwell County to levy and collect an ad valorem specie tax for support of soldiers' families. Read 1st time.

Mr. Ford introduced a bill to incorporate the San Marcos Manufacturing Company. Read 1st and 2nd times and referred to Committee on State Affairs.

A bill prohibiting slaves from exercising ownership over property. Read 2nd time with report of recommending its indefinite postponement. Mr. Guinn moved to lay the report on the table. The yeas and nays were as follows:

Yeas—Messrs. Beasley, Burney, Guinn, Hord, Moore of Davis, Moore of Bastrop, Montague, Parsons, Selman, Throckmorton, Weatherford, Wootten, and White—13.

Nays—Messrs. Charlton, Davis, Dickson, Ford, Harcourt, Hartley, Haskell, Jowers, Kinsey, and Peck—10.

A motion to lay the bill on the table was then put and lost.

Mr. White offered to amend by adding section as follows: "That any free person who shall trade with slaves in any kind of stock cattle shall be guilty of a misdemeanor and on conviction thereof, shall be fined for the first offense not less than 25 nor more than 200 dollars and on a second conviction shall be confined in the Penitentiary not less than one year." Mr. Hord offered a substitute for the proposed amendment. "That the owner offending under the 1st section of this act may be indicted and tried in the District Court and upon conviction shall be fined in any sum not exceeding the value of the horses, cattle, sheep, or goats or hogs over which such Negro may exercise a pretended right of ownership or on which such Negro shall have a brand or

earmark." Adopted. It was then adopted as a substitute for the 2nd section of the bill.

Mr. Ford moved to amend by inserting the words "knowingly" before "permit." Carried. Bill passed to 3rd reading. Rule suspended. Read 3rd time and caption amended accordingly so as to read, "to prevent the owners of slaves from allowing slaves to exercise ownership over property." The bill was passed.

A message was read from the House announcing the passage of the following bills:

A bill to incorporate the Star State Machine and Manufacturing Company.

A bill supplemental to an amendment of an act to establish a Penal Code.

The House adopted a Conference Committee report on a bill to provide for regulating the state finances.

Mr. Lea, Chairman of the Conference Committee, made the following report:⁸

Whereupon the report was adopted.

The Committee on Enrolled Bills made the following report:

Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and find correctly enrolled the following bills; viz,

An act to suspend the levy and collection of a special tax by the County Court of Comal County until one year after the close of the war between the Confederate States and the United States.

An act to incorporate the Beaver Iron Manufacturing Company.

An act to incorporate the Henderson Masonic Female Institute.

An act to authorize and require the County Courts of Hunt and Tarrant Counties to examine and if necessary to correct the assessment rolls of said counties for the year 1864 so as to conform to the several laws of this state in relation to the assessment and collection of ad valorem taxes. All of which being signed by the Speaker of the House of Representatives and this day presented to His Excellency the Governor for his approval.

D. C. Dickson, Chairman

⁸Ibid.

Mr. Harcourt, Chairman of the Judiciary Committee, made the following report:

May 25, 1864

The Judiciary Committee has duly considered a House bill to be entitled an act to provide for the probate of wills in certain cases.

The amendment provides for taking depositions of witnesses to probate a will, by taking interrogatives in the office of the County Clerk, and giving notice to all parties concerned by a written notice on the courthouse door, and in two other public places. The Committee are not inclined to adopt this innovation upon the present practice, believing it not to be well guarded against frauds being practiced upon the courts and upon the rights of parties interested in the state.

I am instructed by the Committee to return the bill to the Senate and recommend its rejection.

John T. Harcourt, Chairman

Mr. Ford offered the following: *Resolved*, That the Committee on Finance be directed to inquire into the propriety of passing an act making all bail bonds and recognizances payable in specie or State Treasury Warrants above and report by bill or otherwise. Adopted.

A joint resolution relative to sale of ordinance stores. Read 2nd time and lost on engrossment.

A bill to amend the estray law. Read 3rd time. The yeas and nays on the passage of the bill stood:

Yeas—Messrs. Beasley, Davis, Durant, Harcourt, Hartley, Hord, Kinsey, Lea, Magoffin, Moore of Bastrop, Peck, Quayle, Throckmorton, and White—14.

Nays—Messrs. Burney, Charlton, Dickson, Ford, Guinn, Jordan, Jowers, Knox, Moore of Davis, Montague, Parsons, Weatherford, and Wootten—13.

A joint resolution relative to the disposition of cards. Read 3rd time. Mr. Ford moved to strike out "all relating to the members of the Legislature." Lost. The resolution then passed.

Mr. Dickson introduced a bill making an appropriation to pay for the stationery, lighting, materials, etc., for the 10th Legislature Extra Session. Read 1st time and referred

to Committee on Contingent Expenses, with instruction to report this P.M.

A bill to repeal 1st section of act to suspend the location and survey of the public land was read 3rd time. The yeas and nays upon its final passage stood thus:

Yeas—Messrs. Burney, Cooley, Dickson, Ford, Guinn, Haskell, Hord, Knox, Lea, Magoffin, Moore of Bastrop, Parsons, Peck, Quayle, Throckmorton, and Wootten—16.

Nays—Messrs. Beasley, Charlton, Davis, Durant, Harcourt, Hartley, Jordan, Jowers, Kinsey, Moore of Davis, Montague, Weatherford, and White—13.

A bill to amend the estray laws. Read 3rd time. Mr. Quayle moved to add "Erath and Palo Pinto" counties. Adopted. The bill was then lost on its passage.

A bill supplemental and amendatory of an act to establish a penal code. Read 1st time and referred to Judiciary Committee.

Mr. Hord, Chairman of the Committee on State Affairs, reported recommending the passage of the following bills:

Joint resolution relative to conscription.

The following amendment to bill to incorporate the Falls of Brazos Manufacturing Company: In last line of Section 8, strike out "five."

Amendments to bill to incorporate the Trinity Mills Manufacturing Company: Add to section, "and in all suits and legal process against this corporation it shall be sufficient to make service and in other cases upon the president or to leave a copy of the citation and petition at the usual place of the corporation for doing business." In last line of Section 6, strike out the word "five." The bill was taken up. Read 2nd time and amendments adopted.

Mr. Hartley moved to amend by striking out "real and personal property" and inserting "personal property and such real property as may be necessary for the use of the company in the erection of buildings and carrying on the business of the company as herein set for theth." Lost.

The yeas and nays upon its adoption stood:

Yeas—Messrs. Burney, Charlton, Cooley, Dickson, Ford, Guinn, Hartley, Hord, Jowers, Kinsey, Lea, Magoffin, Moore of Bastrop, Parsons, Peck, Quayle, Selman, Throckmorton, and Wootten—19.

Nays—Messrs. Beasley, Durant, Jordan, Moore of Davis, and Weatherford—5.

Mr. Jordan moved to amend by adding "and such lands as said company may receive from the State under provisions of an act to encourage the erection of certain machinery by donation of land and otherwise approved December 15, 1863." Adopted.

Mr. Quayle moved to amend, "provided that the stockholders in the company shall be severally liable for the debts of the corporation whenever the property of the Corporation shall be insufficient to satisfy said debts." The yeas and nays were called on a motion to lay the amendment on table and stood:

Yeas—Messrs. Beasley, Charlton, Dickson, Ford, Guinn, Hartley, Haskell, Jordan, Jowers, Lea, Moore of Davis, Moore of Bastrop, Throckmorton, Weatherford, and Wooten—15.

Nays—Messrs. Burney, Cooley, Durant, Hord, Kinsey, Knox, Magoffin, Parsons, Peck, Quayle, and Selman—11.

The bill was then passed to 3rd reading. Rule suspended. Read 3rd time and passed by Constitutional majority, Messrs. Cooley, Durant, Harcourt, Knox, Magoffin, Peck, and Quayle voting nay.

Mr. Quayle moved to reconsider a vote which refused to pass a bill relative to the estray laws.

Mr. Lea, Chairman of Committee on Conference, made the following report:

To the Honorable F. S. Stockdale, President of the Senate, and the Honorable M. D. K. Taylor, Speaker of the House of Representatives:

The Committee of Free Conference, to which was referred a House bill to be entitled an act to provide for the liquidation of claims against the State when there is a deficiency of funds in the Treasury, and the Senate's substitute therefor being a bill to be entitled an act to regulate the manner of liquidating claims for payment under appropriations made by the Legislature, with the rejection of the substitute by the House, and the Senate's adherence, has considered the subject, and a majority now report as follows:

The Committee recommends the following substitute for the third section of the Senate's substitute for the original bill; viz,

Section 3. In the same manner, and to the same intent,

that treasury warrants, in general, may be receivable for public dues, under laws now or hereafter providing therefor, the Treasury Warrants to be issued under the first section of this act shall be receivable for all public dues, except those payable in specie by special provisions of law; and, in addition, that warrants may be funded in bonds of the State, bearing interest at the rate of six per cent per annum, to be paid semiannually, the interest and principal of the bonds being payable in species; provided that the tax, to be levied for payment of current interest and for a sinking fund to pay principal of the bonds, shall not be adopted until after one year from the ratification of a treaty of peace between the Confederate States of America and the United States of America; but, in the mean time, by other means, the Legislature will provide for obtaining the necessary specie to meet the demands of the bonds.

And the Committee further recommends that the Senate's substitute they amended be adopted in lieu of the House bill, and that the bill so amended be passed.

Respectfully submitted,

Pryor Lea, Chairman
on part of the Senate

W. R. Poag, Chairman
on part of the House
of Representatives

The bill (revenue) was made special order for $\frac{1}{2}$ after 3 o'clock P.M. The Senate then adjourned until $3\frac{1}{2}$ o'clock P.M.

$3\frac{1}{2}$ o'clock P.M.

Senate met, roll called, quorum present.

Mr. Moore of Davis was excused from attendance on the Senate after this evening. The report of Committee of Conference on a bill to supply a deficiency in the State Treasury was adopted.

A bill to prohibit the sale of ardent spirits within five miles of Waxahachie. Read 1st time.

Mr. Dickson offered the following: *Resolved*, That the Secretary of the Senate employ such clerical assistance as he may need to keep up the business of the Senate during the remainder of the session. Adopted. The Committee on Contingent Expenses reported an amendment to a bill mak-

ing an appropriation for stationery, etc. [They moved:] Strike out "Military Board" and insert "Governor." The report was on motion taken up. Mr. Dickson offered the following: "Provided that this appropriation may be paid out of any money subject to the control of the Governor or Military Board for any other purpose." Adopted.

Mr. Lea then moved to amend the amendment of the Committee by striking out of the bill the words "out of any fund in the hands of the Governor." Carried. The bill was then ordered to be engrossed. Rule suspended. Read 3rd time and passed.

Mr. Beasley introduced the following:

Resolution

Be it resolved by the Senate of the State of Texas:

1st. That we but yield to the general voice of the people when we express the heavy bereavement of our State in the loss of our gallant trio of Generals, Green, Scurry, and Randal, who fell battling for freedom on their recent bloody fields of Louisiana and Arkansas;

2nd. That as the "blood of the martyrs *was* the seed of the Church" so the blood of these patriots will be the ever-living principle of our young but beloved Confederacy of States;

3rd. That as an expression of our respect for the memories of these heroes, this body will now adjourn until 8 o'clock tomorrow morning;

4th. That a copy of these resolutions be furnished to the families of the deceased.

Yeas—Messrs. Cooley, Ford, Guinn, Harcourt, Hartley, Jowers, Knox, Lea, Magoffin, Moore of Bastrop, Montague, Peck, Throckmorton, and White—14.

Nays—Messrs. Beasley, Davis, Dickson, Haskell, Kinsey, Parsons, Quayle, and Weatherford—8.

The bill was then passed to 3rd reading. Rule suspended. Read 3rd time and passed.

Joint resolution relative to the reception of remains of Brigadier General William R. Scurry. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A bill to incorporate the Fort Bend Trading Company. Read 1st time.

A bill to incorporate the Comal County Mutual Aid Association. Read 1st time.

The Senate then adjourned until 8 o'clock P.M.

8 o'clock P.M.

Senate met, roll called, quorum present.

Messrs. Throckmorton, Dickson, White, and Charlton were appointed committee to make arrangements for the reception of the remains of Brigadier General William R. Scurry. The President of the Senate was unanimously requested to act as chairman of the Committee.

The Committee on Enrolled Bills reported as follows:
Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and find correctly enrolled the following bills, viz., an act making an appropriation for the mileage and per diem pay of the members and the per diem pay of the officers of the Extra Session of the 10th Legislature.

An act to regulate the manner of liquidating claims for payment under appropriations made by the Legislature.

An act for relief of indigent families of Calhoun, Refugio, San Patricio, and Nueces counties.

Joint Resolutions

An act supplementary to an act entitled an act to regulate proceedings in the county courts pertaining to estates of deceased persons, approved 20th March, 1848.

An act to incorporate the Falls of Brazos Manufacturing Company.

An act to transfer the State Troops to the Confederate States service and to repeal an act entitled an act to provide for the defense of the state, approved December 16th, 1863.

Joint resolution concerning the publication of the State and Confederate States Constitutions.

Joint resolution of thanks to Messrs. Ball and Hutchings.

An act to incorporate the San Marcos Cotton and Woolen Manufacturing Company.

An act to authorize the Governor to appoint certain officers to represent the interest of the state and of the citizens and soldiers of the state at the headquarters of the Trans-Mississippi Department and at the Headquarters of the District of Texas, New Mexico, and Arizona.

Joint resolutions in relation to the Tonkawa Indians.

An act making an appropriation to pay for stationery and lighting material purchased for the 10th Legislature.

An act to punish unlawful interference with private property or private rights.

An act to amend the 3rd section of an act to provide for the support of the families and dependents of Texas soldiers approved December 15, 1863.

An act to incorporate the Comal Springs Manufacturing Company.

Joint resolutions regarding to return of the 1st, 4th, and 5th Texas Regiments.

An act to authorize the County Court of Caldwell County to levy and collect an ad valorem tax in specie to support the families and other dependents of soldiers.

An act for the relief of Lieutenant W. H. Cochran, A.A.C.S. of the Mounted Regiment, Texas State Troops.

An act making an appropriation to make any deficiency that may accrue in the appropriation to pay the expenses of the Comptrollers Department for the years 1864 and 1865.

An act supplemental and amendatory of an act to adopt and establish a Penal Code.

An act amending an act authorizing the Comptroller of the State to receive from railroad companies in this state the interest that may now be due or hereafter become due on their bonds.

An act supplementary to an act to provide for the protection of the frontier.

An act to incorporate the Texas Copper Manufacturing Company.

An act to incorporate the Independence Manufacturing Company.

All of which being signed by the presiding officers of the two houses, was this day presented to the Governor for his approval.

D. C. Dickson

Mr. Selman introduced a bill to provide for the funding of State Treasury Warrants and for the final redemption of the bonds in which they are invested. Read 1st time. Rule suspended. Read 2nd time, and indefinitely postponed.

A bill authorizing the issuance of rations to the em-

ployees of the cap factory. Rule suspended. Read 3rd time and passed.

Mr. Lea, Chairman of the Committee on Finance, made the following report:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a House bill to be entitled an act to further provide for the payment of interest accruing from time to time on the public debt of the state, has considered the subject, and now reports the bill, with a recommendation that it be passed as a measure of proper precaution against the failure of another bill, providing in another way for accomplishing the same object.

Pryor Lea, Chairman

On motion report taken up. Bill read 2nd time and passed to 3rd reading. Read 3rd time and passed.

Mr. Wootten offered the following: *Resolved*, That the thanks of the Senate are hereby tendered to Lieutenant Governor F. S. Stockdale for the distinguished ability and impartiality with which he has presided over its deliberations during the session of the Legislature now drawing to a close." Adopted.

The following message from the Governor was read:⁹

The Senate then took up a substitute for their bill on this subject. Adopted by and reported from the House of Representatives. Read and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

Mr. Dickson offered the following: *Resolved*, That the Secretary of the Senate be required to copy the Journals of this session and the sum of three hundred dollars out of the unexpended balance of the appropriation for the pay of the per diem and mileage of the members and the pay of the officers be paid for the same. Adopted.

Messrs. Ford and Hord were appointed a committee under resolution authorizing an investigation of acts of Military Board. Messrs. Baker and Gibbons by the House. A committee from House invited a like committee to wait on the Governor and inform him that the Legislature is about to adjourn sine die. Messrs. Harcourt and Guinn were appointed a committee.

Mr. Jowers offered the following: *Resolved*, That the

⁹Ibid.

thanks of the Senate be and they are hereby tendered to the officers of the Senate for the able and faithful manner with which they have discharged their duties. Adopted.

Thursday, May 26, 1864

8 o'clock A.M.

Senate met. Prayer by the Chaplain, roll called, quorum present. The Journal of yesterday was read and adopted.

The Committee on Enrolled Bills reported as follows: Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and find correctly enrolled the following bills, viz.,

Joint resolution in reference to sick and wounded soldiers in Arkansas and Louisiana.

An act for the relief of Robert Pulsford.

An act to incorporate the Dallas Manufacturing Company. The same being signed by the Speaker of the House of Representatives and President of the Senate were this day presented to the Governor for his approval.

D. C. Dickson, Chairman

The Committee on Military Affairs through Mr. Jowers reported a substitute for a joint resolution requesting the return of the 1st, 4th, and 5th Texas Regiments. The resolutions were taken up. Read 2nd time. Substitute of Committee adopted. Resolution passed to 3rd reading. Rule suspended. Read 3rd time and passed.

Mr. Lea, Chairman of Finance Committee, made the following report:¹⁰

A message from House announced the passage of the following bills:

A bill to permit unlawful interference with private property or private rights.

A bill to incorporate the West Texas Manufacturing Company.

Senate joint resolution on impressment.

Senate bill to define and punish unlawful interference with the exportation and transportation of cotton with amendments which were concurred in.

A bill supplementary to an act to regulate proceedings in County Court pertaining to estates of deceased persons.

A bill to authorize the military board to purchase drugs

¹⁰Ibid.

and medicines for the use of the families of officers and soldiers.

A bill to amend 3rd section of an act to provide for the support of families and dependents of soldiers.

A bill to further provide for the payment of interest on public debt.

Senate joint resolution relative to sale of cards, and had refused to adopt Conference Committee report on a bill to supply deficiency in State Treasury which was afterwards announced as having been reconsidered and a Committee of Free Conference appointed consisting of Messrs. Reid, Banton, Birdwell, Slaughter, and Hunt.

A bill to transfer State Troops to Confederate States Service and to repeal an act to provide for the defense of *the State*.

The Committee on State Affairs reported recommending the passage of a bill to incorporate the San Marcos Manufacturing Company, with amendments.

1st Section. Strike out "property real and personal" and insert "personal property and such real estate as may be necessary to carry out the purposes of the corporation." Amend the 8th [?] Section by adding "according to law."

Amend 6th Section by striking out all that part exempting machinery from taxation.

Mr. Ford offered a resolution (requiring concurrence of the House) the object of which is to raise a select joint committee to investigate fully the acts of the Military Board. Informally passed over at present.

Mr. Guinn introduced joint resolutions of thanks to Messrs. Ball, Hutchings and Company. Read 1st time. Rule suspended. Read 2nd time.

Mr. Throckmorton, Chairman of Committee on Military Affairs, made the following report:

Honorable F. S. Stockdale, President of the Senate:

The Committee on Military Affairs have considered a bill authorizing the Governor to appoint persons to represent the interests of the State, and that of the soldiers and citizens of Texas, at the headquarters of General Smith and Major General Magruder.

The Committee report a bill as a substitute, and recommend its passage. The Committee believe that such a course will be of much benefit. Some one who has directly in charge the interest of the state should be at these inspec-

tion headquarters so as to keep the Governor advised of all questions of interest and movements of armies likely to affect the State. And in addition to this, great assistance could be rendered to many of our soldiers and citizens in an attending to their wants, and putting their claims or petitions in proper shape to be acted upon.

J. W. Throckmorton, Chairman

Report taken up and substitute adopted and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

Mr. Hord introduced a bill to define the unlawful introduction and pasturage of stock. Read 1st and 2nd times and referred to State Affairs. Also joint resolution relative to printing the Constitution of the State and of the Confederate States. Referred to Committee on Printing.

Mr. Montague introduced a joint resolution relative to the withdrawal from the line of the Frontier Regiment. Read 1st time. Rule suspended. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill to incorporate the San Marcos Manufacturing Company was taken up. Read 2nd time and passed by constitutional majority, Mr. Peck voting nay.

A bill to incorporate the Star State Manufacturing Company. Read 1st and 2nd times and referred to Committee on State Affairs.

Mr. Guinn moved to reconsider the vote taken yesterday adopting the report of the Committee of Conference on a bill to supply the deficiency in the State Treasury as a further conference was desirable. Such conference was directed to be held by the committee already appointed for that object.

A bill to incorporate the Guadalupe Manufacturing Company. Read 2nd time. Substitute of Committee on State Affairs adopted and passed to 3rd reading. Rule suspended. Read 3rd time and passed by constitutional majority, Mr. Peck voting nay.

Mr. Guinn was excused from attendance on Conference Committee and by the Senate's action Mr. Jordan was appointed in his stead.

The Committee on Enrolled Bills have examined and find correctly enrolled the following bills, viz.,

An act to provide for the revision of the laws.

An act to regulate the conception and disposal of Confederate Notes and Bonds now and hereafter in the Treasury.

The same being signed by the presiding officers of both houses of the Legislature were this day presented to the Governor for his approval.

D. C. Dickson

A bill to provide for the support of the Lunatic, Deaf and Dumb and Blind Asylums. Read 2nd time and referred to Committee on Finance.

A bill to provide for the probate of wills in certain cases. Read 2nd time. Report of Judiciary Committee recommending rejection of the bill adopted.

A bill to amend 1st section of an act regulating juries. Read 2nd time. Report of Judiciary Committee recommending its rejection. Adopted.

Joint resolution relative to conscription. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule further suspended. Read 3rd time and passed.

A bill supplementary to an act to regulate proceedings in County Courts pertaining to the estates of deceased persons. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading.

A bill to punish unlawful interference with private property or private rights. Read 1st time and referred to Committee on Judiciary.

Mr. Hartley made the following report:

Austin, May 26, 1864

To the President of the Senate:

The Committee to which was referred a bill to be entitled an act to set apart the proceeds of land scrip sold by Commissioner of the General Land Office for the benefit of the citizens of the State who shall have received an honorable discharge, having duly considered the same, unanimously recommend the passage of the bill with the following amendments:

1. In the sixth line before "funds," insert "pension."
2. At the close of the 2nd section, add "subject to future legislation on the subject."

The Committee consider it unnecessary to go at length into the advocacy of the bill inasmuch as the Senate by

the creation of the Committee indicated its concurrence in the propriety of the passage of a bill embodying the substance of the referred. The Committee, however, begs leave to say that at the last session of this legislature an act was passed inhibiting locations and the sale of land scrip, after the example of the government in our first revolution, in order that those absent in the Army might not be forestalled in their selections from the public domain by those who remained at home. At this session controlling views of finance have resulted in the passage of a bill through the Senate providing for the sale and location of land scrip. A sense of justice and every generous feeling that animates our hearts would dictate that while those who remain at home and are able to take benefits under this bill in making desirable investments and securing valuable locations, consideration should be had for those who are absent from home and business shedding their blood on the field of battle.

The immense debt with which the Confederate States will come out of the present war and the vast number of widows and orphans and disabled soldiers which it shall have caused, will preclude the Confederate States from granting liberal pensions. It will not probably be able to afford that full measure of relief of which such objects are so deserving. In view of this fact the Committee considers it eminently proper that the State should be prepared to afford such additional relief to the persons indicated as may be proper, in order that they may live not only in the enjoyment of the liberty which they have done and suffered so much to gain, but all the comforts of life which a grateful country is able to bestow. This the State in view of her public domain and her being comparatively free from debt, is able to promise herself. The State has already adopted the policy of the creation of special funds for sacred objects and the Committee believes that none could be more sacred than the one embraced in the bill under consideration. The Committee considers that there is a peculiar fitness in embracing the opportunity to inaugurate the creation of such a fund, afforded by the present change of policy providing for the sale and location of land scrip, and trusts that the bill will pass unanimously.

Respectfully submitted,
R. K. Hartley, Chairman

A bill to provide for the payment of the interest on the public debt of the State. Read 1st time and referred to Finance Committee.

A bill to amend the act to provide for the support of the families and dependents of soldiers. Read 1st time and referred to State Affairs.

A bill to authorize the Military Board to purchase drugs and medicines for certain purposes. Read 1st time and referred to Military Affairs.

A bill for relief of indigent families of Calhoun County was read 2nd time and referred to State Affairs with instructions to inquire into the propriety of extending similar relief to other counties.

A bill to prohibit the sale of ardent spirits within five miles of Waxahachie. Read 2nd time and referred to State Affairs Committee.

The Senate then adjourned until $\frac{1}{2}$ past 3 o'clock P.M.

$3\frac{1}{2}$ o'clock P.M.

Senate met. Roll called, quorum present.

The Committee on Enrolled Bills reported as follows:
Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and find correctly enrolled the following bills, viz., joint resolutions concerning the acts of the Confederate Congress to regulate impressments and abuses under the same joint resolution in reference to cotton cards. The same being signed by the presiding officers of the two houses of the legislature were this day presented to the Governor for his approval.

D. C. Dickson, Chairman

A bill to amend Article 820 of the Penal Code. Read 3rd time and passed.

Mr. Harcourt, Chairman of the Judiciary Committee, made the following report:

The Judiciary Committee has duly considered a House bill to amend the 965th Article of the Code of Criminal Procedure.

The amendment proposed is to authorize the Coroner or Justice when he may deem it necessary to have a post mortem examination to employ a physician to make the same, who shall receive a fee of \$20, to be paid out of the

county treasury. The Committee believe that in such cases there will always be enough interest felt by the friends of the deceased to induce them to employ a surgeon when any good result is likely to be accomplished.

I am instructed by the Committee to report the bill back with the recommendation that it be indefinitely postponed.

John T. Harcourt, Chairman

He also recommended the passage of a bill supplemental to and amendatory of an act to establish a penal code.

Mr. Hartley moved to take up report made by him this morning and the bill therein referred to. Lost.

The following message from the Governor was read (calling attention to Tonkawa Indians).¹¹

Referred to the Committee on Military Affairs.

Joint resolutions relative to the suspension of the privilege of the writ of *Habeas Corpus* read 2nd time. The Senate resolved itself into Committee of the Whole. Mr. Jowers in the chair. After some time spent therein the Committee rose, reported progress and asked leave to sit again tomorrow at 10 o'clock A.M.

The resolutions by Mr. Ford this morning relative to investigating the acts of the Military Board were on motion taken up, considered, and adopted.

A bill to incorporate Falls of Brazos Manufacturing Company was read 2nd time. Amendment of the Committee of State Affairs adopted and passed to 3rd reading.

The Committee on Enrolled Bills reported as follows: Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and find correctly enrolled the following bills, viz.,

An act to prevent slaves from exercising pretended ownership over property.

An act to incorporate the Trinity Mills Manufacturing Company.

Both of which being signed by the President of the Senate and Speaker of the House of Representatives were this day presented to the Governor for his approval.

D. C. Dickson, Chairman

The report of Finance Committee on a bill amending

¹¹Ibid.

act authorizing the Comptroller of the State to receive from railroad companies the interest due on their bonds was taken up and adopted and bill passed to 3rd reading. Rule suspended. Read 3rd time and passed.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Friday, May 27, 1864

8 o'clock A.M.

Senate met. Prayer by the Chaplain. Roll called, quorum present. The Journal of yesterday was read and adopted.

The Committee on State Affairs through Mr. Kinsey recommended the passage of a bill to prohibit the sale of ardent spirits within the town of Waxahachie. The same committee through Mr. Davis reported a bill for the relief of the indigent families of Calhoun County and recommended the adoption of the following amendments:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on State Affairs, to whom was referred a bill to be entitled an act for the relief of the indigent families of Calhoun County, with instructions to inquire into the expediency of extending the provisions of said act to other counties, respectfully submit that they have duly considered the subject, and find the counties of Refugio, San Patricio, and Nueces equally entitled to the relief asked in the bill for the county of Calhoun, as granted by former legislation to the county of Galveston. They therefore report the bill back to the Senate, with the following amendments and recommend its adoption.

1st. That the word "county" be stricken out of the title of the bill and "Refugio, San Patricio, and Nueces counties" be added.

2nd. That the word "county," where it occurs in the latter part of the 1st section of the bill, be also struck out, and "Refugio, San Patricio, and Nueces counties" be added.

Davis

One of the Committee

Mr. Cooley introduced a bill for the relief of Lt. W. H. Cochran, A.A.C.S. Mounted Regiment, Texas State Troops. Read 1st and 2nd times and referred to Committee on State Affairs.

Joint resolution of thanks to Messrs. Bell, Hutchings and Company. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill to transfer State Troops to Confederate Service. Read 3rd time and referred to Committee on Military Affairs.

Mr. Hord, Chairman of Committee on State Affairs, recommended the passage of the following bills:

A bill to punish the unlawful introduction, pasturage, and running at large of stock.

A bill to amend an act to provide for the support of soldiers' families.

The following bills with amendments:

Bill to incorporate the West Texas Manufacturing Company—add to 1st section, "provided the Company shall not hold more real estate than what shall be necessary to the carrying on of its proper business." Strike out 6th section. Bill to incorporate Star State Machine Manufacturing Company. Strike out "90" and insert "20."

A bill to amend Article 965 of the Code of Criminal Procedure. Read 2nd time. Report of Judiciary Committee recommending indefinite postponement adopted.

A bill supplemental to and amendatory of an act to establish a penal code. Read 2nd time and passed to 3rd reading.

A bill to set apart the proceeds of land scrip sold by the Commissioner of the General Land Office for the benefit of citizens of the state who shall have served in the Army of the Confederate States or of the State during the present war and who shall have received an honorable discharge, with report of select committee of one (Mr. Hartley). Read 2nd time and recommended. Adopted.

Mr. Harcourt moved to indefinitely postpone.

Yeas—Messrs. Burney, Ford, Guinn, Harcourt, Jordan, Moore of Bastrop, Throckmorton, Wootten, and White—9.

Nays—Messrs. Beasley, Charlton, Davis, Dickson, Hartley, Haskell, Hord, Jowers, Kinsey, Knox, Magoffin, Montague, Parsons, Peck, Quayle, Selman, and Weatherford—17.

The yeas and nays were then called on the engrossment of the bill and stood thus:

Yeas—Messrs. Beasley, Charlton, Davis, Durant, Hart-

ley, Haskell, Jowers, Kinsey, Magoffin, Montague, Quayle, Selman, and Weatherford—13.

Nays—Messrs. Dickson, Ford, Guinn, Harcourt, Hord, Jordan, Knox, Moore of Bastrop, Parsons, Peck, Throckmorton, Wootten, and White—13.

Mr. Guinn in the chair, the engrossment was lost.

Mr. Throckmorton, Chairman of Committee on Military Affairs, reported joint resolutions for relief of the Tonkawa Indians, which on motion were taken up. Read 1st time. Rule suspended. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

A bill to incorporate the Falls of Brazos Manufacturing Company. Read 2nd time. Amendments of Committee on State Affairs adopted and bill passed by constitutional majority, Messrs. Hartley, Throckmorton, and Weatherford voting nay.

A bill to incorporate the Star State Manufacturing Company was taken up. Read 2nd time and Committee's amendment adopted. Bill passed to 3rd reading. Rule suspended. Read 3rd time and passed by constitutional majority, Messrs. Knox, Peck, and Weatherford voting nay.

The Committee on Military Affairs reported a bill turning over to Confederate States the militia with amendment provided that nothing herein contained shall be so construed as to authorize the turning over to the Confederate military authorities any civil officer of the State or other person who is not subject to conscription under the laws of Congress. Adopted. Bill passed to 3rd reading. Rule suspended. Read 3rd time and passed.

The Committee of Free Conference, Mr. Lea, Chairman, made the following report:

To the Honorable F. S. Stockdale, President of the Senate and the Honorable M. D. K. Taylor, Speaker of the House of Representatives:

The Committee of the Two Houses for Free Conference on a House bill to be entitled an act to provide for the liquidation of claims against the State when there is a deficiency of funds in the Treasury, and the Senate's substitute therefor being a bill to be entitled an act to regulate the manner of liquidating claims for payment under appropriations made by the Legislature, and the disagreement between the two houses on the report of the former

committees for conference on these subjects, have considered in conference all the matter so submitted, and now report as follows.

Each Committee recommends the adoption of a substitute for the substitute of the Senate to the original bill of the House, and herewith submit a draft of the proposed substitutes, as part of this report.

Time forbids the Committees from making any remark; and they respectively submit this compromise to the consideration of each house.

Pryor Lea, Chairman
of the Senate's Committee

J. B. Reid, Chairman
of the House Committee

The Committee on Judiciary, Mr. Harcourt, Chairman, recommended the passage of a bill to punish unlawful interference with private property or private rights. Bill taken up. Read 2nd time and passed to 3rd reading.

A bill to prevent the sale of ardent spirits within five miles of Waxahachie was taken up. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time. The yeas and nays on its passage stood:

Yeas—Messrs. Beasley, Davis, Durant, Guinn, Hord, Jordan, Jowers, Kinsey, Lea, Montague, Parsons, Peck, Quayle, Selman, Throckmorton, Weatherford, and Wootten—17.

Nays—Messrs. Charlton, Cooley, Ford, Harcourt, Hartley, Haskell, Knox, Magoffin, and White—9.

A bill for relief of indigent families of Calhoun County taken up. Read 2nd time. Amendments of Committee on State Affairs adopted.

A message from House announced the passage of the following bills:

Joint resolution relative to the frontier with amendment, indefinitely postponed.

A bill making appropriation for mileage and per diem of members, etc.

A bill for relief of Lt. W. H. Cochran.

A Senate bill to authorize the appointment of an agent at Headquarters of Trans-Mississippi Department and District Headquarters, Texas, New Mexico, and Arizona.

Senate bill for relief of Robert Robson.

Senate bill making appropriation for stationery.

Senate bill supplementary to an act to provide for the protection of the frontier with amendments.

House bill to furnish the reporter of Supreme Court decisions with stationery. Read 1st time. Rule suspended. Read 2nd time. Rule suspended. Read 3rd time and passed.

A bill to incorporate Comal Springs Manufacturing Company.

A bill to authorize the purchase of additional machinery for the Texas Penitentiary.

The House have adopted Free Conference Committee report on a bill to supply the deficiency in State Treasury, and bill passed to 3rd reading. Rule suspended. Read 3rd time and passed.

[The Committee on Engrossed Bills reported as follows:]

The Committee on Engrossed Bills have examined a bill to be entitled an act to incorporate the San Marcos Manufacturing Company and also a joint resolution of thanks to the firm of Messrs. Ball, Hutchings and Company and find the same correctly engrossed.

A. N. Jordan
for the Committee

Mr. Hartley moved to reconsider the vote rejecting a bill to amend Article 965 of Code of Criminal Procedure. Lost.

The resolution relative to suspension of writ of habeas corpus was considered in Committee of the Whole, Mr. Jowers in the chair. After some time spent therein the Committee rose and reported a substitute for the resolutions and recommended its adoption and asked to be discharged. Substitute adopted. Mr. Lea moved to postpone consideration until 10 o'clock A.M. tomorrow. Carried.

A House bill for relief of Lt. W. H. Cochran was read 1st time and referred to Committee on State Affairs.

A bill to amend 3rd section of act to provide for support of soldiers' families was taken up, read 2nd time, and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

The Committee on Printing reported recommending the passage of joint resolution relative to printing State and Confederate States constitutions with the laws, taken up. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

The Senate then adjourned until 3½ o'clock P.M.

3½ o'clock P.M.

Senate met, roll called, quorum present. The resolution to adjourn *sine die* was taken up. Read and postponed until tomorrow at 3 o'clock P.M.

Mr. Hord offered the following: *Resolved by the Senate*, That such members of the Senate who were unable to reach this place by the commencement of the present session, but who have been in attendance during the session, be entitled to draw their per diem from the commencement of the session. Adopted.

A bill supplementary to an act to provide for the protection of frontier, with House amendments, 1st amendment concurred in, 2nd amendment to strike out 4th section. The yeas and nays stood:

Yeas—Messrs. Beasley, Burney, Cooley, Davis, Durant, Harcourt, Hord, Jordan, Jowers, Knox, Magoffin, Moore of Bastrop, Montague, Quayle, Throckmorton, and Weatherford—16.

Nays—Messrs. Dickson, Ford, Guinn, Hartley, Kinsey, Parsons, Peck, Selman, and Wootten—9.

The report of Committee on Conference on the bill to supply deficiency in State Treasury was taken up, read and adopted by the following vote:

Yeas—Messrs. Cooley, Davis, Durant, Ford, Guinn, Haskell, Hord, Jordan, Jowers, Knox, Lea, Magoffin, Moore of Bastrop, Montague, Throckmorton, and Wootten—16.

Nays—Messrs. Beasley, Burney, Hartley, Parsons, Kinsey, Peck, Selman, Weatherford, and White—9.

A bill making an appropriation for mileage and per diem pay of 10th Legislature Extra Session. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

Mr. Hord, Chairman of State Affairs, reported a bill for relief of Lt. W. H. Cochran and recommended its passage. Taken up. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

Mr. Throckmorton for Finance Committee reported as follows:

President of the Senate:

The Committee on Finance have considered a bill to

provide for the support of the several asylums and herewith report a substitute for the same.

The Committee here left the Deaf and Dumb and Blind Asylums to depend upon the appropriations heretofore made.

The Committee have not the time to enter into the reasons why they present a substitute for the original bill, but if necessary will explain them when the bill is up for consideration.

J. W. Throckmorton

One of the Committee

Rule suspended. Bill taken up. Read 2nd time. Substitute adopted and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

Mr. Lea, Chairman of Finance Committee, made the following report:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a resolution that the Committee on Finance be directed to inquire into the propriety of passing an act making all bail bonds and recognizances payable in specie or state treasury warrants alone, and report by bill or otherwise, has considered the subject, and now reports as follows: The Committee is not prepared to recommend the proposed change of the law, especially as the officers taking bail bonds and recognizances may accommodate amounts in future to the existing and probable condition of the funds receivable under such obligations. With such views the Committee asks to be discharged from further consideration of the resolution, and recommend that it be laid on the table.

Pryor Lea, Chairman

Mr. Lea presented petition of the mayor of San Patricio. Referred to Committee on State Affairs.

A bill to incorporate the Comal Springs Manufacturing Company. Read 1st time. Rule suspended. Read 2nd time, amended and passed by constitutional majority, Messrs. Peck and Weatherford voting nay.

The Senate then adjourned until 8 o'clock A.M. tomorrow.

Saturday, May 28, 1864

8 o'clock A.M.

Senate met. Prayer by Chaplain, roll called, quorum present. The Journal of the preceding day was read and adopted.

The Committee on Enrolled Bills made the following report:

Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills has examined and found correctly enrolled an act to define and punish unlawful interference with the exportation and transportation of cotton or other articles and the unlawful impressment of property, which being signed by the Speaker of the House of Representatives and President of the Senate was this day presented to the Governor for his approval.

D. C. Dickson, Chairman

Mr. Jowers introduced a bill further to provide the manner of proving a written bill. Read 1st time. Rule suspended. Read 2nd time and ordered to be engrossed. Rule suspended, read 3rd time and passed.

Mr. Durant introduced a bill to incorporate the Cairo Manufacturing Company. Read 1st time. Rule suspended. Read 2nd time and ordered to be engrossed. Rule suspended, read 3rd time and passed by constitutional majority, Messrs. Ford, Hartley, Knox, Peck, and Selman voting nay.

The Committee on Finance, Mr. Lea, Chairman, reported a bill to amend the act appropriating \$200,000 as a hospital fund. Read 1st time.

Mr. Dickson offered a resolution to adjourn *sine die* this day at 11 o'clock P.M. Adopted.

A bill to punish unlawful interference with private property or private rights. Read 3rd time. Mr. Lea moved to strike out all that part of the 1st section preceding that where the act is done without lawful authority. Mr. Harcourt moved to lay the amendment on the table.

Yeas—Messrs. Beasley, Cooley, Durant, Ford, Harcourt, Haskell, Jordan, Magoffin, Moore of Bastrop, Montague, Selman, Throckmorton, and Wootten—13.

Nays—Messrs. Burney, Charlton, Davis, Dickson, Guinn, Hartley, Jowers, Kinsey, Knox, Lea, Parsons, Quayle, Weatherford, and White—15.

The yeas and nays were then called on the adoption of the amendment and stood:

Yeas—Messrs. Burney, Charlton, Davis, Dickson, Guinn, Jowers, Kinsey, Knox, Lea, Parsons, Peck, Weatherford, and White—13.

Nays—Messrs. Beasley, Cooley, Durant, Ford, Harcourt, Haskell, Jordan, Magoffin, Moore of Bastrop, Montague, Quayle, Selman, Throckmorton, and Wootten—14.

Mr. Guinn moved to amend, "Provided the person prosecuted under this act shall have the right to plead and prove an order from a superior officer which order shall be a complete defense provided such person did not exceed his authority in said order."

Mr. Hartley moved to amend amendments of Mr. Guinn by inserting "willfully, maliciously, and before every description of an offense in this bill." Mr. Harcourt moved to lay both amendments on table. Yeas and nays were called and stood thus:

Yeas—Messrs. Beasley, Cooley, Durant, Ford, Harcourt, Haskell, Hord, Jordan, Magoffin, Moore of Bastrop, Selman, Throckmorton, Wootten, and White—14.

Nays—Messrs. Burney, Charlton, Davis, Dickson, Guinn, Hartley, Jowers, Knox, Lea, Parsons, Peck, and Weatherford—12.

The bill was then passed by the following vote:

Yeas—Messrs. Beasley, Cooley, Durant, Ford, Harcourt, Haskell, Hord, Jordan, Magoffin, Moore of Bastrop, Selman, Throckmorton, Wootten, and White—14.

Nays—Messrs. Burney, Charlton, Davis, Dickson, Guinn, Hartley, Jowers, Kinsey, Knox, Lea, Parsons, Peck, and Weatherford—13.

Mr. Charlton introduced a bill to incorporate the Tyler County Card and Machine Manufacturing Factory. Read 1st time. Rule suspended. Read 2nd time and ordered to be engrossed. Rule suspended. Read 3rd time and passed by constitutional majority, Messrs. Peck and Weatherford voting nay.

Mr. Lea, Chairman of Finance Committee, made the following report:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, in connection with the various subjects that have been and now are under its consideration, and particularly on account of the bill recently

passed authorizing the purchase of treasury warrants, beg leave to report a bill providing for necessary funds, and to that end the Committee submits a bill as part of this report and recommends its prompt enactment.

Pryor Lea, Chairman

Bill read 1st time. Rule suspended. Read 2nd time. Mr. Harcourt offered the following amendment: "Provided that no agent or contractor appointed to carry out the provisions of this act shall receive any salary or compensation in specie, and provided further that no extraordinary or extravagant compensation shall be allowed to any person connected with such transaction." Lost.

A message from the House announced the passage of the following bills:

Senate Bills

Joint resolution of thanks to Messrs. Ball, Hutchings and Company.

Joint resolution in behalf of the Tonkawa Indians.

A bill to incorporate the Guadalupe Manufacturing Company.

A bill to incorporate the San Marcos Manufacturing Company.

Joint resolution relative to printing State and Confederate States Constitution with the laws of the present session.

Bill to provide for the manner of proving a written will.

Bill to incorporate the Cairo Manufacturing Company.

Bill to authorize County Court of Caldwell County to levy and collect specie tax.

Bill to regulate the disposal of unappropriated specie.

House Bills

Bill to incorporate the Independence Manufacturing Company.

Bill to meet any deficiencies that may accrue in the Comptroller's Department.

Bill to incorporate the Texas Copper Manufacturing Company.

Joint resolution in regard to the reception of the remains of Brigadier General William R. Scurry.

Bill to authorize the issuance of rations to certain employees in the Cap Factory.

Bill for relief of minor heirs of late John D. Stell.

Bill to provide for the discharge of sureties on official bonds.

Bill to relinquish the right of the state to a sum of money in the hands of Colonel J. E. McCord.

A bill to incorporate the Fort Bend Trading Company.

A bill to declare forfeitures of property in certain cases.

A bill to incorporate Comal County Mutual Aid Association.

A bill to incorporate the Tyler County Card and Machine Factory.

House concurred in Senate resolutions raising a committee to investigate acts of Military Board, with amendment concurred in.

A bill requiring Chief Justices to hold their office at the County Seat.

House refuse to concur in amendment number 3 of bill to provide for distributing cloth made at Penitentiary and concurred in other amendments. On a motion to recede the Senate sustained a call. The Senate being full, Mr. Throckmorton moved to lay the motion to recede on the table.

Yeas—Messrs. Beasley, Durant, Guinn, Harcourt, Hartley, Hord, Jowers, Knox, Lea, Moore of Bastrop, Montague, Throckmorton, and Wootten—13.

Nays—Messrs. Burney, Charlton, Davis, Dickson, Ford, Haskell, Jordan, Kinsey, Parsons, Peck, Quayle, Weatherford, and White—14.

The bill was then ordered to be engrossed. Rule suspended. Read 3rd time and passed by the following vote:

Yeas—Messrs. Beasley, Davis, Dickson, Durant, Guinn, Hartley, Haskell, Jowers, Kinsey, Knox, Lea, Magoffin, Moore of Bastrop, Montague, Peck, Throckmorton, Wootten, and White—18.

Nays—Messrs. Ford, Harcourt, Hord, Jordan, and Parsons—5.

A bill to incorporate the Independence Manufacturing Company. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed by constitutional majority, Mr. Peck voting nay.

Mr. Hord made the following report:

Honorable F. S. Stockdale, President of the Senate:

The Committee on State Affairs being ordered by a resolution of the Senate to inquire into the necessity of abolishing the Military Board and to report by bill or otherwise, have considered the subject and have instructed me to report as follows:

By an act passed in January, 1862, the Board was created. Its powers were to procure and to manufacture arms, ammunition, etc., for the defense of the state.

By an act passed in March, 1863, power was given to the Board to purchase, transport, export, and sell cotton in order to provide specie to place the same to the credit of the interest and sinking fund.

By an act passed December 7, 1863, power was given to the Board to have spinning jennies constructed.

By an act passed December 16, 1863, a new board was created to take the place of the former one. The new Board was clothed with all the powers of the old, and the additional power was granted of the "control of all public works and supplies, and to the aid of producing within the State by the importation of articles necessary and proper for such aid."

By another act of December 16, 1863, (Chapter LIV) the Board is ordered to have iron manufactured for the defense of the State and the use of the people.

Thus it will be seen that the following powers have at different times been conferred upon the board:

1st. To procure arms, ammunition, etc. for the defense of the State.

2nd. To manufacture the same.

3rd. To deal in cotton to provide specie to meet obligations of the state.

4th. To manufacture spinning jennies.

5th. To control the public works.

6th. To control supplies.

7th. To import articles for the aid of production within the State (that is, machinery).

8th. To manufacture iron for the use of the people. If it was the intention of the Senate to instruct the Committee to investigate and report how far these powers had been carried into practical operation, what benefit had resulted to the State and the people, what benefit was likely to re-

sult from a continuation of the board, whether the past management had been good or bad, and whether the future management was likely to be better, if this was the intention of the Senate, the Committee would respectfully submit that the whole time of the present session would probably not have been long enough for the investigation, had the members of the Committee abandoned all other duties to have engaged in it.

Passing the foregoing questions by as embracing subjects with which the Committee have not had it in their power to deal, the Committee would call the attention of the Senate to an act of December 14, 1863, to raise two millions of dollars by sale of cotton bonds, and an act of December 16, 1863, appropriating two millions of dollars to purchase cotton to meet the payment of the bonds.

These two acts are to be executed by the Governor alone and such agents as he shall appoint. No reference is made in them to the Military Board. The object of these two acts is stated in them:

“To provide for the defense of the State and repel invasion.”

“To purchase machinery for manufacturing purposes.”

It will be perceived that these powers embrace the powers of the Military Board above enumerated as the 1st, 6th, and 7th. The Committee can see no good reason why the State should have two different organs to perform the same duties. If it be conceded that there is no necessity of continuing the Military Board in order to execute the 1st, 5th, and 6th powers before mentioned, it may be proper to consider the remaining powers.

The Committee can see no reason why the 3rd or “power to deal in cotton to provide specie to meet the obligations of the State” cannot be executed by the agents appointed by the Governor to purchase cotton under the act of December 16, 1863 (Chapter XCIV). The 2nd, 4th, and 8th powers granted to different times are of the same nature and are “To manufacture arms, ammunition, spinning jennies, and iron.” The Committee is imperfectly informed as to what has been the success of the Board in its efforts to manufacture, but has heard and it seems reasonable to believe, that the success has been greatest when contracts have been given out to private individuals or companies. There remains but one of the powers of the Board to be

considered, the 5th, or the power to control the public works.

Thus it will be seen that if the legislature should determine to require the agents appointed by the governor under the act of December 16, 1863 (Chapter XLIV) to purchase cotton according to the provisions of the act of March 3, 1863, and if the legislature should further determine that the system of contracts for manufacturers should be adopted in preference to the system of manufacturing directly by the Board, then, the question recurs, "Is it necessary to keep up the machinery of a military board merely to let out contracts, and control the public works, which public works themselves would probably be let out with the contracts? And is not a desk in the executive office requiring only one such clerk sufficient to discharge all the duties necessary to be discharged by the Military Board?"

The proposition may be regarded also in the reverse way. It may be that it would be better to throw the powers heretofore granted to the Governor and his agents, into the hands of the Military Board. The Committee can see no good reason why two sets of officers and agents of the State should be necessary to do the same things.

All of which is respectfully submitted.

E. R. Hord

One of the Committee

A bill supplemental to an amendatory of an act to establish a penal code. Read 3rd time and passed.

A bill to incorporate the Texas Copper Manufacturing Company. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed by constitutional majority, Messrs. Hartley and Peck voting nay.

A bill to authorize the issuance of rations to the employees of Cap Factory. Read 1st time. Rule suspended. Read 2nd time and postponed until 3 o'clock P.M.

A bill to authorize County Court of Caldwell County to levy and collect a specie tax. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed.

A bill to relinquish the right of the State to a certain sum of money in the hands of Colonel J. E. McCord. Read 1st time. Rule suspended. Read 2nd time and passed to

3rd reading. Rule suspended. Read 3rd time and passed.

Joint resolution relative to suspension of the privilege of writ of habeas corpus. Read 2nd time. Mr. White offered a substitute. Mr. Harcourt moved the previous question which was ordered. The main question being the engrossment of the resolutions was put and the yeas and nays were as follows:

Yeas—Messrs. Beasley, Cooley, Davis, Harcourt, Hord, Jordan, Magoffin, Montague, Peck, Throckmorton, Weatherford, and Wootten—12.

Nays—Messrs. Burney, Charlton, Dickson, Durant, Ford, Guinn, Hartley, Haskell, Jowers, Kinsey, Knox, Lea, Moore of Bastrop, Parsons, Quayle, and White—16.

A bill to prohibit the unlawful introduction and pasturage of stock. Read 2nd time. Rule suspended. Read 3rd time and passed.

The Senate then adjourned until 3½ o'clock P.M.

3½ o'clock P.M.

Senate met, roll called, quorum present. Mr. Throckmorton, Chairman of Military Committee, reported recommending that a bill to authorize the purchase of drugs and medicines for the families of officers and soldiers do not pass.

Mr. Lea, Chairman of the Finance Committee, made the following reports:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a House bill to be entitled an act to authorize the purchase of additional machinery for the Texas Penitentiary and the enlargement of the building, has considered the subject and now reports its opinion against the propriety of the proposed measure in view of the existing circumstances of the country. Objections arise from the want of surplus funds, the diminished number of convicts, the advantages that might arise from diversifying businesses in the Penitentiary, and the disadvantages of entending the Penitentiary competition with other growing manufacturers of cotton and woolen cloth in the State.

Therefore the Committee recommends that the bill be laid on the table.

Pryor Lea, Chairman

Dickson dissenting.

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a petition of sundry citizens of Leon County asking for a repeal of the law imposing income taxes on the sales of liquors,¹² has considered the subject and now reports as follows:

This is the only petition for repeal of the law that has been presented, and the only reasons assigned for repeal are, first, the law has failed to accomplish what was designed by the passage of the law, and second, under the present law, even, the sick are deprived of the privilege of obtaining spirits for medical purposes when absolutely necessary.

¹²The petition reads as follows:

To the Honorable Legislature of the State of Texas:

Your petitioners would represent that they believe after a trial of the Liquor Law passed at the last session of the Legislature that it has failed to accomplish what was designed by the passage of the law, and that would be as well in every respect for the people and for better for the revenue of the State to repeal said law. We therefore ask your Honorable Body to repeal said law and enact the old tax law of one thousand dollars on each stile used. They represent that under the present law even the sick are deprived of the privilege of obtaining spirits for medical uses when absolutely necessary.

James S. Samms	W. B. Hailey	John Walker
Calvin Bennett	T. D. Patrick	John S. Worstead
L. Dinelly	R. M. Stell	H. M. Warren
John G. Gilmore	A. J. Barnett	G. H. Braden
A. S. Gardner	Sim Hopkins	S. R. Scarborough
S. C. Strowd	Dell Carleton	J. Mueller
H. G. Craig	A. L. Thompson	W. B. Middleton
W. D. Simpson	G. T. Pruitt	J. H. Bibb
William Adkisson	J. J. Pope	H. Keller
R. B. Koos	J. H. Noble	R. G. Leavell
E. M. Tilley	D. G. Burleson	D. McD. Barkley
J. A. Bowers	John T. Adkisson	William Miller
R. E. Rigby	E. F. Heard	William C. Reed
Gabriel Coly	William Evans	W. O. Reavis, Jr.
E. W. Black	Sanders Riley	William C. Long
L. L. Swindler	Robert O. Lusk	Alex Patrick
Willis L. Selman	Richard Smith	Alex Welch
D. B. Thomason	A. C. Bullock	William Reavis
P. L. Anders	William J. Boykin	H. Woodward
S. Robinson	John C. Fraser	W. G. Seele
A. M. Robinson	Edward B. Riley	T. S. Vaughn
N. E. Hunt	J. W. Dunn	W. H. Wheelock
Thomas H. Garner	George M. Patrick	Thomas W. Liles
Robert B. Johnston	I. G. Chiucke	Philip J. Barziza, Jr.
W. M. Rucker	C. P. Barrett	T. B. Collins
Hodge Raybun	John M. Webb	W. A. Johnston
William Kelgloin	T. B. Morrison	Isaac Lloyd
William Winn	B. N. Cammer	John King
A. D. Little	N. Lookingbill	William L. Cheek
S. A. Reavis	F. Anders	D. P. Coley
Webb Black	J. J. Ryan	Thomas T. Struemore
Edward Evans	J. J. Long	Raber T. Batson
D. O. Warren	J. J. Vann	John Long Buttons

From much information from nearly all of the populated portions of the State, the Committee considers the first reason as a great mistake of fact; and on the contrary, that the law is accomplishing, in general, what was designed by its passage.

The Committee might receive as correct, in fact, the statement as to the destitution of the sick of necessary liquor as to the vicinity of the petitioners, relying on their case; but still the Committee would be of the opinion that the health of the people in general would be promoted by the absence of liquor much more than by its presence, and the Committee would presume that the destitution of the sick, even in the vicinity of petitions, could not be of long continuation, it being understood that the people are generally humane, that the supply of liquor is abundant, and that withholding it from use, by giving age to it, will render it more eligible for the sick.

Your Committee concludes that there is no sufficient reason given, nor known, for a repeal of the law.

Hence, the Committee asks to be discharged from further consideration of the petition, and that it be laid on the table.

Pryor Lea, Chairman

A bill to authorize the issuing of rations to employees in the cap factory. Read 2nd time and passed to 3rd reading.

A bill to provide for discharge of securities on official bonds. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule further suspended. Read 3rd time and passed.

A bill to declare forfeitures of property in a certain case therein provided for. Read 1st time and referred to Judiciary Committee.

A bill for relief of minor heirs of John D. Stell. Read 1st time. Rule suspended. Read 2nd time and passed to 3rd reading. Rule suspended. Read 3rd time and passed by the following vote:

Yeas—Messrs. Beasley, Burney, Davis, Durant, Ford, Harcourt, Haskell, Hord, Jordan, Kinsey, Lea, Magoffin, Moore of Bastrop, Montague, Parsons, Quayle, Selman, and Wootten—18.

Nays—Messrs. Charlton, Cooley, Dickson, Guinn, Jowers, and White—6.

Mr. Harcourt made the following report:

May 28, 1864

The Committee on the Judiciary have considered a House bill to be entitled an act to declare forfeitures of property in a certain case thereon provided for.

The Committee at this late hour of the session cannot devote as much time to the investigation of the great Constitutional question involved in the bill as its importance demands. They respectfully refer to the 2nd paragraph, Article III, Section 3, of the Constitution of the Confederate States which declares, "The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

Then in another clause of the Constitution prohibiting the States from passing any bill of attainder.

Without discussing whether this bill is in the nature of a bill of attainder, it is believed by the Committee that no necessity exists for having legislation upon the subject, and I am instructed to report the same back to the Senate with the recommendation that it be indefinitely postponed.

John T. Harcourt, Chairman

The vote refusing to engross the resolutions relative to the suspension of the writ of habeas corpus was considered. Mr. Selman then offered a substitute. Mr. Lea moved to lay the consideration of the subject on the table.

Yeas—Messrs. Beasley, Burney, Charlton, Durant, Guinn, Jordan, Knox, Lea, Moore of Bastrop, Montague, and Parsons—11.

Nays—Messrs. Cooley, Davis, Dickson, Harcourt, Haskell, Hord, Jowers, Kinsey, Magoffin, Peck, Quayle, Selman, Throckmorton, Weatherford, Wootten, and White—16.

The adoption of the substitute was then lost by the following vote:

Yeas—Messrs. Davis, Harcourt, Hord, Kinsey, Peck, Quayle, Selman, Throckmorton, Wootten, and White—10.

Nays—Messrs. Beasley, Burney, Charlton, Durant, Ford, Guinn, Hartley, Haskell, Jordan, Jowers, Knox, Lea, Magoffin, Moore of Bastrop, Montague, and Parsons—16.

Mr. Kinsey moved to strike out the last 3 lines of section 1. Lost.

Mr. Harcourt offered to amend by "permitting any expression of opinion as to any necessity existing for suspending the writ." The yeas and nays stood:

Yeas—Messrs. Cooley, Davis, Dickson, Ford, Harcourt, Hord, Jordan, Kinsey, Magoffin, Peck, Selman, Throckmorton, Weatherford, and White—14.

Nays—Messrs. Beasley, Charlton, Durant, Guinn, Jowers, Knox, Lea, Moore of Bastrop, and Parsons—9.

Mr. Hartley moved to strike out all that part of the resolutions instructive to Congress as to their future legislation. The yeas and nays stood thus:

Yeas—Messrs. Beasley, Charlton, Cooley, Dickson, Durant, Ford, Guinn, Harcourt, Hartley, Jordan, Knox, Magoffin, Moore of Bastrop, Parsons, and Selman—15.

Nays—Messrs. Davis, Hord, Kinsey, Lea, Montague, Peck, Throckmorton, Weatherford, and White—9.

The yeas and nays were then called on the engrossment of the resolutions and stood:

Yeas—Messrs. Beasley, Cooley, Davis, Harcourt, Hord, Jordan, Kinsey, Knox, Magoffin, Peck, Throckmorton, and Weatherford—12.

Nays—Messrs. Charlton, Dickson, Durant, Ford, Guinn, Hartley, Lea, Moore of Bastrop, Montague, Parsons, Selman, and White—12.

The President votes "yea."

The Committee on State Affairs made the following report:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on State Affairs, to whom was referred the petition of sundry citizens of Fayette County upon the evils growing out of the unrestrained sheepherding in their county have, with the importance the subject demands, duly considered the same, and report that in the opinion of the Committee, the Legislature has no constitutional power to restrain the sheep of Fayette County from biting the grass too short for the horses and cattle to feed on, and if they cannot get a mouthful after the sheep have done eating, it is their misfortune and not the sheep's fault, and we have no disposition to punish the sheep of Fayette County for a fault not theirs.

The Committee deeply sympathize with the good citizens of Fayette in their deprivation of a supply of the

wholesome article of milch, of which they so much complain from the cows going dry. The Committee are aware that they were very fond of the article when very young and have not yet outgrown their love for it, but are not able to recommend a remedy for the evil existing in Fayette County unless its good citizens will take to milking the she goats.

One other complaint that the petition makes against the poor inoffensive sheep of Fayette is that they (the sheep) leave a swell on the ground, which we suppose means the little black balls they drop occasionally, and if your Committee are right in their conjecture of the cause of the aforesaid swell, the Committee would suggest that the aforesaid little balls are a very excellent remedy for the measles and would therefore recommend that the petitioners gather the little black balls which will remove the ground swell so much complained of and will be a great benefit to the petitioners if they should ever have the measles.

The scripture says, "Thou shalt not muzzle the ox that treadeth out the clover" upon which we suppose the good citizens of Fayette base their complaint against the poor sheep, so far as their work oxen are concerned, but the citizens aforesaid seem to have forgotten that the same Good Book says, "Thou shalt feed the sheep," or something as near that as the Committee can now recollect.

H. M. Kinsey

One of the Committee

Mr. Lea, Chairman of the Finance Committee, reported a bill to provide for the distribution of cloth manufactured at the Penitentiary, with amendments. Report taken up. (Insert these amendments.)

The yeas and nays were called on their adoption and stood thus:¹³

The Committee on Enrolled Bills reported as follows:

The Committee on Enrolled Bills have examined and find correctly enrolled the following bills, viz.,

An act to regulate the disposal of unappropriated specie.

An act to incorporate the Cairo Manufacturing Company.

An act for the relief of Robert Robson.

An act to incorporate the Guadalupe Manufacturing Company.

¹³This voting record is not included in the Journal

An act to incorporate the Tyler County Card and Machine Factory.

An act to provide for the discharge of securities on official bonds in certain cases.

An act to relinquish the right of the State to \$49,000 now in the hands of Colonel J. E. McCord for hospital purposes.

Joint resolution in relation to the remains of the late General William R. Scurry.

An act for the relief of the minor heirs of the late John D. Stell.

An act to further provide for the payment of the interest accruing from time to time on the public debt of the State.

An act to make an additional appropriation for the support of the Lunatic Asylum for the year 1864. Lost.

An act to authorize the issuance of rations to certain employees of the cap factory.

An act to incorporate the Comal County Mutual Aid Association; all which being signed by the President of the Senate and Speaker of the House of Representatives were this day presented to the Governor for his approval.

D. C. Dickson

The Committee to wait on the Governor reported duty performed and that the Governor had no further communication to make.

Committee for House informed the Senate that the House was ready to adjourn whereupon Messrs. Dickson, Jowers, and Durant were appointed a committee for like purpose.

The Senate on motion adjourned *sine die* pending a call on the concurrence of Senate in House amendment to a bill to provide for distribution of cloth from Penitentiary.¹⁴

¹⁴The following report was found with the Journal. Since no proper place for it can be found, it is inserted here:
To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a House bill to be entitled an act to further provide for the payment of interest accruing from time to time on the public debt of the State, has considered the subject, and now reports the bill, with a recommendation that it be passed as a measure of proper precaution against the failure of another bill, providing in another way for accomplishing the same object.

Pryor Lea, Chairman

APPENDIX I

MEMBERS AND OFFICERS

OF THE

SENATE

OF THE

TENTH LEGISLATURE

FIRST CALLED SESSION

**LIST OF THE NAMES OF MEMBERS AND OFFICERS OF THE SENATE OF
THE TENTH LEGISLATURE, FIRST CALLED SESSION**

Name	Dist.	Resident County	Post Office	Counties Represented
Hartley, Rufus K.	1	Galveston	Galveston	Galveston, Liberty, Jefferson, Chambers
Charlton, N. B.	2	Tyler	Woodville	Polk, Tyler, Jasper, Newton, Orange, Hardin
Kinsey, H. M.	3	San Augustine	San Augustine	Angelina, Nacogdoches, San Augustine
Holland, Spearman ¹⁵	4	Panola	Carthage	Sabine, Shelby, Panola
Parsons, Jesse H.	5	Rusk	Henderson	Rusk
Beasley, S. W.	6	Upshur	Gilmer	Harrison, Upshur
Moore, John W.	7	Davis	Linden	Davis, Bowie
Wootten, G. H.	8	Red River	Clarksville	Titus, Red River
Maxey, Rice ¹⁵	9	Lamar	Paris	Lamar, Hopkins
Guinn, Robert Henry	10	Cherokee	Rusk	Cherokee
Jowers, William George Washington	11	Anderson	Palestine	Houston, Anderson, Trinity
Selman, B. T.	12	Smith	Tyler	Wood, Smith, Van Zandt
Weatherford, Jefferson	13	Dallas	Lancaster	Kaufman, Dallas, Henderson
Davis, James G.	14	Fannin	Bonham	Fannin, Hunt
Throckmorton, James W.	15	Collin	McKinney	Grayson, Collin
Jordan, A. N.	16	Harris	Houston	Brazoria, Fort Bend, Harris
Dickson, David Catchings	17	Grimes	Anderson	Montgomery, Grimes, Walker
Durant, J. W.	18	Leon	Centerville	Madison, Leon, Robertson, Brazos, Burle- son
Peck, William M.	19			Limestone, Freestone, Navarro, Ellis

¹⁵These members were not present during the session.

**LIST OF THE NAMES OF MEMBERS AND OFFICERS OF THE SENATE OF
THE TENTH LEGISLATURE, FIRST CALLED SESSION**

Name	Dist.	Resident County	Post Office	Counties Represented
Quayle, William	20	Tarrant	Norton's Grove	Johnson, Tarrant, Erath, Parker, Palo Pinto,
Montague, Daniel	21	Cooke	Gainesville	Cooke, Denton, Wise, Montague, Jack, Young, Clay, Wichita, Archer, Wilbarger, Baylor, Throckmorton, Hardeman, Knox, Haskell, Stephens, Shackelford, Jones
Harcourt, John T.	22	Colorado	Columbus	Matagorda, Wharton, Colorado, Fayette
Shepard, Chauncy B. ¹⁵	23	Washington	Brenham	Austin, Washington
White, Sam Addison	24	Victoria	Victoria	Calhoun, Jackson, Victoria, DeWitt, LaVaca
Ford, Spencer	25	Caldwell	Lockhart	Gonzales, Guadalupe, Caldwell
Moore, A. W.	26	Bastrop	Bastrop	Bastrop, Travis, Hays
Haskell, J. A.	27	Milam	Cameron	Milam, Williamson, Burnet, Bell, Lampasas
Burney, George E.	28	McLennan	Waco	Falls, Coryell, McLennan, Bosque, Comanche, Brown, Hamilton, Eastland, Callahan, Coleman, Taylor, Runnels, Hill
Lea, Pryor	29	Goliad	Goliad	Refugio, San Patricio, Nueces, Goliad, Bee, Live Oak, Karnes, McMullen, LaSalle, Dimmit
Knox, W. B.	30	Bexar	San Antonio	Bexar

¹⁵These members were not present during the session.

**LIST OF THE NAMES OF MEMBERS AND OFFICERS OF THE SENATE OF
THE TENTH LEGISLATURE, FIRST CALLED SESSION**

Name	Dist.	Resident County	Post Office	Counties Represented
Cooley, A. O.	31	Gillespie	Fredericksburg	Blanco, Comal, Bandera, Kerr, Gillespie, Llano, San Saba, Medina, Uvalde, McCulloch, Concho, Mason, Menard, Kimble, Edwards, Dawson, Kinney, Maverick, Atascosa, Frio, Zavala
Hord, Edward R.	32	Cameron	Brownsville	Cameron, Hidalgo, Starr, Zapata, Webb, Encinal, Duval
Magoffin, James Wiley	33	El Paso	El Paso	El Paso, Presidio

OFFICERS OF THE SENATE

de Cordova, Phineas	Secretary
Raymond, N. C.	Assistant Secretary
Clements, R. H.	Sergeant at Arms
McCall, John	Doorkeeper
Gilleland, William M.	Enrolling Clerk
Thomas, Henry	Engrossing Clerk
Langford, _____	Chaplain

APPENDIX II¹⁶**REPORT TO THE LEGISLATURE****BY THE****TEXAS MILITARY BOARD**

¹⁶Texas Military Board Letter Book No. 106, April 28, 1864-March 27, 1865 (Archives Division, Texas State Library).

Austin, Texas
May 19, 1864

Gentlemen of the Senate:

The resolution of your honorable body has been received making enquiry as to the operations of the Military Board since the adjournment of the last Legislature.

The new Board authorized by the last Legislature has been organized only a few weeks. The old Board, not having closed their business to this time, has not turned over to us the books, papers, contracts or funds of the Board. We are informed however that everything is about ready to consummate this and we hope then to be able to extend our operations according to the anticipations of the Legislature.

This delay in receiving the effects of the old Board has, of course, been embarrassing to the new Board, as the operations of the old Board are unknown to us.

We have therefore made but few purchases of cotton. We have but one purchasing agent, Captain Edward Finnin of Austin, who has been absent about three weeks, with instructions to purchase cotton with Confederate States notes. He is expected here in a few days, but to the present time, we have no report of the amount purchased. He writes that he is closing his contracts and will be here soon to report fully.

The Board has contracted with Messrs. Butler of Navarro County for 200 bales of cotton, payable in Confederate States notes at the same rate that Captain Finnin was paying at the time the contract was made. We pay 1½ cents per pound per hundred miles for transporting at the cost and risk of the vendor and reconveyed to him west of the Rio Grande. The Board has sold no cotton, consequently has realized nothing in return. The Board has granted no permits to export cotton, either for or without consideration, except so far as companies who introduce machinery are concerned, as shown in the report on that subject.

The Board has entered into several contracts with companies from various parts of the State for the introduction of machinery, as per enclosed abstract. The earnestness manifested by the parties engaged in this business and the securities taken by the Board to insure the introduction of the machinery is believed to be such as will secure to the

State the very great advantages of large and important manufactories. The plan adopted by the Board is to require the companies proposing to introduce machinery to ship in the name of the State to the State Agent, the amount of cotton they estimate will be sufficient to purchase and pay expense of introduction of the machinery. The owners to take all risks, pay all expenses, and are allowed to sell by reporting to the State Agent on the Rio Grande a portion of the cotton to pay expenses.

The State Agent gives the agent of the company a certificate that the cotton of the company is to their credit in the hands of the State Agent. The agent of the company can sell said cotton by reporting the fact to the State Agent, to pay for the machinery purchases, and the lien held by the State on the cotton is transferred to the machinery to insure its introduction into the State. Should the amount of cotton exported, when sold, realize more money than is required by the company to pay for the machinery and pay expenses in introducing it, then one half of the surplus is retained by the State, an equal amount in 7 per cent State Bonds being paid the company therefor at par.

By an order of General E. K. Smith, exemptions are granted to persons engaged in transporting cotton for the State, and all military authorities are required in no way to interfere with State cotton or State property. We have made but few exemptions under the above authority. The rule has been adopted that before a man can be exempted, he must be able to furnish transportation for forty bales of cotton at one time. For the number of details made we respectfully refer the Senate to the abstract accompanying this report. The contracts with the parties named are at the use of the Senate, should they desire to see them.

All of which is respectfully submitted.

P. Murrah

W. B. Pearce

F. Holeman

Members of the Board

APPENDIX III¹⁷

EXECUTIVE MESSAGES

TO THE

SENATE

OF THE

TENTH LEGISLATURE

FIRST CALLED SESSION

¹⁷Executive Record Book No. 280, 1863-1865 (Archives Division, Texas State Library), 96-100.

Executive Department
Austin, Texas, May 23rd, 1864

Senators

I have the honor to submit the following appointments of Notaries Public, to which I respectfully ask your advise and consent.

Austin County

James C. Francis, Vice J. P. Ousterhout
F. J Cook, re-appointment

Brazoria County

J. T. Shannon, vice J. T. Shannon
Francis C. Nelson, vice Francis C. Nelson

Colorado County

Clement Allen, vice Dan F. Payne

Hill County

Philip Gathings, vice D. S. Files

Ellis County

William D. Dallan, vice A. J. Farrar

Fayette County

Louis Laberlick, vice James C. Gaither

Galveston County

E. P. Hunt, re-appointment
Nicholas D. Lindsbone, original appointment

Houston County

C. C. Taylor, vice Jacob Allbright

Milam County

William H. White, vice William Hamblin
A. W. Sneed, re-appointment
D. G. Davis, vice R. J. Davis
H. P. Hale, re-appointment
Isaac Killough, vice W. D. Hill

Limestone County

J. B. Vallandingham, original appointment

Red River County

W. H. Fleming, vice John Beaty

Tyler County

William Kincaid, vice W. S. Caldwell

Titus County

G. W. S. Haynes, vice G. W. S. Haynes

Walker County

George D. Woodruff, vice J. W. Bush

Very Respectfully,
P. Murrah

Executive Department
Austin, May 23rd, 1864

Senators

I have the honor to submit the following appointments of Notaries Public, to which I ask your advice and consent.

Smith County

Harvey Lindsey, vice Harvey Lindsey

Van Zandt County

John Settle, vice John Settle

D. M. Deadman, vice D. M. Deadman

William Murray, vice William Murray

John M. Patterson, vice John M. Patterson

John Lollar, vice John Lollar

Limestone County

B. F. Lynn, re-appointment

Galveston County

Edward L. Ufford, vice James P. Nash

Comal County

Henry Guenther, vice Herman Seele

Upshur County

J. R. Strickland, re-appointment

W. H. Payne, re-appointment

Samuel Handley, re-appointment

J. E. Harrison, vice J. W. Wright

C. C. Galloway, re-appointment

W. W. Turner, vice Thomas Crawford

Very Respectfully,
P. Murrah

Senate Chamber
May 25th, 1864

I certify that all the within nominations for Notaries Public were this day unanimously confirmed by the Senate.

P. de Cordova
Secretary of the Senate

Executive Department
Austin, Texas, May 17th, 1864

Gentlemen of the Senate

In response to the resolution adopted by you on yesterday, I respectfully submit a separate report from that of the Military Board in relation to the questions propounded.

As to the amount of cotton purchased and from whom, I

refer you to the reports contained in envelope marked "A."

As to the price paid, the answer cannot be fully and directly given, as you will see by my message on this subject, to which you are respectfully referred.

Where cotton has been directly purchased or unconnected with the contract to transport it to the Rio Grande, it was purchased generally from nine to eleven cents. When transported to the Rio Grande by the vendor he receives the price of the cotton at that point, less the actual cost of the transportation—the transportation not to cost more than one-fourth of the value of the cotton. It is to be paid for in the seven per cent State Bonds when actually delivered, in accordance with the terms of the contract.

As to the amount agreed to be paid for transportation, the question is in part answered above.

As to the portion which the vendor does not transport to the Rio Grande, arrangements have been made; as yet for its transportation, only to a limited extent and I am not prepared to give you a satisfactory answer upon that subject, and how much it will cost to the State I cannot answer, further than the cost of transportation will not defeat the realization to the State in specie, or its equivalent in bonds, munitions, machinery, etc., to the amount promised to be paid for the cotton.

As to the amount sold and what has been realized, I am unable to give you full information. Eight hundred and sixty Enfield Rifles have already been paid for, one thousand dollars in specie have been deposited in the treasury and several thousand dollars in specie have been deposited in the treasury, and several thousand more, I am informed by agent Colonel E. B. Nichols, will in a few days be placed in the treasury, perhaps from twenty to thirty thousand.

As to the prices at which the cotton was sold, I have not information, as the payment for the arms was not fully completed some days since. But the general statement made to me by the agent was that more would be realized to the State from the cotton than what it cost her in this transaction, say from thirty to forty per cent. The agent has only been selling cotton on the Rio Grande for a few days, and there has not been time to furnish the reports, although when regularly made they would give you very satisfactory information.

The embarrassment heretofore existing at Eagle Pass

with reference to the exportation of state cotton has been the principal cause of this. These embarrassments I now hope are removed.

As to the number of purchasing agents, I have appointed but one, Colonel E. B. Nichols, to purchase and dispose of this cotton under the plan explained in my message, and I have required all purchases and sales to be made to him. He is the agent of the State, held directly responsible for the purchase and disposal of this cotton.

As to the number of permits granted, I have authorized none that could be so called. Contracts had been made by the military board for the introduction of machinery, with chartered companies and associations, and cotton authorized to be exported upon their own account and at their own risks, for the accomplishment of these ends, which will be fully explained to you in the report of the Military Board, made in response to your resolution. That report will also explain the machinery contracted for and its description.

Colonel Nichols, of course, had agents responsible to him aiding in the purchase of cotton. I could give you but few of their names, but they were all required to report to him regularly the cotton purchased and from whom purchased, and cotton can be exported or disposed of only through him. Captain Ed Finnin was authorized by me to purchase and report cotton to Colonel Nichols, and his reports as he informed me were regularly made.

As to the number of details asked for, and for what purposes, I refer you to the list furnished by the Adjutant General of those engaged by the Military Board, the companies contracting to introduce machinery, and for the agent of the State.

I respectfully ask your attention to the remarks made in connection with them in that paper.

I most respectfully in conclusion ask your attention to my message upon the subject of the purchase of cotton—this furnishes in detail my reasons for adopting the system of purchase and sale which I did and for my determination to use only one class of the bonds authorized to be used by the Legislature. I at one time had determined to use the six per cent bonds, but finally concluded it was much better for the State to use the seven per cent bonds only, and I so directed the agent. I am fully satisfied that this

is the only plan that could rapidly realize to the State means to make the purchases proposed by her laws that would be energetic and that would secure her against frauds and heavy losses in various ways.

As to the details to assist in the transportation of cotton, I adopted the rule of detailing only one man for the transportation of forty bales of cotton at one time. This number I believed necessary for the management of trains and to secure the proper care of the cotton. Of course the number of bales transferred to the State embraced all transferred under the system already explained, half of it being retained by the vendor, as explained in my message.

You will not be surprised that I cannot give you more full information on the subject of cotton when I inform you that such were my cares and such the difficulties of procuring cotton at all that I could not get my plan organized until the last days of February, and then early in April I directed my agent to cease at once purchasing cotton. It will be seen by reference to the report embraced in envelope "A" that a large portion of the cotton conveyed to the State was conveyed by planters in different counties, it may be that all of these parties will not transport their cotton as they have proposed; but it is certain that the State only pay for what is actually delivered to her.

Very Respectfully,
P. Murrah

Executive Department
Austin, Texas, May 24th, 1864

Senators

I have this day appointed George S. Boynton, vice Benjamin S. Lisman, to be a Notary Public in and for the County of Navarro, and William Anders of Harris County to which I respectfully ask your advice and consent.

Very Respectfully,
P. Murrah

Executive Department
Austin, May 25th, 1864

Senators

I have the honor to submit the following appointments
of Notaries Public in and for the County of Lamar:

A. J. Baird, vice John R. Chenault

David H. Davis, vice James Patterson

Very Respectfully,
P. Murrah